

Report to Planning Committee

23 November 2022

Application Reference	DC/22/67209
Application Received	27 May 2022
Application Description	Proposed variation of condition 2 of DC/20/64781 (Proposed taproom/bar for the serving of alcohol on Fridays, Saturdays and Sundays and tours of the distillery) to extend permission for further 2 years.
Application Address	Unit 1 153 Powke Lane Rowley Regis B65 0AD
Applicant	Mr Jordan Lunn
Ward	Blackheath
Contact Officer	Mr Andrew Dean andrew_dean@sandwell.gov.uk

1 Recommendations

1.1 That planning permission is refused for the following reason:


- i) Insufficient off-street parking for the proposal can be provided for staff and customers which would appreciably compromise highway safety and would result in an unacceptable impact on highway safety, contrary to Paragraph 111 of the National Planning Policy Framework.



2 Reasons for Recommendations

The Head of Highways has objected to the application on the grounds that insufficient off-street parking for the proposal can be provided for staff and customers. Since granting a two-year temporary approval under application reference DC/20/64781, a material change has occurred to the operation of the site due to the adjacent unit being let and the car parking areas to the front and rear being shared. Taking into consideration Powke Lane is an A road carrying high volumes of traffic, on street parking from the proposed use could cause congestion and increase injury accidents in the location due to vehicles crossing the centreline to manoeuvre around parked cars. The Local Planning Authority are therefore of the opinion that the proposal would result in an unacceptable impact on highway safety, contrary to Paragraph 111 of the National Planning Policy Framework. The applicant has the fall-back position of being able to continue using the premises as a distillery.

3 How does this deliver objectives of the Corporate Plan?

	A strong and inclusive economy
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4 Context

- 4.1 This application is being reported to your Planning Committee because of the contentious nature of the original application, the fact the applicant is related to the former chair of Planning Committee and former local member Councillor Downing and at the request of Councillor Carmichael.
- 4.2 Members visited the site before the last Planning Committee meeting dated 5th October 2022.



4.2 To assist members with site context, a link to Google Maps is provided below:

[Unit 1, Powke Lane, Rowley Regis](#)

5 Key Considerations

5.1 The site is unallocated within the development plan.

5.2 The material planning considerations which are relevant to this application are:-

Government policy (NPPF)

Access, highway safety, parking and traffic generation

Planning history (including appeal decisions)

Noise and disturbance from the scheme

6. The Application Site

6.1 The application relates to an industrial unit which has been lawfully converted into a distillery by the applicant. The unit is located on the northern side of Powke Lane, Rowley Regis. The unit is an established historic industrial use and is one of two units on the site. The units are set back from Powke Lane by approximately 21 metres with a tarmacked vehicle parking area being located to the front. The rear of the units are accessed via a small access drive off Alwin Road located between two residential properties. This access leads to a manoeuvring and parking area. The character of the surrounding area is residential in nature with residential properties surrounding the site as well as facing directly onto the front car parking area. The Old Bush Revived public house is located on the opposite side of Powke Lane within close proximity to the site.

7. Planning History

7.1 Planning Committee granted the applicant a two-year temporary approval under application reference DC/20/64781 for a proposed



taproom/bar for the serving of alcohol on Fridays, Saturdays and Sundays and tours of the distillery. The approval was subject to the following conditions; -

- (i) Two-year temporary permission.
- (ii) Hours of opening of the taproom/bar to be 16.00 to 22.30 Fridays, 12.00 to 22.30 Saturdays and 15.00 to 21.00 Sundays.
- (iii) Submission and approval of a revised car parking layout to the rear.
- (iv) No drinking permitted in external areas.
- (v) No amplified live or recorded music shall be played at the premises.
- (vi) Personal permission.
- (vii) No customer access from Alwin Road.
- (viii) The rear car parking area is to be used by staff only.

7.2 The two-year temporary approval granted under application reference DC/20/64781 expires on 17 March 2023. The taproom/ bar use has not been implemented by the applicant during the two-year temporary period. The reason given is because of drainage issues.

