



## Report of the Chief Planning Officer

### PLANS PANEL NORTH & EAST

Date: 30th June 2016

Subject: 16/00876/FU – Change of use from retail (A1) to hot food takeaway (A5) and installation of extraction flue to rear at 8 Woodland Hill, Whitkirk, Leeds 15

#### APPLICANT

Mr K Patel

#### DATE VALID

23 February 2016

#### TARGET DATE

1<sup>st</sup> July 2016

#### Electoral Wards Affected:

Temple Newsam

Yes

Ward Members consulted  
(referred to in report)

#### Specific Implications For:

Equality and Diversity

Community Cohesion

Narrowing the Gap

### RECOMMENDATION: GRANT PERMISSION subject to the following conditions:

1. Standard time limit
2. Development to accord with approved plans
3. Hours of opening (12.00 – 23.00)
4. Sound insulation scheme to be agreed
5. Extraction equipment to operate below background noise levels
6. Bin(s) to be provided
7. Provision of grease trap

#### 1.0 INTRODUCTION

- 1.1 This application was deferred at the previous Plans Panel meeting on 2<sup>nd</sup> June to allow further consultation with neighbours. Site Notices were posted on Woodland Hill, (adjacent to the lay-by) and in the Templestowe Gardens cul-de-sac, to the rear of the site. Any further representations will be reported verbally at Plans Panel.
- 1.2 This application seeks planning permission for a change of use of a ground floor retail unit (A1) to a hot food takeaway (A5) and installation of an extraction flue to the rear of 8 Woodland Hill.

- 1.3 The application is brought to Panel at the request of Councillor Lyons, who objects to the application primarily due to traffic generation/safety issues but has also raised residential amenity concerns.
- 1.4 In respect of opening hours of adjoining premises, which was raised by Plans Panel, the Leodis PH is restricted by licence to 11.00 to 23.30 hours Monday to Saturdays, and 11.00 to 23.00 hours on Sundays. The off licence at No. 4 Woodland Hill has the sale of alcohol restricted to 23.00 hours Mondays to Saturdays and 22.30 hours on Sundays. There are no planning hours of use conditions at the Chinese take away at 2 Woodland Hill, and the advertised hours of opening at 17.00 hours to 23.30 hours Monday to Thursday, and 17.00 to 00.00 hours, Friday to Sundays. Notwithstanding the advertised hours of opening, the take away does not have a licence to sell hot food after 11.00pm.
- 1.5 The issue of drainage was raised by a local resident at the previous meeting. Officers have discussed this with Flood Risk management Officers, who have no records of any flooding issues at this property or in the immediate vicinity. They have requested a condition, however, in respect of the provision of a grease trap (standard condition).

## **2.0 PROPOSAL**

- 2.1 This application seeks planning permission for change of use of a vacant retail (A1) to hot food takeaway (A5). No external alterations are proposed to the existing shop front and only minimum internal changes are needed (in the form of enlarged serving counter) to facilitate the change of use.
- 2.2 The proposed hours of use are: 12.00 to 23.00 hours, 7 days.
- 2.3 A new extraction flue is required and is identified to the rear of the building, discharging just below the ridge, and is to be painted black.

## **3.0 SITE AND SURROUNDINGS**

- 3.1 The site is situated to the south-west side of Woodland Hill close to the junction with Cross Green Lane to the west and Templestowe Gardens to the east. The site comprises a vacant ground floor unit in a small parade of shops with living accommodation at first floor level. The parade is of mature years constructed to two storeys in height with a hipped roof design clad in terracotta pantiles. The front of the unit has a full width external security shutter (painted green finish), with a (bare) metal projecting box housing above. A small non-illuminated sign is located above the shutter advertising a former use as an outside catering business (sui generis).
- 3.2 The majority of units in the parade have external shutters. Few units were open at the time of the case officer's site visit. The parade has a forecourt and the Woodland Hill frontage has a purpose built parking lay-by. The rear of the site is accessed via Templestowe Gardens and comprises an informal parking/bin storage area. The site is level, however the topography of the area rises in a south easterly direction. Cross Green Lane is a busy vehicle link between the nearby centres of Halton and Cross Gates. The wider area is pre-dominantly residential characterised by mature red-brick semi-detached houses.

## **4.0 RELEVANT PLANNING HISTORY:**

- 4.1 32/234/96/FU: Change of use of shop to catering business. Permission Granted 10-Jan-97.
- 4.2 14/01145/FU: Change of use of catering business to shop (Class A1). Permission Granted 22-Aug-14.

## **5.0 HISTORY OF NEGOTIATIONS:**

- 5.1 The applicant is happy to accept conditions relating to the hours of use and the submission of further detailed information relating to extraction equipment.

## **6.0 PUBLIC/LOCAL RESPONSE:**

- 6.1 The application was advertised by site notice dated 11<sup>th</sup> March 2016. In addition, letters were sent to 9 local businesses and residents. The following representations have been received:

Councillor Lyons objection:

- 6.2 Objects as both a Ward Councillor and local resident. This area is renowned for road traffic accidents. The Councillors for the area have been trying to get the layout of the roads altered. The difficulty is these roads were all built before traffic reached current levels. It is now a nightmare to negotiate from Woodland Hill onto Cross Green Lane for the number roads coming together. Apart from the usual nuisance of hot food takeaway of smells, increased littering etc., it is also an unsuitable location as there are no suitable parking arrangements for the shops. The road traffic problem has been ongoing for a few years. We do not need it to be made worse by this application. A Plans Panel determination is therefore made if officers minded to support the application.

