

WARD: Frome Vale CONTACT OFFICER: Jaymi Cue  
SITE ADDRESS: 773 Fishponds Road Fishponds Bristol BS16 3BS

APPLICATION NO: 15/02935/F Full Planning  
EXPIRY DATE: 27 August 2015

*Change of use of ground floor from shop (Use Class A1) to restaurant (Use Class A3) with associated rear outdoor seating area, rear single storey extension, extraction flue, alterations to shop front, provision of rear boundary treatment and associated works.*

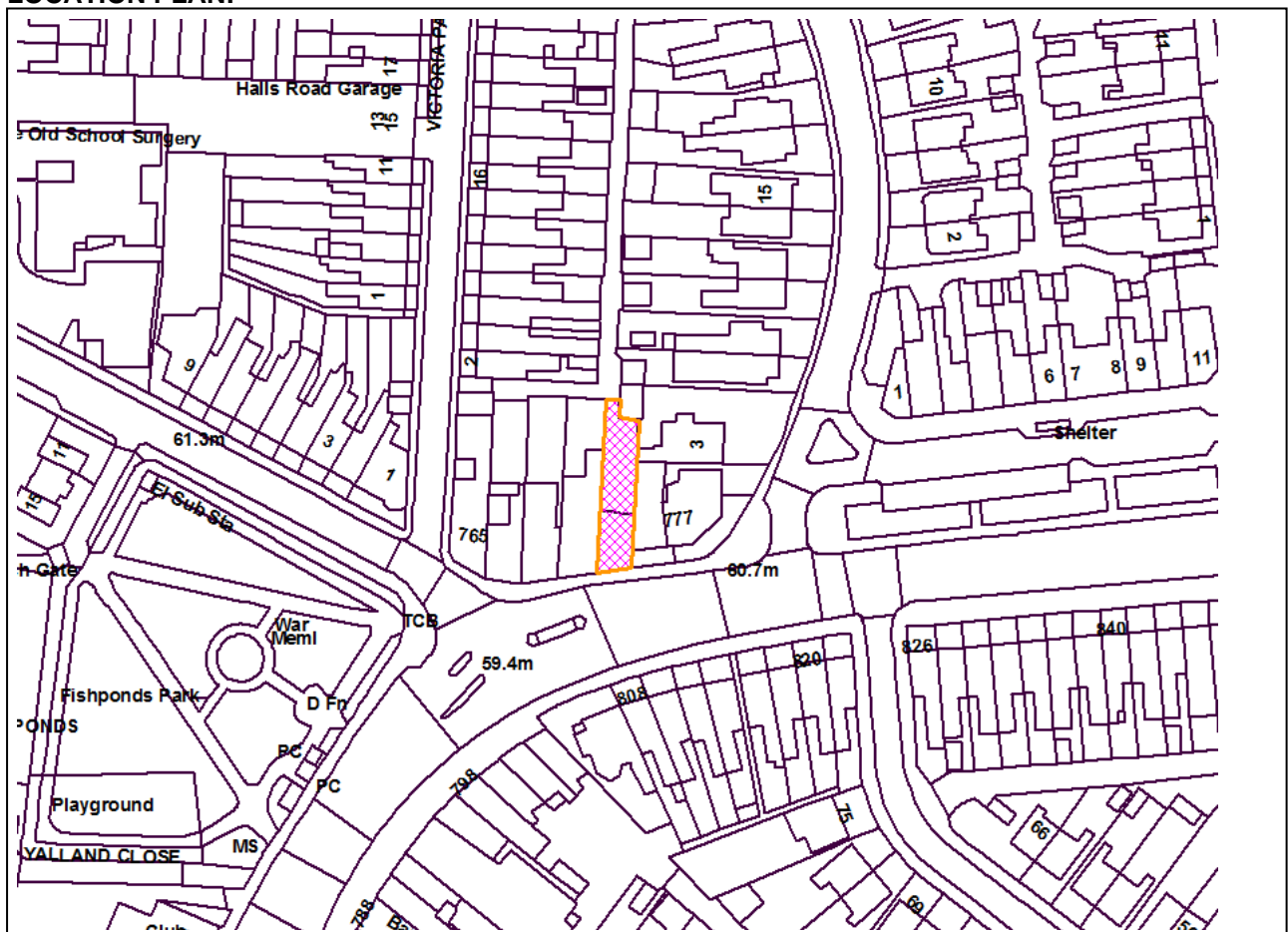
RECOMMENDATION: Grant subject to Condition(s)

AGENT: JLL  
40 Berkeley Square  
BS8 1HU  
Bristol  
BS8 1HU

APPLICANT: The Burger Joint (Restaurant Trust Ltd)  
773 Fishponds Road  
Fishponds  
Bristol  
BS16 3BS

*The following plan is for illustrative purposes only, and cannot be guaranteed to be up to date.*

LOCATION PLAN:



**Development Control Committee B – 16 September 2015**  
**Application No. 15/02935/F: 773 Fishponds Road Fishponds Bristol BS16 3BS**

SUMMARY

The application has been brought to Committee due to the high number of supporting comments.

