## SCHEDULE A: Applications with Recommendation

17/0873

Item No: 04 Date of Committee: 09/02/2018

Appn Ref No:Applicant:Parish:17/0873Domino's Pizza UK & Carlisle

Ireland

**Agent:** Ward: DPP Belah

Location: Unit A, 103-105 Kingstown Road, Carlisle, CA3 0AL

Proposal: Change of use from retail unit (A1 Use Class) to hot food takeaway unit

(A5 Use Class) along with the erection of a single storey rear extension and other external alterations including installation of aluminium grilles associated with extraction and ventilation equipment, cold room

compressors, and associated ancillary works.

Date of Receipt: Statutory Expiry Date 26 Week Determination

12/10/2017 07/12/2017 14/02/2018

REPORT Case Officer: Jeff Tweddle

#### 1. Recommendation

1.1 It is recommended that this application is approved subject to conditions.

#### 2. Main Issues

- 2.1 Whether the principle of development is acceptable
- 2.2 Whether the scale and design of the proposal is acceptable
- 2.3 The impact of the proposal on the living conditions / amenity of neighbouring residents
- 2.4 The impact of the proposal on highway safety and parking provision

### 3. Application Details

#### The Site

3.1 The application site is a single storey retail unit located on the western side of the A7, Kingstown Road. The site is bound by two storey residential

properties to the west and south in the form of 31 Moorville Drive South and 101 Kingstown Road. Adjoining to the north is an existing retail unit currently operating as Majestic Wines and to the east is the A7 public highway, beyond which is an area of public open space and further residential properties.

- 3.2 The site extends to 241m<sup>2</sup> with the unit having an existing internal floor area of 73.2m<sup>2</sup>. Vehicular and pedestrian access is taken directly from Kingstown Road with off street parking provided to the front of the building and shared with the neighbouring retail unit. A lane runs between the southern boundary and the southern elevation of the building to provide access to the rear service yard which is enclosed by a 1.8m high close boarded timber fence.
- 3.3 The existing unit is currently vacant having been previously occupied by mobile phone retailer The Carphone Warehouse.

## The Proposal

- 3.5 The application primarily seeks planning permission for a change of use from retail (A1 use Class) to use as a hot food takeaway (A5 Use Class).
- In addition, the application proposes the construction of a single storey rear extension with a flat roof and covering an area of 23m² along with the installation of air conditioning, ventilation and extraction equipment to the rear elevation of the building. A new shopfront is also proposed and includes a central entrance door flanked by two large display windows all under a new illuminated facia sign.
- 3.7 The proposed rear facing extension would project 4.4m out from the existing rear elevation and would extend 5.3m across the elevation with an overall height of 3.2m.
- 3.8 It is proposed that the hot food takeaway would be open between the hours of 11:00 and 23:00 each day.

### 4. Summary of Representations

- 4.1 The application has been advertised by means of neighbour notifications carried out in accordance with the formal procedures prescribed by the Town & Country Planning (Development Management Procedure) Order 2015. This has resulted in three neighbouring properties being notified of the proposed development and a Site Notice being posted at the site on 12 October 2017.
- 4.2 As a result, four objections have been received from neighbouring residents. The concerns raised by the objectors are summarised as follows:
  - 1. The area is primarily residential and the proposal would not therefore maintain or enhance the overall quality and character of the area;
  - 2. There are no other fast food/takeaways in the area;

- 3. Impact of noise and disturbance from customer comings and goings;
- 4. Smells from the cooking of food would adversely impact on the amenity of residential properties;
- 5. Lack of parking and increased traffic; and
- 6. Concerns that the proposal would worsen a recent problem in the area.

## 5. Summary of Consultation Responses

<u>Cumbria County Council - (Highways & Lead Local Flood Authority):</u> No objection.