7.3 Relevant planning applications are as follows:

DC/20/64781	Proposed taproom/bar for the serving of alcohol on Fridays, Saturdays and Sundays and tours of the distillery.	Two-year temporary approval granted. 17.03.2021.
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8. Application Details

8.1 The applicant is proposing to vary condition 2 of DC/20/64781 (Proposed taproom/bar for the serving of alcohol on Fridays, Saturdays and Sundays and tours of the distillery) to extend the permission for a further 2 years.



- 8.2 Information submitted with the original application confirmed the proposed opening hours of the taproom/bar would be Friday - 17.00 to 22.30, Saturday 13.00 to 22.30 and Sunday's 15-00 to 21.00. The proposed uses would have 5 full time employees and 3 part time. Included within the opening hours of the taproom/bar would be distillery tastings, experiences and tours.
- 8.2 DC/20/64781 also confirmed staff parking, refuse collection and pick up of goods will take place at the rear via Alwin Road while customer parking and the entrance to the taproom/bar would be from Powke Lane. The bar use would have seating for 25 people with a maximum capacity of 50 people including staff. The applicant has stated the maximum capacity of 50 people including staff has been agreed with West Midlands Fire Service as part of the premises licence. The applicant estimated that they would expect a maximum customer footfall of up to 30 people.
- 8.3 Amended plans have been received to show the front and rear car parking areas. The rear car parking area is shared with unit 2 use who use the area originally allocated for staff parking for unit 1 (application site) for storage. This has resulted in the loss of one staff parking space for unit 1. The front car park is now also shared with Unit 2 who have confirmed they have access to 6 car parking spaces as stated in their lease. As these spaces cannot be accommodated at the rear, they would need to be provided to the frontage.
- 8.4 The submitted proposed front elevation also shows an extension to a level platform outside of the front door and new steps. Please note this would require a sperate planning application to be made as the current application (known as a Section 73 application) does not allow the description of development to be amended.

9. Publicity

- 9.1 The application has been publicised by neighbour notification letter, with one letter of objection being received from a neighbouring property.



9.2 Objections

Objections have been received on the following grounds:

- i) Highway safety and car parking. The objector is of the opinion the applicant no longer has access to the front and rear car parking areas. Powke Lane is busy with limited on street car parking.
- ii) Noise, the applicant can already hear music and singing from the unit which would get worse. Th objector thinks this should not be occurring because of the current conditions.
- iii) Issues regarding an existing security/floodlight being on at all hours of the night disturbing sleep.
- iv) A CCTV camera on the property looks directly into the objector's house.
- v) Concerns regarding a data protection breach with the objector's name and address being including on the application form by the applicant.

Non-material objections have been raised regarding loss of property value, existing drainage issues, underhand tactics including bullying and bogus legal letters and trespassing by men undertaking maintenance of the unit.

9.3 Responses to objections

I respond to the objector's comments in turn:

- i) Please see material planning considerations (Access, highway safety, parking and traffic generation). The site owner has confirmed the applicant does have use of the front and rear car parking areas.
- ii) Public Health (Noise) have raised no objections to the application subject to all conditions from DC/20/64781 being included on any new approval and remaining unchanged. This includes a two-year temporary approval to allow Public Health to monitor noise and



disturbance from the use. The conditions attached to DC/20/64781 applied only to the temporary use as a taproom/bar. The Local Planning Authority therefore have no control of music being played when the unit is being used as a distillery.

- iii) This is a matter for Public Health who can investigate as a statutory nuisance (light pollution).
- iv) It has been conformed this is not the case.
- v) When brought to our attention, the objectors name and address was redacted with immediate effect.

