

## **PLANNING APPLICATION NUMBER:P10/0129**

|                         |   |
|-------------------------|---|
| Type of approval sought | Full Planning Permission  |
| Ward                    | SEDGLEY   |
| Applicant               | Mrs S Ahad  |
| Location:               | <b>SHOP, 9, BILSTON STREET, SEDGLEY, DUDLEY, DY3 1JA</b>  |
| Proposal                | <b>CHANGE OF USE OF SHOP (A1) TO HOT FOOD TAKEAWAY (A5) WITH FUME EXTRACTION (RESUBMISSION OF WITHDRAWN APPLICATION P09/1677)</b> |
| Recommendation Summary: | <b>APPROVE SUBJECT TO CONDITIONS</b>  |

### **SITE AND SURROUNDINGS**

1. The application site relates to No. 9 Bilston Street, a modest terrace of two-storey late 18<sup>th</sup> to early 19<sup>th</sup> century building with later alterations. Attached to the rear of the building is a single storey extension similar in appearance to a temporary 'portacabin' type structure. This extension received planning permission in 1962, albeit not in the materials it has been constructed in. Vehicular access to the rear service yard is provided via Brick Street.
2. The building is a Grade II Statutorily Listed Building, as are the adjoining buildings, Nos. 11 to 27 Bilston Street. These buildings are recorded on the Council's Historic Buildings Sites and Monuments Record under HBSMR No. 917. No. 9 Bilston Street was provided with a modern shop front prior to its listing on the 4<sup>th</sup> April 1976.
3. The front and rear first floor windows appear to have been provided with UPVC replacements, albeit not to the same design as the original windows. The Council has no record of Listed Building Consent being granted for this alteration.

## PROPOSAL

4. This is a full planning application proposing the change of use of the premises from retail (A1 use) to a hot food take-away (A5 use). The change of use would also include a fume extraction unit which would exit the building via the chimney, projecting above the ridge. The application also includes proposals for boarding and finishing of the brick 'stallriser' below the shopfront as well as the installation of lighting above the shopfront signage.
5. The application also relates to internal alterations, however, as the majority of the proposed alterations to the building are internal and as such do not require planning permission, these alterations are being dealt with through the parallel listed building application (P10/0128).
6. The applicant states that the premises would employ a total of 5 full time staff. It is proposed that the hot food takeaway would occupy the ground floor, whilst the existing residential occupation would continue at first floor level.
7. The application is accompanied by a design and access statement.

## HISTORY

8. Planning history.

| <b>APPLICATION No.</b> | <b>PROPOSAL</b>   | <b>DECISION</b>          | <b>DATE</b> |
|------------------------|---|--------------------------|-------------|
| SD/55/1046             | Full Planning Permission for construction of a bay window at existing shop                      | Approved with conditions | 03/05/55    |
| DB/73/1587/S           | Advertisement Consent for an Illuminated Box Sign   | Approved with Conditions | 16/05/73    |
| SD/62/2505             | Full Planning Permission for New Shop Front with flat over                                      | Approved                 | 12/03/62    |
| CC/78/3344             | Full Planning Permission for Change of Use from Residential to Offices                          | Approved with conditions | 23/04/79    |
| P09/1677               | Full planning permission for a Change of Use of Shop to hot food take away with fume extraction | Withdrawn                | 27/01/2010  |
| P09/1678               | Listed Building Consent for a Change of Use of Shop to hot food take away with fume extraction  | Withdrawn                | 28/01/2010  |
| P10/0128               | Listed Building Consent for a Change of Use of Shop to hot food take away with fume extraction  | Pending                  | N/A         |

## **PUBLIC CONSULTATION**

9. The application was advertised by way of neighbour notification letters being sent to the occupiers of twenty one properties within close proximity to the site. The final period for comment expires on 05 March 2010. At the time of writing this report no comments or objections have been received.

## OTHER CONSULTATION

10. **Group Engineer (Development):** No objection raised.
  
11. **Head of Environmental Health and Trading Standards:** The plans show the extract flue to be located through an existing chimney. It is not clear from the plans whether or not this extract flue reaches 1m above the roof ridge of the building, which is required to ensure odour can be effectively dispersed so as to protect the amenity of nearby residents. It is required that the flue height is to be 1m above the roof ridge in order to meet any condition relating to a scheme for the treatment of cooking fumes that may be applied to any approval granted. Details of the extract flue shown on the plans submitted with this application shall not be taken as part of any approval granted.

