

## **PLANNING APPLICATION NUMBER: P10/1615**

Type of approval sought	Full Planning Permission
Ward	SEDGLEY
Applicant	Ms S Liu
Location:	<b>47, DUDLEY STREET, SEDGLEY, DUDLEY, WEST MIDLANDS, DY3 1SA</b>
Proposal	<b>CHANGE OF USE FROM RETAIL (A1) TO HOT FOOD TAKEAWAY (A5) WITH PROPOSED FUME EXTRACTION AND ANCILLARY FLAT (C3) ABOVE</b>
Recommendation Summary:	<b>APPROVE SUBJECT TO CONDITIONS</b>

### **SITE AND SURROUNDINGS**

1. The 0.01 hectare site is located toward the southern-most section of the classified Dudley Street (A459) and within the defined District Shopping Centre of Sedgley. The site is also positioned adjacent to the All Saints Conservation Area.
2. The building that is the subject of this planning application, No. 47 Dudley Street, currently lies vacant from its former use as a Post Office (A1 Use Class) and forms part of a cluster of terraced properties which span No's. 47 to 49a Dudley Street, with No. 47 being located at the northern end of the row. The properties that form the terrace with No. 47 comprise of an A5 Use Class Fish and Chip Shop (2 Tasty) that occupies No. 49 and Sedgley Fishmongers (A1 Use Class) at No. 49a, both with A3 staff accommodation residing above. The properties adjacent to the north of the application site consist of a Post Office and associated pound shop (A1 Use Class).
3. Immediately adjoining the rear of the site is a public footpath and beyond that adjoins the playing fields for Dormston School. To the front of the site, opposite Dudley Street, lies the formal burial ground of All Saints Church, forming part of the wider Conservation Area.

4. The site is served by joint frontage parking provisions that serves No's 47 to 49a Dudley Street and this provision has defined parking spaces for 10 – 11 No. vehicles. A further unmarked area exists at the front of No. 47, which, if necessary, can accommodate further off street parking.

## PROPOSAL

5. Permission is sought to change the use of the vacant building from its former use as a Post Office / Retail Shop (A1 Use Class) to a hot food take-away unit (A5 Use Class) at ground floor level with ancillary residential accommodation (C3 Use Class) to the upper floor. The application also seeks the installation of an extraction flue to the rear of the premises which would project a metre above the roof. The scheme also relates to internal alterations; however these internal works do not require planning permission.
6. The applicant states that three full time staff would be employed as a result of the change of use of the site. Parking provision would be made available to the frontage of the site on the existing hard standing adjacent to the Dudley Street highway.
7. The application is accompanied by a Design and Access Statement and a Supporting Statement.

## HISTORY

### Application Site

APPLICATION No.	PROPOSAL	DECISION	DATE
SD/59/1890	Full planning permission for the erection of a retail shop with store over	Approved with conditions	02 July 1959
P01/2293	Full planning permission for the installation of an ATM Machine in the front elevation	Approved with conditions	31 January 2002
P10/1639	Advertisement consent for the display of an internally illuminated fascia sign and projecting sign	Pending	

8. Planning application P10/1639 for advertisement consent is pending and under consideration by the local planning authority.

### Adjacent Site (No. 45 Dudley Street)

9. Planning history checks of the adjacent site shows that there has been a previous application to change the use of the then redundant electrical sub-station to a Post Office / Retail Shop with a new shop front under planning application reference P09/0817. The application was approved on 02 September 2009.

### Adjacent Site (No. 47 and 47a Dudley Street)

10. Planning history checks of the terraced block to which the application premises form a part shows that there has been a previous application to the adjacent premises forming No. 49 and 49a Dudley Street to demolish the then existing fish and chip shop with fresh fish sales to allow the erection of a two storey building to house a fish and chip shop with fresh fish sales at ground floor level with two flats above, granted under planning approval P05/2140 on the 04 November 2005.

## **PUBLIC CONSULTATION**

11. The application was advertised by way of both a newspaper advert and neighbour notification letters being sent to the occupiers of thirty-two properties located within close proximity to the site. The final period for comment expired on 05 January 2011.
12. In response to the consultation exercise, correspondence has been received from a local resident objecting to increased odours and smell as a result of the development, compounded by existing hot food outlets. Concern is also expressed that the hours of operation would lead to an increase of noise and anti social behaviour to this part of the town centre. Concern is also expressed by the objector that the development would detract from Dormston House, a listed building.

## **OTHER CONSULTATION**

13. Group Engineer (Development): the proposed development would generate fewer trips than the existing use on the site; however, concern is expressed that the scheme will result in indiscriminate customer parking on the Classified Strategic highway (A459) Dudley Street to the detriment of highway safety and convenience of other highway users. Refusal is recommended.
14. Head of Environmental Health and Trading Standards: The application makes reference to the first floor flat only to be occupied by employees of the proposed hot food take-away business (A5 Use Class); however, it is expected that the same level of protection would be provided to any occupant. The proposals show that anti-vibration mountings will be used for the external ducting and fan which is supported; however other fixed plant (external or internal) may also need consideration of mounting methods. Therefore conditions are recommended to control this.
15. It is also apparent that the neighbouring (A5 Use) hot food take-away (2 Tasty) does not have any planning restrictions on the opening hours and that the only restrictions are those imposed by the premises license. In order to protect surrounding residential occupiers, it is recommended that the hours of use are restricted by

condition to align with the existing opening hours of the adjoining hot food take-away premises (2 Tasty).

## RELEVANT PLANNING POLICY

### Black Country Joint Core Strategy

- CSP5 Transport Strategy
- DEL1 Infrastructure Provision
- ENV8 Air Quality
- TRAN1 Priorities for the Development of the Transport Network
- TRAN2 Managing Transport Impacts of New Development
- TRAN5 Influencing the Demand for Travel and Travel Choices
- CEN2 Hierarchy of Centres
- CEN6 Meeting Local Needs for Shopping and Services
- CEN8 Car Parking in Centres

### Saved Unitary Development Plan (2005)

- DD2 Mixed Use
- DD4 Development in Residential Areas
- EP1 Incompatible Land Uses
- EP7 Noise Pollution
- CR13 Residential Development in Centres
- HE4 Conservation Areas

### Supplementary Planning Document(s)

- Parking Standards and Travel Plans
- Planning Obligations
- Historic Environment

### National Policy Documents

- PPS1 Delivering Sustainable Development

- PPS3 Housing
- PPS5 Planning for the Historic Environment
- PPS6 Planning for Town Centres
- PPG13 Transport

## ASSESSMENT

### 16. Key Issues

- Principle
- Impact upon the character of the area
- Impact upon the amenity of the area
- Highway Safety
- Planning Obligations

#### Principle

17. The site is positioned within Sedgley District Shopping Centre and is not designated for any particular use within the Dudley Unitary Development Plan. The building occupying the site currently lies vacant from its former use as a Post Office (A1 Use Class). The Black Country Joint Core Strategy confirms that the application site falls within the definition of previously developed land, whereby the principle of development is supported in the interests of sustainability and regeneration. PPS1 (Delivering Sustainable Development) also encourages the redevelopment and reuse of previously-developed land whilst taking into account factors such as the requirements to make full and efficient use of the land, the local context and the principles of good design.
18. Planning Policy Statement 6 (Planning for Town Centres) seeks to promote the vitality and viability of Town Centres identifying housing as an important element in securing this aim. Planning Policy Statement 3 (Housing) outlines the commitment of the Government to provide mixed and sustainable communities by encouraging housing development in suitable locations which offer a range of community facilities with good access to jobs and services and to provide affordable housing.

19. This scheme would provide accommodation near to a Centre location which has good access to jobs and services and would make efficient use of the ground and upper floor of premises. As such it would accord with PPS 3 (Housing), PPS 6 (Planning for Town Centres) and Policies DD2 (Mixed Use) and CR13 (Residential Development in Centres) of the adopted Dudley Unitary Development Plan (2005).

Impact upon the character of the area

20. The site is positioned within Sedgley District Shopping Centre and adjacent to All Saints Conservation Area. Policy HE4 (Conservation Areas) of the Dudley Unitary Development Plan states that any new development or alterations should respect the historical or vernacular building character, proportion, massing and relationship between buildings and the spaces between them and with their setting. These views are echoed within PPS 5 (Planning and the Historic Environment).
21. The proposed change of use relates to a modern vacant building forming part of a modern parade of shops. The proposed change of use would result in minor external works to accommodate the extraction flue to the rear of the building that would discharge 1 metre above the flat roof of the building to ensure dispersion of cooking odours and that surrounding occupiers would not suffer a loss of amenity. 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 prejudice existing surrounding occupiers.
22. The scheme would allow for the retention of the vacant building whilst bringing the building back into commercial activity and thereby ensuring the viability and vitality of the District Shopping Centre remains. The proposal would also not detract from, or have any negative impact upon the character and appearance of the All Saints Conservation Area.

### Impact upon the amenity of the area

23. The site is located within a centre location and the majority of nearby uses are either retail or commercial, including space at first and second floor levels, however, there are residential properties within the locality, most noticeably the adjoining site of No's. 47 to 49a Dudley Street and the Listed Building of Dormston House. It is considered that, through conditions to control hours of operation to align with the adjoining hot food take-away (2 Tasty) as well as servicing of the restaurant and the control of the discharge of odours, residential amenity would not be prejudiced.
24. The site is also located adjacent to the Dormston School. Creating more hot food takeaways, especially near to schools, is contrary to Central Government's drive to tackle obesity and unhealthy eating habits; however, the Council currently does not have a policy to limit the amount of hot food takeaways or control their proximity to schools and until such time as a policy is adopted, no objection can reasonably be raised.

### Highway Safety

25. The current permitted use of the building is retail (A1 Use) throughout. The adopted Parking Standards and Travel Plans Supplementary Planning Document (SPD), based on the total A1 ground floor area (Gfa) of the application building of some 98.9 sq.m, requires a maximum of 5 parking spaces at baseline standard. The existing parking provision provides a total of 12 parking spaces (this serves both the application unit No.47 Dudley Street and the adjoining properties 49 and 49a Dudley Street).
26. The proposed hot food take-away (A5 Use) within the Parking Standards and Travel Plans SPD has a baseline parking standard of 1 parking space for every 20 sq.m of Gfa. Therefore the proposed 49.70 sq.m hot food takeaway should provide  $(49.70 \text{ sq.m} / 20\text{sq.m}) = 2.49$  parking spaces. The proposed first floor residential staff accommodation (C3 Use) comprising of 49.20 sq.m of the scheme, has a baseline



parking standard (low accessibility) of a single parking space per single bedroom, as stated within the Parking Standards and Travel Plans SPD. Therefore the 2 bedroom first floor apartment would require 2 parking spaces. This combined with the 2.49 parking spaces required for the hot food take away element would result in a required 4 off street car parking spaces in total .

27. The calculations above, in accordance with adopted Parking Standards and Travel Plans SPD, are intended to show maximum provision. It is the view of the Group Engineer that the site is in a 'low accessibility area' and therefore the absolute maximum allowed parking provision should be required. However, it is considered that sufficient parking provision in accordance with maximum provision exists to the sites frontage and it is considered that this site, which lies within the designated District Town Centre boundary of Sedgley should not be classed as a 'low accessibility site' given that the siting of the building is in a highly accessible and sustainable town centre location which is well served by public transport links combined with ample town centre car parking to serve the centre. It should also be noted that this proposed change of use application would generate less trips than the permitted A1 retail use. This means, that in accordance with Policy, the proposed Change of Use with ancillary staff accommodation actually provides a reduction in the overall required parking provision over the existing retail (A1 Use) of the building.
28. It should also be noted that the take-away would also offer a local delivery service. This alone is expected to significantly reduce the expected number of trips and on-site parking 'demand'. The delivery vehicle would also be utilised by a member of staff who will, in turn, reside in the proposed accommodation above the take-away. In this respect, no additional staff parking would be required over residential space as the staff would also be a resident at the property. The vehicular access to the site would also remain and would utilise the existing arrangement onto the strategic highway off Dudley Street

### Planning Obligations

29. Policy DEL1 (Infrastructure Provision) of the Black Country Joint Core Strategy in conjunction with the Council's adopted Supplementary Planning Document (Planning Obligations) requires applicants to enter into planning obligations where the scale and impact of the development, in accordance with government advice, result in a consequential planning loss to the existing community. Planning Obligations must where appropriate and necessary; make appropriate provision for the infrastructure requirements of the development and ensure that there is no unacceptable adverse impact on the existing environment, nor consequential unacceptable loss to the existing level of services enjoyed by the community.
30. No offsite contributions are required for this application as the transport trip rate would be reduced by the proposal and the premises are under 100m<sup>2</sup> thereby not requiring contributions towards Nature Conservation. The proposed first floor flat over the existing retail (A1 Use) would be connected to the proposed hot food take-away (A5 Use) by condition; and would currently be a permitted change of use under Class F, of The Town and Country Planning (General Permitted Development) Order, as flats over existing retail premises (A1 Uses) are permitted and would not require a formal planning application. Therefore, it is considered, that the proposal would not attract a requirement for a commuted sum to be paid towards any off-site infrastructure.

### **CONCLUSION**

31. The proposal would further contribute towards the regeneration of the Sedgley Centre by utilising a redundant vacant building within the locality and being brought back into use to make a positive contribution to the vitality and viability of the locality without impacting upon the wider area. This coupled with the siting of the building in this highly accessible and sustainable town centre location which is well served by public transport links combined with ample town centre public car parking would ensure the ongoing compatible land uses. The proposal also has regard to the

character and context of the All Saints Conservation Area and wider area. On this basis, the application is considered to be acceptable.

## RECOMMENDATION

32. It is recommended that the application is granted subject to conditions:

### Reason for approval

The proposal would further contribute towards the regeneration of the Sedgley Centre by utilising a redundant vacant building within the locality and being brought back into use to make a positive contribution to the vitality and viability of the locality without impacting upon the wider area. This coupled with the siting of the building in this highly accessible and sustainable town centre location which is well served by public transport links combined with ample town centre public car parking would ensure the ongoing compatible land uses. The proposal also has regard to the character and context of the All Saints Conservation Area and wider area. It is therefore considered that the benefits of the change of use of the vacant building currently falling into a state of disrepair, within the Sedgley Town Centre and adjacent to the All Saints Conservation Area are outweighed by any potential concerns raised through the consultee process. On this basis, the application is on balance, considered to be acceptable.

The decision to grant planning permission has been taken with regard to the Saved Dudley Unitary Development Plan policies, the Adopted Black Country Joint Core Strategy 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.**

### Informative

The proposed illuminated signage to the front elevation does not form part of this planning consent and is subject to a separate advertisement application to be made to the Local Planning Authority.

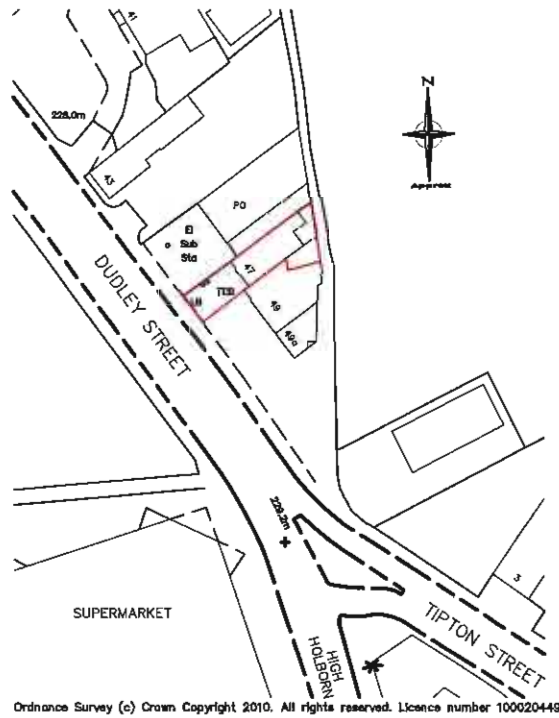
Conditions and/or reasons:

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
2. No deliveries shall be made to the site (laden vehicles), before the hours of 08:00 nor after 18:00 Monday to Saturday or at all on Sundays and Public Holidays.
3. The premises shall not be open to the public, before the hours of 1200hrs nor after 0000hrs (midnight) Monday to Saturday, and before 1600 or after 2230hrs on Sundays and Public Holidays.
4. The noise rating level of any fixed plant and/or machinery associated with the development shall not exceed background noise levels at any nearby dwelling by more than 5dB(A), as assessed under the methodology of BS 4142 (1997) (Method for rating industrial noise affecting mixed residential and industrial areas) and/or its subsequent amendments.
5. Before any 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.
6. 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.
7. The residential unit hereby permitted shall be solely occupied by staff employed within the commercial premises hereby permitted, their spouse / partner and any residents dependents.
8. The parking area to the front of the site shall be maintained free from obstructions and available for the parking of customers and residents.
9. The development hereby permitted shall be carried out in accordance with the following approved plans: PL658/001, PL658/002A, PL658/003, PL658/004A, PL658/005B and PL658/010

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**Health and Safety Notes**



SITE AREA AS RED LINE BOUNDARY = 145.3m<sup>2</sup> (0.014ha)

CLIENT  
**Ms. S Liu**

PROJECT  
**Conversion of 47 Dudley Street  
 Sedgley DY3 1SJ  
 to Fast Food Takeaway**

DRAWING  
**Location Plan**

DRAWING NUMBER	REVISION	SCALE	DATE
<b>PL658-003</b>		<b>1:1250 @ A4</b>	<b>Nov 10</b>
DRAWN BY		CHECKED BY	
<b>sh</b>		<b>lp</b>	



**Tweeddale**

265 Tettenhall Road  
 Wolverhampton  
 WV6 0DE

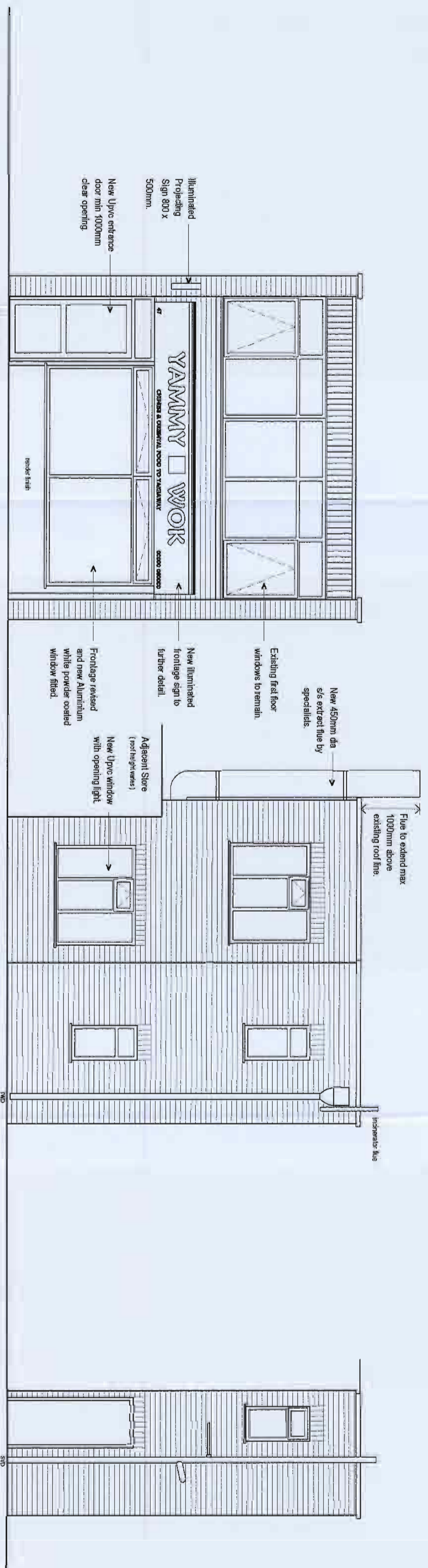
**Tel: 01902 774660**

**Fax: 01902 774666**

E-Mail: [enquiries@tweeddale.co.uk](mailto:enquiries@tweeddale.co.uk)  
 Web: [www.tweeddale.co.uk](http://www.tweeddale.co.uk)

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**Health and Safety Notes**



**FRONT ELEVATION ( to Dudley Street )**

**REAR ELEVATION ( to Yard )**

**SIDE ELEVATION ( to Yard )**

**NOTE**  
 Windows to rear elevations have protection mesh omitted for clarity

**AMENDED PLAN**

B	Extract floor top, full unboarded and height above existing roof level.	SH	28.02.11
A	Final sign information added.	SH	24.11.10
Rev	Details	All	Detailed

Ms. S Liu



265 Telfordhill Road  
 Wolverhampton  
 WV6 0DE

**PROJECT**  
 Conversion of 47 Dudley St.  
 Sedgley DY3 1SJ  
 to Fast Food Takeaway.

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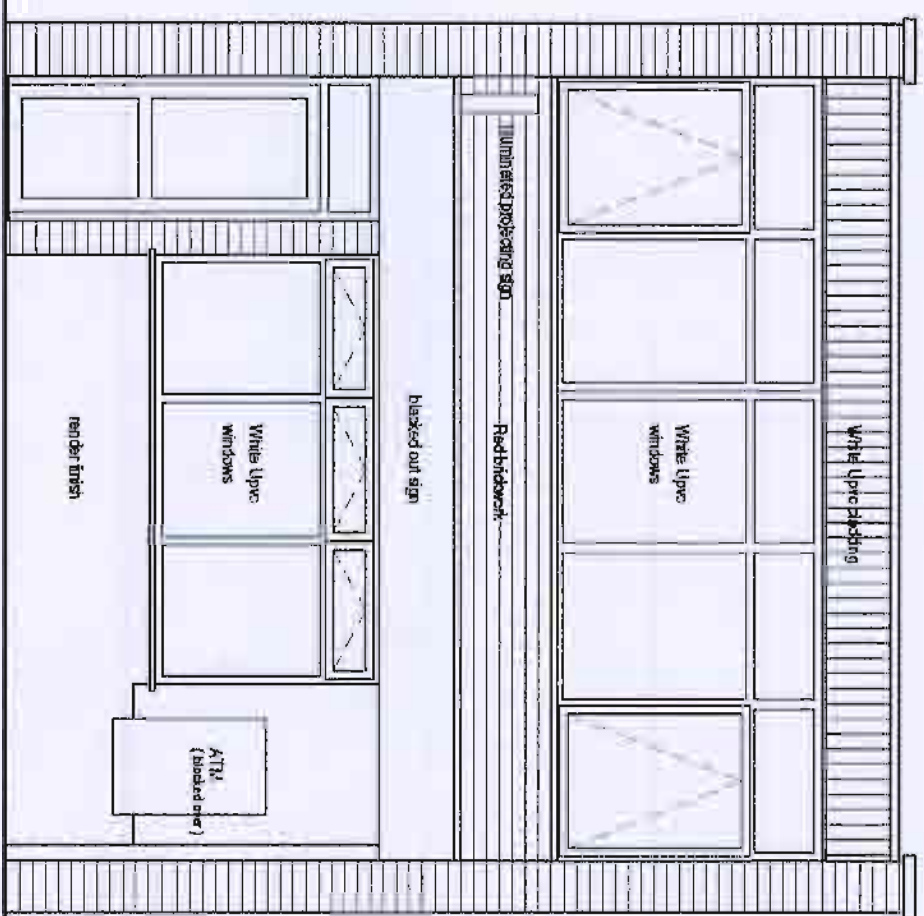
**TOWNERS**  
 Proposed Elevations  
 ( Old Post Office )

**ARCHITECTS**  
 TOWN PLANNERS  
 PROJECT MANAGERS

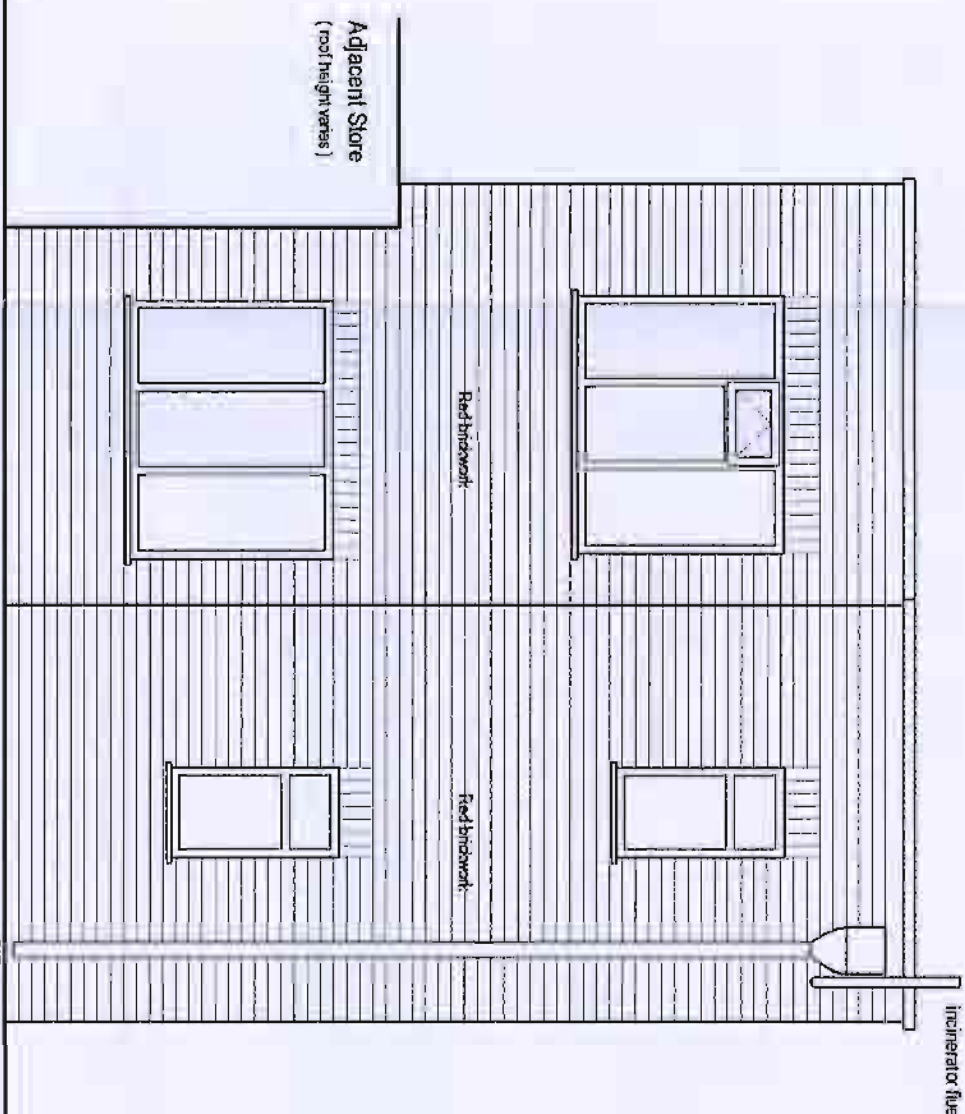
DRAWING NUMBER	REVISION	DATE	BY
PL658/005	B	10 NOV 10	SH

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**Health and Safety Notes**

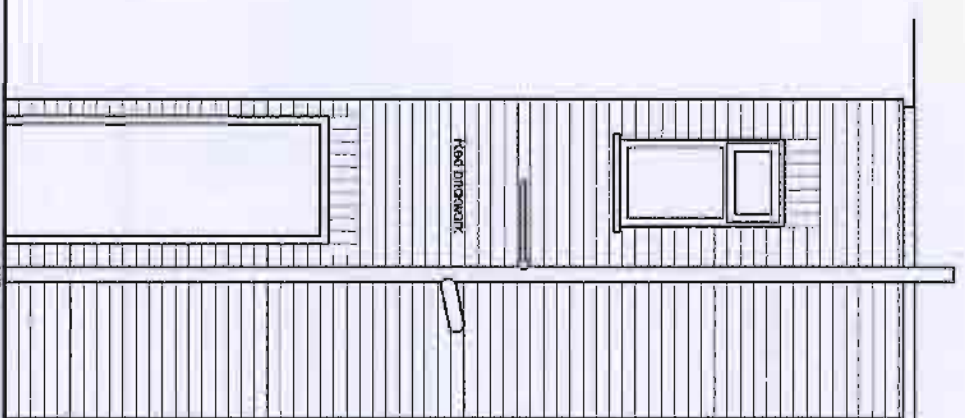


ENTRANCE  
**FRONT ELEVATION ( to Dudley Street )**



**REAR ELEVATION ( to Yard )**

NOTE  
 Windows to rear elevations have protection mesh omitted for clarity



**SIDE ELEVATION ( to Yard )**

Rev: Details  
 Date/Chk: AL Date/Chk:  
**Ms. S Liu**

**Tweedale**  
 265 Tetterhall Road  
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 WV6 0DE  
 Tel: 01902 774660  
 Fax: 01902 774666  
 Email: enquiries@tweedale.co.uk  
 Web: www.tweedale.co.uk

**Existing Elevations ( Old Post Office )**

NO.	DATE	REVISION	SCALE	BY	CHECKED BY
1	10/02/2022	ISSUED FOR PERMIT	AS SHOWN	MS. S LIU	AL
2	10/02/2022	ISSUED FOR PERMIT	AS SHOWN	MS. S LIU	AL

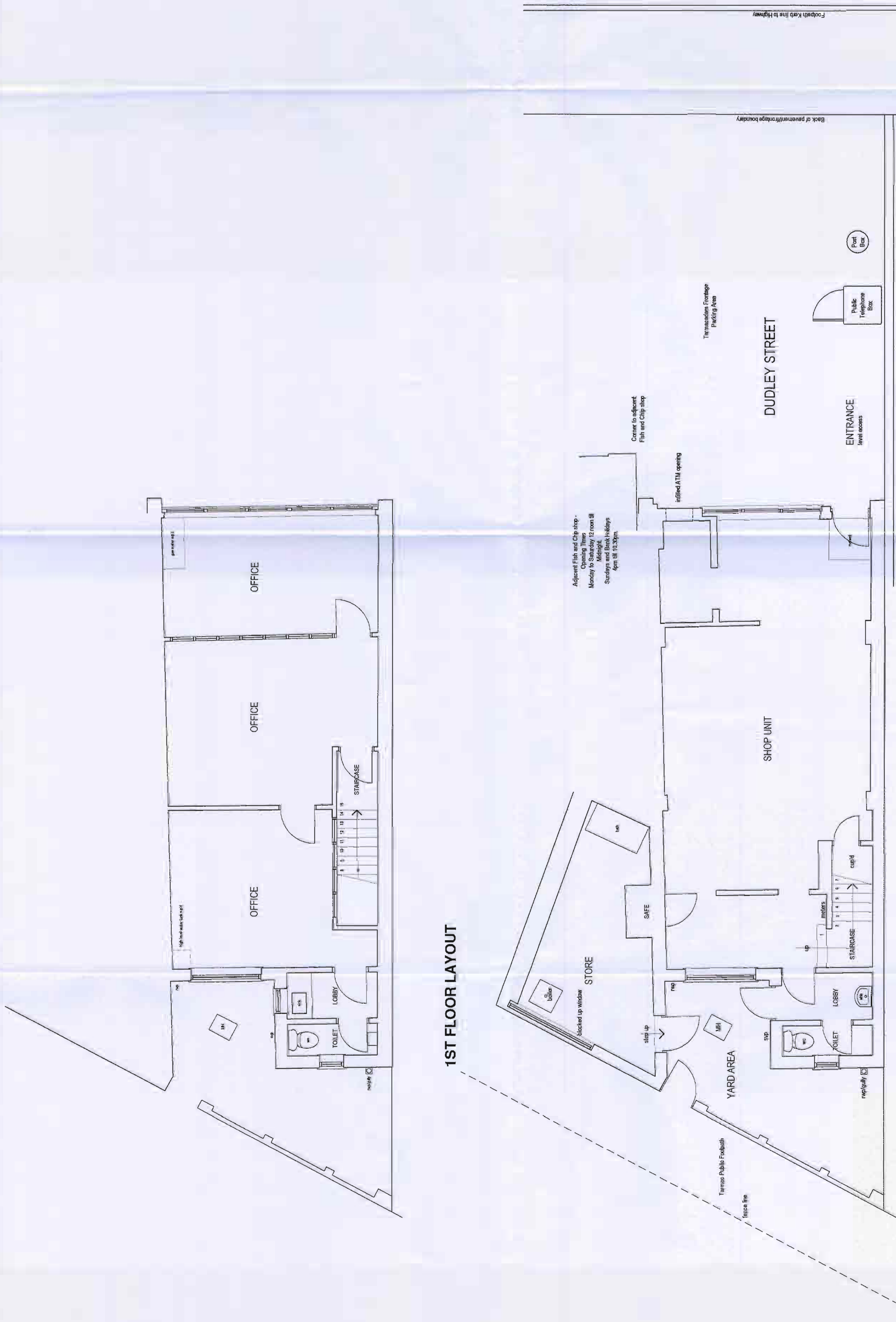
PL658/001

Radishdown (A2)  
 Planning  
 1

Plotted  
Existing Plans (AT)

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**Health and Safety Notes**



A SURVEY INFO TO FRONTAGE ADDED. SH 17/11/10  
Rev Details Alt. Date/Chg  
Client

**Ms. S Liu**  
**Tweedale**  
265 Telferhall Road  
Wolverhampton  
WV6 0DE

**PROJECT**  
Conversion of 47 Dudley St.  
Sedgley DY3 1SJ  
to Fast Food Takeaway.  
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E-Mail: [enquiries@tweedale.co.uk](mailto:enquiries@tweedale.co.uk)  
Web: [www.tweedale.co.uk](http://www.tweedale.co.uk)

**ARCHITECTS**  
TOWN PLANNERS  
PROJECT MANAGERS  
**Existing Plans**  
( Old Post Office )

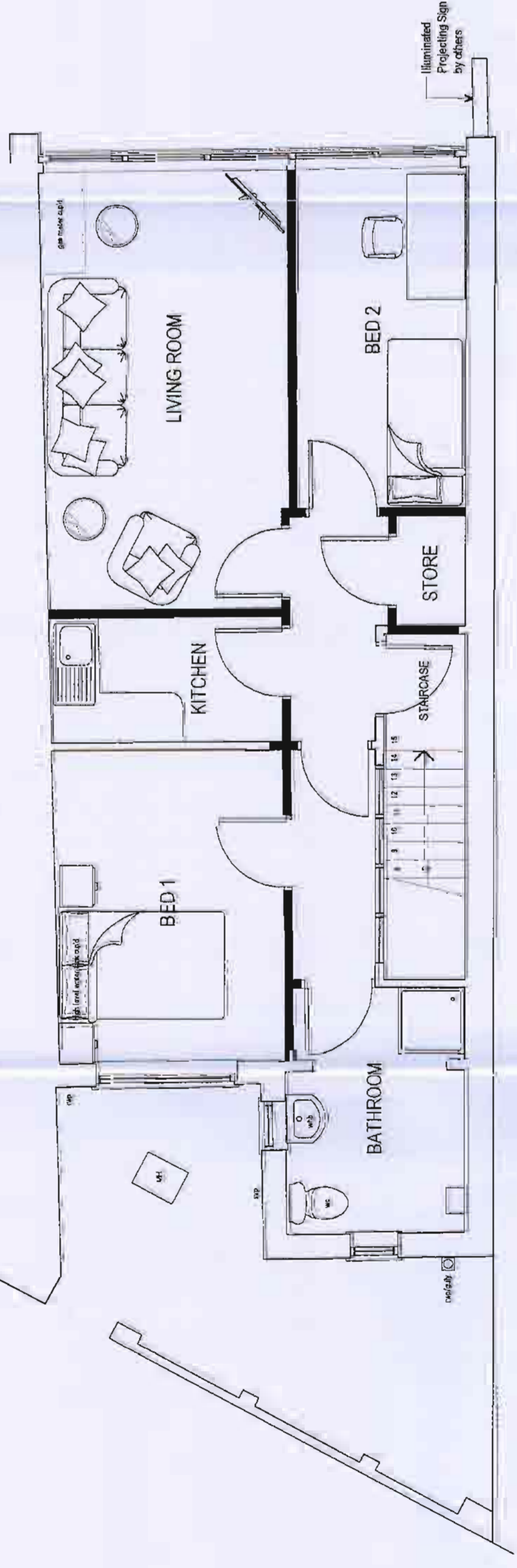
STANDARD NUMBER	REVISION	SCALE	DATE
PL658/002	A	1:50 @ A1	Nov. 10
		DATE BY	PERIOD BY
		RHL	SP



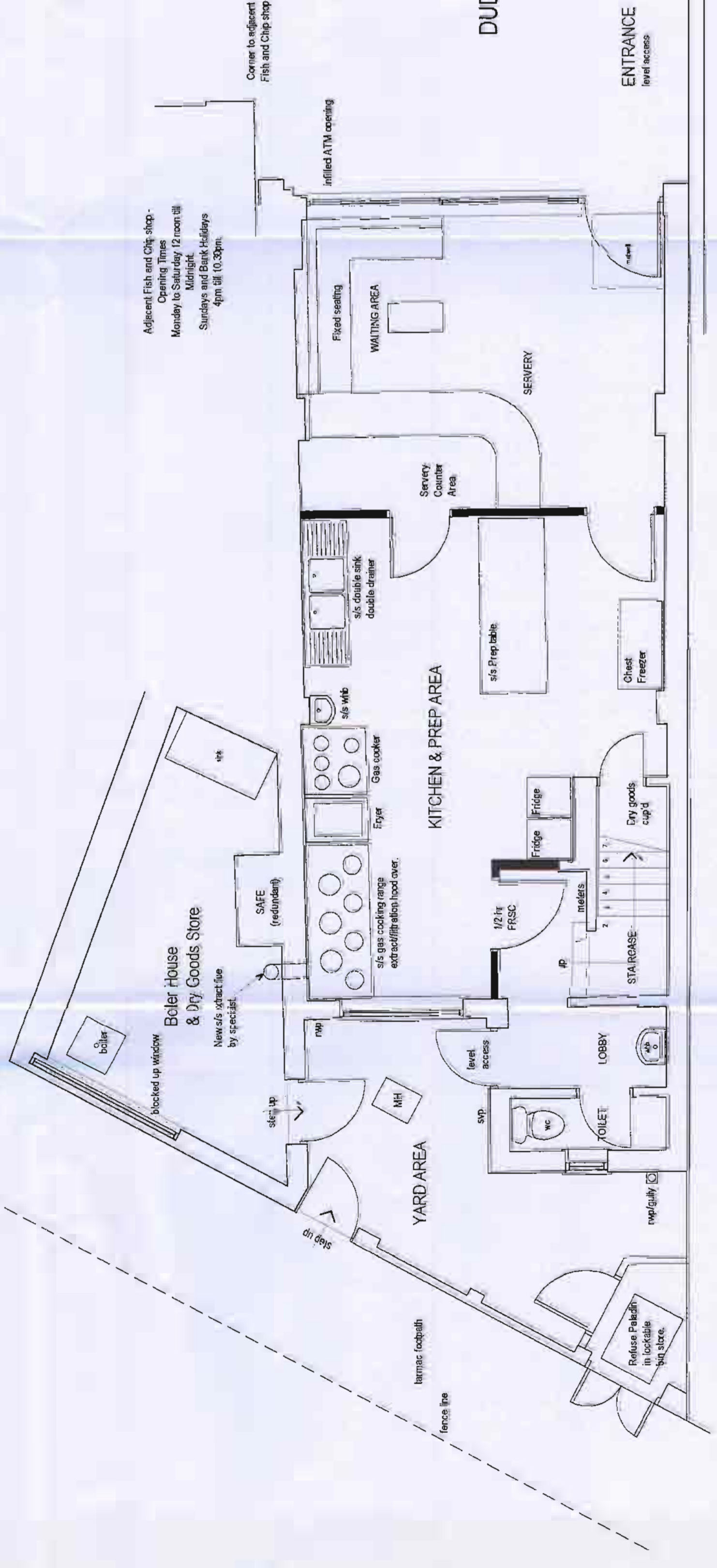
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**Health and Safety Notes**

*Proposed Floor Plans (A)*



**1ST FLOOR LAYOUT** ALL NEW PARTITION WALLS SHOWN SHADDED.



**GRD. FLOOR LAYOUT** ALL NEW PARTITION WALLS SHOWN SHADDED.

**PROPOSAL FOR CHANGE OF USE - 47, DUDLEY STREET, SEDGLEY.**

**Tweedale**  
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**PROJECT:**  
 Conversion of 47 Dudley St.  
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 to Fast Food Takeaway.

**DRAWING:**  
 Proposed Plans  
 ( Old Post Office )

**ARCHITECTS:**  
 TOWN PLANNERS  
 PROJECT MANAGERS

DRAWING NUMBER	REVISION	SCALE	DATE
PL658/004	A	1:50 @ A1 DRAWING	Nov. 10

A	SURVEY INFO TO FRONTAGE ADDED.	SH	17/11/10
Rev	Details	Alt.	Date/CH

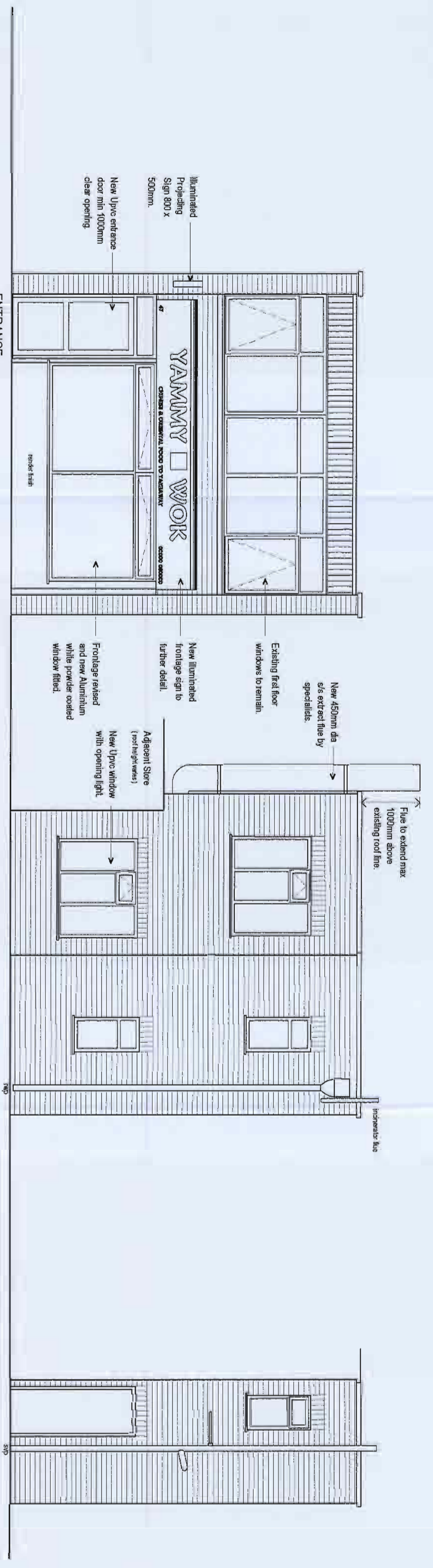
Ms. S Liu

Footpath Kerb line to Highway

Back of pavement/footpath boundary

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**Health and Safety Notes**



**FRONT ELEVATION ( to Dudley Street )**

**REAR ELEVATION ( to Yard )**

**SIDE ELEVATION ( to Yard )**

**NOTE**  
 Windows to rear elevations have protection mesh omitted for clarity

**AMENDED PLAN**

B	Extract flue top hat removed and height above existing roof level.	SH	28/07/11
A	Frontage retained and new Aluminium white powder coated window fitted.	SH	24/11/10
Rev	Details	All	Date/Chg

**Ms. S Liu**

**Tweedale**  
 265 Telford Road  
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 Email: [info@tweedale.co.uk](mailto:info@tweedale.co.uk)  
 Web: [www.tweedale.co.uk](http://www.tweedale.co.uk)

**Proposed Elevations**  
 ( Old Post Office )

PROJECT NUMBER	REVISION	DATE	BY
PL658/005	B	10 NOV 10	MS
	A1		MS