10. Consultee responses

10.1 Highways

Originally the Head of Highways had raised no objections to the application on the basis all matters remained unchanged from the previous temporary approval. However, following site visits by the planning department, it had become evident a number of changes had occurred. This included the adjacent unit being rented to a vehicle repair film crew, the rear car parking area being shared with unit 2 who now use the area originally shown as staff car parking for unit 1 as storage, the new staff car parking area for unit 1 has resulted in the loss of 1 car parking space and the front car parking area being shared with unit 2. The company renting unit 2 confirmed that their normal working hours are 9.00 to 17.00, however, this can change with late nights also required due to filming pressures (this can occur at anytime). They also confirmed they park vehicles at the site on weekends when attending car meets. The lease for the property confirms they have access to 6 off street spaces. It was also mentioned that the two flats also park on the front car park (Flat 1 and 2, 153 Powke Lane). This additional information as well as amended car parking layouts of the front and rear car parking areas was forwarded to highways for further comment.

Following receipt of the additional information and amended plans, the Head of Highways has objected to the application (comments below).



Further information has now been received from the neighbouring unit, that the adjacent unit also have rights as stated in their tenancy agreement to use 6 spaces on the frontage. They will use the car park in the evening and at weekends these times/days will clash with the peak times for the Bar.

DC officers visiting the site have confirmed that two residents in an adjacent house (converted into flats) can use the car park for their vehicles.

In total 14 spaces are required according to tenancy agreements in the front car park.

The parking layout shown would not work in practice as spaces/vehicles would block other spaces, prevent vehicle manoeuvring. The access should be kept clear to allow two way vehicle access for at least 5m from the back of footway. Commercial bays should be 2.4m x 4.8m with 6m clear spaces to the rear for vehicles to manoeuvre out whilst surrounding bays are occupied. Space crossed out in blue is too close to vehicular entrance and prevents two way vehicle movement. I would say 6 spaces are the maximum that could be provided given the size of the area. The scale bar is not marked up correctly it should start at 0 not 1. It is unlikely given the size of the hardstanding that alternative layout would be able to accommodate any more than 6 vehicles at any one time.

Proposed Bar - Maximum capacity was used to calculate 13 off street spaces were required for bar use only, as other uses would not clash and people attending tasting events would be included in the max 50 capacity. A total of 11 off street spaces were shown layouts showing 5 spaces to the rear and 6 spaces to the property frontage (confirmed at the time for applicants use only). Highways considered the submitted documents a shortfall of two spaces was agreed provided a temporary permission was granted to ensure that the business operated as the applicant intended and that the off street parking for the site was sufficient for the proposed use.



Highways are now aware that only 4 dedicated off street spaces can be provided for the use of the applicant to the rear of the property. It is not possible for 6 spaces to be allocated on the front car park due to conflicting tenancy agreements as detailed above. This will result in vehicles being displaced on street.

Powke Lane is an A road and carries high volumes of traffic, the existing road layout (gradients) effect speed limits and the 85%ile speed is higher than the maximum 30 mph speed limit on this road. Screen shot of 2021 survey for information confirming speeds and volumes.

On street parking will reduce the available carriageway width creating congestion and could result in an increase in conflicting vehicle manoeuvres and injury accidents increasing in the vicinity of the site. Parking in front of existing dwellings will create resident amenity issues.

Highways object to the proposed.

10.2 Public Health (Air Pollution and Noise)

No objections to the proposal assuming all other conditions remain in force and are unchanged. Public Health comments for DC/20/64781 were as follows; -

There is potential for the proposed bar to cause disturbance to residents situated nearby. The proposed bar shares a boundary with 146 Powke Lane and the front car park area with 153 Powke Lane. There are also properties to the rear in Alwin Road which may be affected.

The premises can hold up to 50 persons, including approximately 5 staff members. There will be 25 seats inside and it is assumed that at any one time up to 35 customers could be standing, a proportion of customers will probably wish to migrate outside. As well as the above, there is potential for disturbance associated with any outside smoking area. The car park spaces are immediately outside residential



accommodation and there is potential for residents to be disturbed by customers leaving the bar in the evening/night time hours.

In view of the above committee may want to consider granting temporary permission for a period of no more than 2 years to assess the impact on the local area. Any approval should be restricted to the applicant.

The following conditions are also recommended.