- 6.3 Councillor Helen Hayden objects on the following grounds:  
I object due to the amount of traffic the takeaway will generate in a very residential area and the crescent shaped, restricted nature of the road layout. There is already a Chinese takeaway on the small parade and there is also the risk of increase nuisance and noise for the residents of which there are many who will be affected in the immediate area.

- 6.4 7 letters of representation (from 6 local businesses and residents) have been received raising the following concerns:

- A further takeaway would be detrimental to local businesses in the area reducing retail provision locally.
- Cooking odours will be harmful to nearby properties and premises
- The takeaway will result in noise and disturbance late at night, and will lead to a further increase in antisocial behaviour.
- The takeaway will result in parking and highway problems locally.
- There are other existing takeaways in the Halton and Cross Gates area
- The development will be harmful to 'health and wellbeing'

- 6.5 One objector has also made reference to a petition having been submitted to the proposal (raising concerns) but officers have not had sight of this.

6.6 Two site notices were posted on site, on Woodland Hill and in Templestowe Gardens, on 8<sup>th</sup> June 2016. Any further representations as a result will be reported verbally at Plans Panel.

## **7.0 CONSULTATION RESPONSES:**

7.1 Highways: No objection in view of the existing commercial use and that parking is available within the layby to the front of this parade.

7.2 Environmental Health: No recorded complaints regarding nearby Chinese takeaway. Residential amenity would need to be considered/protected by conditions.

## **8.0 PLANNING POLICIES:**

8.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that planning applications are determined in accordance with the development plan unless material considerations indicate otherwise.

### Development Plan

8.2 The development plan for Leeds is made up of the adopted Core Strategy (2014), saved policies from the Leeds Unitary Development Plan (Review 2006) (UDP) and the Natural Resources and Waste Development Plan Document (DPD), adopted January 2013.

8.3 The site is unallocated in the Development Plan, but is within a shopping parade.

### Relevant Policies from the Core Strategy are:

SP1 – Location of development in main urban areas on previously developed land.

SP2 – Encourage vitality and viability of town centres.

P4 – Within shopping parades, Proposals for the change of use of existing retail units to non-retail units (including restaurants, cafes and take-away hot food shops) will be resisted where the vitality and viability of the range of shops to meet day to day local needs will be undermined and increase the need to travel or where the proposal will lead to a concentration of non-retail uses in a locality which will detrimentally impact on the community. Proposals for such uses will be considered against the following criteria:

(i) The cumulative impact of such development, particularly upon the amenity of the area and traffic generation, especially where concentrations of such uses already exist,

(ii) Where a proposal involves evening opening, account will be taken of the proposal in relation to the proximity of the premises (and associated parking requirements), to nearby residential accommodation, the nature and character of the neighbourhood parade and existing noise levels,

(iii) The availability of public transport, convenient on/off street car and cycle parking provision and impact on highway safety. Where there is insufficient car parking or where traffic movements are such as to create a traffic hazard, planning consent is likely to be refused.

P10 – High quality design.

T2 – Accessibility and highway considerations.

Relevant Saved Policies from the UDP are:

GP5 – General planning considerations

Supplementary Planning Documents

Leeds Street Design Guide

Leeds Parking Standards (2015)

National Planning Policy

- 8.4 The National Planning Policy Framework (NPPF), published on 27<sup>th</sup> March 2012, and the National Planning Practice Guidance (NPPG), published March 2014, replaces previous Planning Policy Guidance/Statements in setting out the Government's planning policies for England and how these are expected to be applied. One of the key principles at the heart of the Framework is a presumption in favour of Sustainable Development.
- 8.5 Issues regarding highway safety, residential amenity and the provision of services to meet the needs of a local community all feature as relevant considerations.

**9.0 MAIN ISSUES**

1. Principle (to include Cumulative Impact, Residential Impact, Highway Safety)
2. Representations
3. Conclusions

**10.0 APPRAISAL**

Principle

- 10.1 Adopted Core Strategy P4 states that within shopping parades, proposals for the change of use of existing retail units to non-retail units (including take-away hot food shops, as currently proposed) will be resisted where the vitality and viability of the range of shops to meet day to day local needs will be undermined and increase the need to travel or where the proposal will lead to a concentration of non-retail uses in a locality which will detrimentally impact on the community. In considering this requirement, whilst the change of use will result in one less retail unit being available, it is already vacant and accordingly no direct loss of an existing service will take place. A newsagent is also noted to be located within the existing parade and more generally the site's positioning relative to the commercial centres of Halton and Cross Gates is such that these provide strong competition for local retail uses and combined are likely to adequately cater for the day to day needs of the local community. The parade's overall attractiveness for retail uses is therefore likely to be somewhat limited and is a situation experienced by many similar parades sited within residential areas. Indeed, the unit has already been used for a non-retail use in the past.
- 10.2 With this in mind and noting the proposal would bring a vacant unit back into an active use which could be considered beneficial in its own right, the loss of the unit from a retail use can be accepted in this instance – subject to further assessment against the three criteria set out in Policy P4 as below:
- (i) Cumulative impact

- (ii) Residential impact
- (iii) Highways safety

#### Cumulative impact

- 10.3 The proposed change of use would lead to the loss of a vacant retail unit in a parade that consists of 7 units. As the parade only has one other hot food takeaway use currently, the introduction of a second is not considered to amount to a cumulative impact which would justify a reason for refusal on this point alone.

