

## PLANNING APPLICATION NUMBER:P10/1709

Type of approval sought	Full Planning Permission
Ward	KINGSWINFORD SOUTH
Applicant	Mr Singh
Location:	<b>SHOP, 14, GRANVILLE DRIVE, KINGSWINFORD, DY6 8LD</b>
Proposal	<b>CHANGE OF USE OF OFF-LICENCE (A1) TO HOT FOOD TAKEAWAY (A5) WITH NEW RAMPED ACCESS AND METAL BALUSTRADE (RESUBMISSION OF REFUSED APPLICATION P10/1188)</b>
Recommendation Summary:	<b>REFUSE</b>

### SITE AND SURROUNDINGS

1. The site is situated within an established residential area and relates to a vacant unit (A1 Use Class) located at the end of a staggered terraced row which comprises of shops with flats over and two storey dwellings integrated between the shops. The shops comprise of 2 No. Hair and Beauty Shops (A1 Use Class) and Granville General Stores and Post Office (A1 Use Class).
2. The terraced block benefits from a service road to the rear which is accessed off Rose Avenue. Parking is available to the side of the premises adjacent to the Rose Avenue frontage.

### PROPOSAL

3. The proposal seeks the change of use of the vacant premises to an A5 hot food take-away unit with a new ramped access and metal balustrade. The application also seeks the installation of an extraction flue through the existing chimney.
4. The applicant states that the opening hours would be 12:00 to 22:00 (Monday to Saturday). The premises would remain closed on Sundays and Bank Holidays. The

applicant also states that 4 full time employees and 6 part time would be employed providing an overall full time employee equivalent of 7 staff members as a result of the change of use of the site. Parking provision would be made available to the side of the site on the existing hard standing adjacent to the Rose Avenue frontage.

5. The application is accompanied by a design and access statement.

## HISTORY

### 6. Application Site

APPLICATION No.	PROPOSAL	DECISION	DATE
BH/61/3875	Full planning permission for the erection of 7 shops with living accommodation	Approved with conditions	27 July 1961
BH/61/4041	Full planning permission for an Off License Shop	Approved with conditions	23 November 1961
BH/62/184/S	Advertisement consent for illuminated signage	Approved with conditions	16 July 1962
DB/70/6538	Full planning permission for a change of use from off-licence to retail shop to veterinary consulting room with flat over	Approved with conditions	27 February 1970
P10/1188	Full planning permission for a change of use of off-licence (A1) to hot food takeaway (A5) with new ramped access and metal balustrade	Refused	18 October 2010

7. The previous application (P10/1188) was refused as it was considered that the proposed development would adversely affect the amenities of the occupiers of the adjacent flats and nearby dwelling houses because of the emission of smell and by reason of noise disturbance. Also, the proposed development would adversely affect the amenity of the area because of the deposit of litter.

8. In addition, the proposed car parking layout would have created a continuous footway crossing along the site's frontage to Rose Avenue which would have adversely affected the users of the highway through pedestrian safety being prejudiced through direct conflict with vehicular access and egress movements along this aspect of the highway from the proposed car parking.
9. Adjacent Site (No. 12 Granville Drive)
10. Planning history checks of the terraced block to which the application premises form a part shows that there has also been a previous application to change the use of the adjacent premises of No. 12 Granville Drive to a hot food take-away under planning application reference C/C/90/51821. The application was refused on 08 November 1990 by virtue of the development adversely affecting the amenities of the occupiers of the adjacent dwellings through the emission of smell, noise and increased litter in the area. The application was also refused due as the car parking layout would have created a continuous footway crossing along the site's frontage to Rose Avenue which would have caused a conflict between vehicular and pedestrian movements.

