

PLANNING APPLICATION NUMBER:P15/0059

Type of approval sought	Full Planning Permission
Ward	St James's
Applicant	Mrs J. Hutchinson
Location:	UNIT 2, 100, DOCK LANE, DUDLEY, WEST MIDLANDS., DY1 1SN
Proposal	CHANGE OF USE FROM B8 TO SOCIAL CLUB WITH PHOTOGRAPHIC STUDIO AND NEW SMOKING SHELTER (SUI GENERIS) (RESUBMISSION OF REFUSED APPLICATION P14/1592)
Recommendation Summary:	APPROVE SUBJECT TO CONDITIONS

SITE AND SURROUNDINGS

1. 100 Dock Lane is located on the corner of Dock Lane and Cleveland Street within a wider industrial and commercial area on the outskirts of Dudley Town centre, known as Dock Lane Industrial Estate. The site consists of a larger building which has been subdivided into 5 units. This site lies within Regeneration Corridor 11a as defined by the Black Country Core Strategy. The Regeneration Corridors are where investment and development will be focussed up to 2026 and RG11 is intended to feature a rejuvenated Dudley town centre with surrounding high quality housing and employment areas. No.100 Dock Lane lies outside an area identified for local employment retention and future housing growth near to Dudley Town centre.
2. Adjacent to the western side of the building is a small area of green space and a driveway to access other industrial premises. To the rear, sits a builders yard which is fenced off with high industrial palisade fencing which of approximately two metres in height. Beyond this to the south, sits a large factory building. The application site sits immediately opposite the car park serving the Dudley Leisure Centre and is enclosed by a low boundary wall and is accessed off Cleveland Street. The nearest residential properties are some 80m away at the junction of Ludgate Street and

Dock Lane located to the west of the application site, and there are further residences approximately 100m away at the junction of Steppingstone Street and Oxford Street to the northeast.

3. The application site measures approximately 550sqm overall which includes the application premises and car park to the eastern side. The application relates to the ground floor unit (Unit 2) measuring 189sqm within the larger building which is made up of five units in total. Unit 2 is screened from view of Dock Lane by Unit 1 which runs along the frontage of that road and in any event this unit has no windows providing any form of outlook. Access to Unit 2 is via a shared ground floor entrance with Unit 5 located off Cleveland Street.
4. The car parking area is located off Cleveland Street and is noted to accommodate some 17 spaces, with an additional 10 spaces available after 5pm on land to the south of the unit, under the control of the overall site owner. There are no parking restrictions along Dock Lane or the adjacent streets. The car park is set at a lower level than Dock Lane but is relatively flat, whilst Cleveland Street sits on a slight incline.

PROPOSAL

5. This application is a resubmission of refused application P14/1592 refused at Development Control Committee on 22/12/2014. The reasons for refusal were:
 - a. *The proposed use is considered to be detrimental to the residential and associated amenities of the locality and the viability of commercial interests by virtue of the perceived impacts of the proposed development upon the area, being incompatible with the social and cultural cohesion of the community, contrary to saved policies DD1, DD4 and DD5 of the Unitary Development Plan 2005 and policy ENV3 of the Black Country Core Strategy 2011.*
 - b. *The development is not considered to provide an appropriate level of car parking for the proposed use which may lead to overspill car parking on the local highway network or local businesses to the detriment of highway safety and the operation of commercial interests, contrary to saved policies DD4 and DD5 of the Unitary*

Development Plan 2005, policies TRAN 2 and TRAN4 of the Black Country Core Strategy 2011 and the Parking Standards Supplementary Planning Document.