#### Residential amenity

- 10.4 The application site is located within a predominantly residential location and includes flat accommodation above the parade. As a result, careful consideration needs to be given to any potential impact the development will have on the amenity of the occupants of these properties.

Policy P4 states that:

*“Where a proposal involves evening opening, account will be taken of the proposal in relation to the proximity of the premises (and associated parking requirements), to nearby residential accommodation, the nature and character of the neighbourhood parade and existing noise levels,”*

- 10.5 Within this assessment of the impact account needs to be given to impact of any flue required to capture cooking odours, litter, and possible noise due to the opening hours, congregation of customers, parking and vehicle movements more generally.
- 10.6 It is proposed to install an extraction system within the building culminating with a metal flue pipe and cowl projecting out from the roof, just below the ridge height at the rear of the property. This general arrangement follows the advice contained within DEFRA guidelines for commercial kitchens and is a typical response to dealing with cooking smells more generally. However, in recognition of the relationship with surrounding properties and the concerns which have been expressed by local residents regarding noise, a further condition is recommended to ensure any equipment installed operates below background noise levels.
- 10.7 More generally, Environmental Health Officers note the presence of the existing Chinese takeaway in the parade (at No.2), but that no history of complaints in terms of noise disturbance exists. No 2 operates until 23.30 during the week and weekend, and a Public House, The Leodis is also nearby. With this in mind and accepting the site falls within a purpose built commercial parade where a degree of increased activity and noise is to be expected, the application can be supported subject to conditions to include the introduction of internal sound insulation measures and a hours of use restriction. The use is proposed to be restricted to until 23.00 hours, and would therefore be closed before the Chinese takeaway in the same parade and nearby Public House. Combined, these conditions are considered to adequately address the amenity impacts of the development.

#### Highway access, servicing and parking

- 10.8 Criteria ii) of policy P4 states that proposals for hot food takeaways need to be considered against:

*“The availability of public transport, convenient on/off street car and cycle parking provision and impact on highway safety. Where there is insufficient car parking or where traffic movements are such as to create a traffic hazard, planning consent is likely to be refused.”*

- 10.9 As reported by Highway Officers, the existing commercial use generates a parking requirement and the availability of convenient parking within the adjacent layby are such that a highway objection to the application would be difficult to justify. For this reason and noting there is nothing to suggest there are any significant highway safety concerns in the immediate vicinity of the site despite the concerns which have been raised in the representations received, the highway impacts of the development are considered to be acceptable.

#### Representations

- 10.10 The main concerns about residential amenity and highway safety have already been addressed above. With respect to competition between other takeaway uses, this is not a matter which can reasonably be taken into consideration. In terms of the health agenda, whilst this is a material planning consideration, the Council does not currently have a policy which seeks to resist developments of this nature for this specific reason and other Councils have tended to only have success on this matter where endorsed by further policy guidance (often in the form of an adopted Supplementary Planning Document) which seeks to restrict the number and/or location of these types of uses (e.g. not near schools). Accordingly a refusal due to health concerns is not advanced.