SITE DESCRIPTION

The application site is 773 Fishponds Road, a unit currently in retail (A1) use, within a rank of seven units between Manor Road and Straits Parade. The application site is within Fishponds Town Centre and an area of secondary shopping frontage. It is also within the Stapleton and Frome Valley Conservation Area.

RELEVANT HISTORY

None

APPLICATION

The application seeks consent for a change of use from retail (A1) to restaurant (A3), a single storey rear extension, and provision of flue to the rear.

RESPONSE TO PUBLICITY AND CONSULTATION

The application was advertised via a press advertisement as well as a notice placed on site. Individual notification letters were sent to neighbouring properties.

139 comments were received in response to the publicity, 134 of which were in support of the application and 5 in objection. A number of the support representations had no specific commentary attached.

Supporting comments

While policy states retail uses should dominate, two businesses have not been able to successfully operate from the unit. The use as a restaurant would add vitality to Fishponds and draw custom. (See Key Issue A)

This part of Fishponds is already seen as the eatery quarter (See Key Issue A)

Fishponds needs more restaurants rather than takeaways (See Key Issue A)

Need more restaurants serving fresh homemade food

Will support the evening economy

This will result in this part of Fishponds being a hotspot for great food

Less reason to have to travel into the City Centre

Great cafes and restaurants give a sense of community

Opportunity to add another business to a thriving Fishponds Road

Will bring jobs to the area

Will support ongoing economic regeneration

Currently vacant unit is eyesore (See Key Issue A)

Objection Comments

Bristol City Council should be actively encouraging retail units to be taken up and not permit so many food and drink outlets (See Key Issue A and B)

**Development Control Committee B – 16 September 2015****Application No. 15/02935/F: 773 Fishponds Road Fishponds Bristol BS16 3BS**

Macdonalds burgers are not wanted in Fishponds, why should this be any different? (Officer note - The operator of the A3 use cannot be taken into account)  
We need shops (See Key Issue A)

Many retail businesses would thrive in this unit (See Key Issue A)

Fishponds has lost its retail variety and there are already a larger number of eateries (See Key Issue A)

A burger restaurant would cause noise disturbance, litter and mess (See Key Issue B)

Fishponds is completely saturated with restaurants (See Key Issue A and B)

A new restaurant will cause existing businesses to suffer (note -this is not a planning concern)

There will be three restaurants next to each other if this succeeds (See Key Issue A and B)

Not happy that the vent will be partially viewed from the public realm (See Key Issue B and C)

Area in danger of becoming a ghost town devoid of useful shops serving the community (See Key Issue A and B)

There are flats above the dining area to the rear that would be unduly affected by noise (See Key Issue B)

The extract will result in fumes and vibration to the flats above (See Key Issue B)

It is unclear whether takeaway facilities are proposed (Officer note - the application is for an A3 use therefore the main use of the site would be cafe/restaurant, any other use would need to be 'ancillary' to the main use as restaurant)

Comments specifically about the operator (not a material planning consideration)

Burger Joint would be a great addition

It's not the same as other fast food places

A Burger Joint here will lift the profile of the street

Burger Joint sources ingredients in an ethical manner

It is a local business rather than a chain

Burger Joint will fit in well with the up and coming status of Fishponds Road

No other restaurant will match the quality of Burger Joint

This is a high class burger restaurant

Please note - we have no policies relating to encouraging local rather than chain operators. The end user of a planning permission is not guaranteed and the planning process can only take into account the A3 use rather than a particular operator, which could change.

Ward Members

**OTHER COMMENTS**

**Transport Development Management** has commented as follows:-

The use of these premises as a restaurant is suitable from Highways point of view, given that this is part of the local shopping centre and there is plenty of public car parking available on the adjoining street. Deliveries and refuse collection can be carried out from the roadside in the same way if necessary as for adjoining businesses.

The private parking space at the rear is adequate for the day to day needs of the business.

The City Council have placed cycle stands in the local area as part of a street improvement programme, and we do not see a need to increase this provision for this application.

Therefore we have no objection to the proposal.

**Pollution Control** has commented as follows:-

With regards to 15/02935 there is very limited information submitted with the application regarding the

**Development Control Committee B – 16 September 2015****Application No. 15/02935/F: 773 Fishponds Road Fishponds Bristol BS16 3BS**

premises and I would particularly like to see more information regarding the extract system. The extract system is shown to terminate below the ridge height of the building and in situations like this we would usually need to see a high level of odour treatment on the extract system.

I would therefore really need to see a schematic diagram of the extraction system showing exactly what fans and attenuators are to be used and where they are to be located.