## **PUBLIC CONSULTATION**

11. The application was advertised by way of letters being sent to the occupiers of 31 properties located within close proximity to the site and by the display of a site notice. The 3 Ward Councillors were also notified of the development. The final period for comment expired on 13 January 2011.
12. In response to the consultation exercise, correspondence has been received from all 3 local ward councillors and local residents in the form of 28 objections, as well as a petition containing 120 signatures. The main areas of concern are;
  - increase in traffic;
  - exacerbate existing parking problems and number of accidents on a dangerous road which narrows to the front of 14 Granville Drive and suffers with limited parking provision;
  - the indiscriminate parking impacting upon the bus route along Granville Drive;
  - deliveries via the service road would impact upon the dwellings adjacent to it;

- hours of operation would lead to an increase of noise and anti social behaviour over a longer period of time to the detriment of residential amenity;
- increase in littering and vermin within the area; and
- cooking odours would have an adverse impact on nearby residential properties.
- close proximity to the school;
- intensification of hot food take-aways within the area; and
- Where would the proposed 7 employees park given only 4 parking spaces would be provided?

13. A letter in support of the scheme has also been received. The main areas of support within the letter are;

- the community has lost the previous chip shop serving the area some years ago;
- the use would provide job opportunities within the local community;
- the premises would serve the local community and would reduce car dependency; and
- the use of the premises would enhance the area as it would bring the vacant unit currently occupying the site back into use.

## OTHER CONSULTATION

14. **The Group Engineer (Development):** No objection raised subject to minor amendments to parking space No. 4 to allow for a greater distance from the flank wall of the application building from 2.4 metres to 3 metres to ensure that vehicles doors would not be restricted upon opening.

15. **Head of Environmental Health and Trading Standards:** Objection raised as the proposed site currently has no A3 (restaurants, snack bars, cafes) / A5 (hot food take-away) land uses and is predominantly residential meaning that cooking odours and noise associated with use of this nature are absent. The terrace row in which the proposed A5 use would be located is mixed use having both first floor flats and two storey dwellings integrated between the shops. Currently the only unit opening into the evening is the grocery store which closes at 21:00 hours.

16. A hot food take-away is likely to increase the level of noise from pedestrian and vehicle movement in the area together with an increase in cooking odours. Whilst extracted point source odour emissions could be controlled through the installation of an appropriately designed odour treatment / dispersal system, fugitive emissions are still likely to create some odour in the surrounding area and this is likely to result in some loss of amenity to local residents. Likewise whilst conditions could be imposed in relation to noise from extract / machinery, the level of noise from vehicle / pedestrian movement could not be controlled. Refusal is recommended.
17. **West Midlands Police:** No objection raised.

#### RELEVANT PLANNING POLICY

- Dudley Unitary Development Plan
  - Policy DD4 Development in Residential Areas
  - Policy DD6 Access and Transport Infrastructure
  - Policy DD7 Planning Obligations
  - Policy CR11 Retail (A3) Uses and Amusement Arcades
  - Policy EP5 Air Quality
  - Policy EP7 Noise Pollution
  - Policy AM5 Bus Provision
  - Policy AM14 Parking
  - Policy AM15 Personal Mobility
  
- Supplementary Planning Guidance
  - PGN28 Hot Food Takeaway Shops, Restaurants and Cafes (Class A3 Uses)
  
- Supplementary Planning Document
  - Parking Standards and Travel Plans
  - Planning Obligations

- National Planning Guidance

PPS1                Delivering Sustainable Development

PPG13             Transport

PPS23             Planning and Pollution Control

## ASSESSMENT

### 18. Key Issues

- Principle
- Amenity
- Highways
- Planning Obligations

#### Principle

19. The site is not located within a defined main or district shopping centre or allocated for any particular use within the adopted Dudley Unitary Development Plan (2005). The key issues in determining this application are therefore whether the change of use of the premises to an A5 hot food take-away unit is appropriate in this residential location whilst assessing the impact upon the amenities of nearby residents and the highway implications.