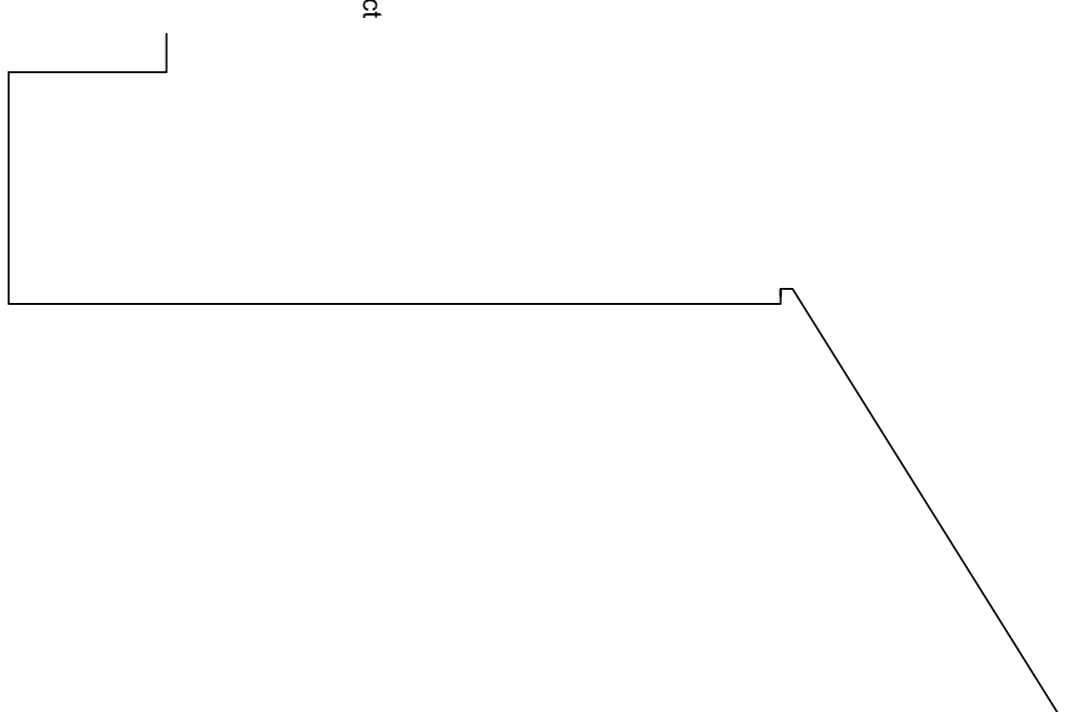
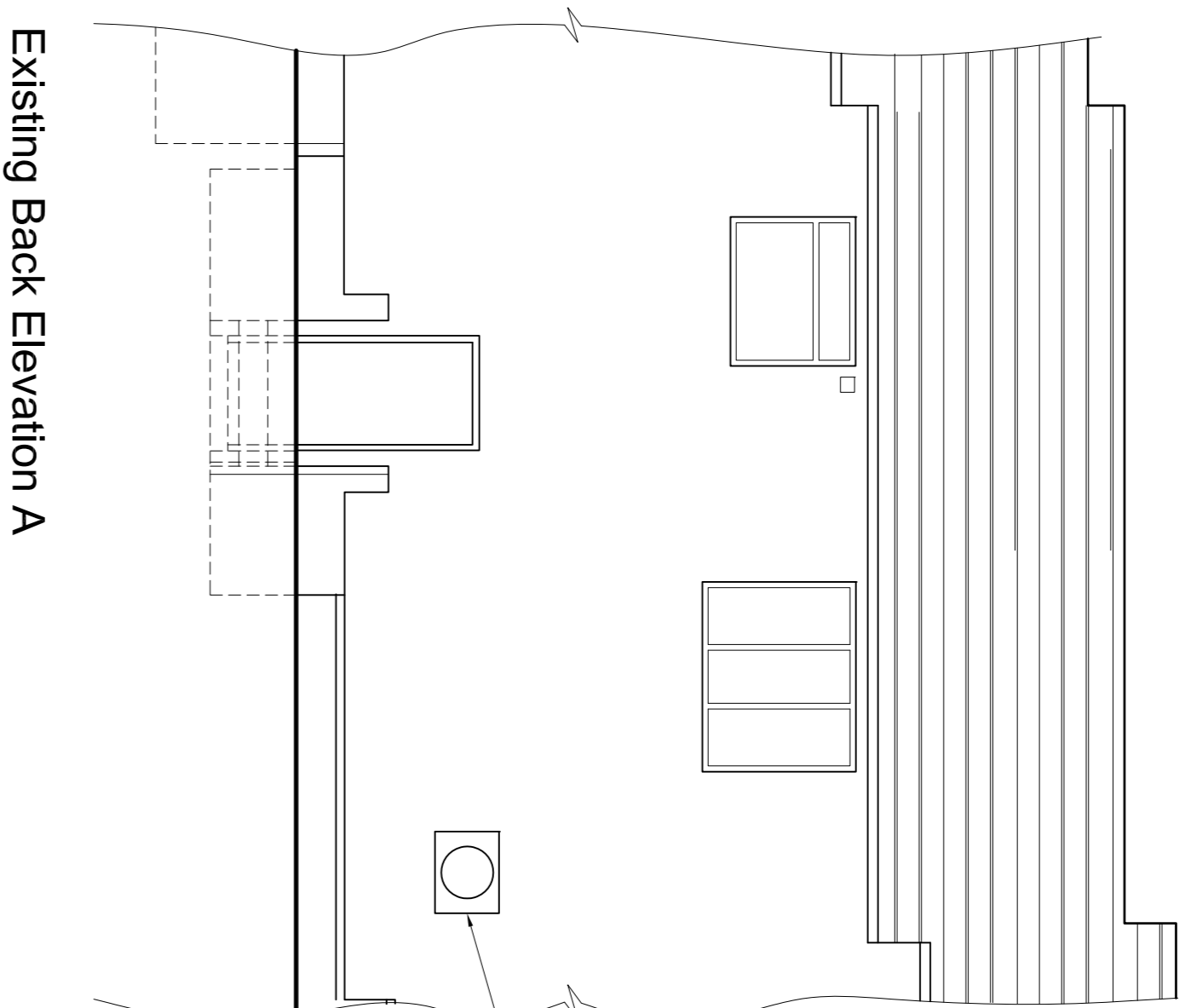