**Outdoor Area**

The premises proposes an outdoor area at the rear ground level. No details of what times the outdoor area(s) are to be used is given. We would usually want to see any applications for outdoor areas to include acoustic report to show how any noise is likely to affect nearby residents and how this can be controlled. Without knowing further details of the outdoor area or an acoustic report on these areas it is difficult for me to properly comment on this part of the application or consider appropriate opening times for them.

However, if you are minded to grant the application the details can be sought by condition, and I would ask conditions requiring further detail on noise, extract system, and odour management plan, and conditions to control plant noise, use of refuse facilities, deliveries, and use of outdoor area.

**RELEVANT POLICIES****National Planning Policy Framework – March 2012****Bristol Core Strategy (Adopted June 2011)**

BCS7	Centres and Retailing
BCS10	Transport and Access Improvements
BCS13	Climate Change
BCS21	Quality Urban Design
BCS22	Conservation and the Historic Environment
BCS23	Pollution

**Bristol Site Allocations and Development Management Policies (Adopted July 2014)**

DM1	Presumption in favour of sustainable development
DM7	Town centre uses
DM8	Shopping areas and frontages
DM9	Local centres
DM10	Food and drink uses and the evening economy
DM23	Transport development management
DM26	Local character and distinctiveness
DM31	Heritage assets
DM33	Pollution control, air quality and water quality
DM35	Noise mitigation
DM32	Recycling and refuse provision in new development

**KEY ISSUES**

- (A) WOULD THE CHANGE OF USE BE ACCEPTABLE IN PRINCIPLE AND WITHIN THE CENTRE AND SECONDARY SHOPPING FRONTAGE?

The applicant site falls within the Fishponds Town Centre as defined by the Core Strategy (BCS7) and is designated as a secondary shopping frontage on the Development Management Policies document. Bristol Core Strategy Policy 7 states that:

**Development Control Committee B – 16 September 2015****Application No. 15/02935/F: 773 Fishponds Road Fishponds Bristol BS16 3BS**

'the role of District and Local Centres in meeting the day-to-day shopping needs of their catchments will be maintained.'

DM8 aims to support vitality and viability and promote diversity within these centres by maintaining a healthy mix of uses within a variety of unit sizes capable of accommodating a range of retailers and associated uses. Within Secondary Shopping Frontages the development of retail or other related uses will be acceptable where they would help to maintain or enhance the function of the centre. In all cases, the proposed use will be expected:

- i. To complement the retail function of the centre and not harm its vitality, viability or diversity; and
- ii. Not to harmfully dominate or fragment frontages; and
- iii. To maintain an appropriate balance and diversity of uses in all parts of the Secondary Shopping Frontage; and
- iv. To generate a reasonable level of footfall and be of general public interest of service; and
- v. To be compatible with a shopping area in that it includes a shopfront with a display function and would be immediately accessible to the public from the street.

The immediate shopping frontage concerned, 765-777 Fishponds Road has seven units. Within the rank of seven units, there are currently three in retail use (42%).

The non-A1 uses are as follows: three A3 (restaurant uses), and one A2 (professional services) use. Should the proposal be successful, this would reduce the A1 units to two out of seven - a 28% retail provision. This would then result in the frontage having four of seven units in A3 restaurant use, which would result in a 57% A3 provision.

It is often difficult to specify the tipping point in which a particular type of use is dominating a frontage, and there are two recent appeal decisions in the vicinity of the site to take into account in defining this.

The most recent appeal is question was against the Council's refusal for the change of use of an A1 unit to A5 (takeaway) use within the secondary frontage further north along Fishponds Road (14/04349/F- 11 Straits Parade). The Council refused the application on the grounds of overconcentration of food and drink uses (among other reasons). The Inspector advised should the appeal succeed, it would result in a percentage of 45% of A5 uses on the secondary shopping frontage. The appeal was dismissed, and this figure was considered by the Inspector to dominate the frontage, rather than maintaining an appropriate mix and balance of uses as per DM8, and would 'undermine the long term vitality and viability of the centre, and would not maintain or enhance its retail function'

The other appeal was against the Council's refusal for a unit to go from A1 to A3 within the primary shopping frontage (733 Fishponds Road - Application ref - 12/02529/F). In this case, the appeal was allowed, with the Inspector stating that 'in making its assessment, the Council calculated that just 36% of the primary shopping frontage would remain in retail use if the appeal was allowed. However, assessments undertaken by the appellant indicate that a different result could be calculated. In these circumstances I find that the numerical calculations are not a reliable indicator and will therefore reach a judgment having regard to the overall character and vitality of the centre as a whole.'

It is worth noting the character of 1-11 Straits Parade, which is the neighbouring frontage, also Secondary shopping frontage. This parade has 10 units (including one double unit). Within the rank of 10 there are currently 4 retail units (40% in retail use).