Food Hygiene & Local Environment: No objection

## 6. Officer's Report

#### Assessment

- 6.1 Section 54a of the Town and Country Planning Act 1990 and Section 38(6) of the Planning and Compulsory Purchase Act 2004, require that an application for planning permission is determined in accordance with the provisions of the Development Plan unless material considerations indicate otherwise. The National Planning Policy Framework (NPPF), published in March 2012, maintains the supremacy of development plan policies in the consideration of all proposals for development.
- In this case, the relevant local policy framework, against which the proposal is considered, is the Carlisle District Local Plan 2015-2030 (CDLP), which forms the statutory development plan for the District of Carlisle and from which policies SP1, SP2, SP6, EC7, EC8, HO12, IP2, IP3, IP5 and CM5 are of relevance to this application.
- 6.3 The NPPF and the National Planning Practice Guidance (NPPG) are also material considerations in the assessment of this proposed development.
- 6.4 The proposal gives rise to the following planning issues:

## 1. Whether the principle of development is acceptable

- 6.5 The application site is located within a Primary Residential Area as designated by Policy HO12 of the Carlisle District Local Plan 2015-30 and as shown on the accompanying Policies Map.
- 6.6 Policy HO12 supports proposals for non-residential uses within Primary Residential Areas providing that an acceptable level of residential amenity is maintained, it will maintain or enhance the overall quality and character of the area and provide a beneficial service to the local community. This local policy approach is consistent with paragraph 70 of the NPPF which, *inter alia*, requires that planning policies and decisions should plan positively for the

provision and use of shared spaces, community facilities and other local services to enhance the sustainability of communities and residential environments. The framework also seeks to ensure that established shops, facilities and services are able to develop and modernise in a way that is sustainable and retained for the benefit of the local community.

6.7 Furthermore, policy EC8 of the CDLP is supportive of proposals which help to sustain a vibrant and viable food and drink offer. The policy states that:

Development proposals for uses within Use Class A3 (restaurants and cafes), A4 (drinking establishments) and A5 (hot food takeaways) will be approved provided that:

- 1. they are in defined centres or, if not, accord with the sequential and impact tests;
- 2. the amenity of adjacent uses would not be adversely affected;
- 3. the proposal would not cause unacceptable levels of traffic generation or highway obstruction, particularly where customers are collecting food from takeaways, or jeapordise highway or pedestrian safety; and
- 4. the proposal would not lead to an unacceptable concentration of a particular use or business type within any given locality.
- 6.8 While the application site is not located within a defined centre, it is recognised that hot food takeaways (A5 Uses) are not included within the NPPF's definition of 'main town centre uses' and as such there is no requirement to apply the sequential test in this instance. Accordingly, due to the site's out of centre location, there is no objection in broad policy terms to the loss of the retail unit.
- 6.9 There are no other hot food takeaways in the immediate vicinity and therefore the proposal would not result in an over concentration of this particular use. Subsequently, there is clear policy support, in principle, for the proposal as it would bring back into use a vacant commercial unit on a main route into the city and diversify the provision of facilities and local services to the benefit of the surrounding and wider community.
- 6.10 The applicant has advised that the proposal would result in the employment of up to 14 full time staff and a further six part time staff and therefore would bring economic benefit to the area.
- 6.11 Accordingly, it is considered that the proposal attracts support from both local and national planning policies which seek to promote economic growth and the sustainable development and diversification of services and facilities serving residential areas. The principle of development is therefore established and accepted, subject to the satisfaction of all other material considerations, principally with regard to the impact of the proposal on the amenity of neighbouring residents.
  - 2. Whether the scale and design of the proposal is acceptable