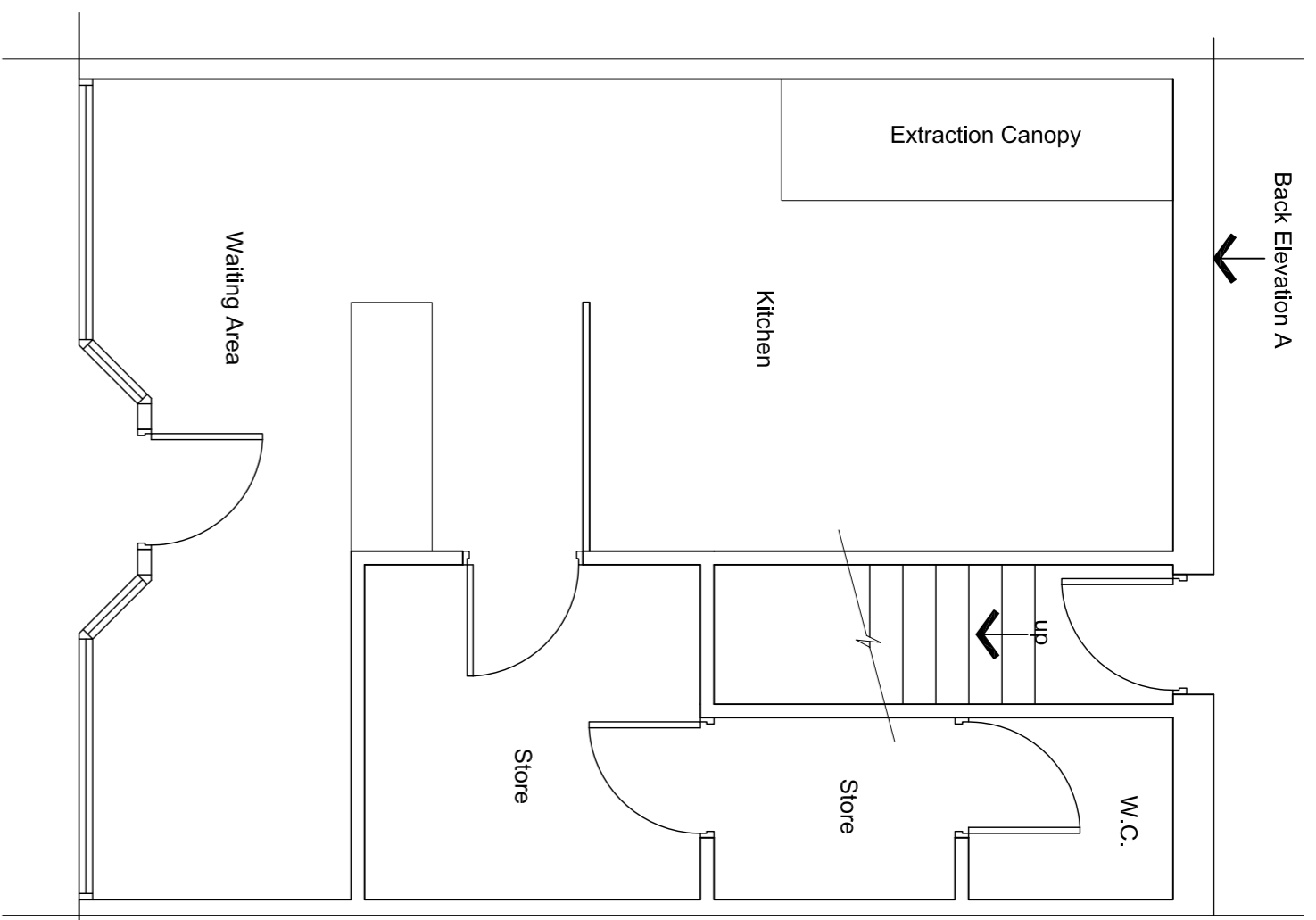
#### **11.0 CONCLUSION:**

