

## **PLANNING APPLICATION NUMBER:P21/1035**

Type of approval sought	Full Planning Permission
Ward	Kingswinford South Ward
Agent	Mr Aymen Mahgoub, Spectrum Management & Services Ltd
Case Officer	Stephanie Hollands
Location:	<b>86, LAWNSWOOD ROAD, WORDSLEY, STOURBRIDGE, DY8 5NA.</b>
Proposal	<b>CHANGE OF USE FROM WASHETERIA TO HOT FOOD TAKEAWAY (SUI GENERIS) WITH NEW SHOP FRONT AND EXTRACTION SYSTEM (RESUBMISSION OF REFUSED APPLICATION P21/0492).</b>
Recommendation Summary:	<b>APPROVE SUBJECT TO CONDITIONS</b>

### **SITE AND SURROUNDINGS**

1. The application property related to this application is currently vacant previously in use as a washeteria, self-service laundry (Sui Generis).
2. The property is situated on the ground floor at the end of a small parade of shops on Lawnswood Road. The parade of shops have commercial uses at ground floor, with residential uses above. The residential properties gain access to the rear and have habitable accommodation towards the front aspect of the units, overlooking the parking area. The wider area of the site is predominantly residential.
3. The parade of shops has parking situated to the front, with a larger parking area towards the east of the parade, adjacent to The Lawnswood public house.
4. Access is available to the parade from both Lawnswood Road and off Middleway Avenue.
5. The property is not situated within an area subject to any planning designations.

## PROPOSAL

6. Change of use from washeteria to hot food takeaway (Sui Generis) with new shop front and extraction system to rear.
7. The entrance to the first-floor flat is from the rear and would remain as existing with a slight reduction in width of one first floor rear window to accommodate the enclosed extraction flue is proposed to the rear. Material of the proposed flue enclosure would match the existing.
8. The application form states the proposed opening hours would be 09:00 to 23:00 Monday to Saturday and 10:00 to 20:00 Sunday and Bank Holidays. It is intended to employ 4 full time members of staff and 2 part time members of staff.
9. The shared access and parking area to the front would remain as existing.

## PLANNING HISTORY

10.

<b>Application No.</b>	<b>Description</b>	<b>Decision</b>	<b>Date</b>
P21/0492	Change of use from washeteria to hot food takeaway (Sui Generis) with new shop front and extraction system to rear.	Refused	17/05/2021

11. P21/0492 Reasons for refusal:

- The proposed extract flue and associated elevational changes by way of the proposed timber screen would have a detrimental impact on the occupier of the first-floor residential accommodation by way of loss of daylight and outlook. The

proposed developed is there considered to be contrary to Policies D2 (Incompatible Land Uses); D5 (Noise Pollution) and D9 (Hot Food Takeaways) of the Dudley Borough Development Strategy 2017, Policy ENV 3 Design Quality of the Black Country Core Strategy and guidance contained within the National Planning Policy Framework 2019.

- The proposed extract flue and timber screen would constitute incongruous additions to the host property being both out of character and visually obtrusive to the detriment of the visual amenity of the area and wider street scene. The proposed developed is there considered to be contrary to Policies D2 (Incompatible Land Uses); D5 (Noise Pollution) and D9 (Hot Food Takeaways) of the Dudley Borough Development Strategy 2017, Policy ENV 3 Design Quality of the Black Country Core Strategy and guidance contained within the National Planning Policy Framework 2018.

## PUBLIC CONSULTATION

12. The application was advertised by way of a site notice being displayed and direct neighbour notification. One letter of objection has been received with the following concerns:
  - Public health grounds
  - Should not allow fast food outlets next to schools
  - Increases littering
  - The area does not need another fast-food outlet
  - Anti-social behaviour
13. It is noted the address of the objector is not located within the immediate vicinity of the application site.
14. Councillor Miller has objected to the application with the following comments:
  - It seems virtually the same as P21/0492 which was recently refused. The same comments as before apply.
  - It is out of character with the area near to good quality private houses.

- Fast food outlets should not be allowed by schools there is a Primary School opposite.
- The smells from this establishment will cause problems to neighbours especially those living in flats above the shops. Environmental Services state that the flue is not correct
- The residents are not happy that the signs for this application is not by the shop on lampposts but out on the pavement where not many people pass.

15. Councillor Miller has the following further comments:

- It is opposite a Primary School Belle Vue and believe that we should not have fast food outlets near to schools to help promote healthy eating. There is already a chip shop in this row of shops which causes noise, smells, and litter problems to residents.
- The properties in the area are high quality residences and pay a considerable amount of Council Tax. The litter bins are constantly full in this row of shops and another fast-food outlet will increase litter plus the pizza boxes are large and will not fit into bins so possibly causing rats and vermin in the neighbourhood

16. Councillor Harley has also objected to the application with the following comments:

- I also support Cllr Miller and his opposition to this development. It is almost identical to the previous application. I absolutely agree that fast food outlets should not be opened near to the proximity of schools.

17. Following concerns raised by the Environmental Safety and Health Team with regards to the proposed flue, amended plans have been sought and submitted to overcome these concerns.

## OTHER CONSULTATION

18. Highways: No objections and recommend approval.

19. Environmental Safety and Health Team: Following the consultation response from Environmental Safety and Health dated 6<sup>th</sup> July 2021, amended plans have been submitted that show the extraction flue discharging at a height of at least 1 metre above the roof level of the main building – No objection to the proposed development and suggests a number of safeguarding conditions to limit noise and air pollution.

## RELEVANT PLANNING POLICY

20. National Planning Guidance
- National Planning Policy Framework
  - Technical Guidance to the National Planning Policy Framework (2012)
  - Planning Practice Guidance (2014)
  - Community Infrastructure Levy Regulations (as amended) (2014)
21. Black Country Core Strategy (2011)
- DEL1 Infrastructure Provision
  - ENV2 Historic Character and Local Distinctiveness
  - CSP4 Place Making
  - CSP5 Transport Strategy
  - CEN6 Meeting Local Needs for Shopping and Services
  - TRAN2 Managing Transport Impacts of New Development
  - TRAN5 Influencing the Demand for Travel and Travel Choices
  - ENV 3 Design Quality
  - CSP1 The Growth Network
  - CSP2 Development Outside the Growth Network
22. The Dudley Borough Development Strategy (2016)
- S1 – Presumption in favour of Sustainable Development
  - S2 Planning for a Healthy Borough
  - S8 - Conservation and Enhancement of Local Character and

- Distinctiveness
- S6 - Urban Design
- S17 – Access and Impact of Development on the Transport Network
- D2 – Incompatible Land Uses
- D5 – Noise Pollution
- D9 – Hot Food Takeaways
- L12 Shop Front Security

23. Supplementary Planning Documents

- Access for All Supplementary Planning Document
- CIL Charging Schedule (2015) (updated 2017)
- Parking Standards Supplementary Planning Document (2016)
- Planning for Health SPD (2013)
- PGN 5 – Retail frontages

## ASSESSMENT

24. The key issues in determination of this application are:

- Principle/Policy
- Design and appearance
- Amenity issues
- Highway safety
- Financial Material Considerations

Principle/Policy

25. The application site does not have a designation in the Dudley Borough Development Strategy (2017). Therefore, there are no objections in principle from a planning policy perspective.

26. The National Planning Policy Framework (NPPF) sets out the Governments planning policies for England and how these are expected to be applied. The NPPF

is a material consideration in planning decisions but does not change the statutory status of the development plan as the starting point for decision making. Proposed development that accords with an up-to-date Local Plan should be approved. The NPPF also requires local planning authorities to pursue policies, which support the viability and vitality of town centres. They also seek to secure a good standard of amenity for existing and future occupants of buildings.

27. Policy D9 recognises that hot food takeaways can provide an important complementary service compared to other retail uses, however, they can also have a detrimental impact on the amenity and the retail character and function of shopping centres due to their hours of operation, increased incidence of litter, odours, noise and general disturbance as well as parking and traffic problems. There is also a need to take a co-ordinated approach to public health to tackle obesity (particularly childhood obesity).
28. Policy D9 of the DBDS (2017) does state that food takeaways will only be permitted where they do not create or exacerbate a concentration (typically 3 or 4) of those uses. It is noted that there is already one other hot food takeaway within the precinct. However, the application site is not adjacent to any existing A5 uses. It is not considered that this change of use would create a bunching of non-retail units to the detriment of the retail parade. As such, it is considered that this change of use would be acceptable and in accordance with policy.
29. The application site is located in an out-of-centre location in Wordsley but is protected by Black Country Core Strategy Policy CEN6 which seeks to ensure the provision and retention of local shops and other centre uses to meet day-to-day needs within reasonable walking distance. The policy specifically relates to development of up to 200m<sup>2</sup> gross.
30. The unit is sited within close proximity to the residential dwellings and the proposed use is small scale, at less than 100sq.m, it is not considered to act as a threat to the vitality and viability of the existing centre of Wordsley. Overall, the proposed

development gives rise to no conflict with Policy CEN 6 and the change of use would not result in the loss of any A1 retail floor space.

### Design

31. The development would bring a vacant unit back into use which in turn would enhance the existing positive characteristics of the locality including public realm. As such the development would not have any detrimental impact on the overall character of the surrounding area.
32. The application site is located within a row of commercial properties with residential properties nearby. The new shop front would have no adverse impact on outlook, daylight provision or privacy for these nearby occupiers of those residential properties.
33. The extraction flue would be located on the rear elevation in an enclosure using matching materials and whilst it would project above the roof it is considered it would not be highly visible from the street scene. As such it is not considered there would be any detrimental impact to the visual amenity of the surrounding area.

### Amenity issues

34. The application site is located at the end of a row of commercial properties in a mixed-use commercial/residential area along this part of Lawnswood Road.
35. The Environmental Safety and Health Team do not object the proposed development and suggests a number of safeguarding conditions to limit noise and air pollution. There are already two businesses that provide hot food in this terrace of shops, with residential accommodation at first floor level.
36. The scheme included in this application includes outlined measures to control odour from cooking operations that, with adjustments, should be adequate to prevent residual cooking odour from adversely affecting residents in the surrounding area. There will already be some residual odour from cooking operations at the other two hot food businesses but there is insufficient justification for refusal of this application



on grounds that cooking odour will cause an unacceptable increase of cooking odour in the neighbourhood.

37. The extraction flue should terminate at a height no lower than the ridge or roof height of any building in the immediate vicinity, but the submitted plans do not clarify whether this will be the case. The external extraction flue shown on the submitted plans should therefore not be included as part of any approved scheme and its construction can be determined when the discharge of recommended relevant condition is considered.
38. Control of noise and cooking odour can be controlled by conditions and on this basis.
39. Subject to the above-mentioned conditions, it is not considered that the proposed uses would have any detrimental impact on the amenity of surrounding residential occupiers in the vicinity. The use is appropriate for a parade of local shops such as this and the proposal accords with local and national planning policy.

#### Highway safety

40. Highways raise no objections to the proposed development and recommend approval. The proposed change of use will not significantly alter trip generation or goods vehicle movements to/from the parade of local shops and adjacent public house with a large off-street car parking frontage shared between all units.
41. The proposed scheme is therefore consistent with the requirements of Policies TRAN2, and CSP5 of the adopted BCCS and the Parking Standards SPD (2017).

#### Financial Material Considerations

42. Section (124) of the Localism Act states that: Local planning authorities are to have regard to material considerations in dealing with applications including any local finance considerations, so far as material to the application. A 'local finance consideration' may be taken to cover the payment of New Homes Bonus, or sums that a relevant authority has received, or will or could receive, in payment of the

Community Infrastructure Levy (CIL). The section does not change the law in any way. It is not a new basis for planning policy and it remains unlawful for planning permissions to be 'bought'.

43. The proposal is not liable for CIL for the following reason(s):
- less than 100 square metres of CIL Liable retail floor space.

## CONCLUSION

44. The principle of the proposed use in this location is considered acceptable and would bring a vacant unit back into use. With appropriate conditions imposed, there would be no detrimental impact on residential amenity of nearby occupiers. It is also considered that there would be no detrimental impact on highway safety. The proposal would therefore comply with Core Strategy and Development Strategy Policies.

## RECOMMENDATION

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

Conditions and/or reasons:

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.  
REASON: To comply with Section 91(1) of the Town and Country Planning Act, 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.
2. The development hereby permitted shall be carried out in accordance with the following plans and amended plans: 2108.103 Rev B, 2108.101 Rev A, 2108.102 Rev C and 2108.100.  
REASON: For the avoidance of doubt and in the interests of proper planning.
3. No materials other than those indicated on the approved plans shall be used without the approval in writing of the Local Planning Authority.  
REASON: In the interests of the visual amenities of the area and to comply with BCCS Policies CSP4 - Place-Making and ENV2 - Historic Character and Local Distinctiveness and Borough Development Strategy 2017 Policy S6 Urban Design and Policy L1 Housing Development, extensions and alterations to

existing dwellings

Policy D2 Incompatible Land Uses (in part).

4. No delivery vehicles whether loaded or unloaded shall enter or leave the site, before the hours of 0800 nor after 20.00 Monday to Saturday, or at all on Sundays and Public Holidays.

REASON: To protect the amenities of nearby residents in accordance with Borough Development Strategy 2017 Policy D5 Noise Pollution and Policy L1 Housing Development, extensions and alterations to existing dwellings Policy D2 Incompatible Land Uses (in part).

5. The premises shall not be open to the public, nor shall deliveries from the premises be made, before the hours of 0900 nor after 2300 Monday to Saturday, or before 10.00 or after 20.00 on Sundays and Public Holidays.

REASON: To protect the amenities of nearby residents in accordance with Borough Development Strategy 2017 Policy D5 Noise Pollution and Policy L1 Housing Development, extensions and alterations to existing dwellings Policy D2 Incompatible Land Uses (in part).

6. The rating level of sound 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 sound levels by more than 5dB(A) between the hours of 0700-2300 (taken as a 15 minute LA90 at the nearest sound sensitive premises) and shall not exceed the background sound level between 2300-0700 (taken as a 15 minute LA90 at the nearest /any sound 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 / any sound sensitive property is not possible, measurements shall be undertaken at an appropriate location and corrected to establish the noise levels at the nearest / any sound sensitive property.

Any deviations from the LA90 time interval stipulated above shall be agreed in writing with the Local Planning Authority.

REASON: To protect the amenities of nearby residents in accordance with Borough Development Strategy 2017 Policy D5 Noise Pollution and Policy L1 Housing Development, extensions and alterations to existing dwellings Policy D2 Incompatible Land Uses (in part).

7. 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 and adjacent buildings 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.

REASON: In order to safeguard the amenities and wellbeing of the occupiers of the proposed dwelling(s) in compliance with Borough Development Strategy 2017 Policy L1 Housing Development, extensions and alterations to existing dwellings

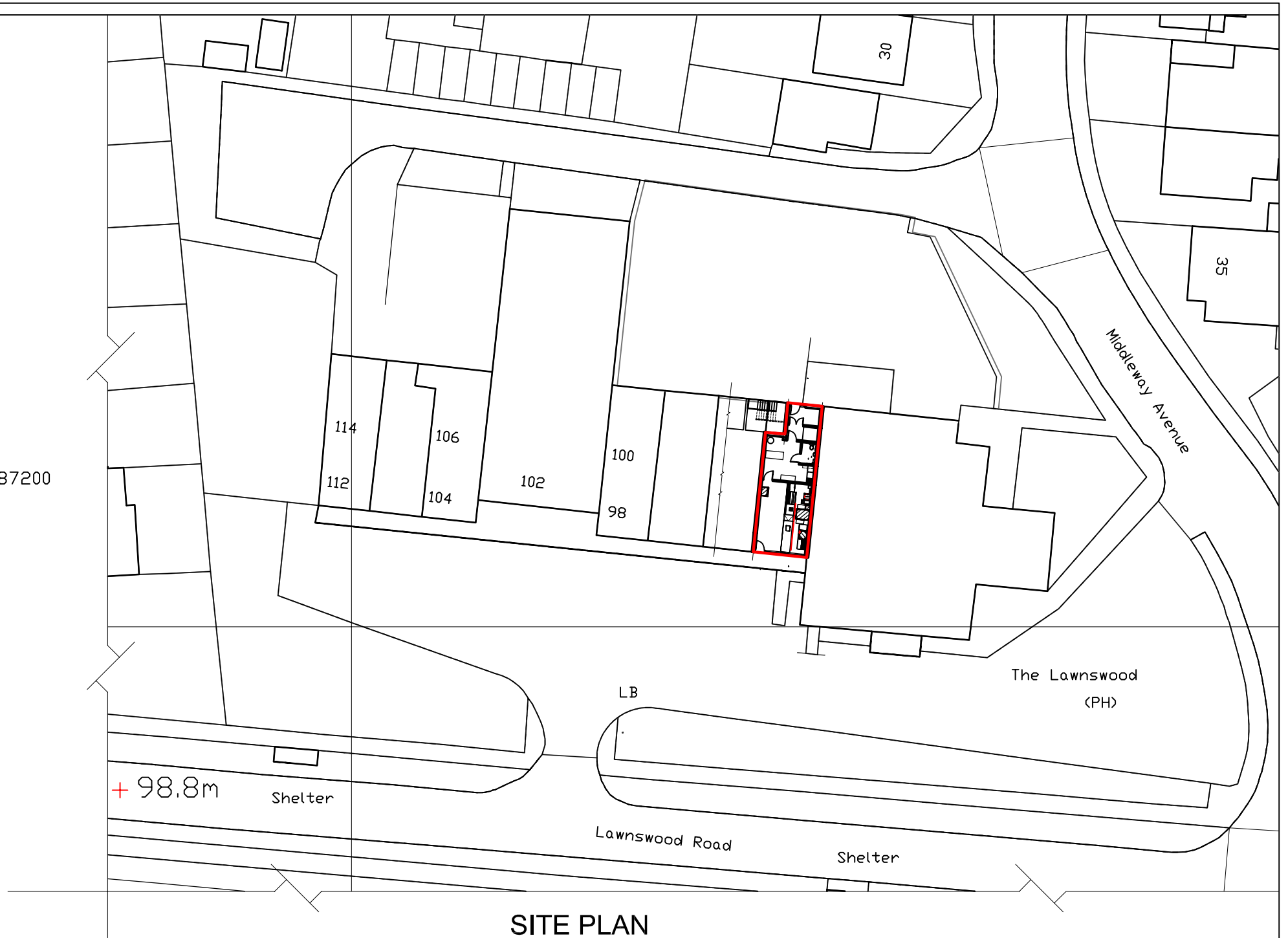
Policy D2 Incompatible Land Uses (in part) and EP7 - Noise Pollution.

8. Prior to the commencement of development, 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 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.

REASON: To protect the amenities of nearby residents in accordance with Borough Development Strategy 2017 Policy L1 Housing Development, extensions and alterations to existing dwellings  
Policy D2 Incompatible Land Uses (in part).



**LOCATION PLAN**  
Scale 1: 1250



**SITE PLAN**  
Scale 1: 500

**Change of Use from Washeteria to Hot Food Takeaway + New Shop Front**  
86 Lawnswood Road, Stourbridge DY8 5NA

PARTY WALL ACT 1996 (NOTE FOR CLIENT/OWNER): ALL BOUNDARY POSITIONS ARE ASSUMED AS PER CLIENT'S INSTRUCTIONS AND CONTRACTOR TO AGREE EXACT BOUNDARY POSITIONS WITH CLIENT/OWNER, PRIOR TO COMMENCEMENT OF WORKS. THE ORKS MAY FALL WITHIN THE PARTY WALL ACT AND CLIENT IS REQUIRED TO WRITE THE NEIGHBOURS AFFECTED BY THESE WORKS AND SEEK WRITTEN CONSENT PRIOR TO COMMENCEMENT OF WORKS. IN CASE OF ANY OBJECTION FROM THE ADJOINING PROPERTY OWNERS, CLIENT IS ADVISED TO CONTACT SPECIALIST PARTY WALL SURVEYORS.  
LOCAL AUTHORITY NOTES:  
CONTRACTOR, WHERE APPLICABLE, TO ENSURE HE COMPLIES WITH ALL CONDITIONS OUTLINED THE PLANNING APPROVAL NOTICE. IT IS THE RESPONSIBILITY OF THE CONTRACTOR TO OBTAIN WRITTEN APPROVALS FOR ALL FACING MATERIALS FROM THE PLANNING DEPARTMENT.  
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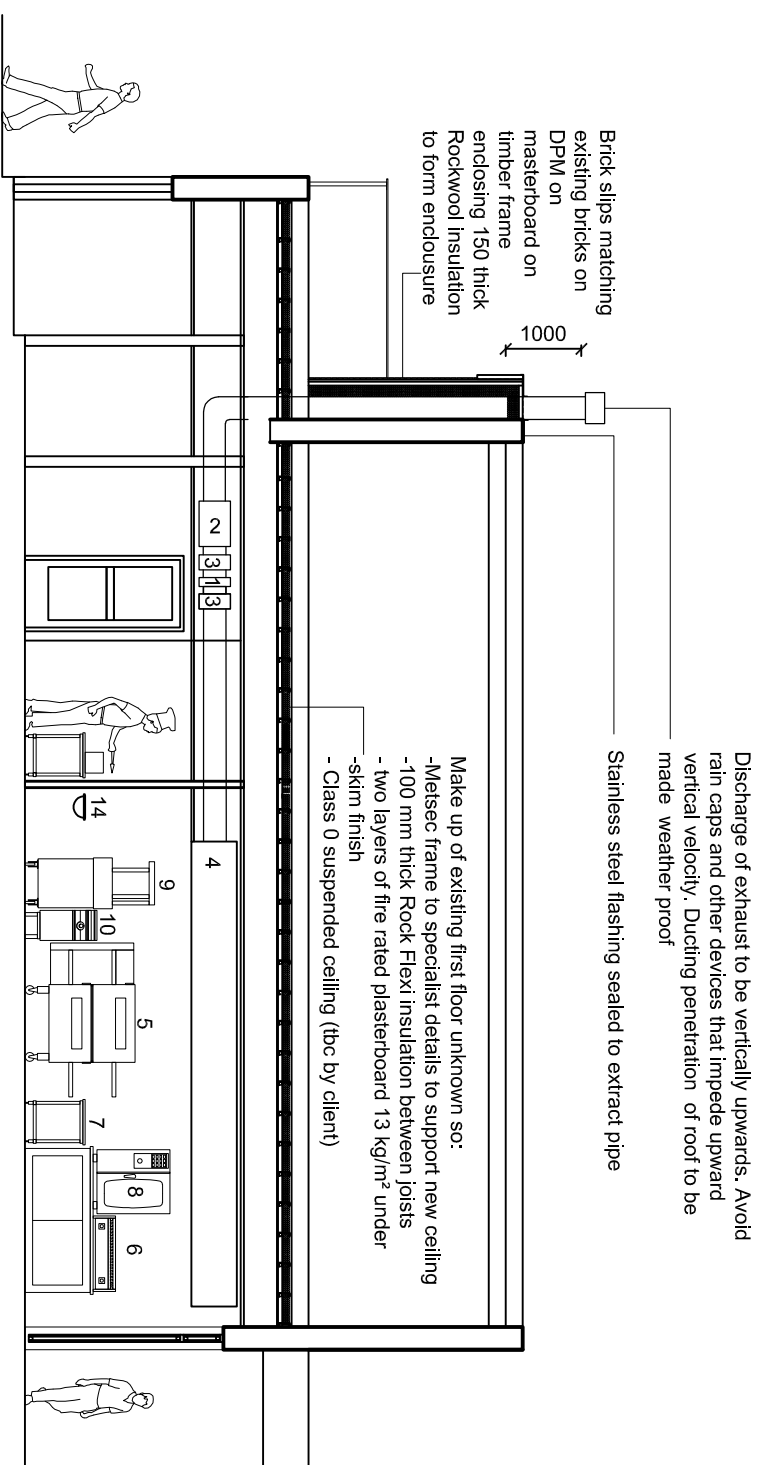
Drwg Number  
2108.100

Location and Site Plans  
Scale 1:1250,500

**SPECTRUM**

SPECTRUM MANAGEMENT & SERVICES LTD  
84 PALACE ROAD  
BIRMINGHAM B5 9ER  
TEL: 0121 659 1510





## SECTION

Scale 1:100

### KEY

1. Fan motor to specialist details
2. Carbon filter, to specialist details
3. Acoustic silencer to specialist details
4. Stainless steel canopy & associated exhaust pipes, to specialist details
5. Pizza conveyor belt oven
6. Grill to specialist details
7. Stainless steel bench
8. Chicken oven
9. Fries dump
10. Chips fryer
11. Menu above outline
12. Cold drinks display fridge
13. Till
14. Ss wash hand basin
15. Cold display
16. Chest freezer
17. Pizza topping counter with built-in fridge
18. Microwave
19. Walk-in freezer
20. Outline of ss canopy
21. Pizza dough machine

Rev B: Extract flue design revised.  
Rev A: Extract flue design revised.

**Change of Use from Washeteria to Hot Food Takeaway + New Shop Front**  
86 Lawnswood Road, Stourbridge DV8 5NA

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Extractor canopy manufactured from 430 grade stainless steel dull polished both sides, complete with 8 no. grease filters. Canopy size 200 x 380 x 400 x 1200 L shaped. Fan motor will be from Falkwoods size 560 mm long case.  
2 no silencers size 560 mm x 600 long each  
Fan will also be connected to  
- Gas Interlock system  
- Carbon filter to reduce smoke and fumes  
- Anti-vibration system  
The part of the exhaust ducting one the exterior of the premises will be constructed from galvanised, rust-proof steel  
240 volt- 1420 rpm  
Sound level 56 dba when monitored at 3 meters  
The attenuator we use, before and after fan. This would reduce the dba level by 10 dba to the canopy side and 19 dba to extraction side, thus producing 33 dba when mounted at 3 m from the fan

Drwg Number  
2108\_103 Rev B

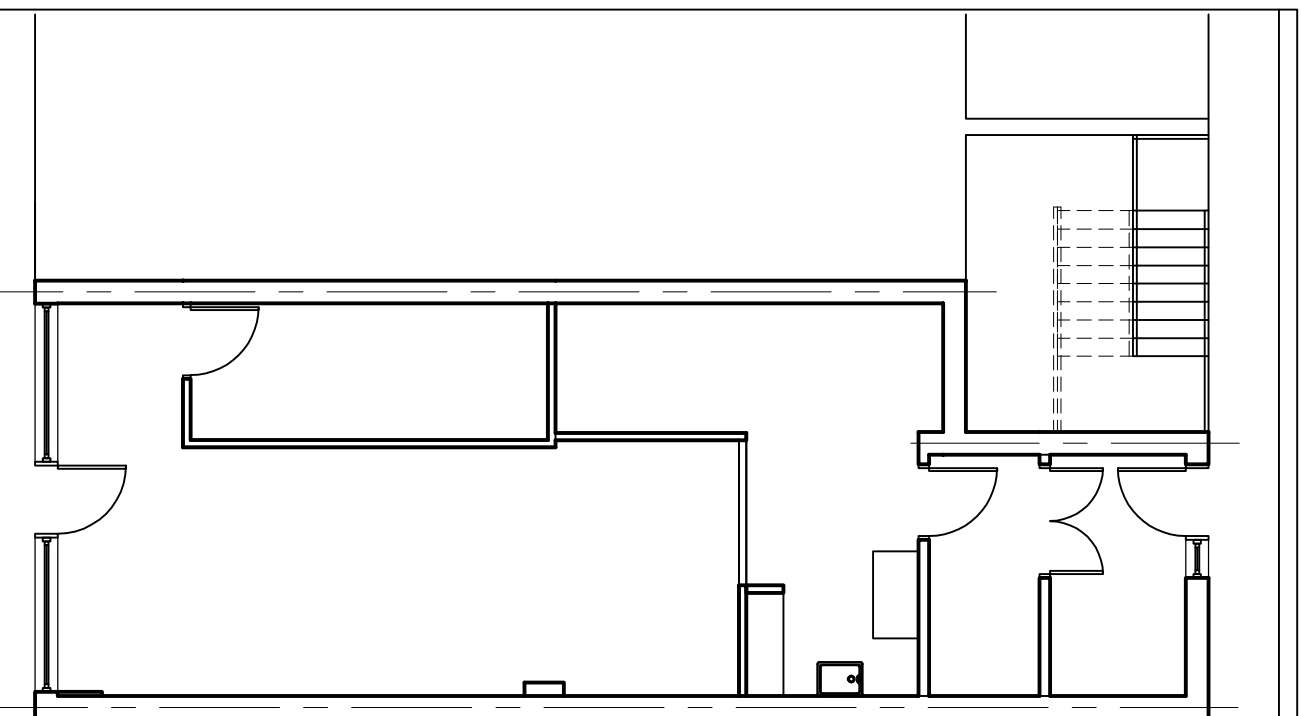
Elevations  
Scale 1:100

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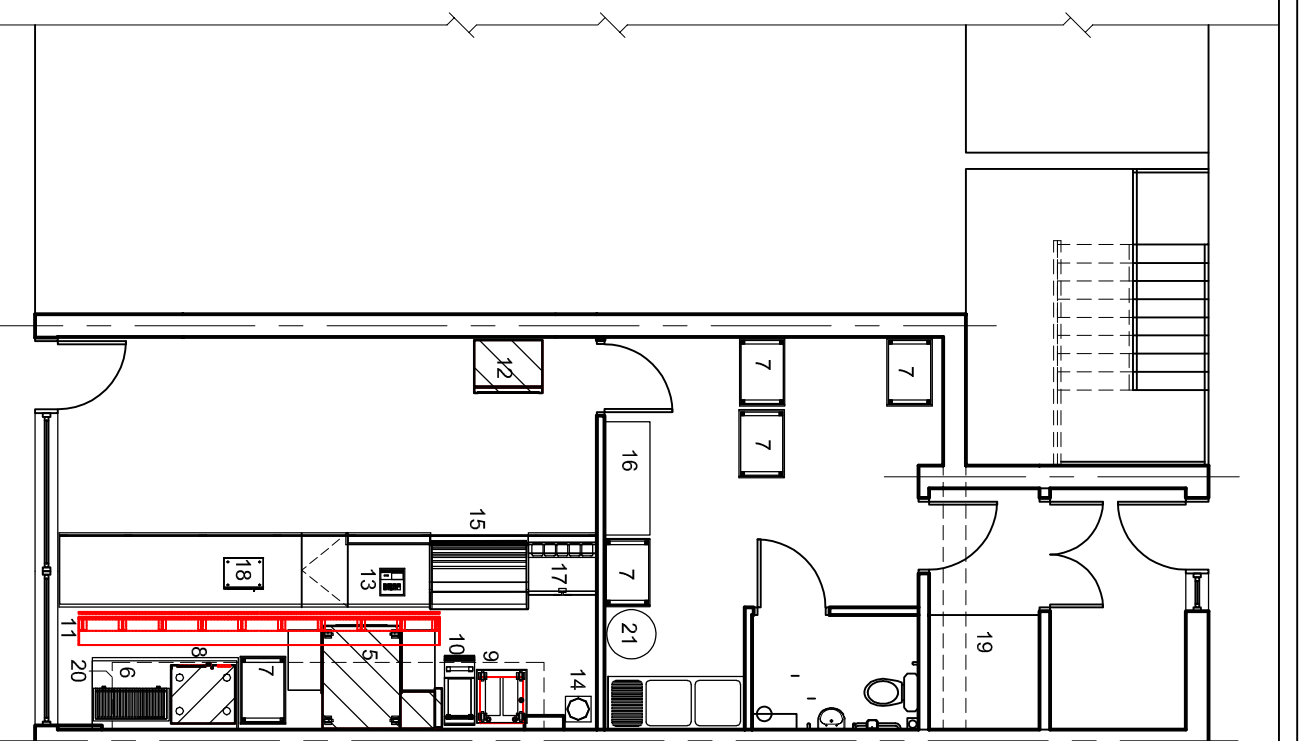
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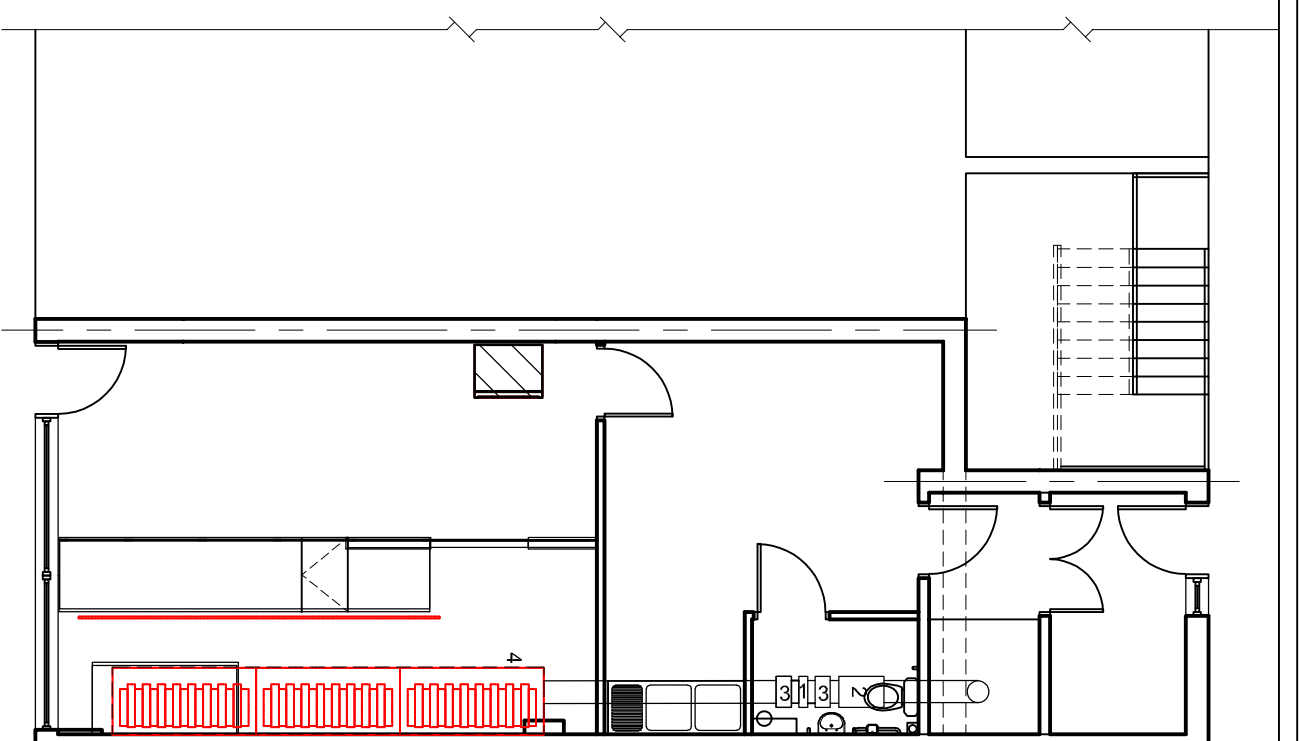
**EXISTING GROUND FLOOR PLAN**

Scale 1:100



**PROPOSED GROUND FLOOR PLAN**

Scale 1:100



**PROPOSED GROUND FLOOR PLAN  
(Ventilation System)**

Scale 1:100

**KEY**

1. Fan motor to specialist details
2. Carbon filter, to specialist details
3. Acoustic silencer to specialist details
4. Stainless steel canopy & associated exhaust pipes, to specialist details
5. Pizza conveyor belt oven
6. Grill to specialist details
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15. Cold display
16. Chest freezer
17. Pizza topping counter with built- in fridge
18. Microwave
19. Walk- in freezer
20. Outline of ss canopy
21. Pizza dough machine

Rev A: Extract pipe configuration revised

**Change of Use from Washeteria to Hot Food**

**Takeaway + New Shop Front**

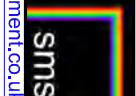
86 Lawnswood Road, Stourbridge DY8 5NA

THE CLIENT HAS AGREED TO ACCEPT THE DESIGNER'S INSTRUCTIONS AND CONTRACTOR TO AGREE EXACT BOUNDARY POSITIONS WITH CLIENT/OWNER PRIOR TO COMMENCEMENT OF WORKS. THE DESIGN SHALL COMPLY WITH THE PARTIAL ACT AND CLIENTS REQUIREMENTS TO WRITE THE NEIGHBOURS AFFECTED BY THESE WORKS AND SEEK WRITTEN CONSENT PRIOR TO COMMENCEMENT OF WORKS. IN CASE OF ANY OBJECTION FROM THE ADJOINING PROPERTY OWNERS, CLIENT IS ADVISED TO CONTACT SPECIALIST PARTY WALL SURVEYORS. THE DESIGNER WILL BE RESPONSIBLE TO ENSURE THE COMPLIES WITH ALL CONDITIONS OUTLINED THE PLANNING APPROVAL. NOTICE IT IS THE RESPONSIBILITY OF THE CONTRACTOR TO OBTAIN WRITTEN APPROVALS FOR ALL PLANNING MATTERS FROM THE PLANNING DEPARTMENT. ALL WORK TO COMPLY WITH BUILDING REGULATIONS AND ALL STATUTORY AUTHORITIES REQUIREMENTS. THIS DRAWING IS NOT ON ITS OWN A GUARANTEE OF LOCAL AUTHORITY APPROVALS IF CLIENT CHOOSES TO EXECUTE THIS DRAWING PRIOR TO LOCAL AUTHORITY APPROVALS BEING ISSUED. THIS IS DONE AT THE CLIENTS RISK.

**Dwg Number**  
2108.101 Rev A

**Existing Plans**  
Scale 1:100

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