6. This current application differs only from P14/1592 in the description of the proposed use and the planning Statement that has been provided by the applicant which sets out the intended function of the Social Club and the people it will cater for.
7. This proposal seeks approval for a change of use to a 'Sui Generis' use that does not fall within any general use class. The previous use of this building was as B8, warehousing, storage and distribution with an element of A1 retail. The proposed use as a Social Club and photographic studio does not fit into one specified Use Class category, although the photographic studio could fall under an office category (B1), the Social Club would be most similar to a nightclub therefore considered to be 'Sui Generis', a use not falling within a specified Use Class.
8. The applicant has described the club as a '*social club with a licensed bar catering for the lesbian, gay, bisexual and transsexual (LGBT) minority community, disabled persons and vulnerable*'. The club will operate a membership system to vet anyone entering the premises with only strictly over 18's able to enter.
9. The location and operation of the club must be considered in material land use planning considerations. The purpose of this report is to assess the suitability of the proposed use from a land use planning perspective and not to consider a moral judgement on the nature of the club.
10. The development will involve some internal reconfiguration to provide a main bar area, a photographic studio a toilet block and admin area. There are no proposed changes to the external elevations aside from repainting the external walls and the inclusion of a smoking shelter adjacent to the entrance doors. A reception desk will monitor the entrance for membership checking with CCTV covering the both external and internal entrances, bar area and 'chill area'. No window openings exist or will be formed at the premises.

11. The club will be accessed via double doors located to the rear of the premises which form a shared entrance with first floor Unit 5. The smoking shelter is to be generally positioned to the front of these doors, adjacent to the building. The smoking shelter will measure 3m wide and 2m deep and be constructed using a timber frame and clear polycarbonate roof. The side perpendicular to the entrance doors will remain open and the 2 remaining sides will feature mid line trellis in order to retain privacy for the members but to allow a degree of 'openness' required for such structures.

HISTORY

APPLICATION	PROPOSAL	DECISION	DATE
DY/53/394	Different use of foundry premises – conversion into manufacturing clothier factory	Approved with conditions	12/12/53
DY/55/184	Different use of land – proposed erection of chain link fencing and use of land as a building site	Approved with conditions	21/04/55
DY/59/335	New lavatory block at factory	Approved	22/07/59
DY/60/300	Proposed alterations, repairs, extensions and conversion to existing factory	Approved with conditions	28/07/60
DY/62/161	Development of land for erection of offices, canteen and car park	Approved with conditions	23/03/62
DY/61/285	New machine shop, parking, dispatch and boiler house	Approved with conditions	05/04/62
DY/65/193	Taking off existing pitched roofs and replace with flat roofs, build in new window	Approved with Conditions	23/07/65
DB/73/13081	Erection of 2 storey extension to form office and store room	Approved with conditions	19/12/73
CC/78/2308	Alterations to stockroom for retail purposes	Refused	16/10/78
82/50224	Use of premises as night club	Refused	28/06/82
82/51961	Use of premises at night club	Approved with	20/12/82

		conditions	
83/52319	Change of use from workshop offices and stores to trade paint sales offices and stores	Approved with conditions	09/01/84
P14/1592	Change of Use from (B8) to private members club with photographic studio and new smoking shelter (Sui generis)	Refused	23/12/15

PUBLIC CONSULTATION

12. The application was advertised by way of ten direct neighbour notification letters being sent to the occupiers of premises and units within close proximity of the site, plus the display of a site notice. The latest date for comments is the 26th February 2015 with one written representation being received from the Leisure Centre management confirming that the Leisure Centre has no objections to the proposal. Any additional representations received following the close of the agenda will be reported in a pre-Committee note.

OTHER CONSULTATION

13. The development does not differ in its intended use or function from the previous application P14/1592 and therefore comments do not materially differ from those given, other than to acknowledge that a Premises Licence was granted by the Licensing Committee for the applicant and use on 13th January 2015.

Group Engineer – (Highways)

- There is sufficient car parking provision within the land controlled by the applicant to cater for the day to day needs of the scheme and there is spare capacity available on the adjacent roads that would not prejudice highway safety in the vicinity.
- Subject to conditions requiring the retention of the off-street car parking for the life of the development there are no objections to the development.

The West Midlands Police, Crime Reduction Team

- The Police raise no objection in principle and no objection was raised to the recently granted Premises Licence. Non-material planning comments were that an intruder alarm remotely monitored with police response is recommended.

Head of Environmental Health and Trading Standards

- No objection. A premises licence has now been granted for these premises, which contains relevant conditions to control noise and public nuisance.