#### Amenity

20. Policy CR11 (Retail (A3) Uses and Amusement Arcades) of the adopted Dudley Unitary Development Plan states that planning permission for hot food take away shops will be allowed in appropriately located and accessible sites provided there would not be an adverse impact upon environmental quality, residential amenity, public or highway safety or the vitality or viability of nearby centres. This is reiterated by PGN28, para. 3.5 states...*'hot food take-away uses are unlikely to be favourably*

*considered in a predominantly residential area or in locations where existing houses are adjoining or in close proximity’...*

21. Policy CR11 (Retail (A3) Uses and Amusement Arcades) also recognises that hot food takeaway shops can often *“generate considerable volumes of traffic, attracting mobile passing trade which may cause congestion or disturbance problems, create noise and smells and are often open at night. Consequently, care must be taken to avoid any adverse effects arising from proposed developments in locations which are in proximity to residential areas and other environmentally sensitive locations”*. Both Policy CR11 (Retail (A3) Uses and Amusement Arcades) and PGN No. 28 therefore confirm that take-away uses are best located in main and district shopping areas.
22. Policy DD4 (Development in Residential Areas) of the adopted Dudley Unitary Development Plan is also of relevance and applies in the consideration of proposals within residential areas. Policy DD4 seeks to ensure that there would be no adverse affect on the character of the area or residential amenity. Policy DD4 also states that the scale nature and intensity of use of the proposed development would be in keeping within the character of the area.
23. Planning history checks of the terraced block to which the application premises form a part show that there has been a previous application to change the use of the adjacent premises of No. 12 Granville Drive to a hot food take-away under planning application reference C/C/90/51821. The application was refused on 08 November 1990 by virtue of the development adversely affecting the amenities of the occupiers of the adjacent dwellings through the emission of smell, noise and increased litter in the area. The application was also refused due to the impact of additional vehicular and pedestrian traffic movement in the late evenings which would have had an impact upon the amenity of the occupiers of adjacent dwellings.
24. The current application is not only located adjacent to the site of the previous hot food take-away application (C/C/90/51821) but is also a resubmission of the previously refused hot food take-away application (planning application reference P10/1188) which was refused on 18 October 2010 as it raised similar issues to the earlier

refused application at the adjacent premises of No. 12 Granville Drive; it was considered that the proposed development would adversely affect the amenities of the occupiers of the adjacent flats and nearby dwelling houses because of the emission of smell and by reason of noise disturbance. Also, the proposed development would adversely affect the amenity of the area because of the deposit of litter. Furthermore; the proposed car parking layout would have created a continuous footway crossing along the site's frontage to Rose Avenue which would have caused a conflict between vehicular and pedestrian movements.

25. The application premises are directly beneath a residential flat and in close proximity to a residential neighbourhood. There would therefore be the potential of noise nuisance from customers using the premises, and from associated plant machinery. There is also the potential for odour nuisance from cooking processes as well as the deposit of litter within the surrounding environment as a result of the use. This would be contrary to the aspirations of Policies CR11 (Retail (A3) Uses and Amusement Arcades) and DD4 (Development in Residential Areas) of the adopted Dudley Unitary Development Plan (2005).
26. The impact of some of the above issues raised against residential amenity could be reduced to some extent by installing litter bins within the immediate vicinity of the premises, as well as sound insulation to plant and machinery and ensuring the extraction system has effective odour abatement. However, there is still likely to be the potential for litter deposits to build up around the premises as well as excess noise from the coming and goings of customers and odour from fugitive emissions from the opening of doors and windows at the premises, which are a lot more difficult to control and would therefore still be contrary to the aims of Policies CR11 (Retail (A3) Uses and Amusement Arcades) and DD4 (Development in Residential Areas) of the adopted Dudley Unitary Development Plan (2005).
27. It is therefore considered that there is little difference between the issues raised under this application when compared to the previously refused planning application at the site (P10/1188) and those raised under planning application (C/C/90/51821) at the adjacent site of No. 12 Granville Drive and as such the change of use to an A5 hot



food take-away unit is likely to have an adverse impact upon residential amenity contrary to the aims of Policies CR11 (Retail (A3) Uses and Amusement Arcades) and DD4 (Development in Residential Areas) of the adopted Dudley Unitary Development Plan (2005).

