

Address:	194 Kentish Town Road London NW5 2AE		1
Application Number:	2016/3013/P	Officer: James Clark	
Ward:	Cantelowes		
Date Received:	27 th May 2015		
Proposal: Change of use from Class A3 with ancillary takeaway to Class A5, shop front alterations and installation of extract ventilation equipment to the rear.			
Background Papers, Supporting Documents and Drawing Numbers:			
Location Plan (5057-A5-05), Block Plan (5057-A5-06), Proforma Annex B Document: Proposed Ventilation System, Extract Fan, Model AC207, Model GF, Type 90 Panel Filter, Water heated air handling unit, Plant Noise assessment (Ref 16/0318/R1-0), 5057-A5-03 Rev A & 5057-A5-01			
RECOMMENDATION SUMMARY: Grant conditional planning permission			
Applicant:		Agent:	
Fatima Kraidly C/O Agent		Lorna Duggan DPP Sophia House 28 Cathedral Road Cardiff CF11 9LJ	

ANALYSIS INFORMATION

Land Use Details:			
	Use Class	Use Description	Floorspace
Existing	A3	A3 Restaurant with Ancillary A5 use	103.2sqm
Proposed	A5	A5 Takeaway	103.2sqm

Parking Details:		
	Parking Spaces (General)	Parking Spaces (Disabled)
Existing	0	0
Proposed	0	0

OFFICERS' REPORT

Reason for Referral to Committee: Referral from Members Briefing under Clause 3(VII) of Terms of Reference.

1. SITE

- 1.1 The application site is a ground floor A3 commercial unit approximately 103sqm in area, the site forms part of a three storey commercial parade with residential units located on the first and second floors above the commercial units. The ground floor commercial units along the parade project further to the rear of the parade block, beyond the first and second storey rear build line of the residential properties. The site is serviced by an access road off Patshull Road.
- 1.2 The application site is located along the border, but outside the Bartholomew Estate conservation area. However it is located within the core frontage of the Kentish Town centre.

2. THE PROPOSAL

- 2.1 The proposal seeks planning permission for the change of use of the ground floor commercial unit from the existing A3 restaurant with ancillary A5 use to a sole A5 takeaway use.
- 2.2 The current operating hours of the restaurant are from 1100 to 2330 hours Monday to Sunday. The applicant has applied for reduced operating hours from 11am to 11pm every day.
- 2.3 The proposed change to an A5 hot food takeaway includes external alterations to the shop front, enlargement of the rear exit door and the installation of plant equipment to include an extraction system and 2no air con units at the ground floor rear of the building. The existing servicing arrangements would continue for deliveries.

3. RELEVANT HISTORY

There is no direct planning history relating to the establishment of an A3 restaurant on the site. The planning reference below relates to a new shop front to a restaurant in 1981. It is therefore assumed on the balance of probability that the site has been a continuous A3 use since 1981 and lawful.

194 Kentish Town Road (Application Site)

- 3.1 31748 - The installation of a new frontage, approved February 1981

171 Kentish Town Road

- 3.2 G11/26/3/35571 - The change of use of the ground floor from shop to fish and chip shop with take-away facilities and to the installation of a new shop front – Approved March 1983

159a Kentish Town Road

- 3.3 9100167 – Change of use of ground Floor to restaurant, Approved July 1991

4. **CONSULTATION**

Local Groups

- 4.1 The Kentish Town Road Action (KTRA) group have objected to the proposed change of use on the 4th of July 2016 and again on the 7th September 2016 on the following grounds.
- The impact of fumes and odours to the residents living above this block
 - The specifications of the new venting system will harm the residential amenity contrary to DP12 (c), (e) and (f).

4.2 **Adjoining Occupiers**

<i>Number of letters sent</i>	32
<i>Total number of responses received</i>	1
<i>Number of electronic responses</i>	1
<i>Number of comments</i>	0
<i>Number of objections</i>	1

- 4.3 A site notice was erected on the 17th of June 2016 allowing comments until the 8th of July 2016. One response received.