- *The applicant has recommended the following opening hours:*

17.00 hours to 22.30 hours Monday to Friday

13.00 hours to 22.30 hours Saturday

15.00 hours to 21.00 hours Sunday

- *Prohibition of live music events and amplified sound.*
- *Prohibition on drinking alcohol outside.*
- *The smoking area is located where disturbance to residents is minimised and where it can be monitored.*
- *There are two deliveries programmed each month, it is recommended these are undertaken during normal working hours.*

There appears to be artificial lighting situated on the front of the building, adjacent to residential property. Any artificial lighting associated with the proposed bar should be installed and maintained in accordance with current guidance issued by the Institute of Lighting Engineers.

10.3 West Midlands Police

No objections. Recommendations for site security including CCTV, alarm system and LED lights with daylight sensors to the external wall of buildings in particular at entry and exits have been made. In response to these comments, as the recommendation to the committee is for a



temporary approval, I am of the opinion it would be onerous on the applicant to provide CCTV and alarm systems via a condition. Lighting is already provided to the frontage. The applicant has been made aware of these comments.

11. National Planning Policy

11.1 National Planning Policy Framework promotes sustainable development but states that local circumstances should be taken into account to reflect the character, needs and opportunities for each area.

11.2 Paragraph 111 of the National Planning Policy Framework states development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe. Given the analysis above, in this instance it is considered that the proposal would have impact on highway safety.

12. Local Planning Policy

12.1 None Relevant.

13. Material Considerations

13.1 National and local planning policy considerations have been referred to above in Sections 11 and 12. With regards to the other material considerations, these are highlighted below:

13.2 Access, highway safety, parking and traffic generation

I am of the opinion that a material change has occurred to the operation of the site since the previous application was granted temporary approval. Taking into consideration the Head of Highways has objected to this application raising concerns shown in paragraph 10.1, the Local Planning Authority consider that the proposal, due to insufficient off-street parking for staff and customers, would result in an unacceptable



impact on highway safety, contrary to Paragraph 111 of the National Planning Policy Framework.

13.3 Planning history (including appeal decisions)

It is noted that the Planning Committee have previously granted a two-year temporary permission for the change of use to a proposed taproom/bar for the serving of alcohol on Fridays, Saturdays and Sundays and tours of the distillery. However, since this application was approved, a material change in circumstances has occurred in that the adjacent unit (No.2) has been let resulting in a change to the car parking situation to the front and rear car parking areas.

13.4 Noise and disturbance from the scheme

Public Health have raised no objections to the conditions being contained within the decision notice for DC/20/64781 being included again. As previously, Public Health have reviewed the proposal and recommended a two-year temporary approval be granted to allow them to assess the impact of the proposal on the local area.

14 Alternative Options

14.1 Approval of a further two-year temporary approval is an option, if there are material planning reasons that outweigh the objection received from highways. If members are minded to approve this application, the conditions attached to the previous approval (excluding condition for the submission and approval of a revised car parking layout to the rear) should be included.

15 Implications

Resources:	When a planning application is refused the applicant has a right of appeal to the Planning Inspectorate, and they can make a claim for costs against the Council.
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Legal and Governance:	This application is submitted under the Town and Country Planning Act 1990.
Risk:	None.
Equality:	There are no equality issues arising from this proposal and therefore an equality impact assessment has not been carried out.
Health and Wellbeing:	None.
Social Value	None.