The non- A1 uses are as follows: three A5 (takeaway) uses (including a double unit), one sui generis use (laundrette), one D1 use (veterinary practice) and an A2 unit (estate agents).

As such, when considering the impact of the proposal against the criterion above, it is considered that:

**Development Control Committee B – 16 September 2015****Application No. 15/02935/F: 773 Fishponds Road Fishponds Bristol BS16 3BS**

(i)

The proposal will bring custom and interest to this part of Fishponds Secondary Shopping frontage which will support the Primary Shopping Frontage to the south and overall broadly support the Fishponds Town Centre

(ii) and (iii)

There are Officer concerns that the proposal would cause this particular rank of units to be dominated by A3 uses, particularly as they are sited in such a way that this would result in three in a row and that the assessment does demonstrate that in this small rank, A3 uses would dominate should the proposal be granted. However, whilst in (11 Straits Parade -14/04349/F) the Inspector advises that a dominance of specifically A5 (takeaway) uses would 'undermine the long term vitality and viability of the centre, and would not maintain or enhance its retail function', it is considered that on balance, this provision of A3 uses within the secondary shopping and wider centre overall would enhance the offer and shopping function of Fishponds Town Centre.

(iv)

Given the strength of the support, the nature of the proposed use, and the opening hours, the proposal would certainly be considered to generate an appropriate level of footfall and be of general public interest

(v)

The proposal provides a direct access onto the street and includes a shopfront with a display function and is compatible with the shopping area

As such, whilst there are Officer concerns relating to the proposal meeting criterion iii and iii (dominance of use on frontage, and maintaining an appropriate balance of uses on the frontage), the proposal meets all of the other criteria. Giving regard to recent appeal decisions it is considered that when looking at the vitality and viability of Fishponds Town Centre as a whole, the proposal is broadly in line with Policy BCS7 and DM8 of Bristol Local Plan.

The change of use is therefore on balance acceptable within the secondary shopping frontage and centre overall.

**(B) WOULD THE PROPOSAL DETRIMENTALLY AFFECT THE AMENITY OF LOCAL RESIDENTS AND/OR THE VISUAL AMENITY OF THE AREA?**

DM10 is entitled 'Food and Drink Uses and the Evening Economy.' The policy states that the food and drink uses will be acceptable; provided that they would not harm the character of the area, residential amenity and/or public safety, either individually or cumulatively; and that proposals resulting in a harmful concentration will not be permitted. It further states that to assess the impact, six criteria need to be considered.

- i. The number, distribution and proximity of other food and drink uses, including those with unimplemented planning permission; and
- ii. The impacts of noise and general disturbance, fumes, smells, litter and late night activity, including those impacts arising from the use of external areas; and
- iii. The availability of public transport, parking and servicing; and
- iv. Highway safety; and
- v. The availability of refuse storage and disposal facilities; and
- vi. The appearance of any associated extensions, flues and installations.

In response to the above points:

**Development Control Committee B – 16 September 2015****Application No. 15/02935/F: 773 Fishponds Road Fishponds Bristol BS16 3BS**

(i)

Concerns regarding the concentration of A3 uses have already been established under Key Issue A, and it should be noted that outside of the immediate rank, there are a number food and drink establishments. Within the immediate surrounding area, five units (including a double unit) along Straits Parade (including the northernmost parade) are in A5 use, and 1 double unit is in use as the Kingfisher Cafe. It is considered that whilst there are a number of restaurants and takeaways in this vicinity, on balance, the proposed change of use would not increase the number of food and drink uses in the locality to such a level as to warrant refusal of the application.

(ii)

There are residential flats above the shops within the immediate parade and dwellinghouses seen in the wider area generally. The agent has provided proposed opening hours. The site falls within a centre and secondary frontage on a major transport route, where background noise levels will be higher than in a quiet residential area. Given this, the application can be supported on this basis, however if it was being approved would be subject to several conditions. (Please see Pollution Control Comments on file)

(iii-v)

This criterion concerns transport issues which will be assessed under Key Issue D.

(vi) The proposed flue is large, however it would be positioned to the rear, and due to the depth of the building is not considered that it would be overly visible from the public realm (see plans and site photographs). Further there is a rear extension proposed, which would be subservient in scale and not visible from the public realm. As such the proposed flue and extension would not cause undue harm and would preserve the character and appearance of the Stapleton and Frome Valley Conservation Area.

**(C) DOES THE PROPOSAL PRESERVE OR ENHANCE THE CHARACTER AND APPEARANCE OF THIS PART OF THE STAPLETON AND FROME VALLEY CONSERVATION AREA?**

The external alterations include a flue to the side of the building. As per comments set out under (vi) of Key Issue B, the proposed flue is fairly large, although not positioned in a prominent position would not be overly visible from the public realm (see plans and site photographs). The proposal includes a rear extension and outdoor amenity area. The shopfront proposals are acceptable and along with the flue considered to preserve the character and appearance of the Stapleton and Frome Valley Conservation Area in line with Policies BCS22 and DM31 of the Local Plan.