- 11.1 It is considered, on balance, having regard to the commercial nature of the parade, the vacancy of the property and its wider context, that the proposal would not cause any significant residential amenity or highway safety problems and the loss of the unit from a retail use can be accepted in this instance. The proposal is therefore recommended for approval, subject to appropriate conditions which are required to ensure the amenity impacts of the development are acceptable.

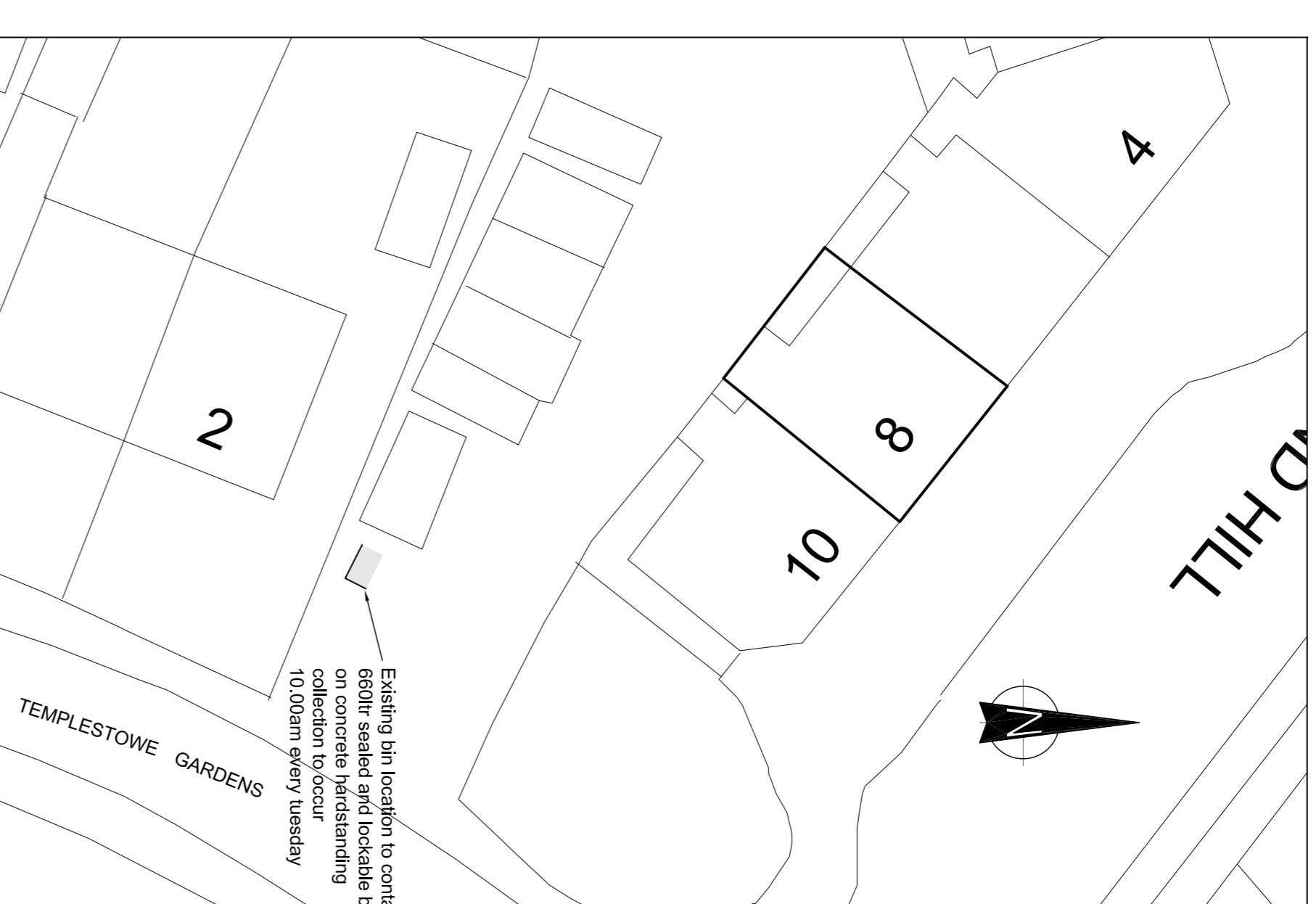
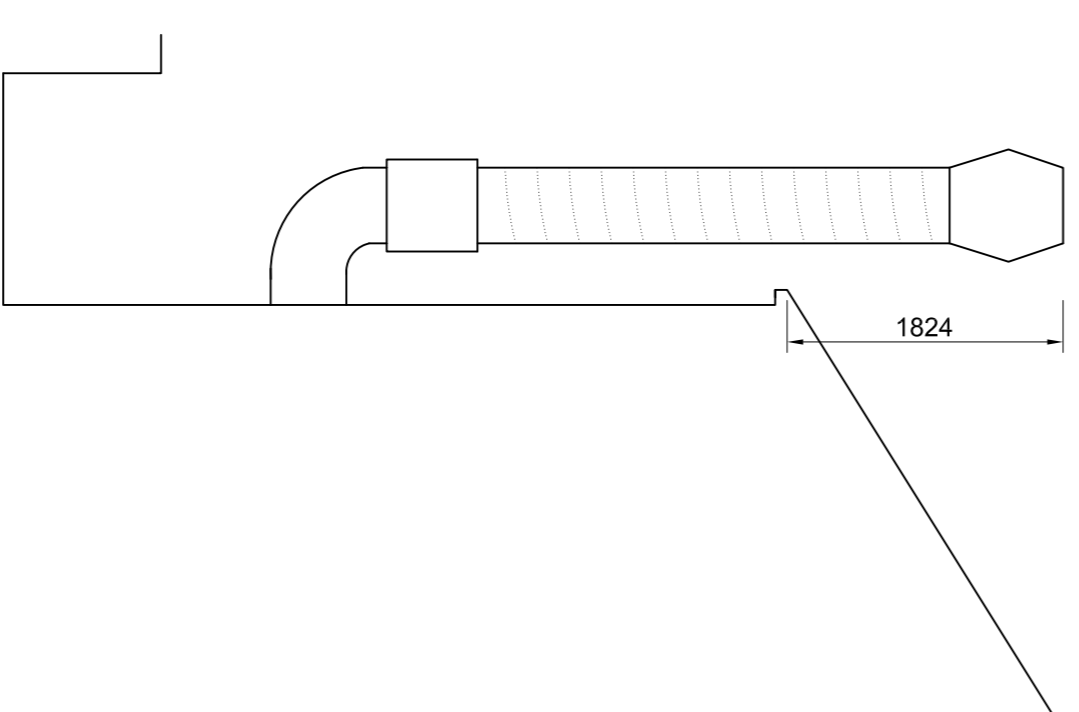
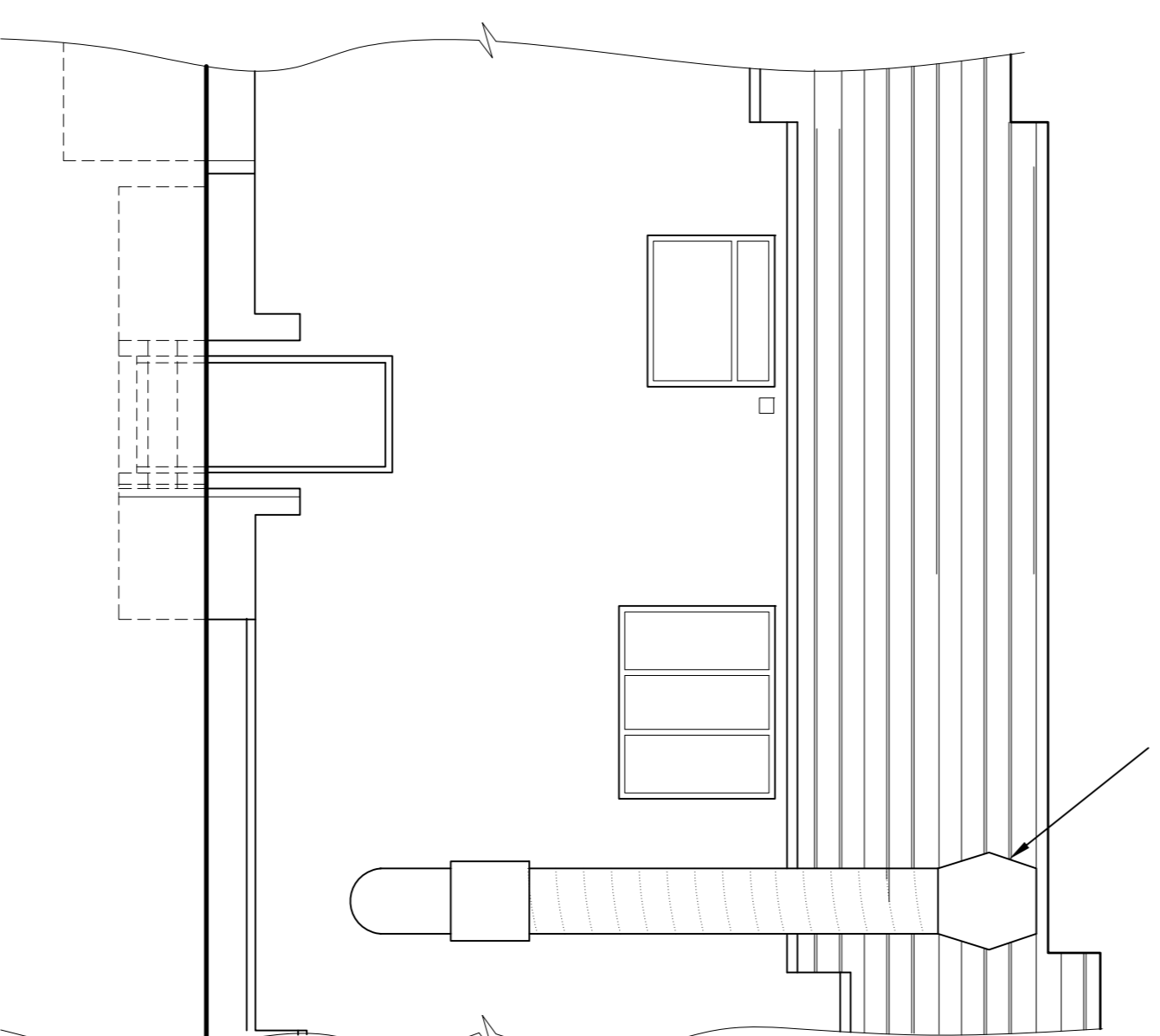
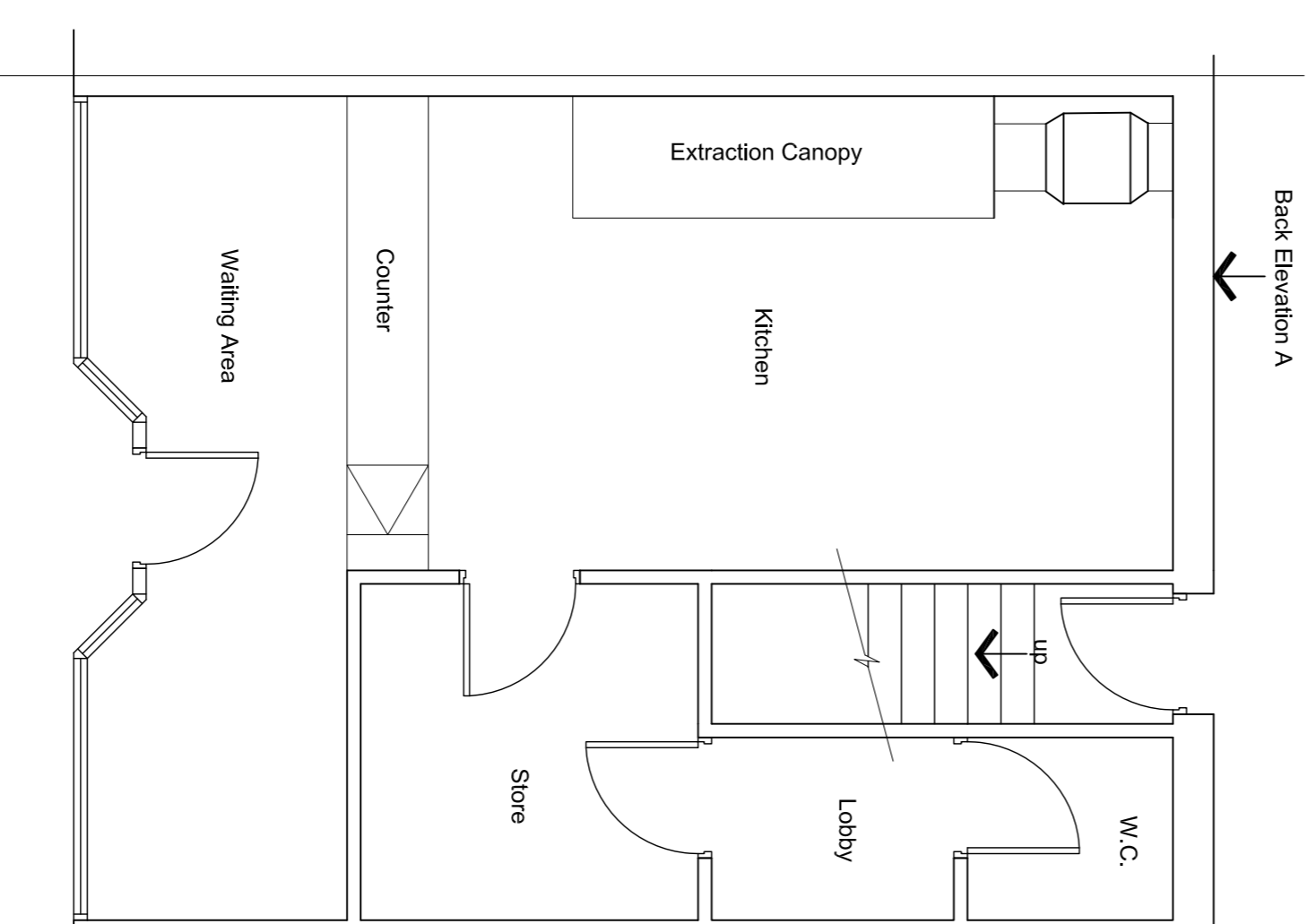
#### **Background Papers:**