16. Appendices

Context plan

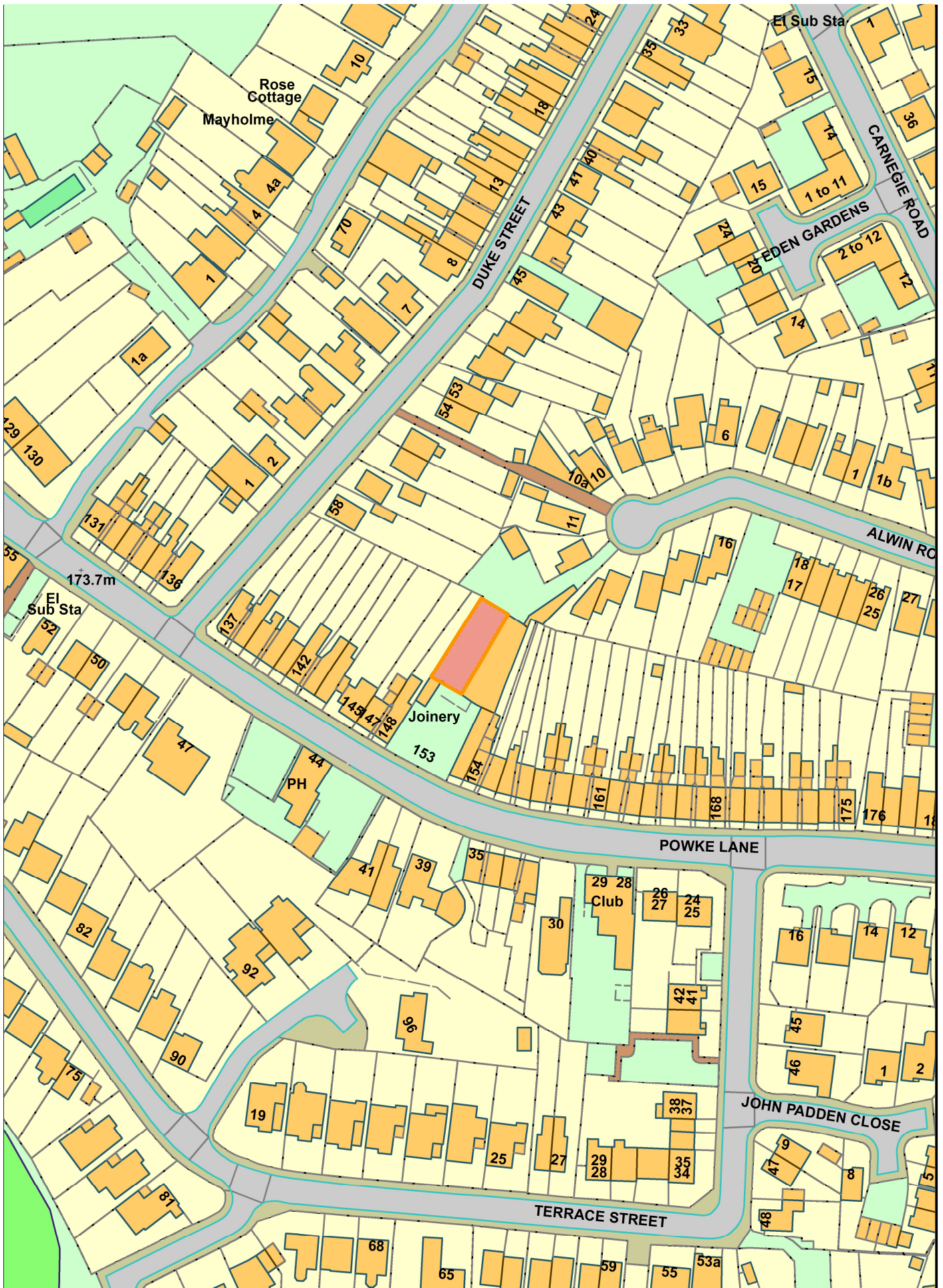
Amended Rear Car Parking Layout.