5. **POLICIES**

5.1 **National Planning Policy Framework (NPPF) 2012
London Plan 2016**

LDF Core Strategy and Development Policies (2010)

CS1 – Distribution of growth

CS5 – Managing the impact of growth and development

CS7 – Promoting Camden’s centres and shops

CS8 – Promoting a successful and inclusive Camden economy

CS11 – Promoting sustainable and efficient travel

CS14 - Promoting high quality places and conserving our heritage

CS18 – Dealing with our waste and encouraging recycling

CS19 – Delivering and monitoring the Core Strategy

DP12 – Supporting strong centres and managing the impact of food, drink, entertainment and other town centre uses

DP13 – Employment premises and sites
DP16 – The transport implications of development
DP17 – Walking, cycling and public transport
DP18 – Parking standards and limiting the availability of car parking
DP19 – Managing the impact of parking
DP20 – Movement of goods and materials
DP21 – Development connecting to the highway network
DP24 – Securing high quality design
DP26 – Managing the impact of development on occupiers and neighbours
DP28 – Noise and vibration
DP29 – Improving access
DP30 – Shop fronts

5.2 **Supplementary Planning Policies**

Camden Planning Guidance (CPG)

CPG1 Design (2015)
CPG5 Town Centres, Retail and Employment (2013)
CPG6 Amenity (2011)
CPG7 Transport (2011)

5.3 **Kentish Town Neighbourhood Plan (2016)**

6. **ASSESSMENT**

6.1 The principal planning considerations are summarised as follows:

- Principle of Change of Use to A5
- Residential Amenity
- Design and Appearance
- Transport and servicing

Principle of Change of Use to A5

6.2 The existing ground floor A3 restaurant is located in the Kentish Town centre core frontage. The proposed change of use to an A5 takeaway is not considered to conflict with the existing principle land use on the site and its surroundings. The core function of the site as a hot food establishment would remain largely the same.

6.3 The proposed change of use from the existing A3 use with ancillary A5 to a solely A5 use would not result in the loss of an A1 retail unit and therefore no change would be made to the percentage of A1 units within the Core frontages of Kentish Town. No less than 75% of units should be in retail use as stipulated in Camden guidance in CPG5.

6.4 The internal layout of the proposed A5 use is not a planning concern and follows a typical takeaway layout with a counter service and waiting area. It is noted that the proposed layout will provide approximately 14sqm of customer area at the front of the premises compared to the previous 67sqm of customer seating area within the

A3 restaurant. The site will provide upgraded store facilities, food preparation area and a staff room to the rear that is not present in the current A3 restaurant.

- 6.5 Core strategy CS7 f) seek to provide for a range of shops, services, food, drink and entertainment establishments in Camden's town centres. This is balanced against paragraph h) of policy CS7 which gives consideration to protecting residents and the local area from the harmful impact of food, drink and entertainment facilities. The location is within a town centre and considered to be suitable for an A5 use
- 6.6 Policy DP12 continues the same theme of promoting town centres and balancing the negative impacts on residential amenity. The change of use to an A5 unit from the existing A3 use (with ancillary A5 use) in this location would maintain the variety and vitality of the town centre in accordance with Policy DP12. Residential amenity is considered below.
- 6.7 The proposed floorspace of the unit would remain the same and therefore the change of use is not considered to result in any loss of employment space in accordance with Policy DP13 of the development Plan.
- 6.8 The addition of another A5 takeaway restaurant on the high street would not result in a cumulative detrimental effect on the variety and vitality of the Kentish town centre frontage. The retail survey carried out by Camden Council, as illustrated in the attachment to this report, show that there is one A5 takeaway restaurant in close proximity to the site within the core retail frontage and two located to the south of the site, within the secondary frontage. The presence of three A5 uses, two on each side of the road and each in excess of 10 shop units from each other is not considered as an excessive concentration of A5 uses that would be harmful to the town centre or the amenity of the wider area.

Residential Amenity

- 6.9 The close proximity of residential units located above the ground floor commercial premises requires amenity consideration for residential occupiers above. Policies CS7 and DP12 sets out the amenity concerns related to both A3 and A5 commercial uses. Under para 12.11 of Policy DP12 this includes consideration of the impact of plant and equipment, hours of operation, refuse storage, odour/fumes, noise and off site management/access when assessing planning applications for changes of use to A3 and A5 uses.
- 6.10 The existing function of the site as an A3 use with ancillary A5 use already provides a set of environmental conditions that have been present for a substantial period of time without evidence of residential complaints or anti-social behaviour. It is accepted that the opening hours and type of operating processes of A5 units can often differ to those of A3 uses and can often be perceived as causing greater disturbance. The submitted planning application proposes the installation of replacement plant equipment to include an internal extraction system to utilise the existing air intake flue and low level extract duct in the same positions with 2no replacement air con units.