### Highways

28. This section of Granville Drive, fronting No's. 2 to 14 suffers from indiscriminate parking congestion and highway safety issues arising from customer parking to this row of commercial properties. This results in the blocking of, and parking on the highway, affecting the safe operation of the highway and the bus route along Granville Drive to the detriment of highway safety. The parking layout has now been revised from that previously submitted under planning application P10/1188, to ensure that the proposed car parking layout would not create a continuous footway crossing along the site's frontage to Rose Avenue which would cause a conflict between vehicular and pedestrian movements. The revised parking layout as now submitted, still benefits from a dropped kerb off Rose Avenue, albeit of a reduced width as well as concrete bollards measuring 1.0 metre in height to the periphery of the car parking area which contains 4 No. parking spaces. This layout provides sufficient car parking provision to cater for the development, in accordance with policy guidance and it is therefore difficult to make the case that this development would exacerbate the problems as a result of the surrounding commercial development.
29. Subject to amendments to parking space No. 4 to allow for a greater distance from the flank wall of the application building from 2.4 metres to 3 metres to ensure that vehicles doors would not be restricted upon opening and ensuring the markings for the disabled car parking space comply with the specification as set out in PPG 13 (Transport), the scheme would accord with Policies DD6 (Access and Transport Infrastructure) and AM14 (Parking) of the adopted Dudley Unitary Development Plan (2005) and the guidance of PPG13 (Transport).

## Planning Obligations

30.

Policy DD7 (Planning Obligations) of the adopted Dudley Unitary Development Plan in conjunction with the Council's adopted Supplementary Planning Document (Planning Obligations) requires applicants to enter into planning obligations where the scale and impact of the development, in accordance with government advice, result in a consequential planning loss to the existing community. Planning Obligations must where appropriate and necessary; make appropriate provision for the infrastructure requirements of the development and ensure that there is no unacceptable adverse impact on the existing environment, nor consequential unacceptable loss to the existing level of services enjoyed by the community.

31. Policy DD7 and the Planning Obligations Supplementary Planning Document requires that hot food takeaways which result in a higher number of trips being generated from the site, should make contributions toward transport improvements in the wider area in line with the increase in users arising as a result of the development. The proposal attracts a requirement for a commuted sum to be paid towards the following off site infrastructure:

### *Offsite Contributions:*

Transport Infrastructure - £598.10

Management and Monitoring Costs - £250.00

Total Offsite Contribution equates to £848.10

32. The applicant has agreed to the payment of these offsite planning obligations.

## CONCLUSION

33. Clearly a beneficial use for the premises would be better than it remaining vacant but any new use should not be at the expense of a material diminution of nearby residents enjoyment of their homes, especially in the evening. The change of use as proposed would impact upon the amenities of these surrounding occupiers and despite amendments to the scheme from the previously refused application, the scheme as proposed is considered to be contrary to the aims of the relevant policy criteria framework.

## RECOMMENDATION

34. It is recommended that planning permission is refused for the following reason(s):

Conditions and/or reasons:

1. The proposed development would adversely affect the amenities of the occupiers of the adjacent flats and nearby dwelling houses by reason of noise disturbance. The proposal is therefore contrary to Policies CR3 (Local Shopping Areas), CR11 (Retail (A3) Uses and Amusement Arcades), DD3 (Design of Retail Development) and DD4 (Development in Residential Areas) of the adopted Dudley Unitary Development Plan (2005) and Planning Guidance Note 28 (Hot Food Takeaway Shops, Restaurants and Cafes).  
The proposed development would adversely affect the amenities of the occupiers of the adjacent flats and nearby dwelling houses because of the emission of smell. As such the proposal is contrary to Policies CR3 (Local Shopping Areas), CR11 (Retail (A3) Uses and Amusement Arcades), DD3 (Design of Retail Development) and DD4 (Development in Residential Areas) of the adopted Dudley Unitary Development Plan (2005) and Planning Guidance Note 28 (Hot Food Takeaway Shops, Restaurants and Cafes).
2. The proposed development would adversely affect the amenity of the area because of the deposit of litter. As such the proposal is contrary to Policies CR3 (Local Shopping Areas), CR11 (Retail (A3) Uses and Amusement Arcades), DD3 (Design of Retail Development) and DD4 (Development in Residential Areas) of the adopted Dudley Unitary Development Plan (2005) and Planning Guidance Note 28 (Hot Food Takeaway Shops, Restaurants and Cafes).
3. The lack of an undertaking to make a contribution towards Transport Infrastructure Improvements and Management and Monitoring contributions is contrary to the requirements of Policy DD7 (Planning Obligations) of the adopted Dudley Unitary Development Plan (2005) and the Planning Obligations Supplementary Planning Document and would result in an increase in the demand on local facilities with no compensation or enhancement, thus resulting in harm to the wider community around the site.