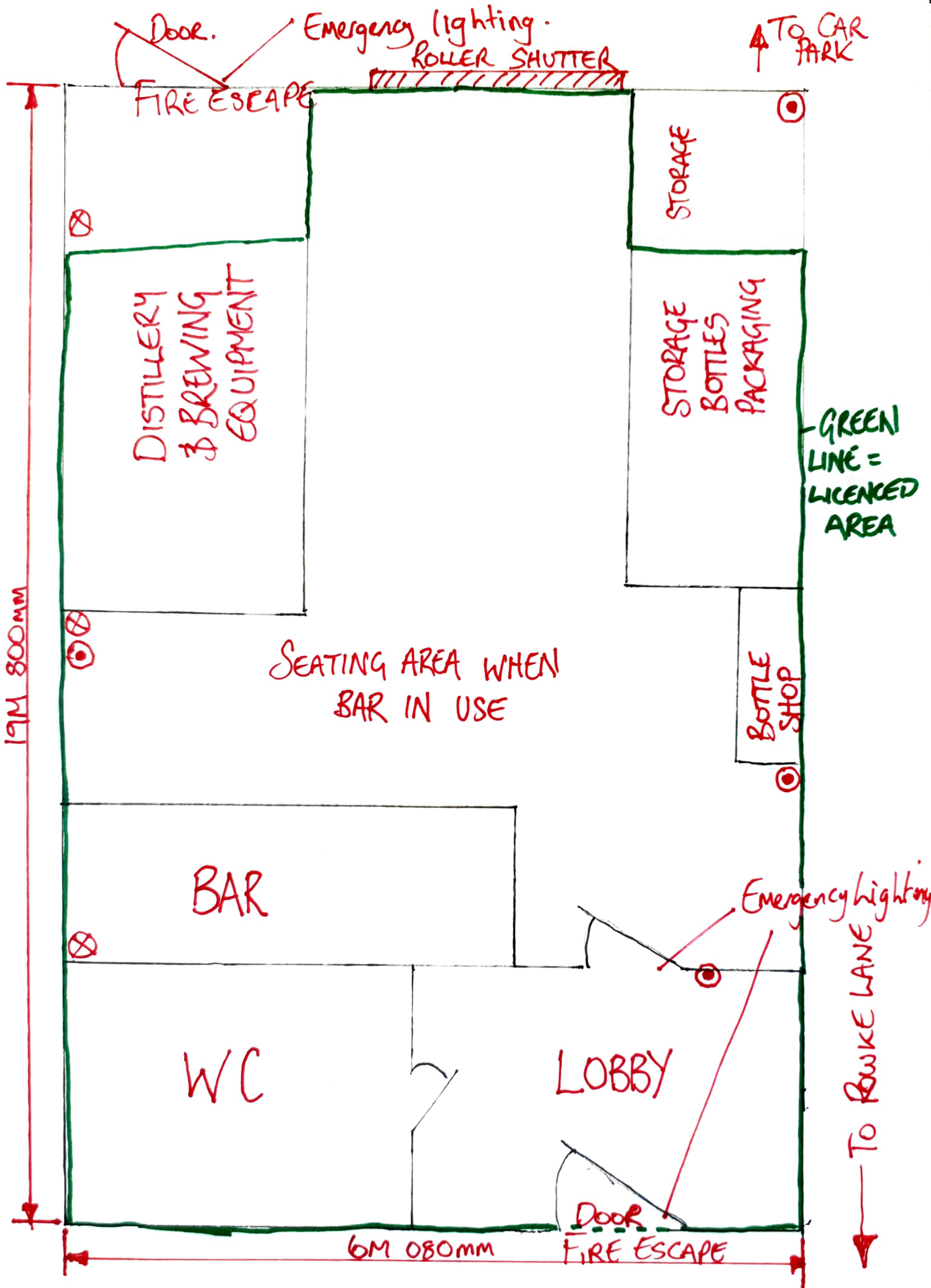
Proposed Front Car Parking Layout.

Proposed Floor Plan.