RELEVANT PLANNING POLICY

Black Country Core Strategy (2011)

- CSP1 The Growth Network
- DEL2 Managing the Balance Between employment Land and Housing
- ENV 3 Design Quality

Saved Unitary Development Plan Policies (UDP) (2005)

- DD1 Urban Design
- DD4 Development in Residential Areas
- DD5 Development in Industrial Areas

Supplementary Planning Documents / Guidance

- Parking Standards Review SPD

ASSESSMENT

14. The proposed development must be assessed firstly to ascertain whether the principle of the development is acceptable. The proposal must also be assessed with regard to design and compatibility with the existing premises and character of the surrounding area, in terms of potential impact on the amenity of neighbouring uses and car parking provision.

15. The key issues are

- Principle of Development
- Design and Visual Amenity
- Neighbour Amenity
- Parking Provision

Principle of Development

16. Core Strategy Policy CSP1 sets out how the Growth Network, which includes the Regeneration Corridors and Strategic Centres, will be the focus for growth, regeneration and land use change up to 2026. This Policy aims to help deliver the Core Strategy spatial objectives where sustainable development and the re-use of redundant land and buildings is an important element.
17. Policy DEL2 within the Core Strategy is applied in certain circumstances to help manage the balance between employment land and primarily housing, but also other uses. Often, when a change of use is proposed for premises where the previous use was employment, the applicant may be required to demonstrate how the requirements of Core Strategy Policy DEL2 have been met. In particular this would relate to demonstrating that the site is no longer required for employment use and ensuring that the development does not adversely affect the operation of existing or proposed employment uses nearby.
18. In this instance, it is noted that the application building has been vacant for a significant time and it has been marketed thoroughly which would suggest that the site is no longer viable for employment use. Notwithstanding this, the site is adjacent to other buildings which are used primarily for industrial and employment uses and it will be important to consider the future operations of these businesses. As the hours of operation will be mainly in the evening and night-time, most of the adjacent premises will be closed and therefore it is considered that there would be minimal disturbance to their continued operations. Additionally, the applicant has undertaken a sound test for amplified music being played within the Unit and from this test, it is perceived that noise from within the Club would not adversely affect the closest residential properties some 80 metres away or neighbouring premises.
19. It is considered that the proposed use is unlikely to adversely affect or prejudice the neighbouring uses and it will reuse an otherwise redundant building. Therefore the principle of this proposed use would be considered as acceptable in this location. It is

also worth noting that the planning history on this site indicates that permission was granted in 1982 for a nightclub in this building.

Design and Visual Amenity

20. Policy ENV3 of the Core Strategy states that development proposals across the Black Country should feature high quality design that stimulates economic, social and environmental benefits. This approach is supported through Saved UDP Policy DD1, Urban Design which requires all development to apply the principles of good urban design including consideration of crime prevention measures.
21. The site lies outside the town centre boundary and does not fall within the Conservation Area or a Townscape Heritage Area. The surrounding uses are mainly light industry and the nearest residential properties are approximately 100 metres away. The building sits opposite a public car park serving the Leisure Centre. It is proposed that no external alterations will take place to accommodate the proposed change of use apart from the installation of an outside smoking area. The character of the building is comparable with the industrial surroundings, and has recently benefited from an aesthetic enhancement to the external appearance. The proposed use will not feature any signage or external advertising. In this respect, the design and visual amenity of the building would not affect the street scene or be contrary to the character of the area.
22. The proposed outdoor smoking area measures 3m x 2m and is positioned adjacent to the triple entrance doors outside Unit 5. The first two sections of the door would abut the smoking shelter and the side which would run perpendicular to the building would remain fully open. The remaining two sides will feature mid line trellis which will protect the privacy of the club members and also conform with the Smoke Free (Premises and Enforcement) Regulations 2006 made under the Health Act 2006. In particular, to enable any structure with a ceiling or roof to be used for smoking at least 50% of the total areas of walls must be absent ("the 50% rule") including other structures that serve the purpose of walls.