- 6.11 The extraction duct system is internalised and will not be visible externally. The air conditioning units are larger because there are two compressors for internal air conditioning and cold room units but they are placed in a similar position to the existing external compressor which would not be prominent along the rear where other plant exists to adjoin premises and therefore would not detract visually. The applicant has submitted supporting documents outlining the systems/models of equipment to be utilised, and a noise report that is based on DEFRA guidance.
- 6.12 The Environmental Health Officer has assessed the submitted noise report and associated mitigation measures relating to the plant equipment, and considers they are acceptable. However it is considered that to ensure compliance with the noise/vibration levels to safeguard residential amenity, a condition is recommended to comply with the approved system details as submitted.
- 6.13 Odour emission as a result of the proposed change of use to an A5 use is likely to be greater than the existing A3 use. Pending any planning approval, the operation of the premises would have to submit information that is in accordance with the environmental protection Act (EPA). The low level extraction unit would be located directly to the rear of the premises on to the access road, located approximately 10m from the nearest rear windows of the residential properties above. On balance, this distance and the requirement of the future operators of the A5 premises to adhere to the relevant EPA standards is considered acceptable by the Environmental Health Officer, and in accordance with Policy DP26.
- 6.14 The potential impact from the proposed change of use from A3 to A5 is not considered to be excessive or result in additional harmful impacts on residential amenity or the area with safeguards in place. It is considered that planning conditions would adequately safeguard residential amenity. The proposal is considered to comply with Policies CS7, DP12, DP26 and DP28.

Design and Appearance

- 6.15 The shop front would be altered as part of the proposal. The proposed alterations to the shop front include the reduction in the entrance door size, the use of two panels of glass opposed to the existing single glazed panel and new powder coated grey aluminium panels at the base of the shop front. The changes are modest and update the existing elevation to a more contemporary style that would not appear out of context in the street scene, in accordance with Policy DP24 and DP30 of the development plan policies.
- 6.16 The rear ground floor alterations in association with the installation of the A/C units would be reasonable in the context of the existing arrangement and neighbouring commercial premises. It would not

unduly impact on the appearance of the site. The rear of the premises is located at the end of an access road hidden from surrounding views. It is not considered to be in conflict with Policy DP24.

Transport and servicing

- 6.17 Policy DP12 d) considers the effect of the development in terms of parking, stopping and servicing. Due to the same proposed opening hours of the takeaway as the existing restaurant, the traffic generated is unlikely to be greater than from the existing level of the A3 restaurant (with an ancillary A5 use). It is a reasonable assumption that the peak period is between 8pm and 11pm when the A3 restaurant is used for A5 ancillary usage. Therefore it is not considered that there would a significant change to traffic levels as a result of the change of use. The site is also served by excellent public transport facilities with a high accessibility level (PTAL 5), although by the nature of A5 uses, it is anticipated that a substantial proportion of customers would be local pedestrians. No parking spaces exist on site and no additional parking space is proposed. The Council's Transport Officer raises no objection to the proposal.
- 6.18 The refuse storage and collection arrangements for the A5 use would remain unchanged to the current arrangement for the A3 use. Currently the refuse and recycling is serviced at the rear of the premises by a service road accessed from Patshull Road. No refuse bins are to be placed on the public highway, as this would attract vermin, and considered a health hazard or impede pedestrian movement. The proposed continuation for refuse and servicing is considered acceptable in accordance with policy DP21.

7. CONCLUSION

- 7.1 The change of use from an A3 restaurant use (with ancillary takeaway) to a solely A5 hot food takeaway use, with external alterations are considered acceptable and complementary to the town centre. It is not considered that the proposal would cause undue harm to residential amenity or the area. Operating hours and operation of replacement plant to the rear are secured by conditions. As such the application is recommended for approval subject to conditions.

8 RECOMMENDATION

- 8.1 It is recommended to grant conditional planning permission.

9 LEGAL COMMENTS

- 9.1 Members are referred to the note from the Legal Division at the start of the Agenda.

Condition(s) and Reason(s):

- 1 The development hereby permitted must be begun not later than the end of three years from the date of this permission.