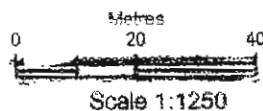
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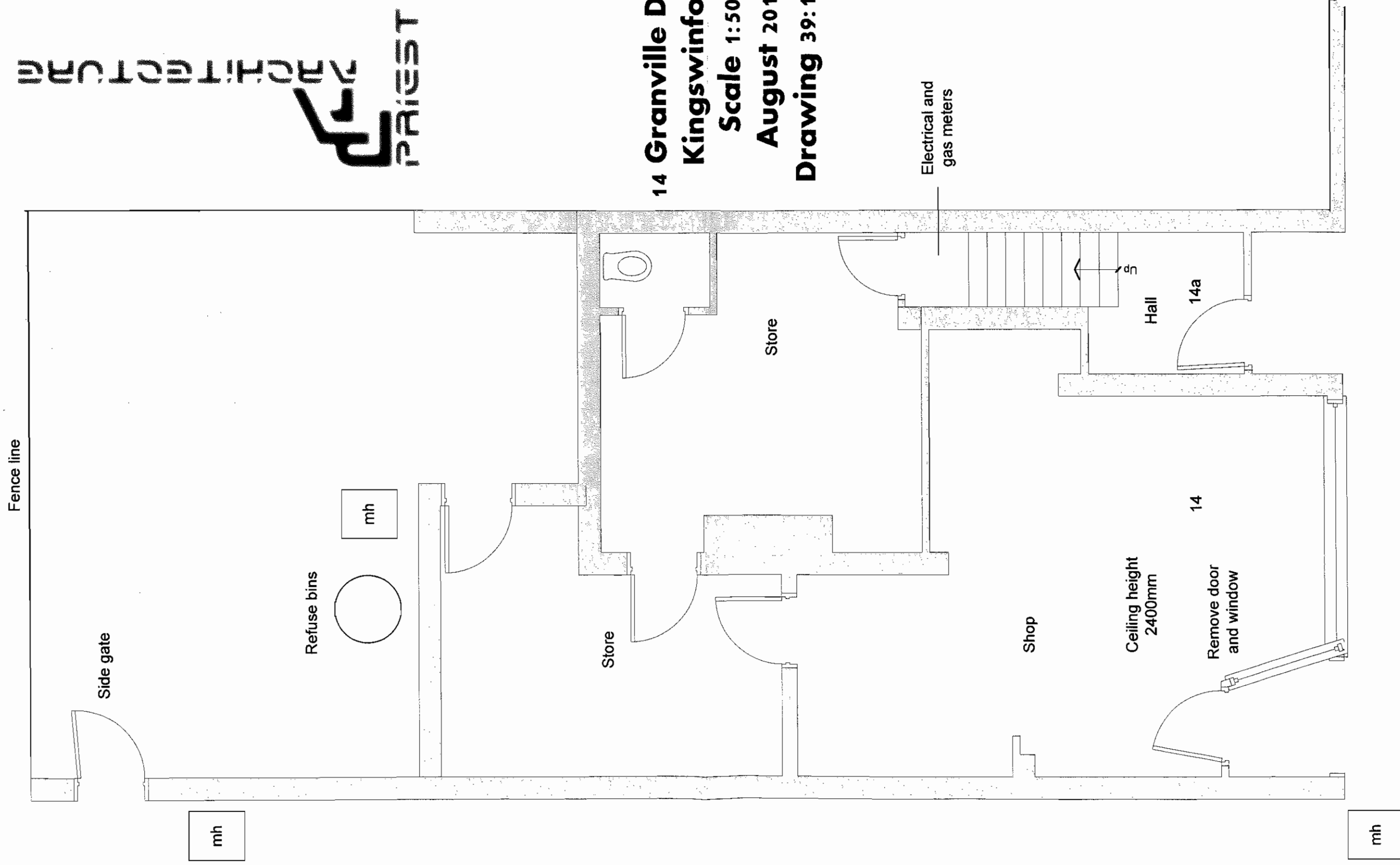
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Granville Drive