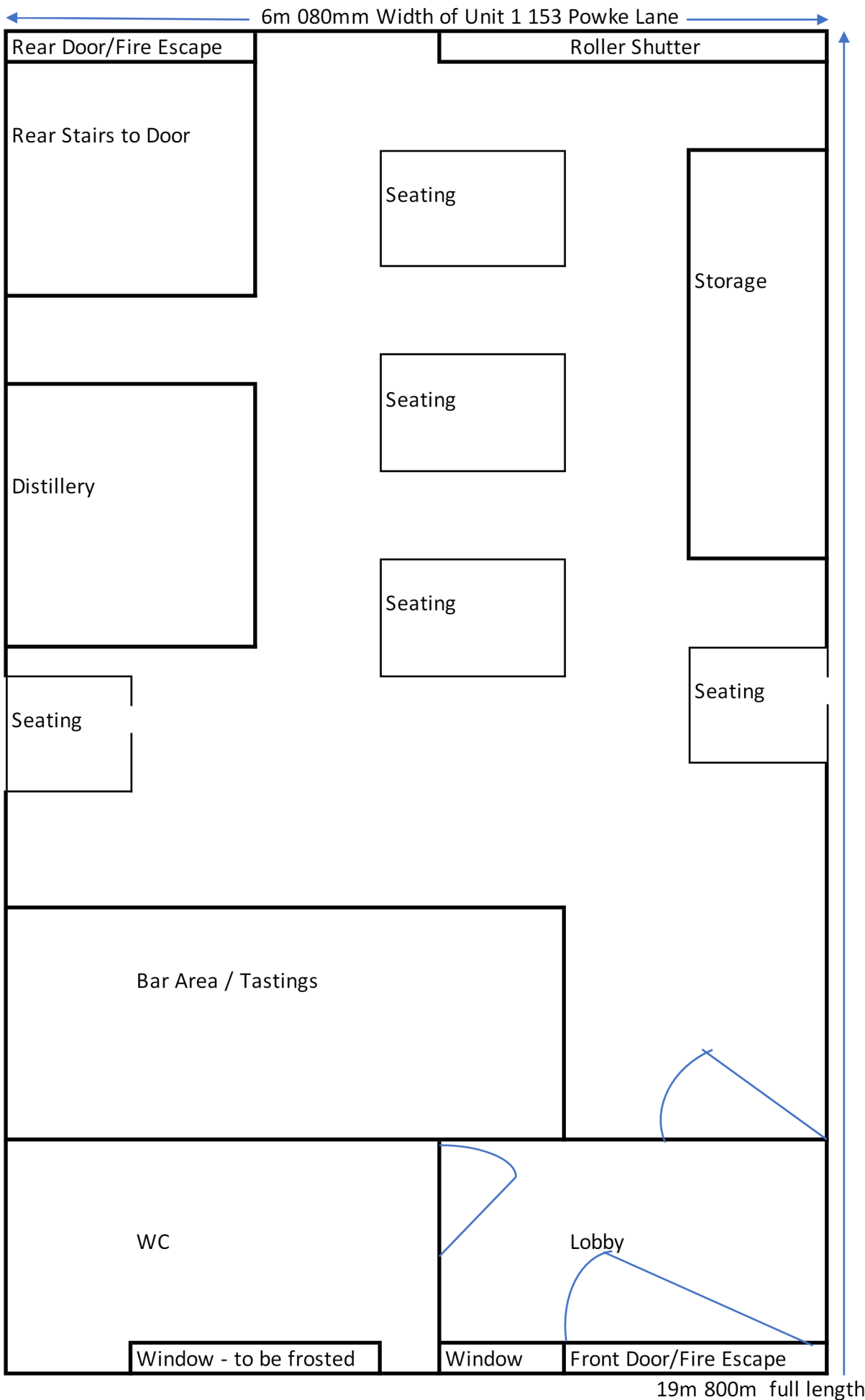
Proposed Floor Plan.