Reason: In order to comply with the provisions of Section 91 of the Town and Country Planning Act 1990 (as amended).
- 2 All new external work shall be carried out in materials that resemble, as closely as possible, in colour and texture those of the existing building, unless otherwise specified in the approved application.

Reason: To safeguard the appearance of the premises and the character of the immediate area in accordance with the requirements of policy CS14 of the London Borough of Camden Local Development Framework Core Strategy and policy DP24 of the London Borough of Camden Local Development Framework Development Policies.
- 3 The development hereby permitted shall be carried out in accordance with the following approved plans Location Plan (5057-A5-05), Block Plan (5057-A5-06), Annex B, Extract Fan, Model AC207, Model GF, Type 90 Panel Filter, Water heated air handling unit, Plant Noise assessment (Ref 16/0318/R1-0), 5057-A5-03 Rev A & 5057-A5-01

Reason:
For the avoidance of doubt and in the interest of proper planning.
- 4 Notwithstanding the provisions of flexible use Class A5 of the Schedule of the Town and Country Planning (Use Classes) Order, 1987, or any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order, the premises shall not be used as any other operational use.

Reason: To ensure that the future occupation of the building does not adversely affect the adjoining premises by reason of noise in accordance with policy CS5 of the London Borough of Camden Local Development Framework Core Strategy and policies DP26 and DP28 of the London Borough of Camden Local Development Framework Development Policies.
- 5 The use hereby permitted shall not be carried out outside the following times 11:00 - 23:00 Mondays to Sunday.

Reason: To safeguard the amenities of the adjoining premises and the area generally in accordance with the requirements of policies CS5 and CS7 of the London Borough of Camden Local Development Framework Core Strategy and policy DP26, DP28 and DP12 of the London Borough of Camden Local Development Framework Development Policies.
- 6 All plant and equipment shall be installed in accordance with the specification detailed in the Cole Jarman report ref. 16/0318/R1-0. Once installed the equipment shall be retained and maintained in accordance with the approved plans and specification.

Reason: To ensure that the amenity of occupiers of the development site/ surrounding premises is not adversely affected by noise from plant/mechanical installations/ equipment in accordance with the requirements of the development Plan policies DP26 and DP28.

- 7 Prior to use, plant or equipment at the development shall be mounted with proprietary anti-vibration isolators and fan motors shall be vibration isolated from the casing and adequately silenced and maintained as such.

Reason: To ensure that the amenity of occupiers of the development site and surrounding premises is not adversely affected by vibration.