- 6.12 CDLP policy SP6 requires development proposals to demonstrate a good standard of sustainable design that responds to, and is respectful of, the existing character and distinctiveness of the local area. This policy approach is echoed by Section 7 of the NPPF which emphasises the Government's commitment to achieving high quality design of the built environment. Indeed the NPPF advises that good design is indivisible from good planning and as such should contribute positively to making places better for people.
- 6.13 Policy EC7 of the CDLP requires the design of new shopfronts to contribute to the creation of a strong sense of place within the local context and relate in scale, proportion, materials and decorative treatment to the relevant façade of the building, and where appropriate, to adjacent buildings and/or shopfronts.
- 6.14 In this case the proposal involves the installation of a contemporary aluminium framed shopfront with large display windows and facia sign. In addition, a single storey extension is proposed to the rear elevation along with extraction and ventilation equipment. The host building is a modern purpose built single storey building constructed from red brick with an internal steel structure and with a dual pitch roof covered in tiles. The existing frontage consists of large areas of glazing and a central entrance door. Given this context, the proposed external alterations, particularly the contemporary shopfront, are considered to provide an overall enhancement to the visual appearance of the existing vacant unit.
- 6.15 The proposed rear extension provides two storage areas and staff toilet facilities. This element of the development would not be visible from the frontage of the site and given its relatively small scale would not result in an overly dominant addition to the building. Similarly, the extraction, ventilation and air conditioning systems would be installed to the rear elevation and would therefore not form a visible part of the streetscene.
- 6.16 To ensure that the proposed extension harmonises with the design and appearance of the existing building it is considered prudent to impose a condition to require that the brickwork used in the construction of the extension matches that of the brickwork used in the existing building.
- 6.17 Consequently, with regard to matters of scale and design, the proposed development, subject to conditions, is considered to be acceptable as is complies with policies SP6 and EC7 of the CDLP and the associated requirements of the NPPF in that it would not result in visual harm to the character or appearance of the surrounding area or the existing building.
  - 3. The impact of the proposal on the living conditions / amenity of neighbouring residents
- 6.18 The NPPF requires the planning process to achieve a good standard of amenity for all existing and future occupiers of land and buildings. This is a core principle of the planning system and is echoed by CDLP policies SP6 and CM5 which together seek to ensure that development does not result in adverse impacts to the environment, health or the amenity of future or existing occupiers. Specifically, policy CM5 states that development will not

be permitted where it would generate or result in exposure to unacceptable levels of pollution (from contaminated substances, odour, noise, dust, etc.) which cannot be satisfactorily mitigated as part of the proposal or by means of the imposition of, and compliance with, appropriate planning conditions.

- 6.19 As noted, the application site is within a Primary Residential area and is in close proximity to neighbouring residential properties which immediately border the site to the south (101 Kingstown Road) and west (29, 31and 33 Moorville Drive South). The proposal does therefore have the potential to impact on the residential amenity of these neighbouring residents, particularly in respect of disruption caused by customers and delivery vehicles coming and going from the site and general noise and odour as a result of the nature of the proposal. Objection letters from nearby residents rightly highlight these issues as a material concern.
- In assessing proposals for hot food takeaways (A5 Uses) it is expected that applicants demonstrate a suitable and sufficient form of ventilation to mitigate any odour issues as a result of hot food preparation. To this end the applicant has submitted a 'Risk Assessment for Odour Control' which has informed a detailed specification of the proposed ventilation and odour suppression system along with manufacturer's specifications for the proposed equipment. The applicant has advised that the proposed extraction and ventilation system has been specifically designed taking account of existing site conditions and the type of cooking that is proposed. Furthermore, the proposed specification is based on Department for Environment, Food and Rural Affairs (DEFRA) 'Guidance on the Control of Odour and Noise from Commercial Kitchen Exhaust Systems' to prevent odour nuisance to neighbouring properties.
- 6.21 In this regard the Council's Environmental Health Officers have assessed the proposal and raise no objection to the development. It is therefore considered that the proposed equipment is an acceptable means of ventilation and extraction that would not result in unacceptable levels of noise or odour. To ensure this is the case a planning condition is proposed to require the implementation of the approved equipment and its ongoing retention.
- 6.22 Both policies EC8 and HO12 of the CDLP require consideration to be given to how the proposal may impact upon the amenity of neighbouring residential uses with specific regard had to the intensive use of such proposals within Primary Residential Areas. Policy EC8 states that, in order to maintain acceptable levels of amenity and mitigate possible disruption, opening hours will be imposed having regard to the surrounding uses, character of the area, possibility of nuisance to residential areas and public safety.
- 6.23 The applicant seeks to secure opening times of 11:00 to 23:00 every day. The current retail unit along with the neighbouring retail unit (Majestic Wines) is restricted, by planning condition, to opening times of 9:00 to 20:00 Monday to Friday and 10:00 to 16:00 on Sundays. It is recognised that the proposed use will likely be most intensive during the evening and weekends, times at which residents are generally enjoying periods of rest and relaxation. This gives rise to potential noise and disturbance caused by the comings and goings of customers and delivery vehicles along with the general noise generated as a