**(D) WOULD THE PROPOSED DEVELOPMENT SATISFACTORILY ADDRESS TRANSPORT AND MOVEMENT ISSUES?**

In terms of parking, access, refuse and visibility the Transport Development Management Team have not objected to this application and as such it is considered to be in line with the requirements of Policies BCS10, BCS13, DM23 and DM32 of the Local Plan.

## CONCLUSION

Officers do have concerns over the proposal for an A3 unit dominating the balance of uses along the immediate rank of seven, however, giving regard to the Inspector's appeal commentary to consider the operation of the Town Centre as a whole, it has been considered that on balance, the proposal would overall contribute towards the viability and vitality of the Town Centre and is acceptable. The proposal is also on balance acceptable with regard to the provision of food and drink uses in the locality, and subject to the use of conditions will be acceptable with respect of pollution and transport issues.

**Development Control Committee B – 16 September 2015****Application No. 15/02935/F: 773 Fishponds Road Fishponds Bristol BS16 3BS****COMMUNITY INFRASTRUCTURE LEVY**

Development of less than 100 square metres of new build that does not result in the creation of a new dwelling; development of buildings that people do not normally go into, and conversions of buildings in lawful use, are exempt from CIL. This application falls into one of these categories and therefore no CIL is payable.

**RECOMMENDED GRANT subject to condition(s)****Time limit for commencement of development**

## 1. Full Planning Permission

The development hereby permitted shall begin before the expiration of three years from the date of this permission.

Reason: As required by Section 91 of the Town and Country Planning Act 1990, as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

**Pre commencement condition(s)**

## 2. Noise from Development

No development shall take place until an assessment on the potential for noise from the development affecting residential or commercial properties in the area has been submitted to and approved in writing by the Council.

The assessment shall include noise from:

Noise from outdoor areas

Noise from ventilation and refrigeration plant noise from within the restaurant affecting the residential flats above

If the assessment indicates that noise from the development is likely to affect neighbouring residential or commercial properties then a detailed scheme of noise mitigation measures shall be submitted to and approved in writing by the Council prior to the commencement of the development.

The noise mitigation measures shall be designed so that nuisance will not be caused to the occupiers of neighbouring noise sensitive premises by noise from the development.

The noise assessment shall be carried out by a suitably qualified acoustic consultant/engineer and shall take into account the provisions of "Method of rating industrial noise affecting mixed residential and industrial areas" and of BS 8233: 2014 "Guidance on sound insulation and noise reduction for buildings".

The approved scheme shall be implemented prior to the commencement of the use and be permanently maintained thereafter.

Reason: To protect the amenity of nearby residents.

## 3. Details of Extraction/Ventilation System

No development shall take place until details of ventilation system for the extraction and dispersal of cooking odours including details of the flue, method of odour control, noise levels and noise attenuation measures has been submitted to and approved in writing by the Council.



**Development Control Committee B – 16 September 2015****Application No. 15/02935/F: 773 Fishponds Road Fishponds Bristol BS16 3BS**

The approved scheme shall be implemented prior to the commencement of the use and be permanently maintained thereafter.

Reason: To protect the amenity of nearby residential occupiers.

**4. Odour Management Plan**

No development shall take place until there has been submitted to and approved in writing, by the Council, an Odour Management Plan, setting out cleaning, maintenance and filter replacement policies. The plan should include a written recording system to record and demonstrate when all such work is carried out.

Reason: To protect the amenity of nearby residential occupiers.

**Post occupation management****5. Noise from plant & equipment**

The rating level of any noise generated by plant & equipment as part of the development shall be at least 5 dB below the pre-existing background level as determined by BS4142: 1997- "Method of rating industrial noise affecting mixed residential and industrial areas".

Reason: To protect the amenity of nearby residential occupiers.

**6. Use of Refuse and Recycling facilities**

Activities relating to the collection of refuse and recyclables and the tipping of empty bottles into external receptacles shall only take place between 08.00 and 20.00 Monday to Saturday and not at all on Sundays or Bank Holidays.

Reason: To protect the amenity of nearby residential occupiers.

**7. Deliveries**

Activities relating to deliveries shall only take place between 08.00 and 20.00 Monday to Saturday and not at all on Sundays or Bank Holidays.

Reason: To protect the amenity of nearby residential occupiers.

**8. Opening Hours**

No customer collections or deliveries shall take place or customers to remain on the premises outside of the hours of 1100 to 2300 Monday to Friday and 1100 to 2200 Sundays and Bank Holidays.

Reason: In the interests of preserving the amenity of neighbouring occupiers.

