

WARD: Brislington East

SITE ADDRESS: 2 Birchwood Road Bristol BS4 4QH

APPLICATION NO: 21/01808/F Full Planning

DETERMINATION DEADLINE: 2 March 2022

**Change of use of part of shop area from Retail (Class Ea) to Take Away (Sui Generis).**

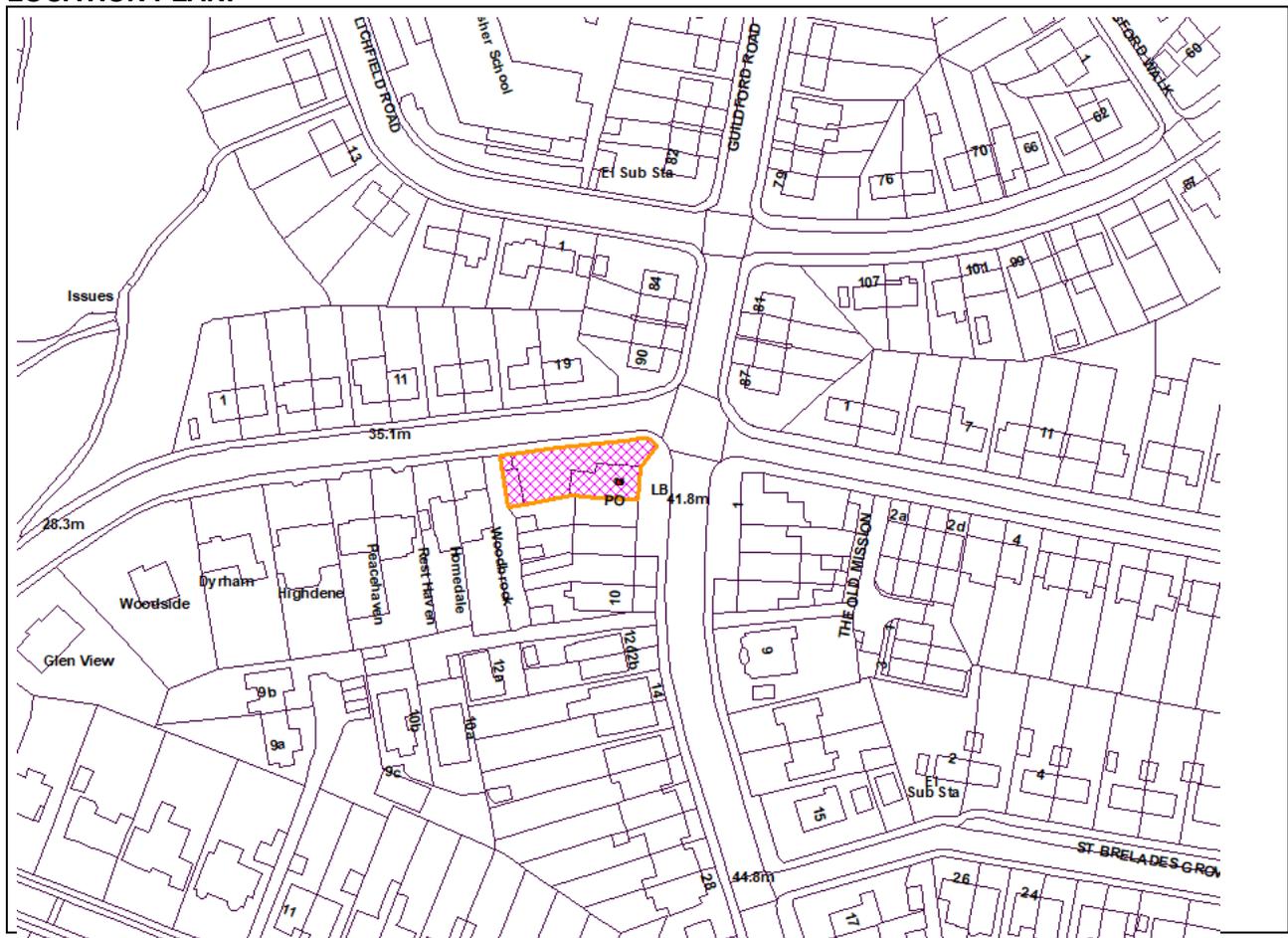
RECOMMENDATION: Refuse

AGENT: Mr Derek Robbins  
7 Water Lane  
Brislington  
Bristol  
BS4 5AW

APPLICANT: Mr Mohammed Mahmood  
2 Birchwood Road  
Bristol  
BS4 4QH

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

**LOCATION PLAN:**



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**SUMMARY**

The application relates to a change of use of a newly built premises to a hot food takeaway. The site is not within a designated centre. However, as the proposal is considered small scale and aimed at providing for local needs it fulfils the first part of local plan requirements for an out-of-centre hot food takeaway.