result of the operation of the premises. Having had regard to the surrounding uses and other limited commercial activity in the area, it is considered that due to the proximity of the site to neighbouring residential properties it is necessary and reasonable to restrict opening times to 11:00 to 22:00 each day. This will mitigate any unacceptable levels of noise and disruption to neighbouring residents in recognition of the sites sensitive location within the Primary Residential Area.

- 6.24 Objectors have raised concerns with waste management and the possibility that the proposed use would attract vermin to the site. The application proposal details the use of two 1,100ltr waste bins which are considered to more than adequately deal with any commercial food waste from the unit in a safe and secure manner. Notwithstanding these details, should waste management become a concern this would be dealt with through Environmental Protection legislation and as such planning practice guidance states that where such issues can be dealt with through specific legislation the planning system should not seek to duplicate these regulatory regimes.
- 6.25 Consequently, with regard to residential amenity and subject to the aforementioned planning conditions, the proposal would not result in any unacceptable impacts and is therefore considered compliant with policies SP6, CM5, HO12 and EC8 of the CDLP and the associated requirements of the NPPF.

## 4. The impact of the proposal on highway safety and parking provision

- 6.26 Policies IP2 and IP3 of the CDLP require all development proposals to be assessed against their impact on the transport network and to ensure adequate levels of parking provision.
- 6.27 Representations have been received which raise concern with a lack of parking provision and an increase in traffic.
- 6.28 It is anticipated that the majority of customers will be served via a delivery service accessed via telephone or online ordering. Given the location of the site a number of customers are also likely to visit the premises on foot. However, it is recognised that the proposed use would generate a level of traffic by way of delivery drivers or customers traveling to and from the site by car.
- 6.29 Parking provision on site is to be as the existing arrangement and therefore shared with the neighbouring retail unit, Majestic Wines. In total, nine off street parking spaces along the frontage are available for customer use and shared between the two units.
- 6.30 The Local Highway Authority has been consulted over the proposal and confirms that the proposed layout and parking provision are considered satisfactory from a highways perspective and as such raise no objection to the proposal.
- 6.31 Accordingly, whilst it is recognised that the proposal would result in a small

increase in traffic this would not be significant enough to warrant refusal of the application. Furthermore, the Local Highway Authority raises no objection to the proposal and confirms that adequate parking provision has been demonstrated. The proposal therefore accords with CDLP policies IP2 and IP3 and the relevant parts of the NPPF in this regard.

### Conclusion

- 6.32 In overall terms, the proposal is considered to be acceptable as the principle of development is supported by planning policies which seek to promote economic growth and the sustainable development of services and facilities within residential areas.
- 6.33 The proposal would bring back into use a vacant commercial unit and therefore the occupation of the unit, along with the proposed new shopfront, would lead to an overall enhancement to the visual amenity and vitality of the surrounding area.
- 6.34 The scale and design of the proposed development is considered to be appropriate to that of the existing building and would maintain the character of the surrounding area. A condition is proposed (Condition 5) to ensure matching brickwork is used throughout the development.
- 6.35 The proposal has the potential to give rise to significant adverse impacts to neighbouring residential amenity; however, this can be adequately controlled via the imposition of planning conditions to restrict opening times (Condition 3) and require the implementation of the necessary extraction/ventilation and odour suppression systems (Condition 4).
- 6.36 The Local Highway Authority is satisfied that there would be no adverse impact on existing highway conditions and that adequate parking provision has been provided within the proposal site.
- 6.37 Taking all relevant issues into account, it is considered that the proposal accords with both national and local planning policies and is not outweighed by any other material considerations that would indicate otherwise. The proposal is therefore recommended for approval subject to conditions.