**9. Use of Outdoor Area**

No use of the outdoor seating area between the hours of 1900 - 1100.

Reason: In the interest of preserving residential amenity.

**Development Control Committee B – 16 September 2015****Application No. 15/02935/F: 773 Fishponds Road Fishponds Bristol BS16 3BS****List of approved plans**

## 10. List of approved plans and drawings

The development shall conform in all aspects with the plans and details shown in the application as listed below, unless variations are agreed by the Local Planning Authority in order to discharge other conditions attached to this decision.

5366.001 Existing ground floor plan, received 2 July 2015  
 5366.002 Existing front and rear elevations, received 2 July 2015  
 5366.003 Existing elevations, received 2 July 2015  
 5366.004 Site and location plan, received 2 July 2015  
 5366.201 Proposed floor plan, received 2 July 2015  
 5366.202 Proposed front and rear elevations, received 2 July 2015  
 5366.203 Proposed side elevations, received 2 July 2015  
 Heritage statement, received 2 July 2015  
 Planning statement, received 2 July 2015

Reason: For the avoidance of doubt.

**Advices**

1 Application for advertisement consent needed: You are reminded of the need to obtain separate consent under the Town and Country Planning (Control of Advertisements) Regulations 1992 for any advertisements requiring express consent which you may wish to display on these premises.

2 Details of extraction/ventilation system

It is recommended that any flues for the dispersal of cooking smells shall either:

- (a) Terminate at least 1 metre above the ridge height of any building in the vicinity, with no obstruction of upward movement of air or:
- (b) Have a method of odour control such as activated carbon filters, electrostatic precipitation or inline oxidation.

Guidance on the above can be gained at 'Guidance on the Control of Odour & Noise from Commercial Kitchen Exhaust Systems' available from [www.defra.gov.uk](http://www.defra.gov.uk) by searching for Product Code PB10527.