## RELEVANT PLANNING POLICY

- **Adopted Dudley Unitary Development Plan (2005)**
  - Policy S2 Creating a more Sustainable Borough
  - Policy S4 Heritage Assets
  - Policy S5 Local Distinctiveness
  - Policy DD1 Urban Design
  - Policy DD3 Design of Retail Development
  - Policy DD4 Development in Residential Areas
  - Policy DD6 Access and Transport Infrastructure
  - Policy DD7 Planning Obligations
  - Policy CR1 Hierarchy of Centres
  - Policy CR11 Retail (A3) Uses and Amusement Arcades
  - Policy EP5 Air Quality
  - Policy EP7 Noise Pollution
  - Policy AM3 Strategic Highway Network
  - Policy AM15 Personal Mobility
  - Policy HE1 Local Character and Distinctiveness
  - Policy HE4 Conservation Areas
  - Policy HE6 Listed Buildings

- **Supplementary Planning Document**

Parking Standards and Travel Plans

Historic Environment

Planning Obligations

- **Supplementary Planning Guidance**

PGN28 Hot Food Takeaway Shops, Restaurants and Cafes (Class A3 Uses)

- **Regional Planning Guidance**

QE3 Creating a high quality built environment for all

T2 Reducing the need to travel

- **National Planning Guidance**

PPS1 Delivering Sustainable Development

PPG4 Industrial and Commercial Development and Small Firms

PPS6 Town Centres

PPS11 Regional Spatial Strategies

PPG13 Transport

PPG15 Planning and the Historic Environment

PPS23 Planning and Pollution Control

## ASSESSMENT

### 12. Key Issues

- Principle
- Design and Historic Building Issues
- Neighbour Amenity
- Access and Parking
- Planning Obligations

Principle

13. The site is not designated for any particular use within the adopted Dudley Unitary Development Plan (2005). The site contains a Grade II Statutorily Listed Building with the ground floor element of this building vacant from its former use as a Shop (A1 Use) and subject to this change of use application to a hot food take-away (A5 Use). The first floor element of the building comprises of residential accommodation (C3 Use) and shall remain unaltered. As such the application has to be considered alongside policies HE1 (Local Character and Distinctiveness), HE4 (Conservation Areas) and HE6 (Listed Buildings) of the adopted Dudley Unitary Development Plan, which seeks to protect and where possible enhance the Boroughs heritage assets. Also, the wider key issues for consideration in determining this application are whether the change of use of the premises to an A5 hot food take-away unit is also appropriate in this location whilst assessing the impact upon the amenities of surrounding commercial and residential occupiers as well as considering the highway implications.

#### Design and Historic Building Issues

14. The majority of the proposed works are internal and are thereby covered by the parallel listed building consent application (P10/0128), however, certain external works require planning permission including the extraction flue. The change of use from offices (A1 use) to a hot food take-away (A5 Use) also requires planning consent.
15. The extraction flue would be sited through the central chimney from the kitchen which would enable the flue to discharge above the ridge to ensure surrounding occupiers would not suffer a loss of amenity through cooking odour whilst the flue would not appear visually prominent by being concealed within the existing chimney stack. In terms of noise; a scheme to minimise the noise impact of the flue would be required as part of the planning approval to ensure existing residential amenity would not be prejudiced for existing surrounding occupiers. Whether this would require the chimney to be raised to achieve the height recommended by the Head of Environmental Health has yet to be established.

16. The change of use from a retail shop (A1 use) albeit a vacant premises to a hot food take-away (A5 Use) and the associated activities of the customers; the hours of opening would be restricted to 9:00 to 22:30 (Monday-Thursday), 09:00 to 23:00 on Fridays and Saturdays and 10:00 to 22:00 (Sunday and Bank Holidays) whilst the times of deliveries would be restricted to protect neighbouring residents from excess noise and to ensure highway safety and peak traffic flows would not be prejudiced. The hours for delivery would be restricted between 09:00 to 18:00. It is considered that the proposed change of use within this regard would accord with Policy, whilst preserving and enhancing a vacant Grade II Listed Building as well as preserving and enhancing the character of the Town Centre Conservation Area. The proposed use would also increase employment opportunities within the Borough and more specifically within the Sedgley Town Centre to provide an additional 5 full time jobs.

#### Neighbour Amenity

17. Policy DD4 (Development in Residential Areas) of the adopted Dudley Unitary Development Plan applies in the consideration of development proposals within residential areas. Policy DD4 seeks to ensure that development would not adversely affect the character of the area or residential amenity.
18. The site is located within a town centre location and the majority of nearby uses are either retail or commercial, however, there are residential properties within the locality. It is considered through robust conditioning to control hours of operation as well as servicing of the restaurant and the control of the discharge of odours, residential amenity would not be prejudiced and no concerns have been raised through the public consultation process. This element of the scheme is considered to comply with the relevant policy criteria.

### Access and Parking

19. Bilston Street forms part of the strategic highway network. These roads are for long distance and strategic traffic. Street parking and direct frontage access will be kept to a minimum to ensure the effective flow of traffic, and the Council will give a high priority to improvements and traffic management measures to assist traffic flows; in accordance with policy AM3 (Strategic Highway Network) of the adopted Dudley Unitary Development Plan.
20. The proposed development does not require off street parking in view of the developments position within Sedgley Town Centre with both on street and off street parking available within close proximity of the site. The lack of any customer parking provision is therefore not considered to be an issue.
21. The principle of deliveries to the site is established from the previous use (A1 use) and the proposed use would be serviced via the existing service yard to the rear. It is therefore considered that the proposed change of use would not differ significantly from the existing servicing arrangement afforded to the premises to warrant a refusal of this application on highway grounds.