There are 3 areas of objection: health (the site is within 400 metres of a school), highway safety (insufficient information to evidence that the use can operate safely given the constraints), and pollution control (insufficient information to evidence odour and noise impacts would be acceptable). Consequently, officers are recommending refusal of the application.

The application has been referred to Development Control Committee by Councillor Rippington.

**SITE DESCRIPTION**

The application relates to a newly built premises that forms part of a small un-allocated cluster of commercial uses spanning both sides of Birchwood Road. The premises has been built following grant of planning permission ref. 19/01874/F for an extension that was to be for retail shop use only (was A1 now Class E(a)). The proposed hot food takeaway (Sui Generis) use has not yet commenced.

Existing commercial uses include retail shops, café, and a hot food takeaway. The site and immediate surrounds are not subject to any local plan designations or heritage designations. The entrance to The Kingfisher School (primary school) is approximately 150 metres from the site via Guildford and Lichfield Roads.

The layout comprises storage, food preparation, and kitchen areas spanning the basement and ground floor, and a small customer area at the ground floor front with shopfront separate to the adjoining retail shop. The parking area, also granted permission under 19/01874/F, has not yet been implemented.

**RELEVANT PLANNING HISTORY**

19/01874/F – Side extension to provide additional shop floor area (Use Class A1), side/rear extension to provide additional living space at ground floor, removal of garage and creation of parking area – granted

17/01725/F – Proposed excavation of rear garden area and creation of restaurant to rear, fronting onto St Anne's Park Road. Proposed creation of vehicular access onto St Anne's Park Road – refused

16/02807/F – Proposed construction of two storey structure to accommodate a restaurant to rear of 2 Birchwood Road – withdrawn

**APPLICATION DETAILS**

The application is for full planning permission to change the use of the premises from the consented retail shop use to a hot food takeaway (sui generis). It is proposed that the hot food takeaway would be open to customers between midday and 10:30pm 7 days a week. It is also proposed to install 2no. telescopic bollards to the front of the premises.

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**PRE APPLICATION COMMUNITY INVOLVEMENT**

Given the scale and nature of the proposal this is not a validation requirement.

**RESPONSE TO PUBLICITY AND CONSULTATION**

The application was advertised by way of neighbour letter sent to 69 properties. As result 3 representations were received, comprising 2 objections, and 1 letter of support (from the applicant).

Objections:

- A takeaway will increase parking difficulties in this area
- Noise, odour, and litter issues
- Visual appearance
- Amenity and parking issues associated with delivery services
- Already a takeaway opposite in Birchwood Road, and at Riverside St Anne's

Support:

- There is a demand for the takeaway
- Job creation

In addition, comments from the Ward Councillor in support of the application have been received on grounds of improved service provision, and on grounds that primary age children will not be visiting this facility so the proximity of the nearby school should not be an issue and that parking and deliveries will not cause undue inconvenience.

**OTHER COMMENTS**

Transport Development Management has commented as follows:-

Further information required – Transport Development Management (TDM) has several concerns which must be addressed before the proposals can be considered acceptable on highway safety grounds -

Pre-determination requirements:

- Trip Generation

Information required as to the potential number of two-way trips that could be generated by the site, particularly during the evening peak on a Friday and at the weekends, when the takeaway is likely to be at its busiest. A multi-modal analysis of TRICS data (TRICS is an industry standard database of trip rates used to quantify the numbers of trips associated with new developments) for takeaways must therefore be undertaken to be able to determine the likely impact on the surrounding highway network.

- Parking Survey

Parking survey to establish whether the amount of unrestricted kerbside space in the locality can accommodate the level of parking demand identified in the above analysis.