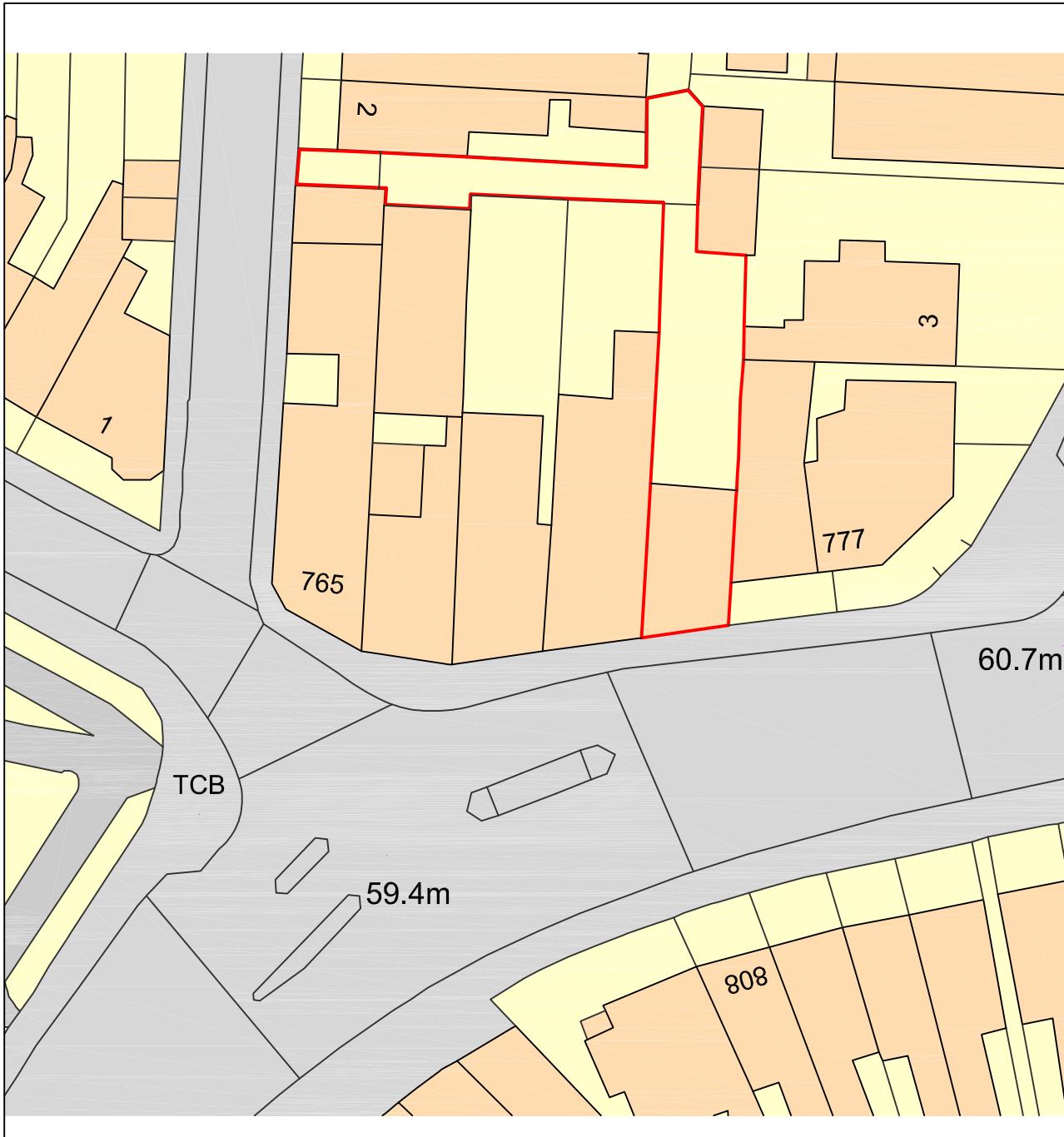
3 Odour Management Plan

Guidance on the above can be gained at 'Guidance on the Control of Odour & Noise from Commercial Kitchen Exhaust System', Published electronically by Department for Environment, Food and Rural Affairs. Product Code PB10527. <http://www.defra.gov.uk/environment/noise/research/kitchenexhaust/pdf/kitchenreport.pdf> And 'Odour Guidance for Local Authorities' Published electronically by Department for Environment, Food and Rural Affairs. <http://www.defra.gov.uk/environment/quality/local/nuisance/odour/documents/local-auth-guidance.pdf>

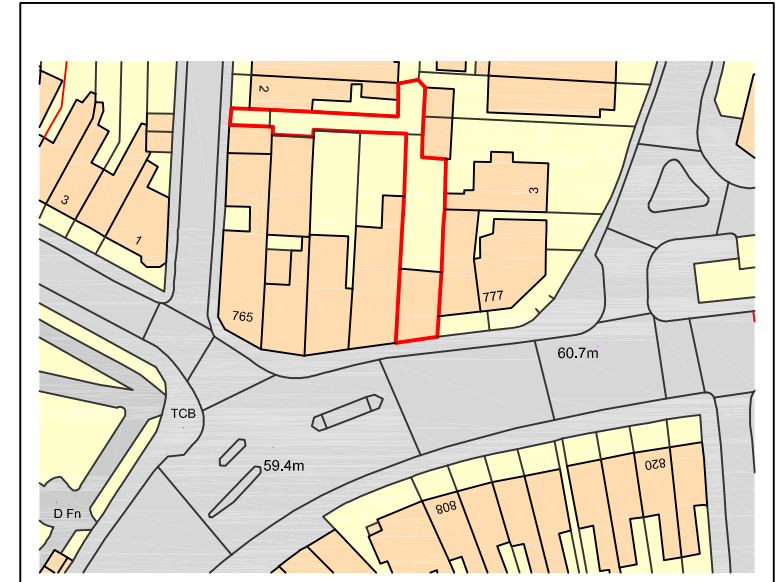
**BACKGROUND PAPERS**

Transport Development Management  
 Pollution Control

27 August 2015  
 27 August 2015

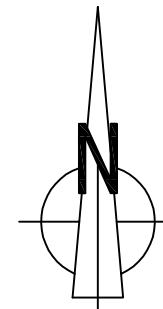


Site Plan @ 1:500



Location Plan @ 1:1250

Rev	Date	Amendment
A	30/06/15	Adjusted site boundary
Client: Mr D. Bekhrdania, The Burger Joint		
Project title: 773 Fishponds Road, Bristol		
Drawing title: -		
Scale: As noted @ A4	Date: February 2015	Drawn by: WW
Drawing number: 5366/004	Revision: A	Chkd by: -



CHARTERED BUILDING SURVEYORS

436-440 Gloucester Road  
Bristol  
BS7 8TX

T 0117 942 7876  
 F 0117 942 7871  
 E info@eastonbevins.co.uk  
 W www.eastonbevinslimited.co.uk

Building Surveys  
 Project Management  
 Construction Advice  
 Legal & Litigation  
 Disability Work  
 Block Management  
 Statutory Consents

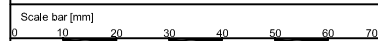
Regulated by RICS

Also at:

Newbury 01635 573 600  
 Chalfont 01292 573 958  
 Salisbury 01722 617 617  
 Swindon 01793 680 844



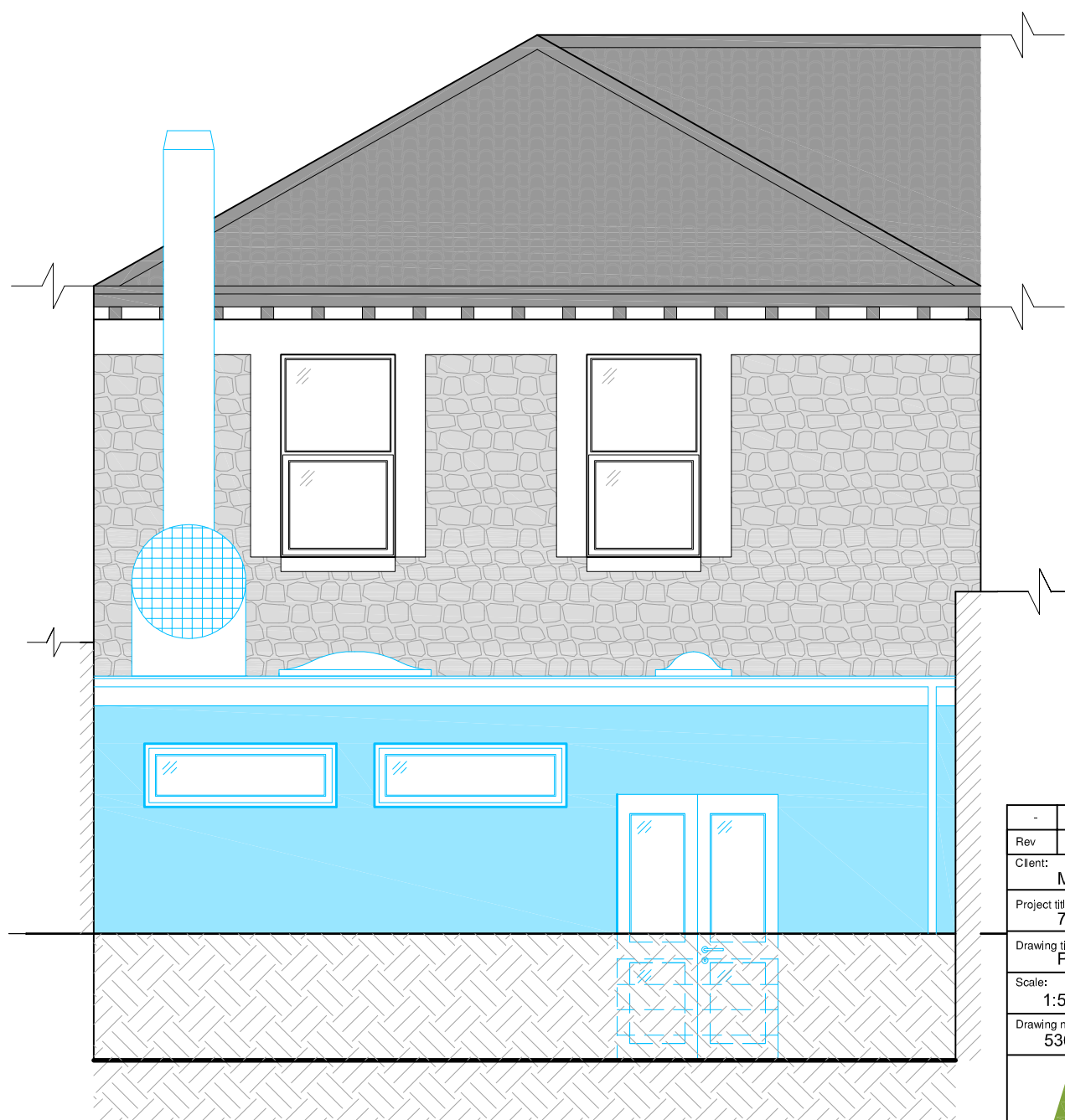
This Drawing & Copyright:  
Contractors must check all dimensions on site. Only figured dimensions are to be worked from. Discrepancies must be reported immediately to the Surveyor before proceeding.





Proposed Front Elevation

New opening vent  
lights to windows



Proposed Rear Elevation

Rev	Date	Amendment
-	-	-
Client: Mr D. Bekhrdania, The Burger Joint		
Project title: 773 Fishponds Road, Bristol		
Drawing title: Proposed Elevations		
Scale: 1:50 @ A3	Date: April 2015	Drawn by: WW
Drawing number: 5366/202	Revision: -	Chkd by: RJS



CHARTERED BUILDING SURVEYORS

436-440 Gloucester Road  
Bristol  
BS7 8TX

T 0117 942 7876  
F 0117 942 7871  
E info@eastonbevins.co.uk  
W www.eastonbevinslimited.co.uk

Building Surveys  
Project Management  
Construction Advice  
Legal & Litigation  
Disability Work  
Block Management  
Statutory Consents

Regulated by RICS

Also at:  
Newbury 01635 573 600  
Cheltenham 01242 573 908  
Salisbury 01722 617 617  
Swindon 01793 680 844



This Drawing is Copyright.  
Contractors must check all dimensions on site. Only figured dimensions are to be worked from. Discrepancies must be reported immediately to the Surveyor before proceeding.

Scale bar [mm]  
0 10 20 30 40 50 60