### Planning Obligations

22. Policy DD7 (Planning Obligations) of the adopted Dudley Unitary Development Plan (2005) in conjunction with the Council's adopted SPD (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. Should permission be granted a Section 106 Agreement would be required in respect of the following contributions.



The proposal attracts a requirement for a commuted sum to be paid towards the following infrastructure:

Offsite Contributions:

Transport Infrastructure Improvements - £885.35

Public Realm - £2177.70

Management and Monitoring Charge - £250.00

Total Offsite Contribution equates to £3313.05

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

## **CONCLUSION**

23. On balance, the proposed use of the listed building as a hot food take away (A5 use) is considered to be acceptable. The proposed external changes to incorporate the flue within the existing chimney stack is considered to be acceptable whilst ensuring the change of use and all ancillary development would contribute towards improving the condition and appearance of the vacant Grade II listed building as well as preserving and enhancing the character of the Town Centre Conservation Area. The amenity of surrounding occupiers would also not be prejudiced by the development and the scheme accords with the relevant Policy criteria framework.

## **RECOMMENDATION**

24. It is recommended that planning permission is granted subject to conditions:

25. It is recommended that the application is approved subject to:

- a) the development not be beginning until a scheme for the submission and approval of a planning obligation to guarantee the payment of £3313.05 for Transport Infrastructure Improvements and Public Realm as well as monitoring, management and implementation costs has been submitted to and agreed in writing by the Local Planning Authority; and

- b) The Scheme shall include the method, timing and arrangements including a means to guarantee a financial payment, increased through index linking from the first April each subsequent year, in accordance with the Council's planning obligations policies.
  
- c) The following conditions, with delegated powers to the Director of the Urban Environment to make amendments to these as necessary; and

#### Reason for approval

On balance, the proposed use of the listed building as a hot food take away (A5 use) is considered to be acceptable. The proposed external changes to incorporate the flue within the existing chimney stack is considered to be acceptable whilst ensuring the change of use and all ancillary development would contribute towards improving the condition and appearance of the vacant Grade II listed building as well as preserving and enhancing the character of the Town Centre Conservation Area. The amenity of surrounding occupiers would also not be prejudiced by the development and the scheme accords with the relevant Policy criteria framework.

The decision to grant planning permission has been taken with regard to the policies in the adopted Dudley Unitary Development Plan (2005) and to all relevant material considerations:

The above is intended as a summary of the reasons for the grant of planning permission. For further detail on the decision please see the application report.

#### Note to Applicant

This permission relates to the Plan labelled Drawing No. DJD/9026 (Revision 2), date stamped '25 January 2010', unless otherwise agreed in writing by the Local Planning Authority.

### Informative

The applicant should be aware that works cannot commence on site until Listed Building Consent for the proposed works has also been granted and associated conditions fully discharged.

The applicant should also be aware that any signage to be erected or displayed upon the premises would be subject to further planning applications (including any external down lighting).

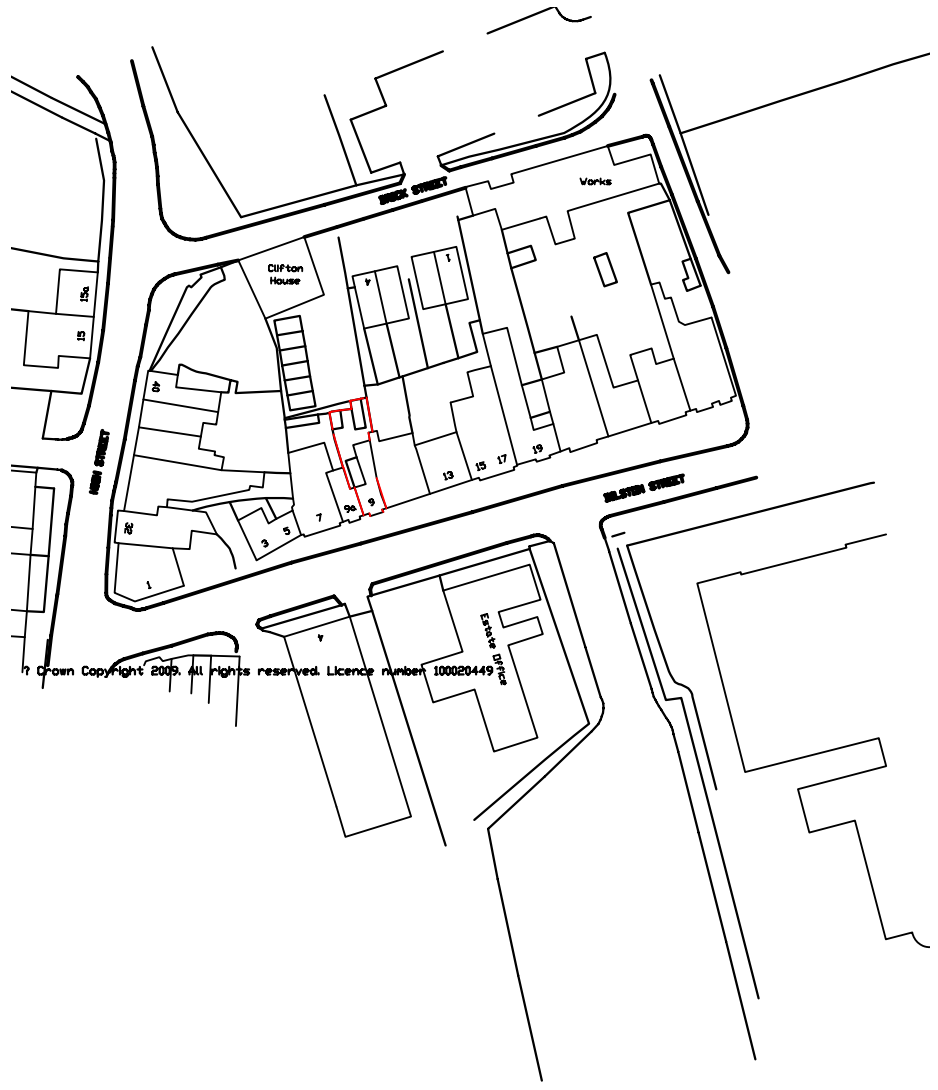
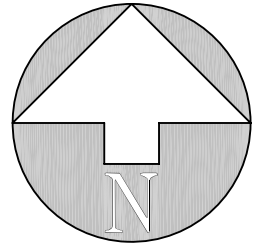
### Conditions and/or reasons:

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
2. The change of use and ventilation flue hereby permitted shall not commence / be installed until a detailed Repairs Schedule for the Listed Building has been submitted to and approved in writing by the local planning authority and the schedule shall thereafter be implemented in strict accordance with the approved details prior to the first occupation of the building.
3. Development shall not begin until details have been submitted to and approved in writing by the local planning authority of the proposed ventilation flue and how it is to be taken through the existing chimney.
4. Prior to the commencement of the change of use, a scheme containing full details of arrangements for internal air extraction, odour control, and discharge to atmosphere from cooking operations, including any external ducting and flues, shall be submitted to and approved in writing by the Local Planning Authority. The extract flue shall terminate a minimum of 1.0 metre above the roof ridge height of the building. The works detailed in the approved scheme shall be installed in their entirety before the use hereby permitted is commenced. The equipment shall thereafter be maintained in accordance with the manufacturer's instructions and operated at all times when cooking is being carried out unless otherwise agreed beforehand in writing with the Local Planning Authority.
5. Before any internal or external fixed plant or machinery (including plant machinery or ducting used for air extraction, odour control and discharge to atmosphere) associated with the development is used, a scheme to prevent disturbance to other occupiers of the building from conducted noise and vibration arising from its

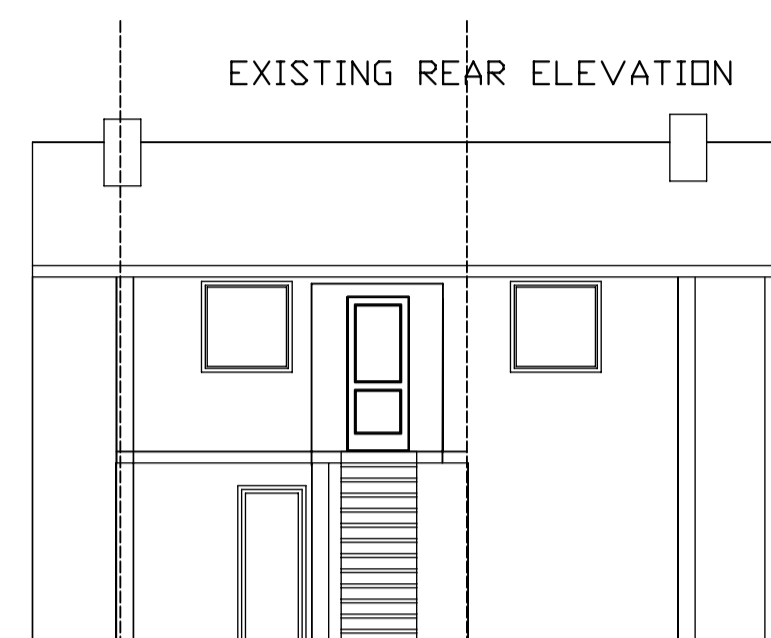
operation shall be submitted to and approved in writing by the local planning authority. All works that form part of the approved scheme shall be completed before use of the plant or machinery, and retained during use of the plant or machinery for the duration of the development.

6. No delivery vehicles whether loaded or unloaded shall enter or leave the site, before the hours of 09:00 nor after 18:00 Monday to Saturday, or at all on Sundays and Bank Holidays.
7. Restriction on hours of opening to the public  
The premises shall not be open to the public before the hours of 09:00 nor after 22:30 Monday to Thursday, before 09:00 or after 23:00 on Fridays and Saturdays nor before 10:00 or after 22:00 on Sundays and Public Holidays.
8. Development shall not commence until an arrangement for the provision of off site Transport Infrastructure Improvements, Public Realm Improvements and a management and monitoring charge has been submitted to and approved in writing by the Local Planning Authority. The scheme shall include the method, timing and arrangements to comply with the Council's policies for the provision of the infrastructure required in connection with the proposed development.
9. Any external waste bins associated with the operation shall not be used or emptied outside the hours of opening to the public.