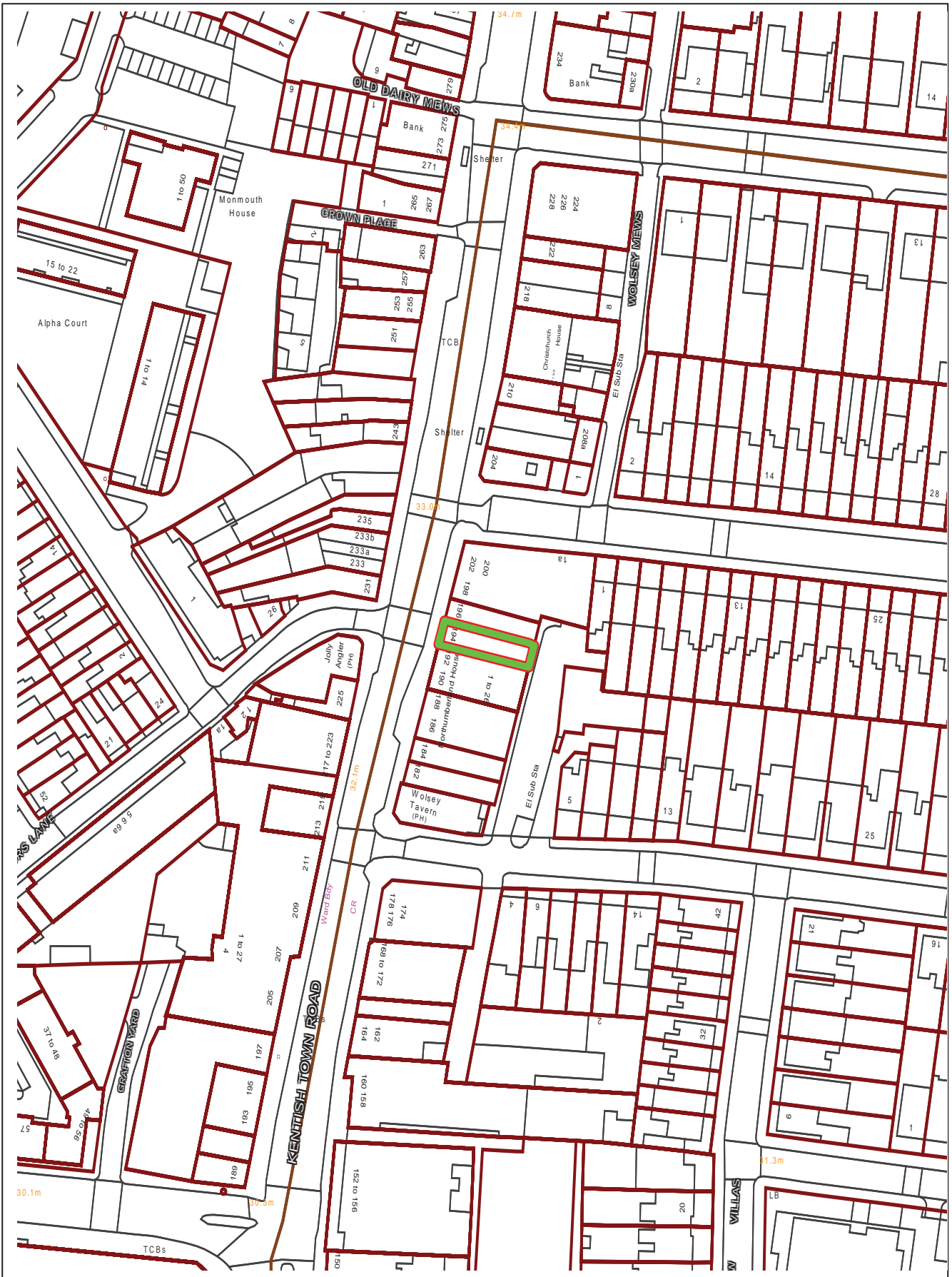
- 8 The ventilation and extraction equipment shall be implemented prior to operational use in accordance with the details provided on the approved plans and the submitted Proforma Annex B Document: 'Proposed Ventilation System' with product specifications, and thereafter permanently retained and maintained in accordance with the manufacturer's instructions for the duration of the approved use.

Reason: To ensure that the amenity of occupiers of the development site/ surrounding premises is not adversely affected by cooking odour

Informative(s):

- 1 Your proposals may be subject to control under the Building Regulations and/or the London Buildings Acts which cover aspects including fire and emergency escape, access and facilities for people with disabilities and sound insulation between dwellings. You are advised to consult the Council's Building Control Service, Camden Town Hall, Argyle Street WC1H 8EQ, (tel: 020-7974 6941).
- 2 Noise from demolition and construction works is subject to control under the Control of Pollution Act 1974. You must carry out any building works that can be heard at the boundary of the site only between 08.00 and 18.00 hours Monday to Friday and 08.00 to 13.00 on Saturday and not at all on Sundays and Public Holidays. You are advised to consult the Council's Compliance and Enforcement team [Regulatory Services], Camden Town Hall, Argyle Street, WC1H 8EQ (Tel. No. 020 7974 4444 or on the website <http://www.camden.gov.uk/ccm/content/contacts/council-contacts/environment/contact-the-environmental-health-team.en> or seek prior approval under Section 61 of the Act if you anticipate any difficulty in carrying out construction other than within the hours stated above.
- 3 This permission is granted without prejudice to the necessity of obtaining consent under the Town and Country Planning (Control of Advertisements) (England) Regulations 2007. Application forms may be obtained from the Council's website, www.camden.gov.uk/planning or the Camden Contact Centre on Tel: 020 7974 4444 or email env.devcon@camden.gov.uk.
- 4 You are reminded that filled refuse sacks shall not be deposited on the public footpath, or forecourt area until within half an hour of usual collection times. For further information please contact the Council's Environment Services (Rubbish

Collection) on 020 7974 6914/5. or on the website
<http://www.camden.gov.uk/ccm/content/contacts/council-contacts/environment/contact-street-environment-services.en>.