Other requirements that could be fulfilled by way of conditions/Unilateral Undertaking:

- Delivery and servicing plan
- Minor improvements to adopted footway, and to forecourt areas (including bollards and cycle parking provision)

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- Financial contribution for amending the existing Traffic Regulation Order to improve safety (for example upgrading the existing waiting restrictions to include loading/unloading restrictions)

Pollution Control has commented as follows:-

Pre-determination requirements:

- Indicative details regarding the siting, design, and specification of kitchen extraction system
- Acoustic report detailing kitchen extraction system

Other requirements that could be fulfilled by way of conditions:

- Odour Management Plan
- Noise from plant and equipment to be maintained at 5dB below background noise levels
- Deliveries and refuse collection to take place between 0800 and 2000
- Opening times as per the application

Crime Reduction Unit has commented as follows:-

No objection.

## **RELEVANT POLICIES**

National Planning Policy Framework – July 2021

Bristol Local Plan comprising Core Strategy (Adopted June 2011), Site Allocation and Development Management Policies (Adopted July 2014) and (as appropriate) the Bristol Central Area Plan (Adopted March 2015) and (as appropriate) the Old Market Quarter Neighbourhood Development Plan 2015 and the Hengrove and Whitchurch Park Neighbourhood Development Plan 2019.

## **KEY ISSUES**

(A) IS THE PROPOSAL ACCEPTABLE IN LAND USE TERMS?

As stated above, the site is not within a designated centre. However, as the proposal is considered small scale and aimed at providing for local needs it fulfils the first part of local plan requirements for an out-of-centre hot food takeaway (Policies BCS7 and DM7).

For clarity, the Use Class Order has been amended since the adoption of the Local Plan, and as such the Local Plan polices refer to the old use class order. Specifically, this application relates to a takeaway, which was previously considered to be an A5 use, but is now considered a sui generis use, which means that planning permission is required for change of use from or to a takeaway, no matter what the development is changing from or to.

As such, the more relevant policy in this case is Policy DM10.

DM10 relates specifically to food and drink uses, and states the following:

*Development of 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. Proposals which would result in a harmful concentration of food and drink uses will not be permitted.*

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*In order to assess the impact of food and drink proposals on an area the following matters will be taken into account:*

- 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;*
- iv. Highway safety; and*
- v. The availability of refuse storage and disposal facilities; and*
- vi. The appearance of any associated extensions, flues and installations.*

*Takeaways in close proximity to schools and youth facilities will not be permitted where they would be likely to influence behaviour harmful to health or the promotion of healthy lifestyles.*

It is noted that Policy DM10, as well as addressing the issue of concentration, also covers impact on amenity and healthy eating. Amenity issues are dealt with in key issue B below, but in respect of healthy eating the following issues are considered to be material:

The supporting text of Policy DM10 identifies that young people gathering, in locations up to 400 metres from a hot food takeaway, is the rationale for prohibiting hot food takeaways 'where they would be likely to influence behaviour harmful to health or the promotion of health lifestyles'.

There is only one school or youth facility within a 400 metre radius of the site – The Kingfisher School. It is acknowledged that the school is a primary school. However, it is considered likely that a hot food takeaway in this location would influence food choices given the sites' prominent visual presence on a key route to school. It is considered that a hot food takeaway in this location is likely to have a direct or indirect impact on healthy food choices and healthy lifestyle. It is considered unlikely that the hot food takeaway would contribute to a healthy food environment. Furthermore, this small neighbourhood shopping area is likely to be a location in which young people gather.

Therefore, whilst officers are satisfied that there would be no overconcentration of hot food takeaways, it is considered that the proposal is contrary to the health objectives of Policy DM10.

**(B) WOULD THE PROPOSAL UNACCEPTABLY AFFECT THE AMENITY OF THE AREA?**

As stated above, Policy DM10 requires consideration of the impacts of food and drink uses on local amenities, including any impacts that result from the concentration of uses. In addition, Policy BCS21 of the Core Strategy, as well as requiring development to be of a high quality design, also requires new development to safeguard the amenities of existing development.

- Noise and cooking odours

The application is not supported by any details with regards to noise from extraction equipment and odour control. As such, the Council's Pollution Control Officers have not been able to determine whether the site in its current form can mitigate its amenity impact.