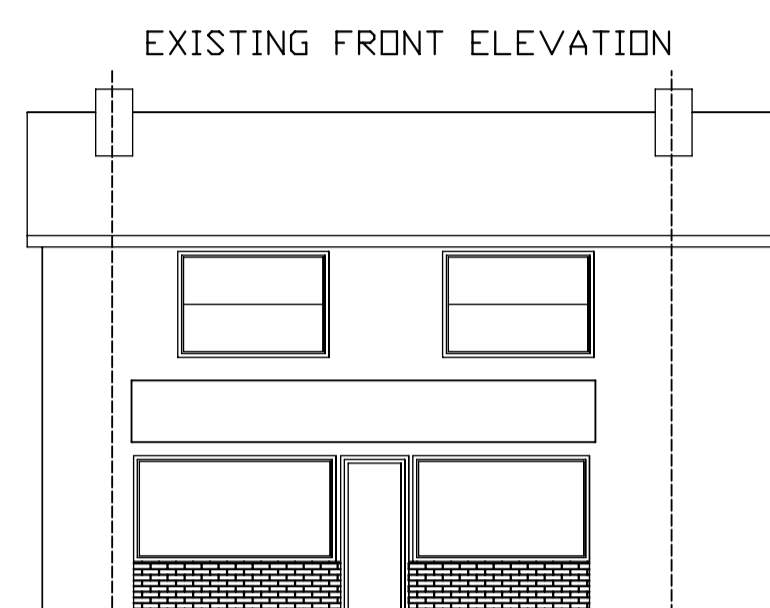
LOCATION PLAN @ 1:1250  
ADDRESS- 9 BILSTON STREET  
SEDGLEY DY3 1JA



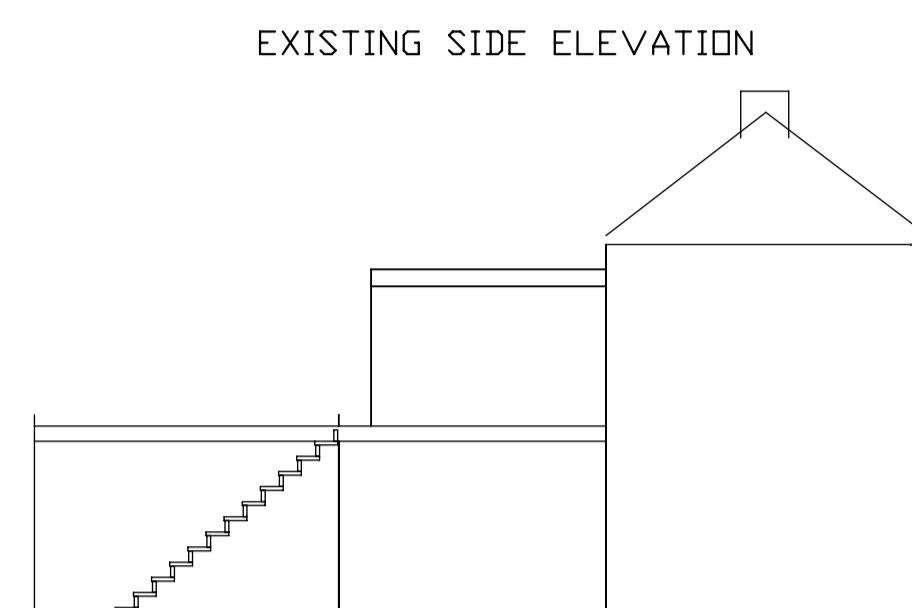
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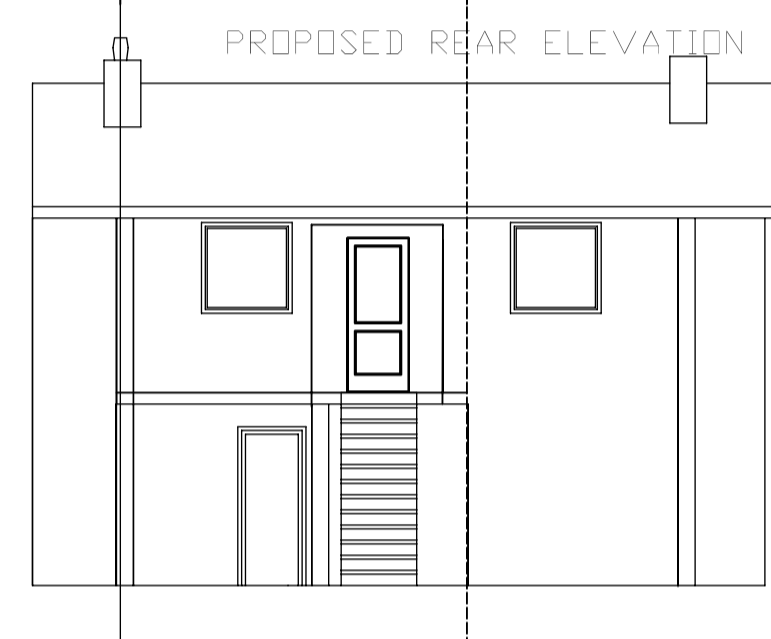
EXISTING REAR ELEVATION