Application files: 16/0876/FU

Certificate of ownership: Certificate A signed by Mr Patel

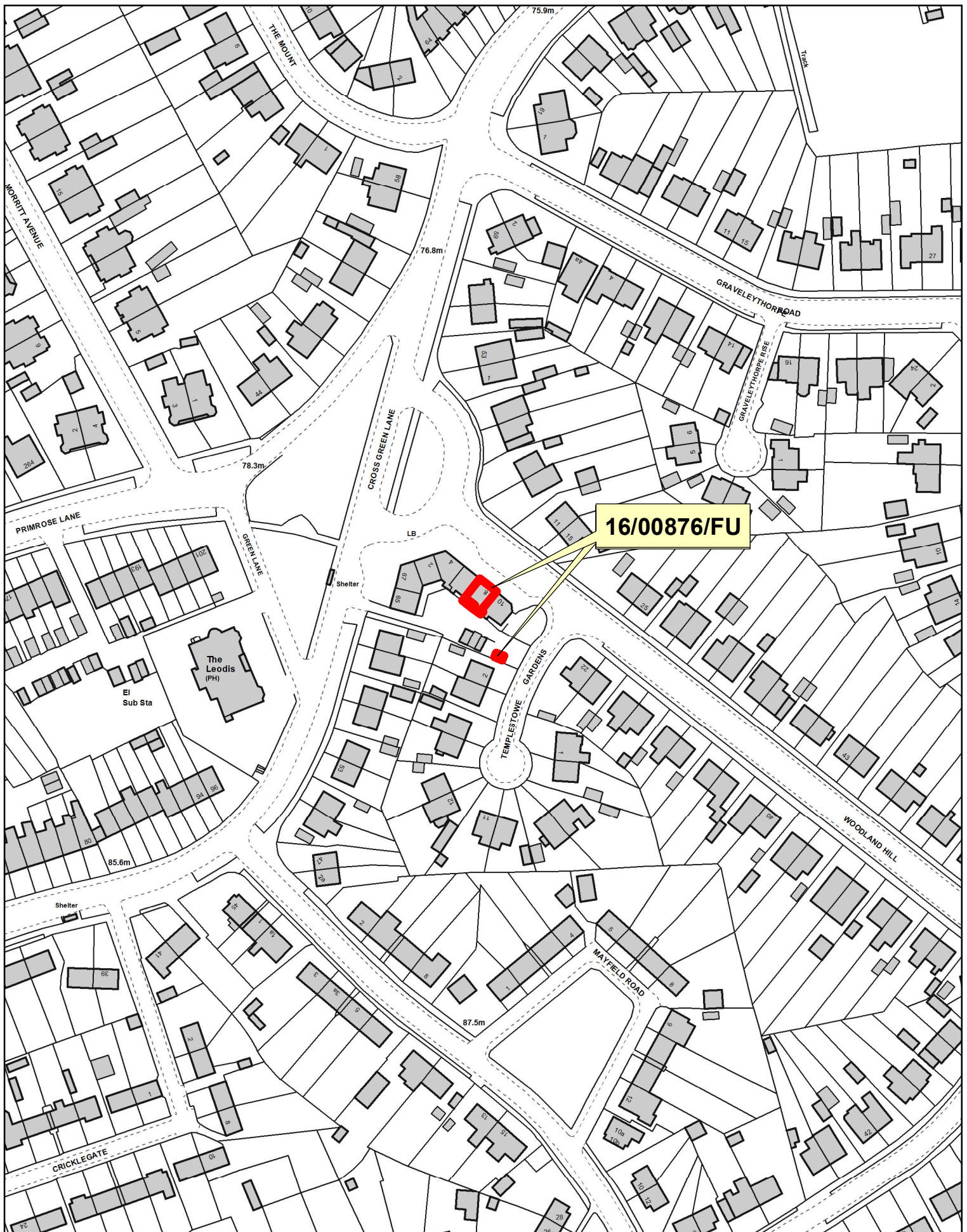


Proposed extraction to be painted black and to discharge refer to extract / ventilation statement



CLIENT	Mr K Patel	
PROJECT	8 Woodland Hill Leeds LS15 7DG	
TITLE	Existing & Proposed Plans & Elevations	
STATUS	Planning	
DATE	01.12.15	
DRAWN BY	M N Ali	
REVIEWED BY	M N Ali	
DRAWING NUMBER	LS/31/P02	
REV. DATE	REVISION	BY
SCALE	1:50, 200@A1	





# NORTH AND EAST PLANS PANEL

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SCALE : 1/1500