Application No: 2016/3013/P
194 Kentish Town Road
London
NW5 2AE

Scale:
1:1250
Date:
16-Sep-16



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Planning Committee

29th September 2016

2016/3013/P

**194 Kentish Town Road,
London,
NW5 2AE**



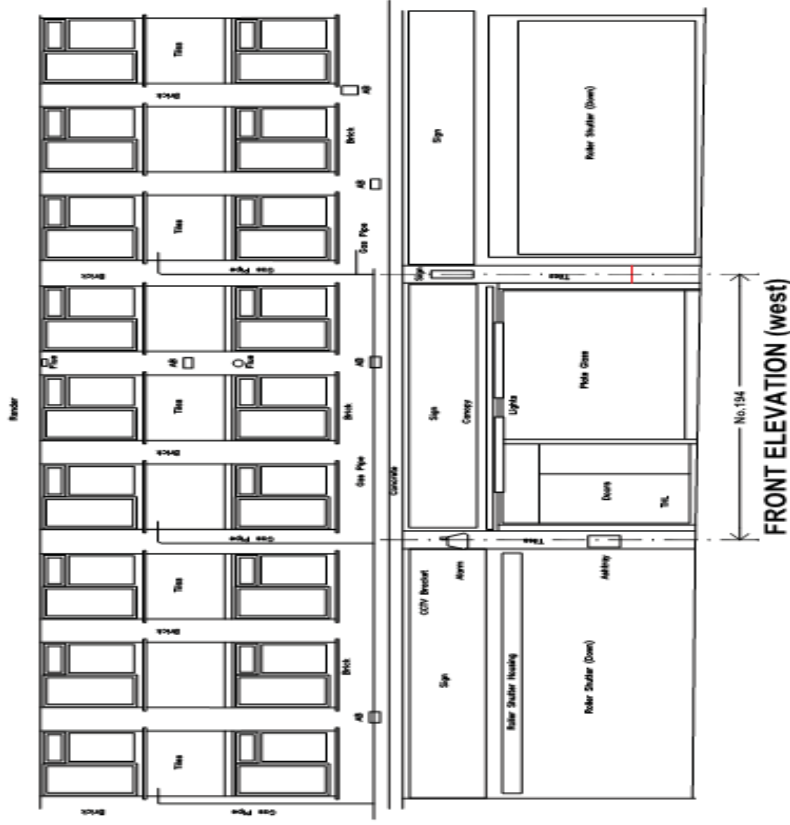






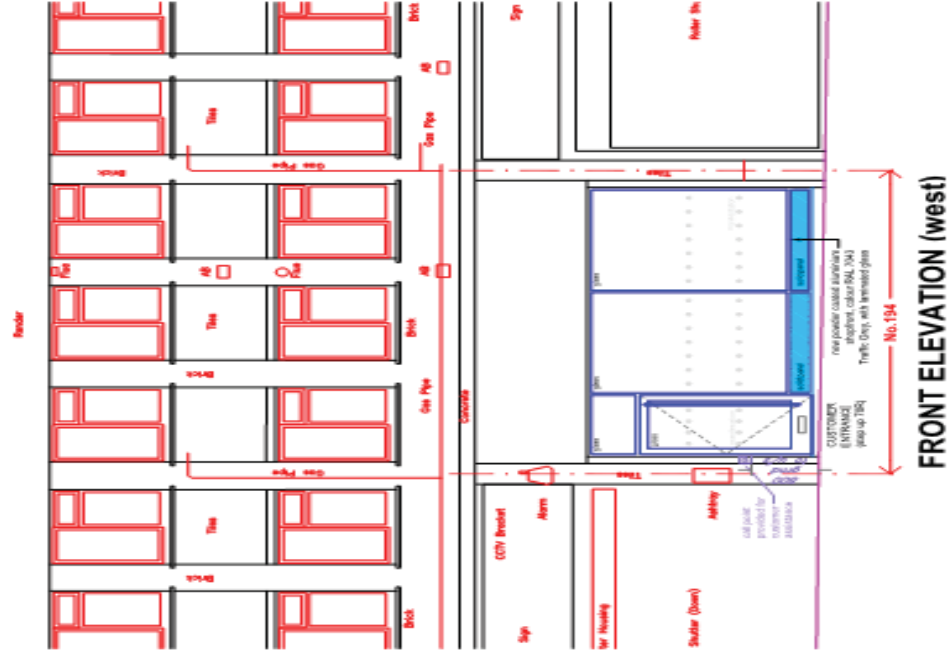