Neighbour Amenity

23. As noted above, the building is surrounded by similar industrial style buildings and the closest residences are approximately 80m away at the junction of Dock Lane and Ludgate Street. Measures to mitigate any potential noise impact have not been considered necessary with residents of the closest properties being unlikely to be affected by noise from amplified music within the building.
24. The Planning Statement provided by the applicant notes that the club has operated for 7.5 years at various premises in the general area with no knowledge of disruption or concerns during this period. One year of this being spent at 60a Wellington Road and 2 years at 62 Wolverhampton Street, both premises located within the town centre and within close proximity of residences and businesses. The statement further confirms that a number of minority groups have and will use the club on an occasional basis including Wheelchair Users Group, Gay Group, Lesbians Against Prejudice, Women Against Violence and Disabled Users Group, with normally between 10 to 20 people attending each group and 5-15 cars at any one time using the facility. The statement further confirms that club members would not wish to draw attention to themselves and that displayed rules require members to enter and leave the premises in normal daytime apparel.
25. The proposed use is also considered unlikely to affect the amenity of nearby industrial premises as the hours of operation would be mostly in the evenings and weekends when the other businesses are generally not operational. Indeed, the reuse and maintenance of this part of the building is perceived as positive economic improvement which will help combat decline of this industrial area.
26. It is therefore considered that in terms of neighbour amenity the proposal would be compliant with Policies DD1, DD4 and DD5 in the Adopted UDP.

Car Parking

27. The site boundary shown on the submitted plans indicates the open area to the east of 100 Dock Lane to be utilised for car parking. The parking area measures approximately 330sqm. The Group Engineer is of the opinion that there is sufficient

car parking provision within the land controlled by the applicant and site owner to cater for the use. This view is supported by the applicants statement that refers limited traffic generation and to operation from previous premises with no impacts and there being no need to use car parking associated with the Leisure Centre. Capacity is available on the adjacent unrestricted minor roads that would not prejudice highway safety in the vicinity. There are also no parking restrictions on Dock Lane which is a highway capable of providing on street parking with no detriment to other road users.

28. It is considered that the car parking provision provided on site and available on street will be sufficient to serve the proposed development consistent with the Parking Standards SPD.

CONCLUSION

29. This proposed development will involve the reuse of an otherwise redundant building which has been shown to be no longer viable for further industrial use. The reuse of the premises for a social club and photographic studio will provide an economic use within this area and be consistent with the Core Strategy spatial objectives. It is unlikely that the proposed use would cause any adverse impact to the occupants of residential properties, cultural facilities or to the future operations of nearby industrial premises. The proposed car parking provision is considered acceptable and any possible overspill parking could be accommodated on streets in the vicinity without prejudicing highway safety. On this basis, it is considered that the proposed change of use is acceptable in this location in compliance with the relevant policies.

RECOMMENDATION

30. It is recommended that the application is approved subject to the following conditions:

APPROVAL STATEMENT INFORMATIVE

In dealing with this application the Local Planning Authority have worked with the applicant in a positive and proactive manner, seeking solutions to problems arising in relation to

dealing with the application, by seeking to help the applicant resolve technical detail issues where required and maintaining the delivery of sustainable development. The development would improve the economic, social and environmental concerns of the area and thereby being in accordance with paragraphs 186 and 187 of the National Planning Policy Framework.

Informative Note

The proposed development lies within an area that has been defined by The Coal Authority as containing potential hazards arising from coal mining. These hazards can include: mine entries (shafts and adits); shallow coal workings; geological fissures; mine gas and previous surface mining sites. Although such hazards are often not readily visible, they can often be present and problems can occur as a result of development taking place, or can occur at some time in the future.

It is recommended that information outlining how the former mining activities affect the proposed development, along with any mitigation measures required, be submitted alongside any subsequent application for Building Regulations approval

Any intrusive activities which disturb or enter any coal seams, coal mine workings or coal mine entries (shafts and adits) requires the prior written permission of The Coal Authority. Such activities could include site investigation boreholes, digging of foundations, piling activities, other ground works and any subsequent treatment of coal mine workings and coal mine entries for ground stability purposes. Failure to obtain Coal Authority permission for such activities is trespass, with the potential for court action.

Property specific summary information on coal mining can be obtained from The Coal Authority's Property Search Service on 0845 762 6848 or at www.groundstability.com

Conditions and/or reasons:

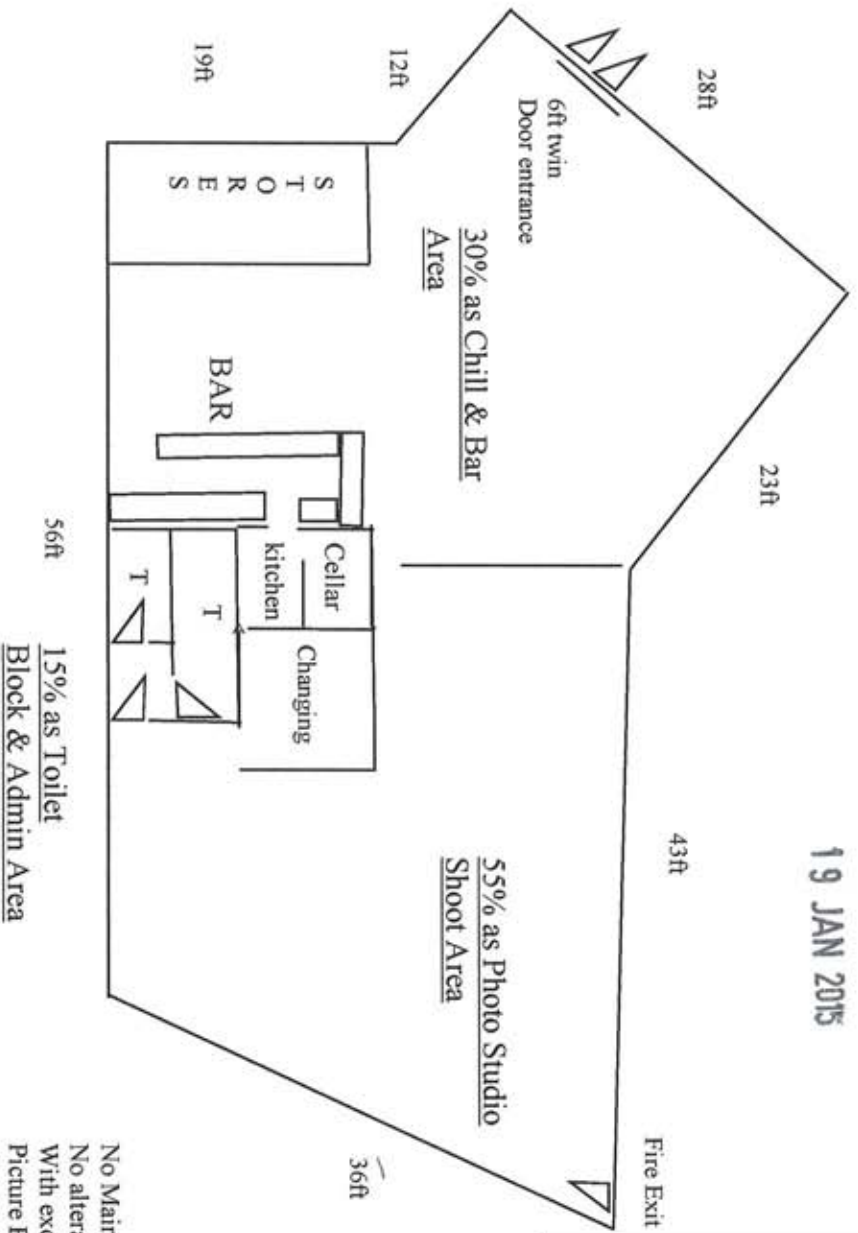
1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
2. The development hereby permitted shall be carried out in accordance with the following approved plans: [Location Plan, Proposed Ground Floor, Floor Plan 21/10/14]
3. The off-street car parking outlined in red shall be retained for the life of the development.

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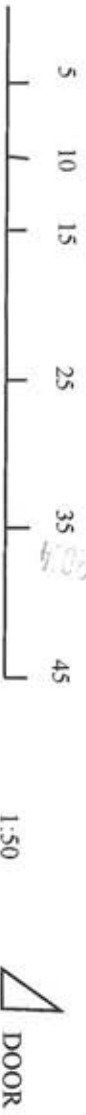


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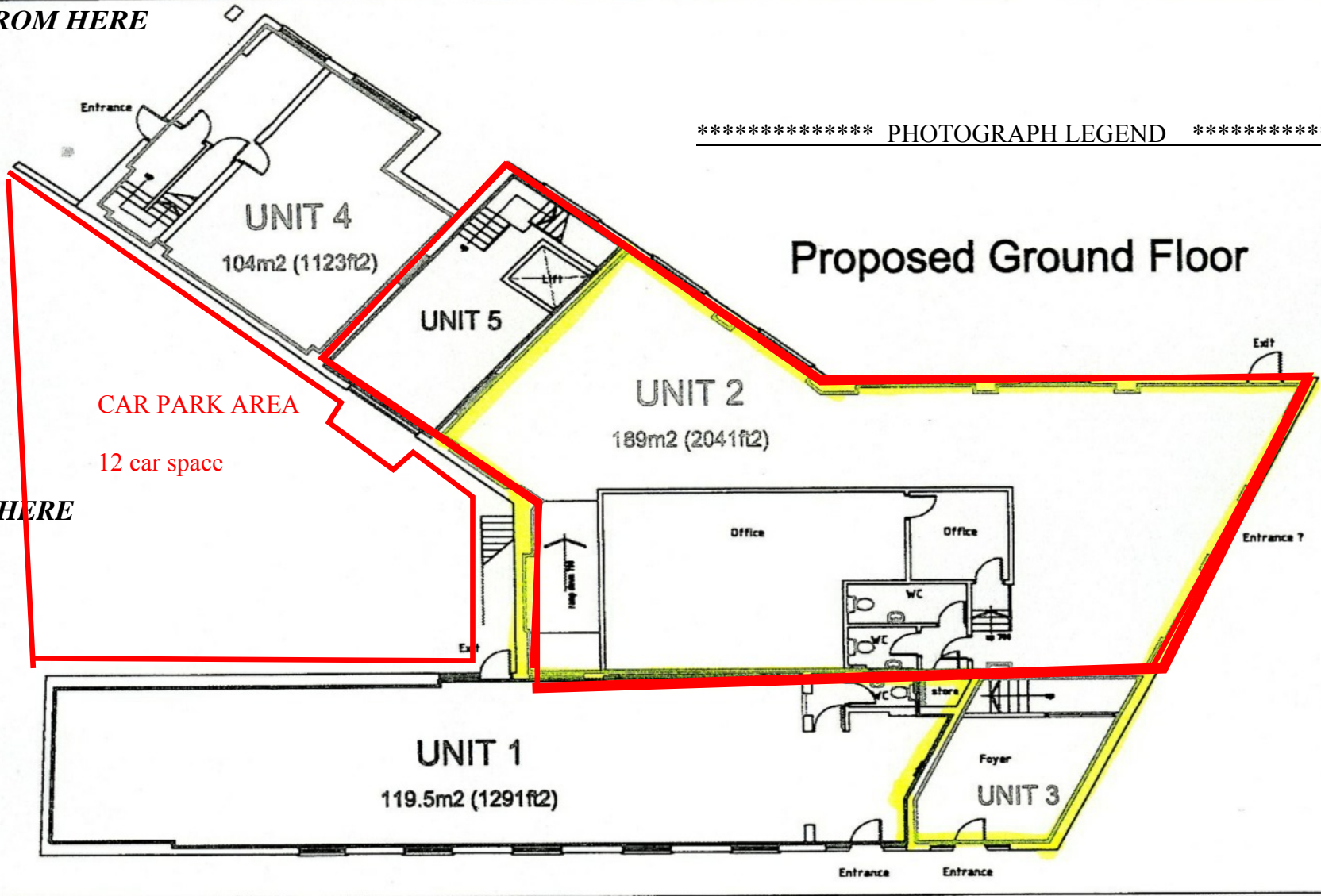
No Main Building works are to be undertaken.
No alterations to external of building
With exception of Smoking Shelter
Picture Enclosed/Attached.
No alterations to main entrances or exit points.
No additions or alterations to windows
or other openings



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PIC 4 FROM HERE

***** PHOTOGRAPH LEGEND *****



PIC 1 FROM HERE

PIC 3 FROM HERE

PIC 2 FROM HERE