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Therefore, whilst officers are satisfied that there would be no overconcentration of hot food takeaways and there are no specific concerns with regards litter or late night activity, it is considered that there is insufficient information to conclude that the proposal accords with the other parts of criteria ii. (noise from extraction equipment and odour control) and criteria vi. (appearance of flues and installations) of Policy DM10.

**(C) WOULD THE PROPOSED DEVELOPMENT HARM THE CHARACTER OR APPEARANCE OF THIS AREA?**

The operational development has been dealt with by way of planning permission ref. 19/01874/F. With the exception of extract and flue siting and design it is considered that conditions would be sufficient to ensure that the unfinished elements of the development are completed to an acceptable standard.

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

Local plan policies are designed to promote schemes that reflect the list of transport user priorities outlined in the Joint Local Transport Plan, which includes pedestrian as the highest priority and private cars as the lowest (Policy BCS10). In addition, Policy DM23 requires development to provide safe and adequate access to new developments.

The LPA are mindful that hot food takeaways are often associated with private car use and delivery vehicles.

It is proposed to install 2no. telescopic bollards to the front of the premises and the intention is for deliveries of goods to the hot food takeaway to be via a parking area at the rear of the site.

However, Transport Development Management, do not have sufficient information before them as evidence to justify this site as suitable for a hot food takeaway.

In the absence of information required pre-determination (trip generation information and parking survey) it is considered that there is insufficient information to conclude that the use can be accommodated at this site without unacceptable highway safety impacts. The LPA is therefore unable to establish compliance with policies BCS10, DM23, and DM10 criteria iv. (highway safety).

**(E) WILL THE PROPOSED DEVELOPMENT MAKE AN ADEQUATE CONTRIBUTION TO THE SUSTAINABILITY AND CLIMATE CHANGE GOALS OF ADOPTED PLANNING POLICIES?**

The Climate Change and Sustainability Practice Note (July 2020) states that many of the policy requirements of BCS13-16 cannot readily be applied to some planning application types, including extensions (up to 10% additional gross internal floor space to a maximum of 250m<sup>2</sup>) to existing non-residential buildings, and changes of use (where there is no increase in floor space or subdivision of units).

Given that the previous proposal (19/01874/F) was exempt and given that there is a degree of uncertainty as to whether there would be a subdivision of units, it is considered that applying the requirements of BCS13-16 is not warranted in this instance.

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**COMMUNITY INFRASTRUCTURE LEVY (CIL)**

The following development types will be liable for CIL:

- i. Development comprising 100m<sup>2</sup> or more of new build floorspace
- ii. Development of less than 100m<sup>2</sup> of new build floorspace that results in the creation of one or more dwellings
- iii. The conversion of a building that is no longer in lawful use

The development is not CIL liable.

**CONCLUSION**

It is recommended that the application is refused.

**EQUALITIES IMPACT ASSESSMENT**

The public sector equalities duty is a material planning consideration as the duty is engaged through the public body decision making process.

"S149 of the Equality Act 2010 provides that a public authority must in the exercise of its functions have due regard to:-

- (a) eliminate discrimination, harassment, victimisation and any other conduct prohibited under the Act
- (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it
- (c) foster good relationships between persons who share a relevant characteristic and those who do not share it.

During the determination of this application due regard has been given to the impact of the scheme upon people who share the protected characteristics of age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation.

**RECOMMENDED    REFUSAL**

Health impacts

By reason of introducing a hot food takeaway on a key route to and from a school (approximately 150 metres from the takeaway premises), and in an area where young people are likely to congregate, the proposal is likely to influence the food choices of young people to the detriment of health and healthy lifestyles. This is contrary to Development Management Policy DM10 (2014).

Highway safety (insufficient information)

No information has been submitted to evidence the potential number of two-way vehicular trips that could be generated by the site, or to evidence that the locality would be able to provide sufficient safe and lawful on-street parking provision to meet the potential number of two-way trips. Therefore, there is a lack of information to justify this site as acceptable for hot food takeaway use in highway safety terms. This is contrary to Core Strategy Policy BCS10 (2011) and Development Management Policies DM10 and DM23 (2014).