Front Plot Road / Perseus Hill

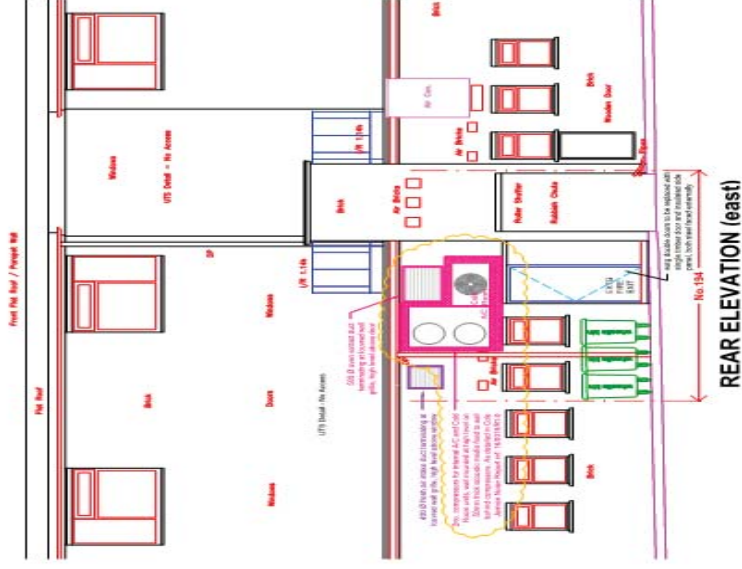
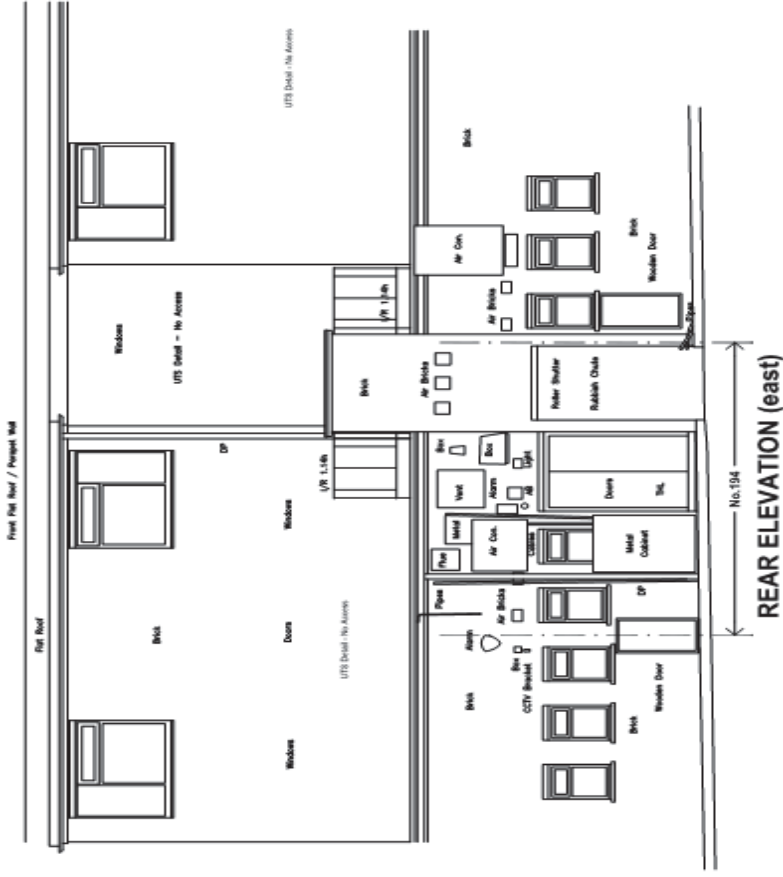


FRONT ELEVATION (west)

Front Plot Road / Perseus Hill



FRONT ELEVATION (west)



GROSS INTERNAL FLOOR AREA
100.23m² (1110 m²)

[Grey Box]	existing walls
[Pink Box]	existing partitions
[Blue Box]	new partitions
[Light Blue Box]	new 25 partitions