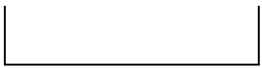


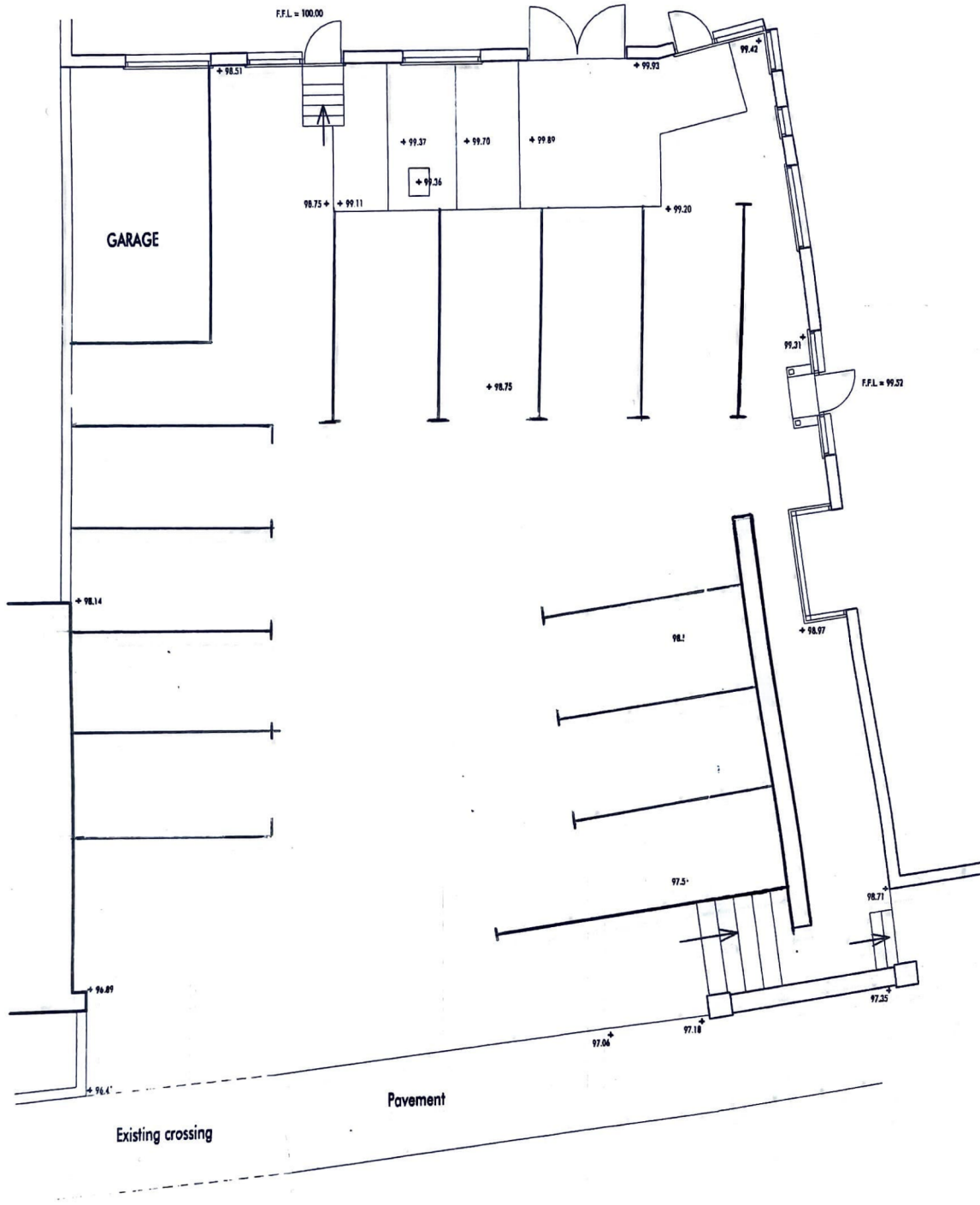


X - FIRE EXTINGUISHERS - ACTUAL PLACING TO BE DETERMINED AFTER INSPECTION BY FIRE OFFICER
 C - CCTV

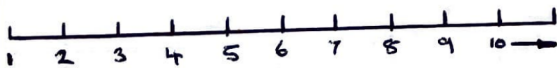


Door unit 2	roller shutter	roller shutter			Door unit 1	Unit 2 Shipping Containers Machine Shop
		Spare Space for unit 1	recycled refuse			
		To Alwin Road	unit 1 parking 1	unit 1 parking 2	unit 1 parking 3	unit 1 parking 4





Scale 1:100.
M.H.F.



SITE PLAN EXISTING

PROPOSED REFURBISHMENT OF UNT 4 - 153 POWKE LANE - ROWLEY RE