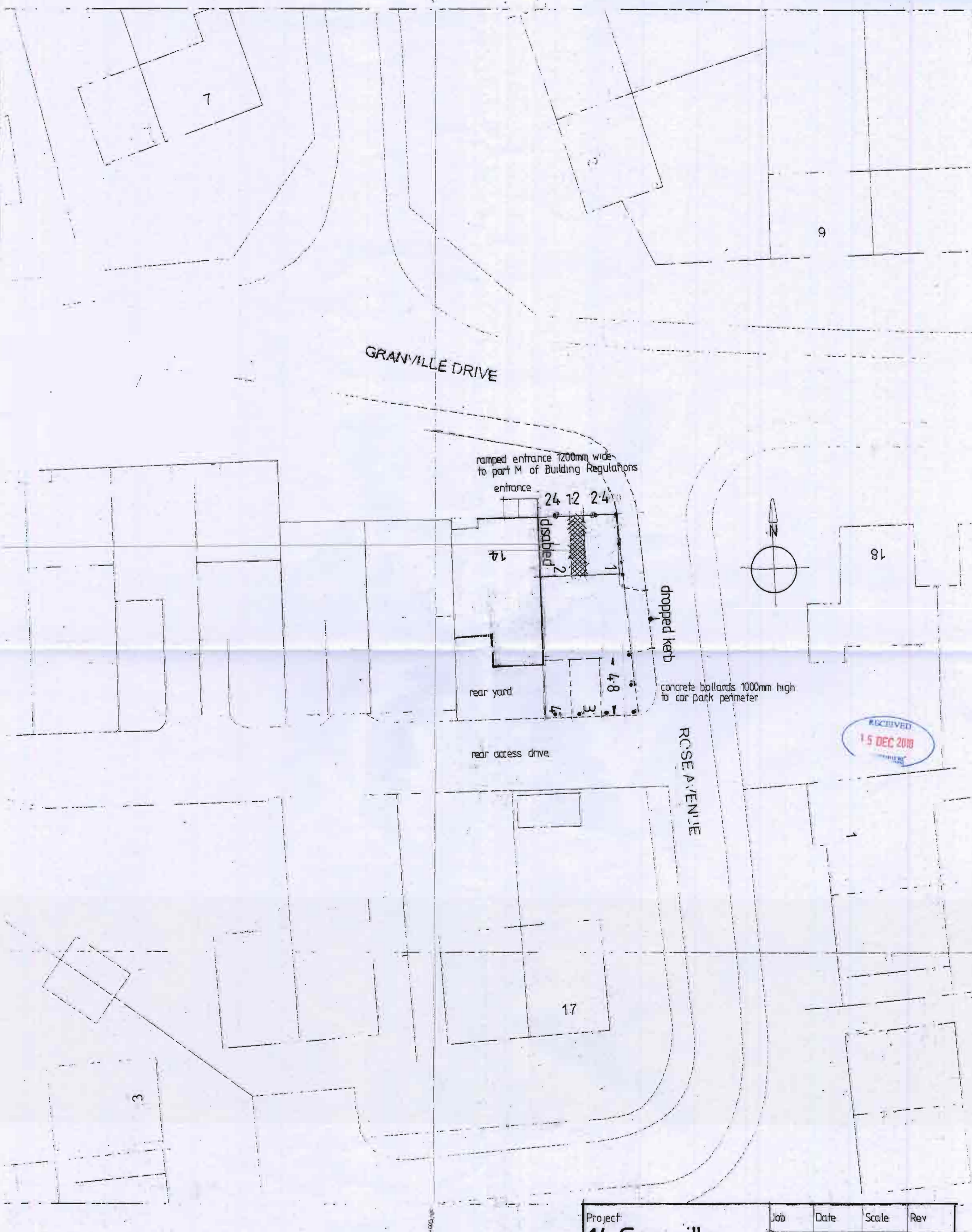
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**14 Granville Drive,  
Kingswinford  
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August 2010  
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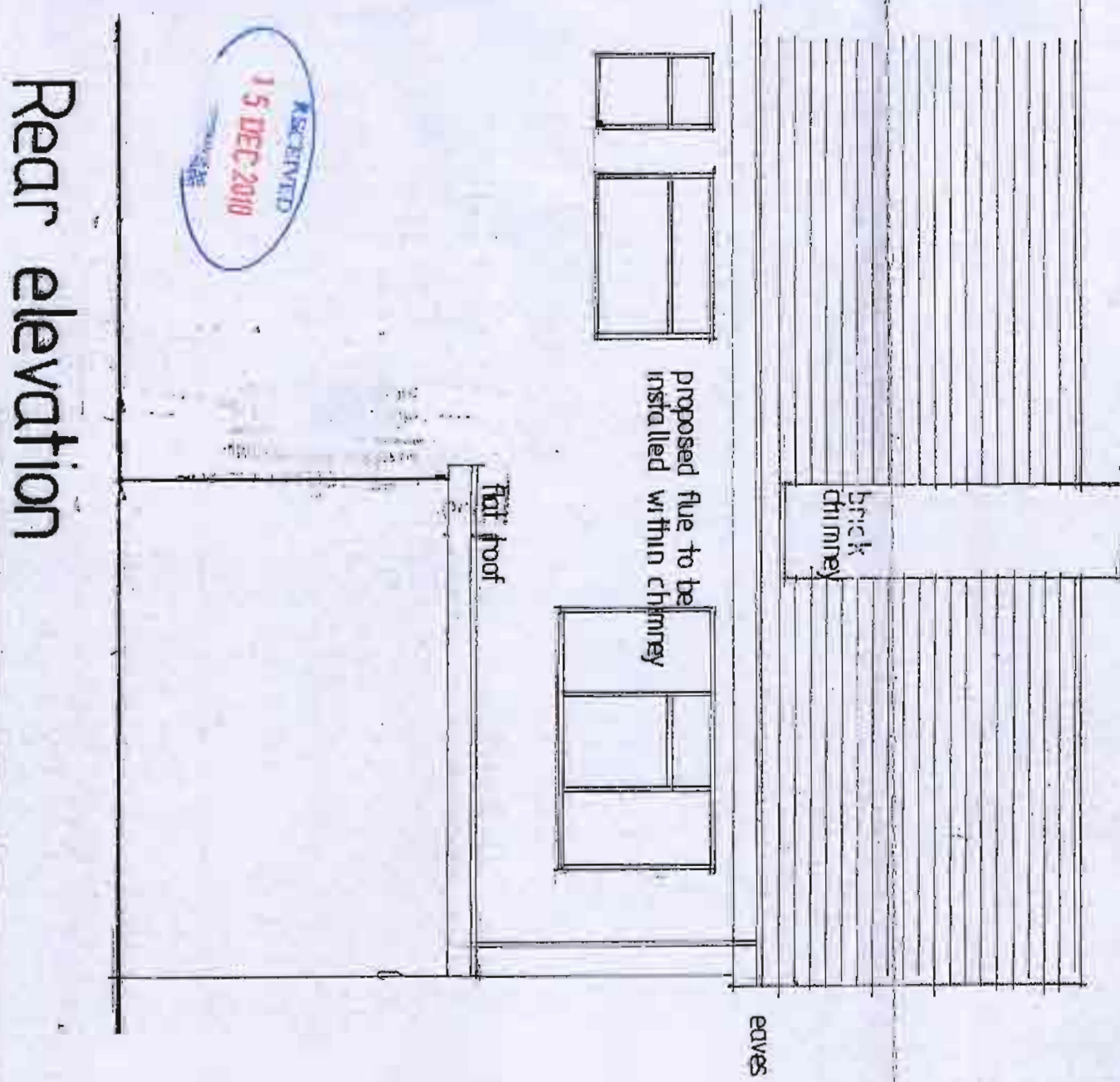