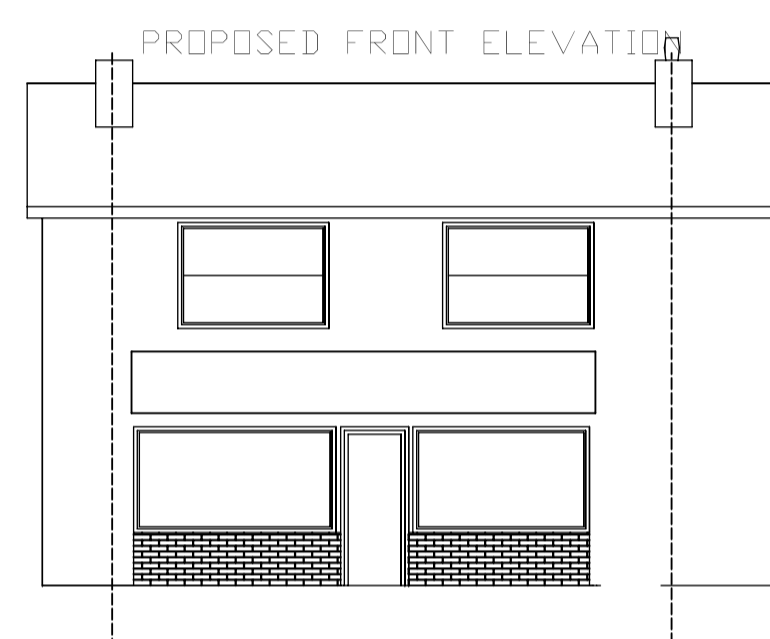
EXISTING FRONT ELEVATION



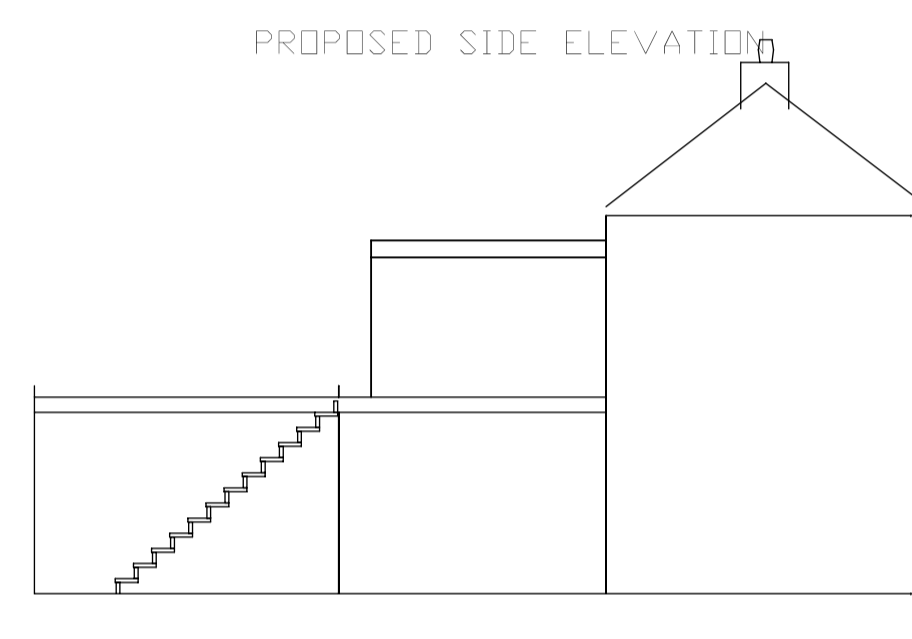
EXISTING SIDE ELEVATION



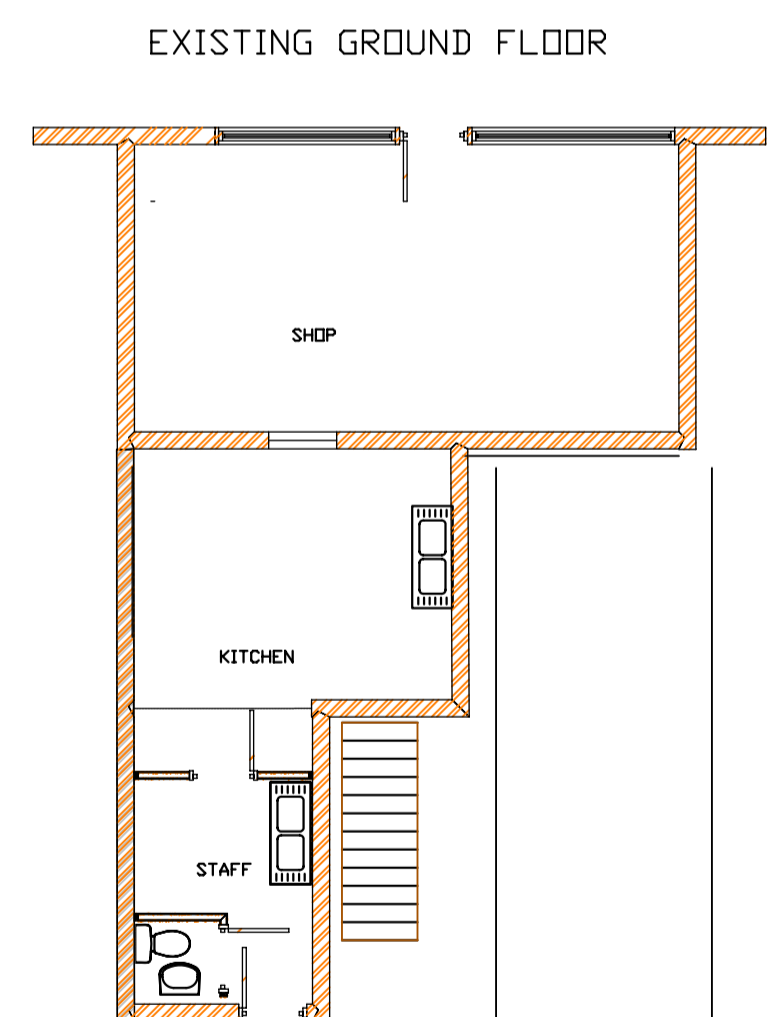
PROPOSED REAR ELEVATION



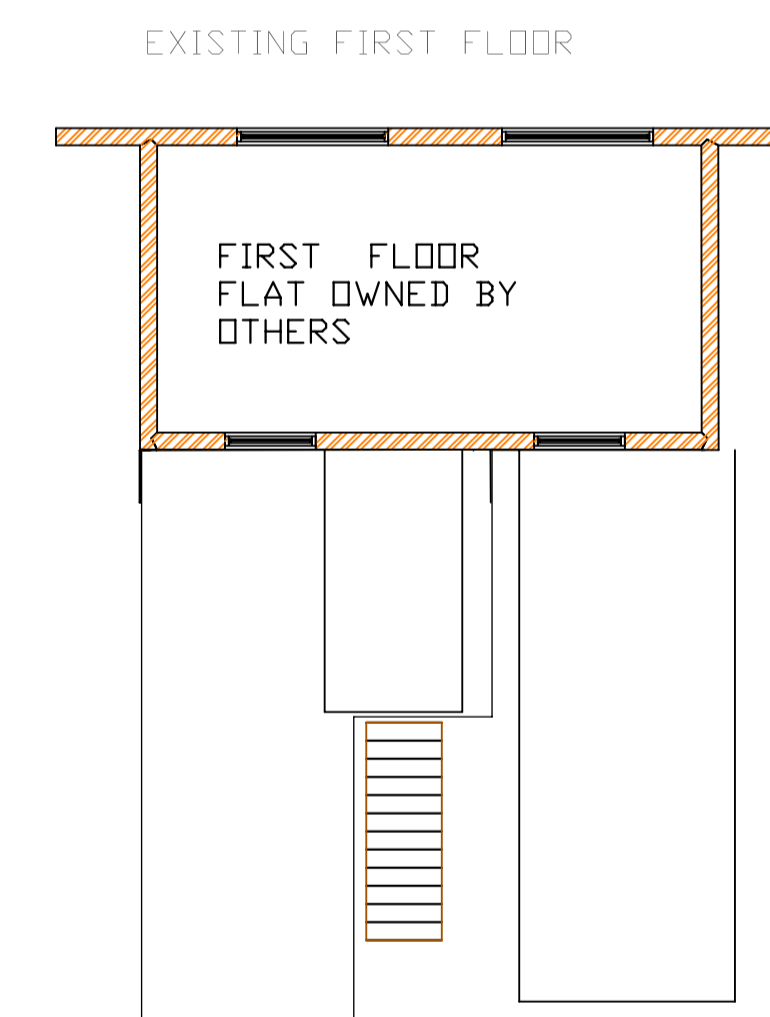
PROPOSED FRONT ELEVATION



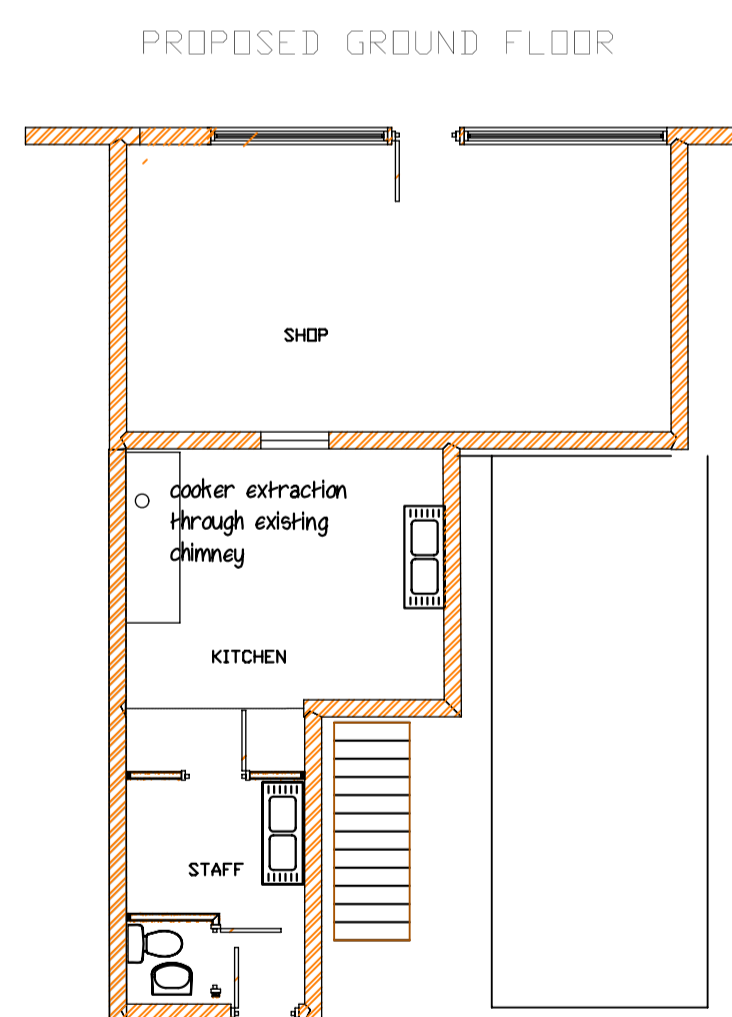
PROPOSED SIDE ELEVATION