## 7. Planning History

- 7.1 Planning Permission was granted in October 2001 for a change of use to retail shop selling mobile phones including a workshop and fitting out bay (ref. 01/0902).
- 7.2 Advertisement Consent was granted in September 2002 for the erection of an internally illuminated freestanding double sided post sign (ref. 02/0445).
- 7.3 Planning Permission was granted in March 2007 for the installation of a new shop front (ref. 07/0044).

- 7.4 Planning Permission was granted in March 2007 for a variation of condition to allow opening hours of 9:00 to 20:00 Monday to Saturday and 10:00 to 16:00 on Sundays (ref. 07/0045).
- 7.5 Advertisement Consent was granted on October 2009 for the erection of a double sided free standing internally illuminated totem sign (ref. 09/0709).
- 7.6 Advertisement Consent was granted in December 2017 for the display of an internally illuminated facia sign and one non-illuminated sign on existing estate signage post (ref. 17/0867).

#### 8. Recommendation: Grant Permission

1. The development shall be begun not later than the expiration of 3 years beginning with the date of the grant of this permission.

**Reason:** In accordance with the provisions of Section 91 of the Town and Country Planning Act 1990 (as amended by Section 51 of the Planning and Compulsory Purchase Act 2004).

- 2. The development shall be undertaken in strict accordance with the approved documents for this Planning Permission which comprise:
  - 1. the submitted planning application form received 10 October 2017;
  - 2. the Site Location Plan (Drawing No. DR-0005 Rev B) received 12 December 2017;
  - 3. the Proposed Block Plan (Drawing No. DR-0006 Rev B) received 12 December 2017;
  - 4. the Proposed Elevations (Drawing No. DR-0004) received 10 October 2017;
  - 5. the Proposed GA Plan (Drawing No. DR-0003) received 10 October 2017:
  - 6. the Risk Assessment for Odour Control and detailed Specifications and Design of the Extraction, Ventilation and Odour Suppression Systems (Document No.'s SP-0002 and SP-0001) received 10 October 2017;
  - 7. the Purified Air Specification Sheets (dated 22 August 2017) received 10 October 2017;
  - 8. the Notice of Decision; and
  - 9. any such variation as may subsequently be approved in writing by the Local Planning Authority.

**Reason:** In order to ensure that the development is carried out in complete accordance with the approved documents and to avoid any ambiguity as to what constitutes the permission.

3. Notwithstanding the details in the submitted application form, the hot food takeaway (A5 Use Class), hereby approved, shall not be open for business except between the hours of 11.00 hours and 22.00 hours each day. No customers shall remain on the premises outside of these times and no delivery service shall operate from the premises outside of these times.

Reason:

To prevent disturbance to nearby residential occupiers and in accord with policies SP6, CM5 and EC8 of the Carlisle District Local Plan 2015-2030 and the associated requirements of the National Planning Policy Framework.

4. The A5 Use, hereby approved, shall not commence until the extraction/ventilation and odour suppression systems/equipment, as detailed in the approved plans and documentation, have been installed in accordance with the approved details, and thereafter shall be permanently retained.

Reason:

To safeguard the amenity of neighbouring residential properties in accordance with policies SP6, CM5 and EC8 of the Carlisle District Local Plan 2015-2030 and the associated requirements of the National Planning Policy Framework.

5. The bricks used throughout the development shall match that of the existing brickwork on site. Where such materials would differ in any way from those of the existing building, no development shall commence until samples of the proposed materials are made available for inspection on site and are subsequently approved in writing by the Local Planning Authority. Thereafter the development shall be carried out in accordance with the approved details.

Reason:

To ensure the materials harmonise with the existing building and to safeguard the visual amenities of the area in accordance with policy SP6 of the Carlisle District Local Plan 2015-2030 and the associated requirements of the National Planning Policy Framework.

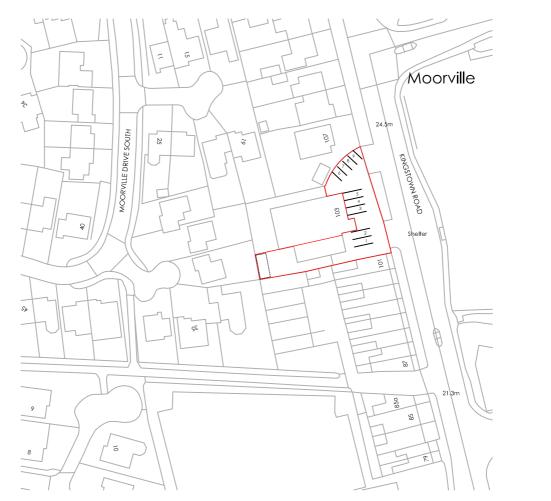
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#### NOTES

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- Any discrepancies are to be reported to the architect before
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- Title overlay drawings and ownership boundaries are produced using all reasonable endeavors. AEW cannot be responsible for the accuracy or scale discrepancy of base plant upolical to them.

Application Boundary Indicated Thus:

Schedule of Areas	m²
Site Area	634.7



В	11/12/2017	BMR	JJS
	block reverted dication bounds		d red line to include car park

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# drawing stage 2a - Change of Use

Private Client

01/09/2017 TS

project	store
103-105 Kingstown Road, Carlisle CA3 0AL	PJ001156

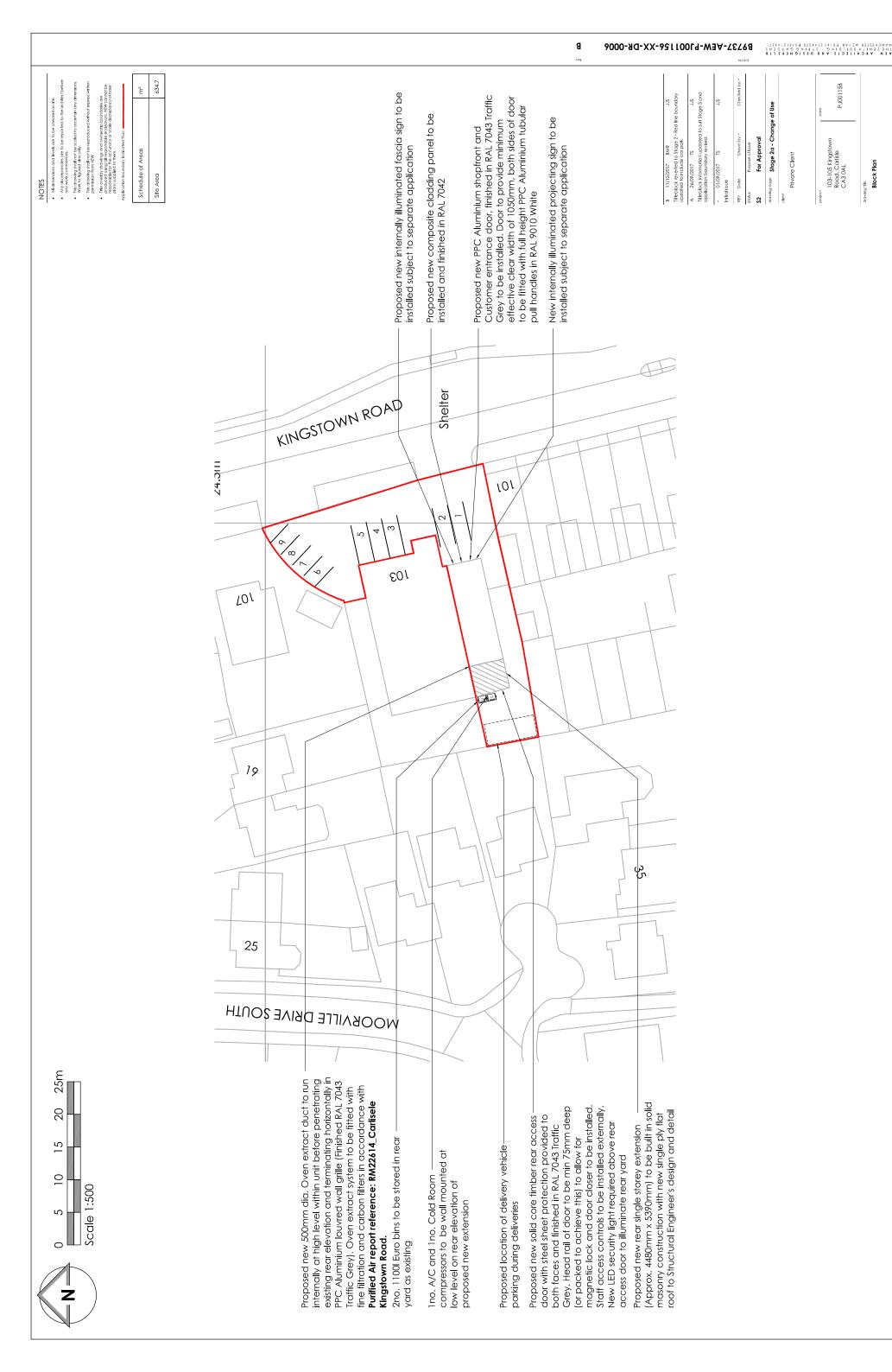
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Location Plan

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Location Plan





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Block Plan

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TS TIS	Drawn by: - Checked by: -	flssue	proval	Stage 2a - Change of Use		+-	store	stown 9 PJ001156	_	N Plan
- 01/09/2017 T. Initial issue	REV Date D	Status Purpose of Issue	S2 For Approval	drawing stage Stage 2	client	Private Client	project	103-105 Kingstown Road, Carlisle CA3 0AL	drawing title	Proposed GA Plan

Proposed new PPC aluminium shopfront and customer entrance door to be installed with 400mm high shopfront stall riser to be finished in RAL 7043 Traffic Grey. Customer entrance door to provide level access and minimum effective clear width of 1050mm. Both sides of door to be fitted with full height tubular PPC pull handle, in RAL 9010 White	
Costomer Service Area	
Kitchen	
Wash Up Area	
Open Store Area	xtension
Staff  W.C. Maringolitae  Cold room  W.C. Lobby  Racking  Racking	Proposed New Extension
2no. 1100l Euro bins to be stored in rear yard as existing Proposed new 500mm dia. Oven extract duct to run internally at high level within unit before penetrating existing rear elevation and terminating horizontally in PPC Aluminium louvred wall grille (Finished RAL 7043 Traffic Grey). Oven extract system to be fitted with fine filtration and carbon filters in accordance with <b>Purified Air report reference: RM226.14_Carlisle Kingstown Road.</b> Ino. A/C and Ino. Cold Room compressors to be wall mounted at high level on rear elevation of proposed new solid core timber rear access door with steel sheet protection provided to both faces and finished in RAL 7043 Traffic Grey. Head rail of door to be min 75mm deep (or packed to achieve this) to allow for magnetic lock and door closer to be installed. Staff access controls to be installed extendily. New LED security light required above rear access door to illuminate rear yard  Proposed A00mm dia. fresh air intake supply duct to terminate horizontally at high level on existing rear wall in PPC Aluminum louvred wall grillie.  Froposed new rear single storey extension (Approx. 4480mm x 5390mm) to be built in solid masonry construction with new single ply flat roof to Structural Engineer's design and detail	

Proposed New Extensions

All dimensions and levels are to be checked on site.
Any discrepancies are to be reported to the architect before any work commences.
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This drawing is based on Greenhatch Survey Solutions drawing no. 19803-131\_01\_02\_PES (dated 22/05/2017).

DESIGN HAZARD IDENTIFICATION

Schedule of Areas