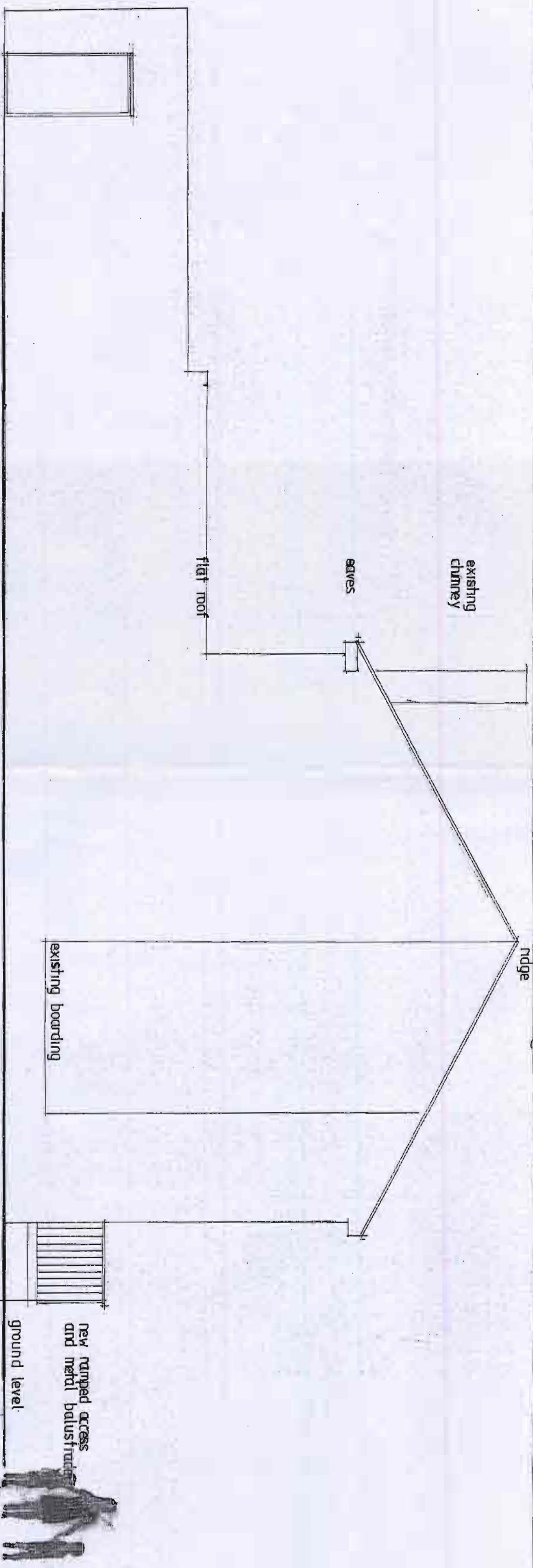
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15 DEC 2010

Revision A 3 10 2010 Notes on parking and ramp added  
B Dec 10 Parking amended

Scale 1:200

Project	Job	Date	Scale	Rev
14, Granville Drive, Kingswinford	39-10	Aug 10	1:200	A B
	Drawing			
		39-10-04		A B





Front elevation

Rear elevation

Project		Job	Date	Scale	Rev
14, Granville Drive, Kingswinford		39 10	AUG 2010	1:50	
DY6 8LD		Drawing 39-10-02			



14 Granville Drive,  
Kingswinford

Scale 1:50

August 2010

Drawing 39: 10:03