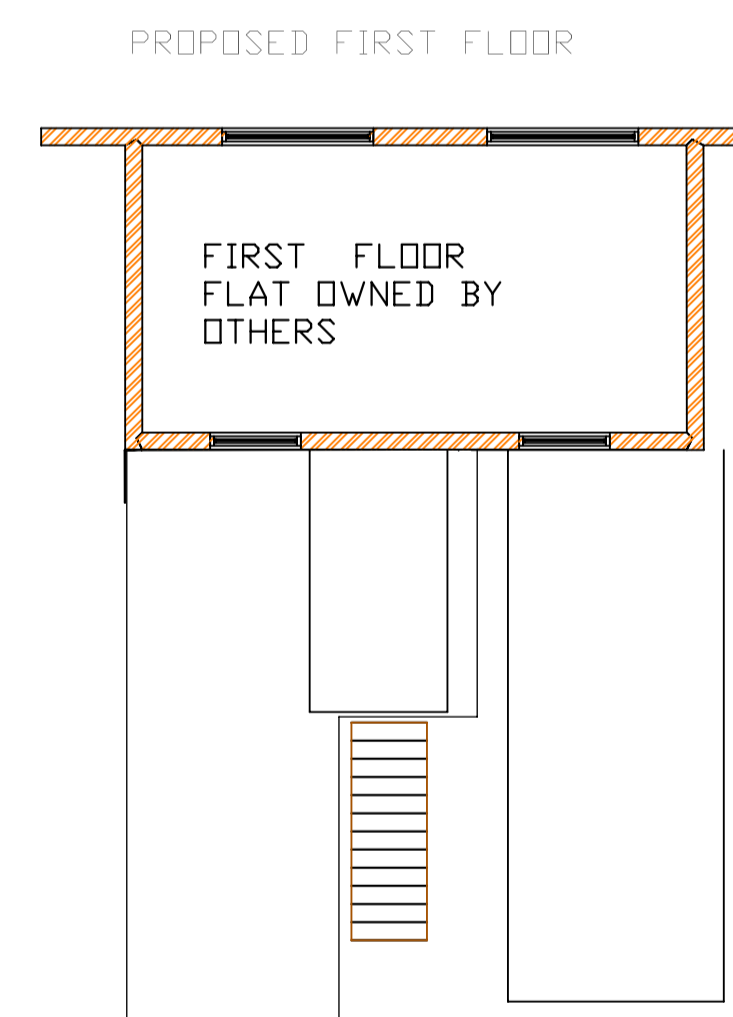
EXISTING GROUND FLOOR



EXISTING FIRST FLOOR



PROPOSED GROUND FLOOR



PROPOSED FIRST FLOOR

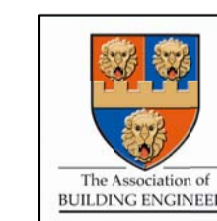
This drawing and design is copyright and must not be reproduced in part or in whole without prior written consent. Contractors must verify all dimensions on site before commencing work or preparing shop drawings.

PROJECT: CHANGE OF USE TO HOT FOOD TAKEAWAY

CLIENT: MRS AHAD

AT: 9 BILSTON STREET  
SEDGLEY  
DY3 1GA

DRAWN BY: DAVID JONES  
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SCALE: 1:100 UNLESS SHOWN A1 SHEET SIZE

DWG NO.: DJD/9026

REVISION: 2

DATE: 25/01/2010

DATE: