

PLANNING APPLICATION NUMBER: P14/1683

Type of approval sought	Full Planning Permission
Ward	St James's
Applicant	Mr Dave Bancroft, Papa Johns (GB) Ltd
Location:	THE STRUGGLING MAN, 57, SALOP STREET, DUDLEY, WEST MIDLANDS, DY1 3AY
Proposal	CHANGE OF USE FROM PUBLIC HOUSE (A4) TO HOT FOOD TAKE-AWAY (A5) WITH FUME EXTRACTION. ELEVATION CHANGES TO INCLUDE NEW DOOR
Recommendation Summary:	APPROVE SUBJECT TO CONDITIONS

SITE AND SURROUNDINGS

1. The currently vacant application site is The Struggling Man Public House which is recorded on the Council's Historic Environment Record (HER - 12914) and as such is considered to be a 'Heritage Asset'. It is located in a prominent position on the corner of Salop Street and Dibdale Road.
2. The building features three prominent double height bay windows with hipped roofs over. The main roof is pitched with a tile finish. The rear of the building has several single storey flat roof elements. There is also a rear flat two storey element which extends into the roof and forms part of an existing 3-bed residential unit on the first floor, this element is accessed from the rear as well as from the public house internally. The rear yard is elevated in level from the site frontage.
3. The frontage is hardsurfaced and accommodates several outdoor benches and enclosed by 1m high railings. Wrapping around the side elevation is an existing tarmac car park which is laid out for 10 cars, and is accessed via Dibdale Street.
4. Adjoining the south-eastern elevation is a vehicular access track which leads to the rear of the premises, in addition to serving Blake's Sheds, which is located on a

higher land level. This adjacent land is enclosed by a combination of metal rail and wire mesh fencing.

5. The rear of the site is adjoined by public open space, this being elevated in height from Salop Street and approximately level with the first floor of the public house.
6. To the north-west, on the opposite side of a Dibdale Street, is an Esso petrol filling station and Tesco Express (shop).
7. On the opposite side of Salop Street are former local authority three storey flats, set back between 16-27m from the footway.
8. To the west of the car park are residential dwellings, fronting Dibdale Street and located almost perpendicular to the rear elevation of the application premises.

PROPOSAL

9. Change of use from public house (A4) to hot food take-away (A5) with new kitchen extract flue at the rear through the pitched roof. The first floor residential unit is to be retained as existing.
10. The application is accompanied by supporting information on the proposed extraction system and plant.
11. The application form outlines the opening hours as, Monday to Sunday 10.00am to 11.00pm.
12. During the course of the application elevation changes to replace the ground floor sash windows with aluminium windows and create an entrance door in the middle bay, were removed due to concerns about the impact upon the heritage asset.
13. The existing entrance door would be used as a main customer access, and the door replaced with a single leaf glass door.

14. A new red-line location plan was also submitted to show a wider site area that permitted the deliveries to take place at the rear of the property.

RECENT HISTORY

APPLICATION No.	PROPOSAL	DECISION	DATE
87/51019	Extension to form toilet accommodation.	Approved with Conditions	24/08/87

PUBLIC CONSULTATION

15. Direct notification was carried out to 123 adjoining and adjacent premises, and a site notice and newspaper advert were posted. The notification period expired 27th December 2014, as a result of which 3 representations have been received, summarised as follows;
- Wide range of takeaways on Highfield Road and Salop Street, takeaway has no benefit in this location.
 - The food outlet Shanghai Fusion, which was located opposite had problems before it closed, indicating a lack of local need for a food outlet
 - Will not enhance local area – Council should look to enhance area
 - Pub has been eyesore for years, though it needs redevelopment, a takeaway is not the answer
 - Will add to litter in this area – already get litter here from McDonalds at the former Pig on the Wall site. May cause rat problem
 - Will attract more groups of youths, causing trouble and noise for residents
 - External appearance of the building should not be altered (door and windows). This old, distinctive building should be respected as such.

OTHER CONSULTATION

16. Group Engineer (Highways): Following a request to provide off-street servicing arrangements and parking for the retained residential unit, there are no objections subject to conditions.
17. Head of Environmental Health and Trading Standards: No objection, subject to conditions.

RELEVANT PLANNING POLICY

18. Black Country Core Strategy policies (2011)
 - CSP2 –Development Outside the Growth Network
 - CSP4 – Place Making
 - DEL1 - Infrastructure Provision
 - EMP1 – Providing for Economic Growth
 - TRAN2 – Managing Transport Impacts of New Development
 - TRAN4 - Creating Coherent Networks for Cycling and for Walking
 - ENV2 - Historic Character and Local Distinctiveness
 - ENV3 – Design Quality
19. Saved UDP policies (2005)
 - DD1 – Urban Design
 - DD4 – Development in Residential Areas
 - EP7 – Noise Pollution
20. Supplementary Planning Documents
 - Planning Obligations (2011)
 - Parking Standards (2012)
 - Planning for Health (2013)

ASSESSMENT

21. The key issues in determination of this application is the principle of development and the impact upon;
- the character and appearance of the area
 - highway safety
 - residential amenities
 - whether provision is made for Planning Obligations

Principle

22. The BCCS envisages and supports the creation of an economically prosperous Black Country. Indeed, BCCS Policy CSP2 acknowledges areas outside the Growth Network provide;
- A strong network of...community facilities
 - A constant supply of small-scale development opportunities
 - Provide local employment opportunities to serve nearby communities.
23. The Planning for Health SPD is a material consideration in assessing planning proposals. The SPD imposes a set of criteria for assessing all new A5 applications which includes resisting any new hot food takeaways which fall within 400m of the entrance or exit of any existing school or youth centred facility, as well as considering the impact on amenity and other factors as noted above. The Struggling Man Public House lies just within the 400m Exclusion Zone for Bishop Milner RC School, being a distance of approximately 392m.
24. Whilst this is strictly within the exclusion zone for hot food takeaway uses, the applicant has provided the following justification;
- The applicant Papa John's (GB) Ltd do not use oil and no frying occurs, all produce is baked and the company also offer healthy options.
 - The food offering is based on food to take away and eat at home rather than food which can be eaten on the go.

- In addition, they are on the very edge of the 400m area and are predominantly a delivery operation, with approximately 60% of all orders delivered.
- The proposed opening hours are standard for Papa John's (GB) Ltd stores nationwide and reflect the company's business model.
- The proposed change of use would bring back into use a currently vacant heritage asset which has been vacant since 2014 and which, following decreased turnover is unviable as a public house.
- It would maintain and bring in to active use the building as a heritage asset, create up to 20 jobs and provide activity in the locality.

25. The LPA accept the applicant's point that it is food that is generally bought to take home rather than eat on the go, and is supportive of putting the heritage asset into a commercial use which would create employment opportunities.

26. It is evident that the type (in terms of portion size) and prices of the food offering would not really be appealing to school children coming out of school. The opening hours would not therefore need to be restricted to avoid school closing times.

27. The positive benefits in terms of re-use of a vacant heritage asset, employment generation and that the type of food offered is not going to be attractive to school children therefore outweighs the concern that it is located within the 400m exclusion zone for hot food takeaways advocated in the Planning for Health SPD. The principle of the development is therefore acceptable.

Character and appearance

28. According to Chapter 12 of the NPPF '*...heritage assets are an irreplaceable resource*' that should be conserved in a manner appropriate to their significance. The fact that the building is on the Council Historic Environment Record (HER) indicates that it is considered to be of significance and contribute considerably to the local character and distinctiveness of this local area.

29. BCCS policies CSP4 'Place Making', ENV2 'Historic Character and Local Distinctiveness' and ENV3 'Design Quality' requires that all development demonstrates a clear understanding of historic character and local distinctiveness and demonstrates how proposals make a positive contribution to place-making and environmental improvement through high quality design.
30. On this basis it is welcomed that the ground floor sash windows are to be retained. The replacement customer entrance door would be glazed and single leaf, which would be appropriate in terms of function and appearance.
31. The proposed fume extraction has been designed to be discrete, concealed as best as possible by the existing chimney stack.
32. As described above, the applicant suggests that some 60% of trade would be delivery, unlike the former pub use which would have attracted more visitors to the premises (prior to its demise). The scale, nature and intensity of the use of the building would be appropriate in this location, it is set within partly commercial surroundings (Tesco and Blake's Sheds), and itself is a vacant public house.
33. The proposed use would not harm the wider historic character and distinctiveness of the area. It would therefore comply with BCCS Policies CSP4, ENV2 and ENV3, and Saved UDP Policies DD1 and DD4.

Highway Safety

34. The applicant provides the following statement on deliveries
 - Papa John's (GB) Ltd have a centrally controlled logistics operation delivering fresh dough and other products necessary for the business needs of each store. The store delivery model across the company is based on three deliveries per week; two deliveries are from the main distribution centre, using fixed-bed 10 tonne delivery vehicles and one is by the drinks supplier, utilising a 7.5 tonne non-articulated delivery vehicle.
 - Food deliveries would be made twice a week, on regular days, to maintain stock levels in the store and drinks deliveries would be made once per week.

- Deliveries could be made to the rear yard, using the adjacent side access to the rear yard. The applicant will be granted a right of access to use this access for the purposes of getting to the rear yard.
- Once operational, the applicant will have roughly similar weekly delivery times, and these could be set out in a Management Plan for Deliveries, that the Council could request by condition prior to occupation of the unit.

35. The amended site layout plan shows 8 spaces for the hot food takeaway including one disabled space, and 2 spaces allocated for the residential unit. Separate cycle parking has also been provided for the hot food takeaway and residential use. This provision is acceptable for the proposed use.
36. The proposal is unlikely to cause any adverse impact upon the operation of the highway and therefore complies with the requirements of Saved UDP Policy DD4 and the Parking Standards SPD.

Residential amenity

37. Immediately adjacent uses are largely commercial in nature; however, there are residential properties beyond the western boundary of the existing car park. The nearest of these is 17, which has a gable elevation some 32m away from the car park. Properties on the opposite side of Salop Street are between 40-48m away from the front elevation of the application premises. Given the previous use of the premises as a public house, and car parking utilised in conjunction with that use, the separation distances to residential dwellings are acceptable to ensure that no adverse impact upon neighbours would arise.
38. Public houses would typically have generated noise for adjacent neighbours, having opening hours later than those currently being sought. The Head of Environmental Health and Trading Standards raises no objection to the proposal, recommending conditions to restrict opening hours, no later than 11pm daily and to control noise levels of the extraction flue.

39. With appropriate conditions, the amenity of adjacent occupiers would be protected and therefore the proposal would comply with Saved UDP Policy DD4.

Planning Obligation

40. Black Country Core Strategy Policy DEL1 'Infrastructure Provision' sets out the adopted policy framework for Planning Obligations within Dudley and the Planning Obligations SPD provides further detail on the implementation of this policy; these policy documents were prepared in accordance with national legislation and guidance on planning obligations.
41. Policy DEL1 requires all new developments to be supported by sufficient on and off-site infrastructure to serve the development, mitigate its impact on the environment, and ensure that the development is sustainable and contributes to the proper planning of the wider area.
42. In addition to applying Policy DEL1 and the SPD, in identifying the required planning obligations on this application the following three tests as set out in the CIL Regulations (April 2010), in particular Regulation 122, have been applied to ensure that the application is treated on its own merits:
- (a) necessary to make the development acceptable in planning terms;
 - (b) directly related to the development;
 - (c) fairly and reasonably related in scale and kind to the development.
43. Following consideration of the above tests the only potential planning obligations (Transport Infrastructure and Air Quality Improvements) were not considered to be reasonable or directly related to this proposal.

CONCLUSION

44. The positive benefits in terms of re-use of a vacant heritage asset, employment generation and that the type of food offered is not going to be attractive to school children outweighs the concern that it is located within the 400m exclusion zone for hot food takeaways advocated in the Planning for Health SPD. The principle of the

development is therefore acceptable. The proposal respects the character and distinctiveness of the area making a positive contribution to place making. There would be no adverse impact upon residential amenities of adjacent occupiers and highway safety. The proposal would comply with the National Planning Policy Framework (NPPF), Black Country Core Strategy, Saved UDP, and adopted Supplementary Planning Documents.

RECOMMENDATION

45. It is recommended that the application be APPROVED subject to the following conditions;

APPROVAL STATEMENT INFORMATIVE

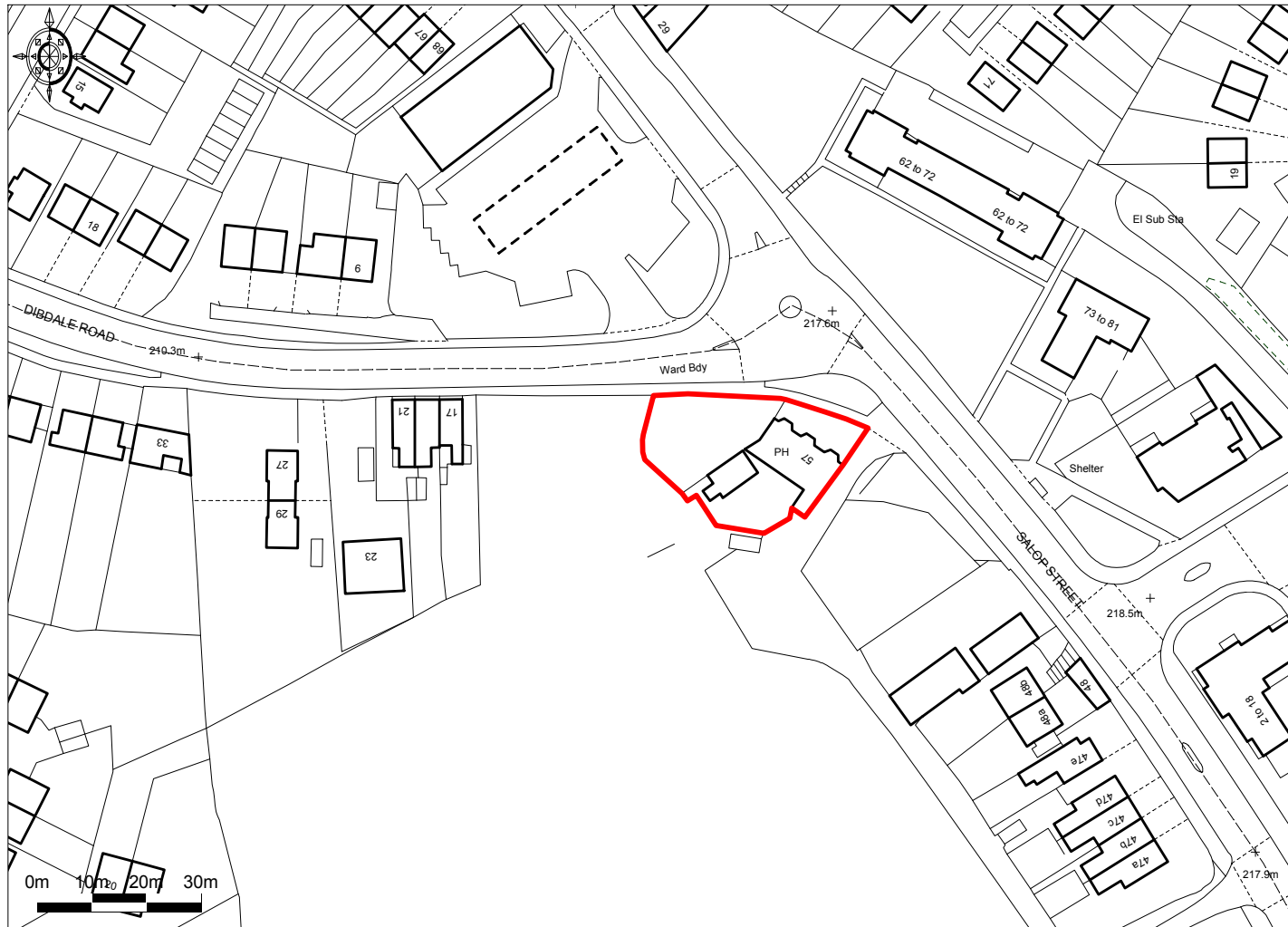
In dealing with this application the Local Planning Authority have worked with the applicant in a positive and proactive manner, seeking solutions to problems arising in relation to dealing with the application, by seeking to help the applicant resolve technical detail issues where required and maintaining 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.

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: 00441-03C, 00441-06C, 00441-07B.
3. Prior to the commencement of development, details of the type and colour of the front door to access the customer area hereby approved shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in complete accordance with the approved details.

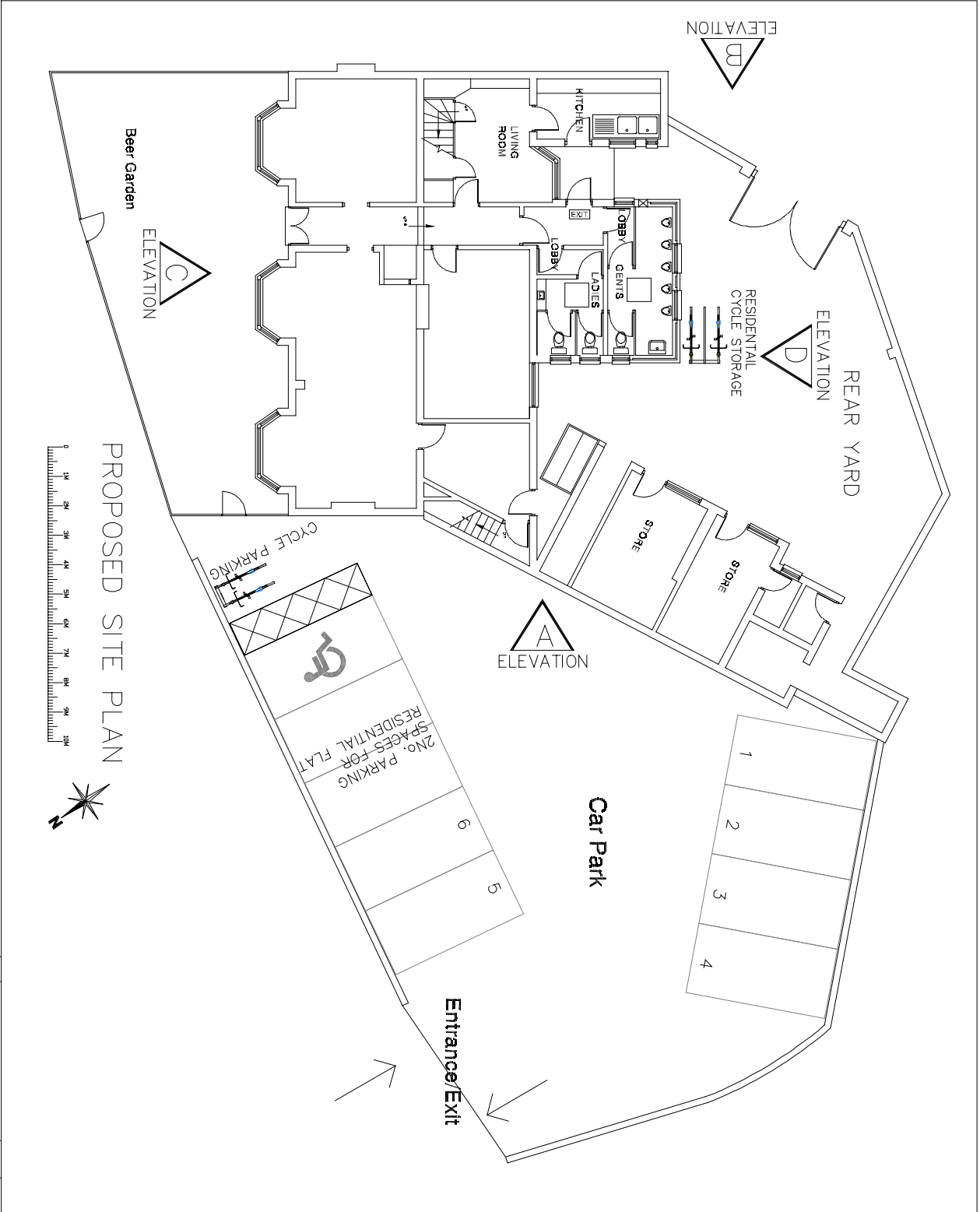
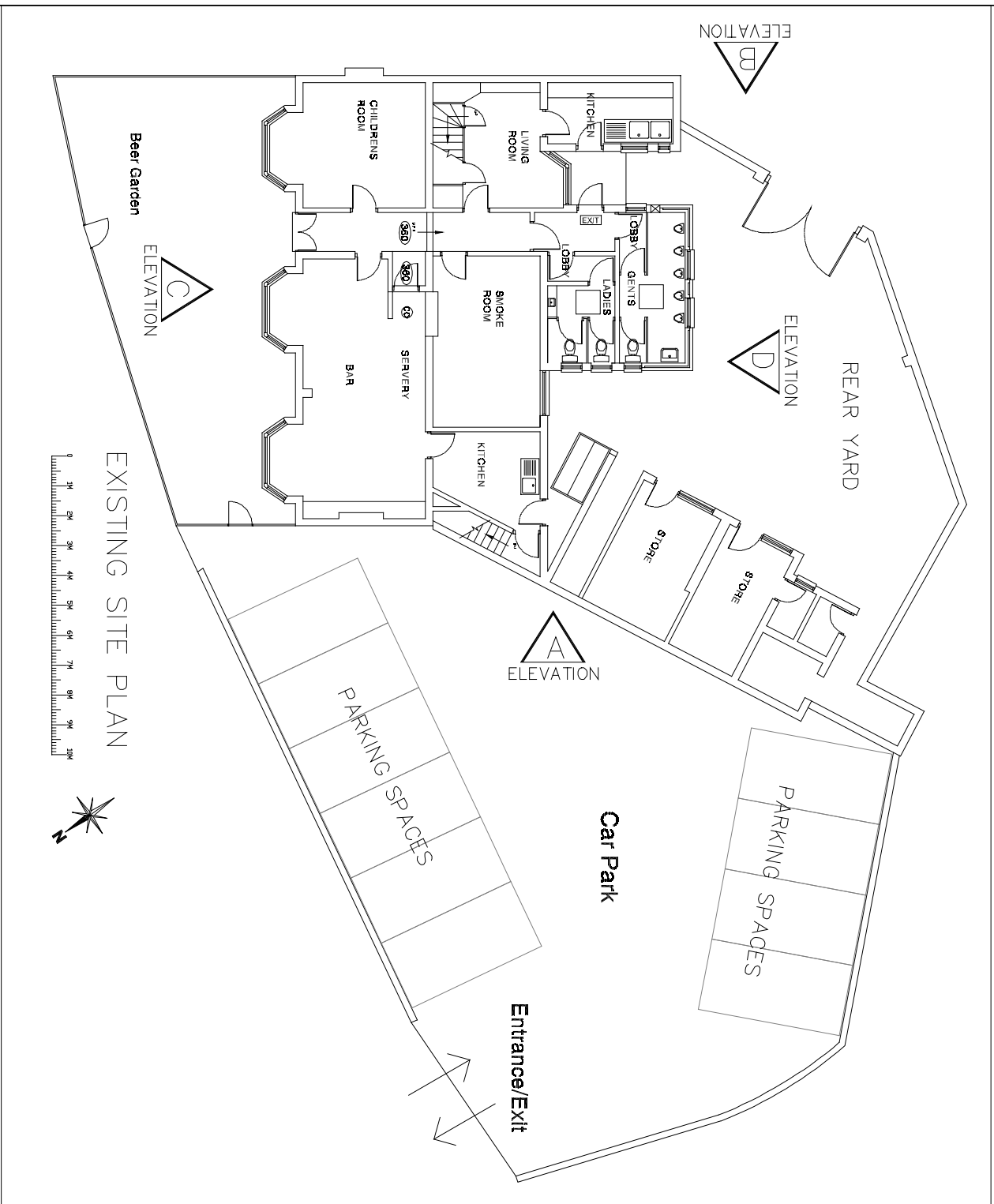
4. The development hereby approved shall not be operated before 10:00 hours or after 23:00 on any day.
5. The rating level of noise emitted from any fixed plant and/or machinery associated with the development (including the discharge of cooking fume from a flue shall not exceed background noise levels by more than 5dB(A) between the hours of 0700-2300 (taken as a 60 minute LA90 at the nearest noise sensitive premises) and shall not exceed the background noise level between 2300-0700 (taken as a 5 minute LA90 at the nearest noise sensitive premises). All measurements shall be made in accordance with the methodology of BS 4142 (2014) (Methods for rating and assessing industrial and commercial sound) and/or its subsequent amendments. Where access to the nearest noise sensitive property is not possible, measurements shall be undertaken at an appropriate location and corrected to establish the noise levels at the nearest noise sensitive property. Any deviations from the LA90 time interval stipulated above shall be agreed in writing with the Local Planning Authority.
6. Before any internal fixed plant or machinery associated with the development is used, a scheme to mitigate 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.
7. Prior to the use of the development hereby permitted, the scheme submitted with this planning application containing the details of arrangements for internal air extraction, odour control, and discharge to atmosphere from cooking operations, including any external ducting and flues, shall be installed in their entirety before the use commences. 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.
8. Prior to the use of the development hereby permitted the parking area shall be surfaced and marked out in complete accordance with plan no: 00441-07/Rev B and thereafter maintained available for parking for the lifetime of the development.
9. No development shall commence until details of secure cycle parking facilities in accordance with the Council's parking standards have been submitted to and approved in writing by the Local Planning Authority. The cycle parking shall thereafter be provided in accordance with the approved details prior to first occupation of the development, shall be made available at all times and be maintained for the life of the development.

Location Plan
Struggling Man Public House, 57 Salop Street, Dudley



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REV	AMENDMENT	DATE	CHKD
B	DRAWING REVERSED	12.1.15	MAS
A	DRAWING REVERSED	8.1.15	MAS

MARTIN DESIGN

CLIENT
Papadimitriou GBU Ltd

PROJECT
STRUGGLING MAN PUBLIC HOUSE
DUDLEY

DRAWING TITLE
SITE PLAN

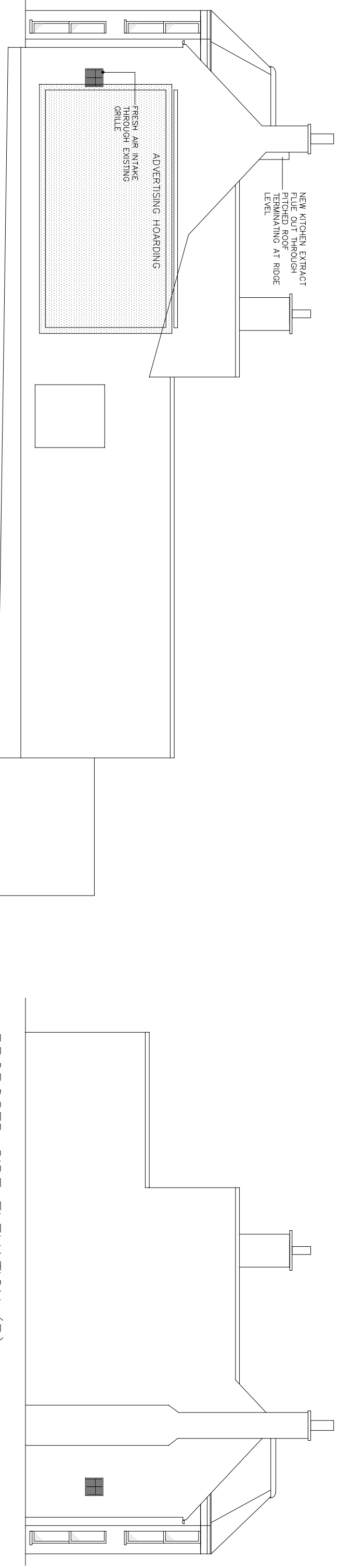
SCALE	DRAWN BY	CHECKED	DATE
1:200@A3	MAS		NOV'14

DRAWING NUMBER	REVISION
00441-07	B

CONTRACTORS MUST VERIFY ALL DIMENSIONS CAREFULLY BEFORE COMMENCING ANY WORK ON SHOP DRAWINGS

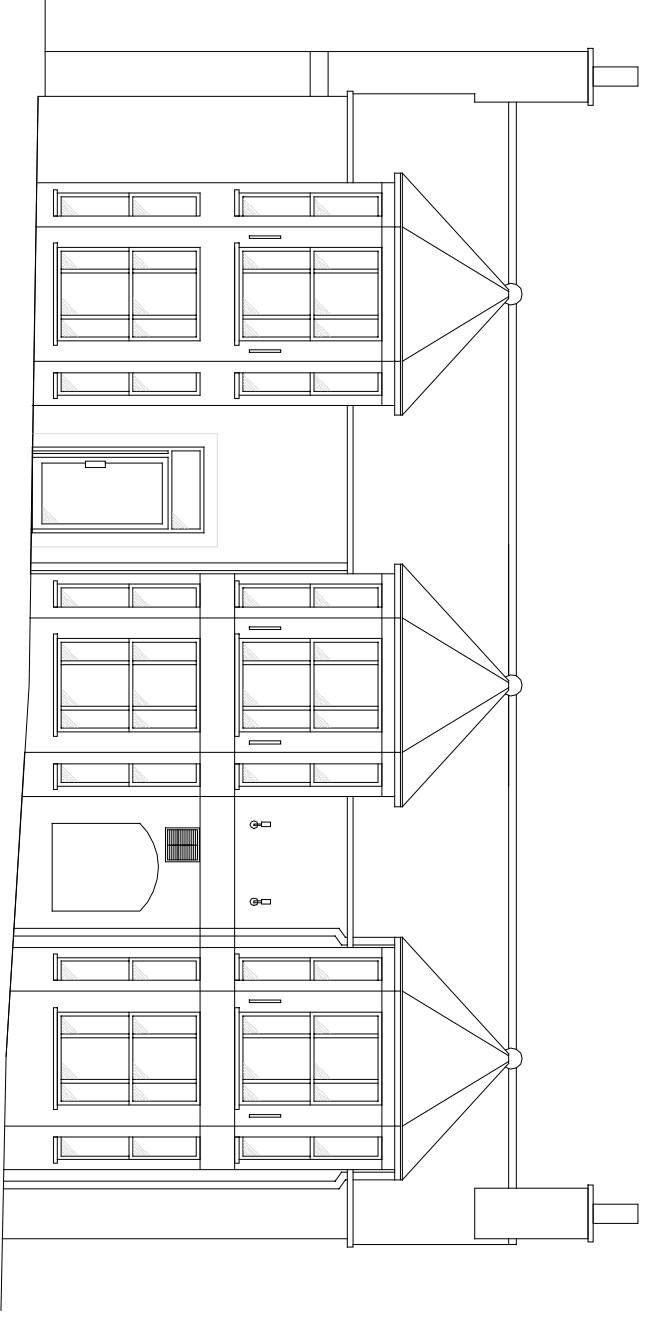
IF THIS DRAWING INCLUDES THE SIGNATURE OF ANY REGISTERED ARCHITECTS THEY MUST BE RECORDED BEFORE THE DRAWING IS REPRODUCED

MARSHALLS/CPW/14

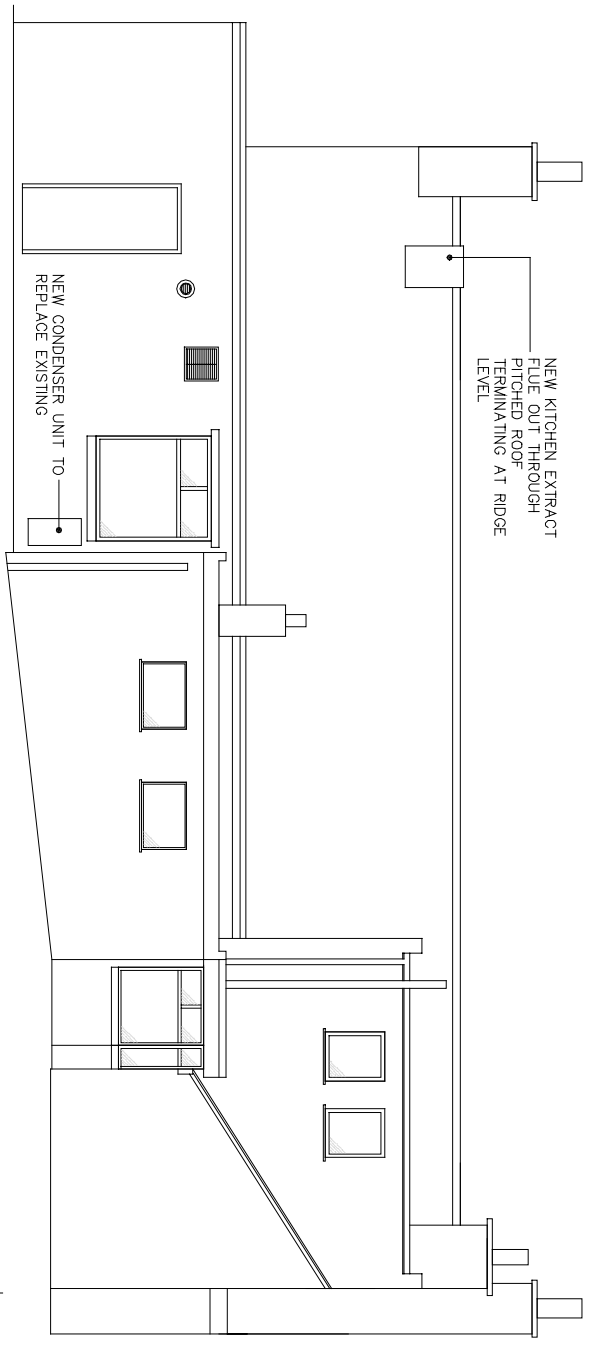


PROPOSED SIDE ELEVATION (A)
NORTH WEST

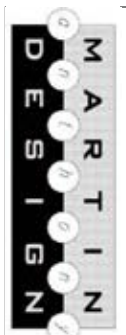
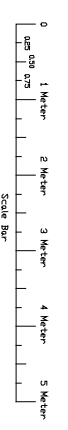
PROPOSED SIDE ELEVATION (B)
SOUTH EAST



PROPOSED FRONT ELEVATION (C)
NORTH EAST



PROPOSED REAR ELEVATION (D)
SOUTH WEST



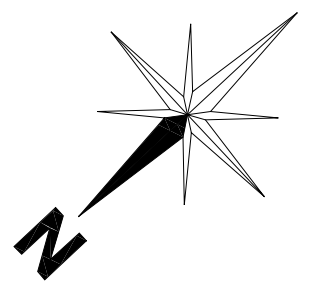
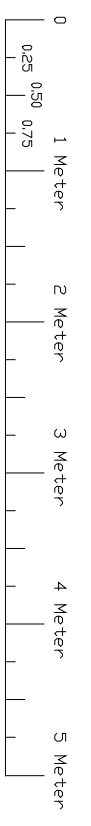
CLIENT
Papadonk/GB Ltd

PROJECT
STRUGGLING MAN PUBLIC HOUSE
DUDLEY

DRAWING TITLE
PROPOSED ELEVATIONS

SCALE	DRAWN BY	CHECKED	DATE
1:100@A3	MAS	-	SEPT'14
DRAWING NUMBER	REVISION		
00441-06	C		

CONTRACTORS MUST VERIFY ALL DIMENSIONS AND LEVELS BEFORE COMMENCING ANY WORK ON-SITE OR OFF-SITE.
 IF THIS DRAWING PROVIDES THE DIMENSIONS AND LEVELS ARCHITECTS ARE TO BE RECORDED BEFORE THE WORK BEGINS.
 Martin/Design Group



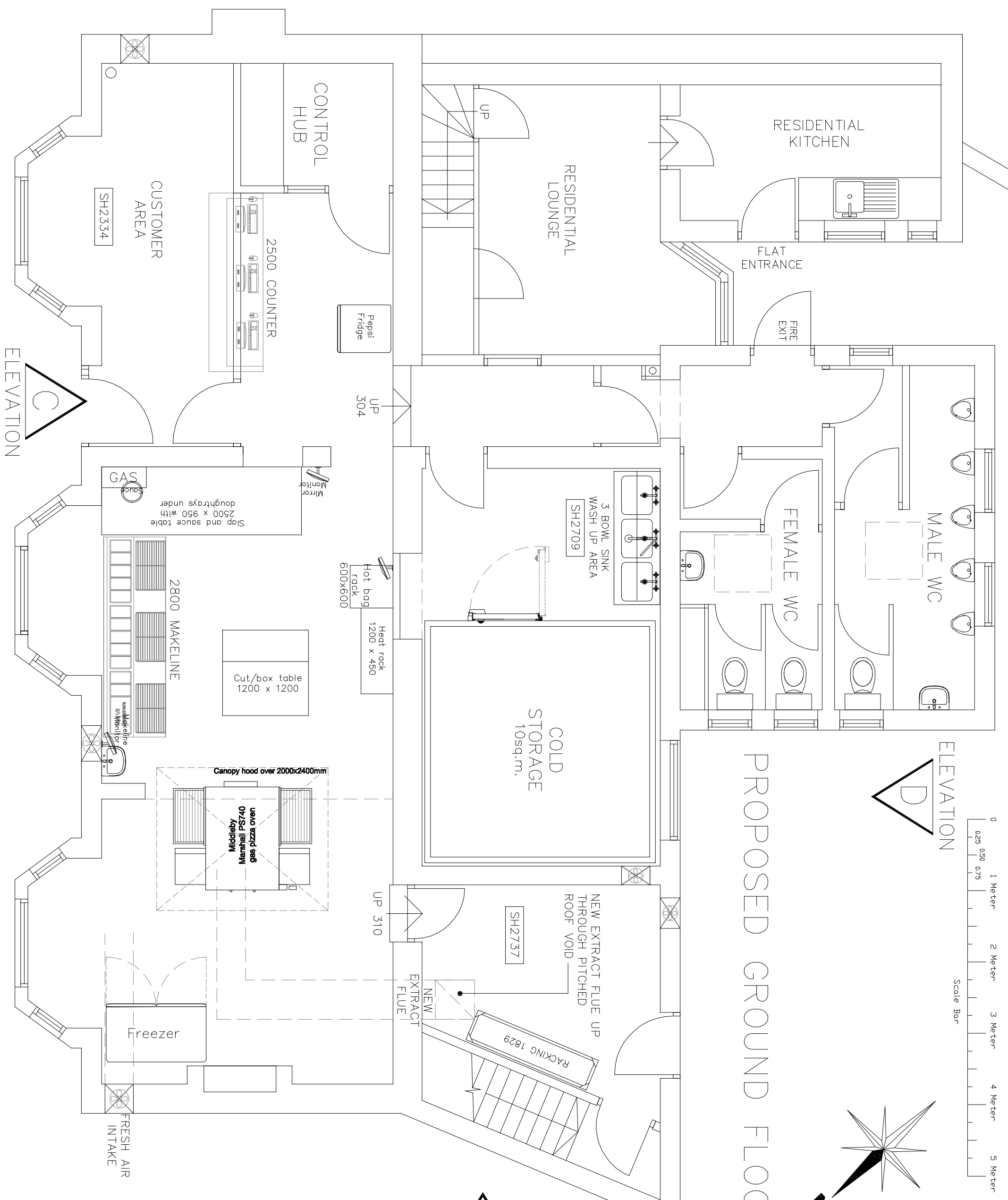
ELEVATION D

PROPOSED GROUND FLOOR

ELEVATION A

ELEVATION B

ELEVATION C



<p>MARTIN DESIGN</p>			
CLIENT	Papalohnk/GB Ltd		
PROJECT	STRUGGLING MAN PUBLIC HOUSE DUDLEY		
DRAWING TITLE	PROPOSED GROUND FLOOR PLAN		
SCALE	1:50@A3		
DRAWING NUMBER	00441-03		
DATE	JUL14		
REVISION	C		
REV	AMENDMENT	DATE	CHKD
C	DRAWING REVERSED	08/11/15	MAS
B	DRAWING REVERSED	28/11/14	MAS
A	LAYOUT REVERSED	03/11/14	MAS