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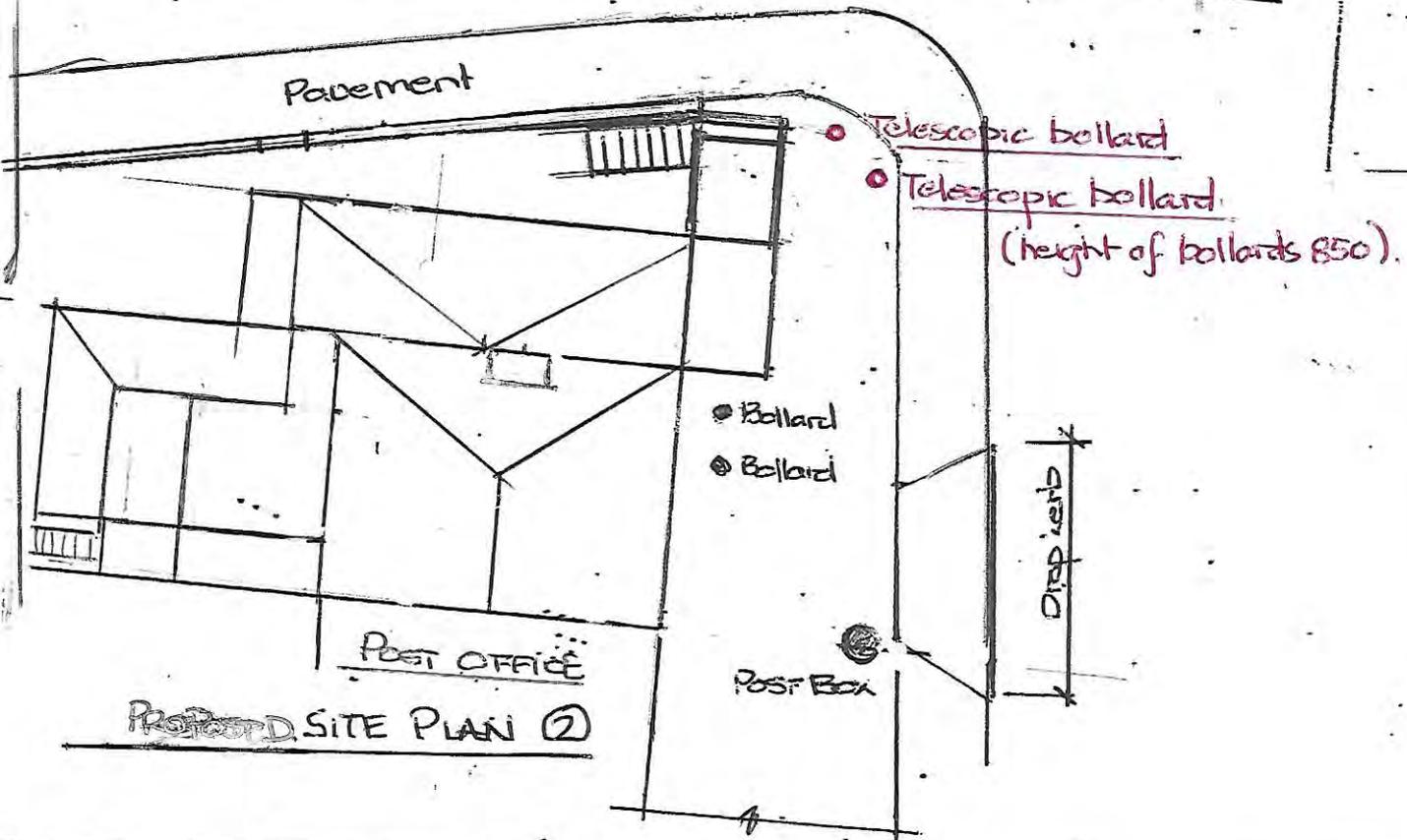
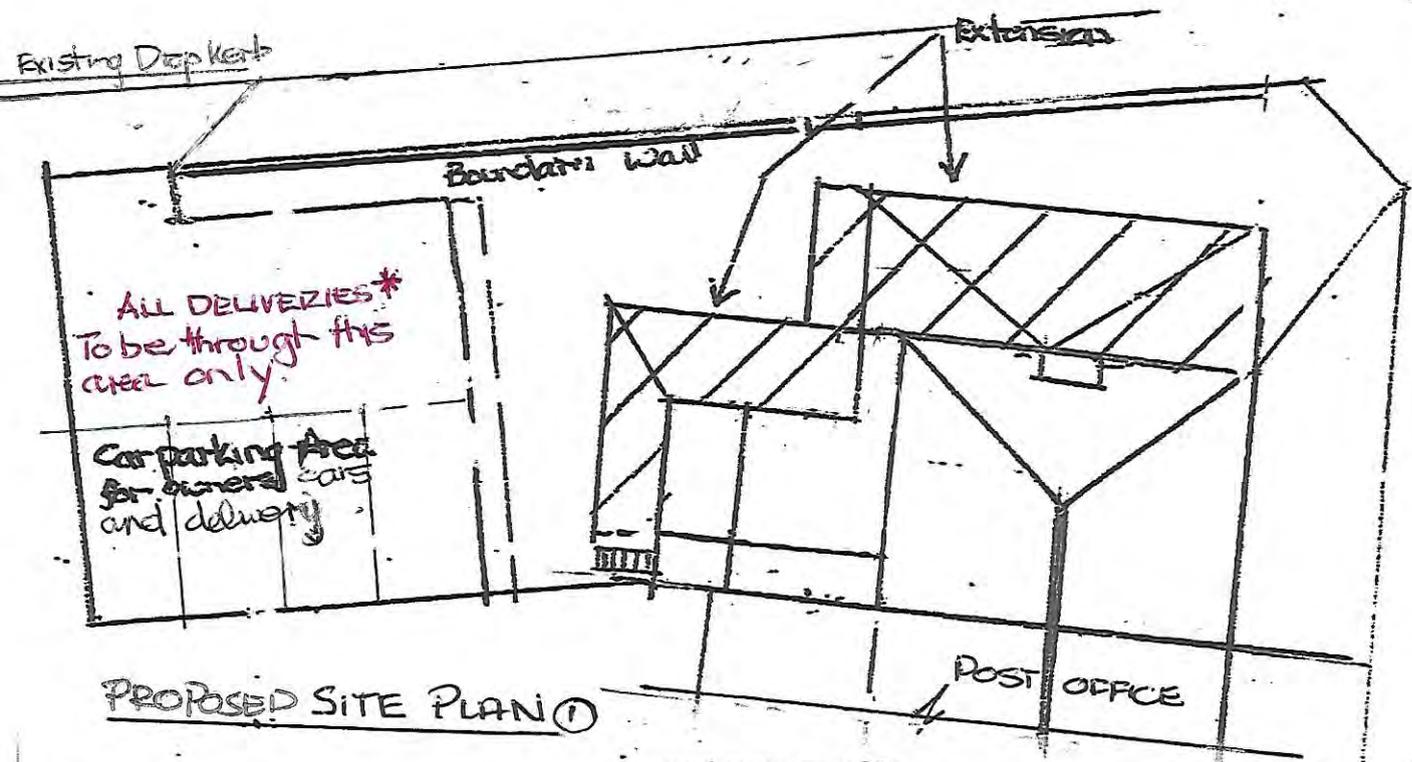
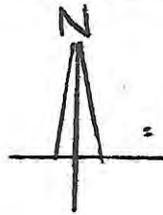
Amenity impacts (insufficient information)

No information as to the siting and design of a kitchen extraction system and flue (including an acoustic report) has been submitted to evidence that the noise, odour, and visual impacts of the development could be mitigated satisfactorily. Therefore, there is a lack of information to justify this site as acceptable for hot food takeaway use in residential and visual amenity terms. This is contrary to Core Strategy Policy BCS21 (2011) and Development Management Policy DM10 (2014).

## Supporting Documents

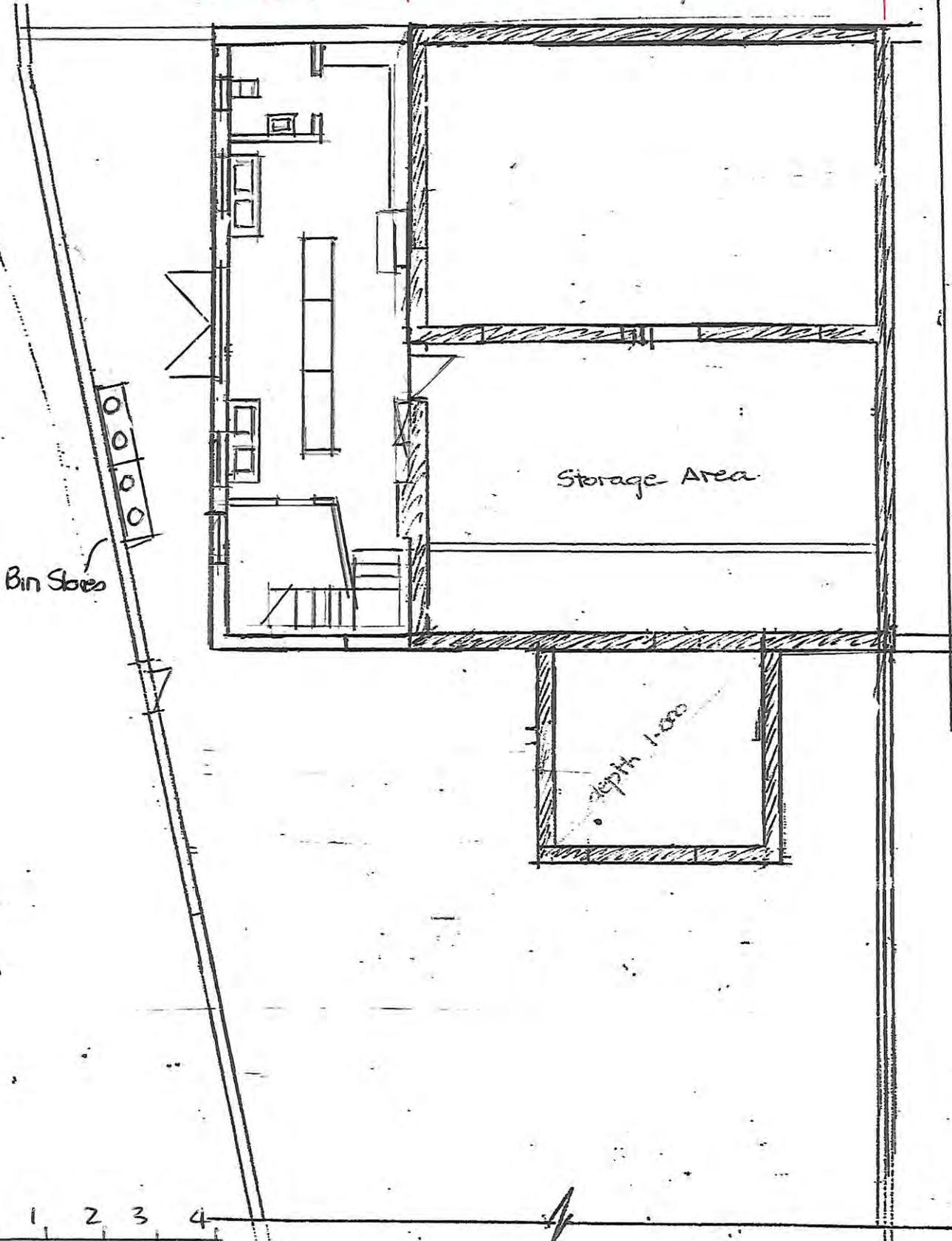
5. 2 Birchwood Road
  1. Proposed site plan
  2. Proposed basement
  3. Proposed ground floor
  4. Proposed front and rear elevations
  5. Proposed side elevation

\* Deliveries carried out by owners min once per week using owners van from local cash and carry



Issue Date	Date	Project	Title
		2 BIRCHWOOD ROAD BROOKHILL BRISTOL BS44 0PH	SITE PLAN ① & ② PROPOSED
	Tracing Checked	Scheme No.	Scale
	Drawing Checked		1:200
	Design Checked		Drawing No.
			DJR/MS/701
			Rev

TAKE AWAY AREA STORAGE AREA



Bin Stacks

Storage Area

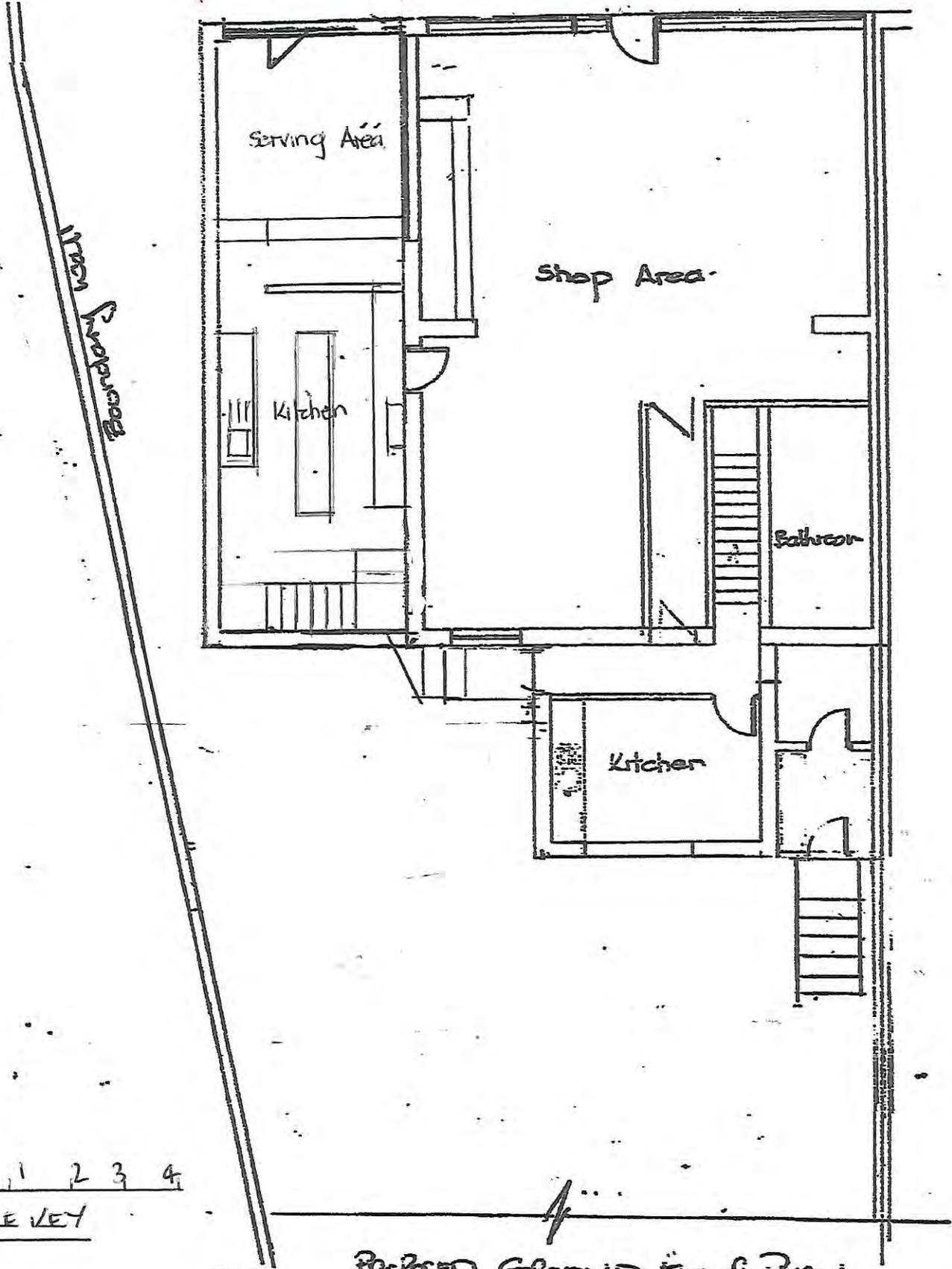
Depth 1-000

0 1 2 3 4  
SCALE KEY

PROPOSED BASEMENT FLOOR PLAN

Issue Date		Project		Title	
		2 BIRCHWOOD ROAD BROOMHILL BRISTOL BEA4QH		PROPOSED BASEMENT FLOOR PLAN	
	Date	Scheme No.		Scale	
	Tracing Checked			1:100	
	Drawing Checked			Drawing No. /509	
	Design Checked				Rev

TAKE AWAY AREA SHOP AREA



1 2 3 4  
SCALE KEY

PROPOSED GROUND FLOOR PLAN

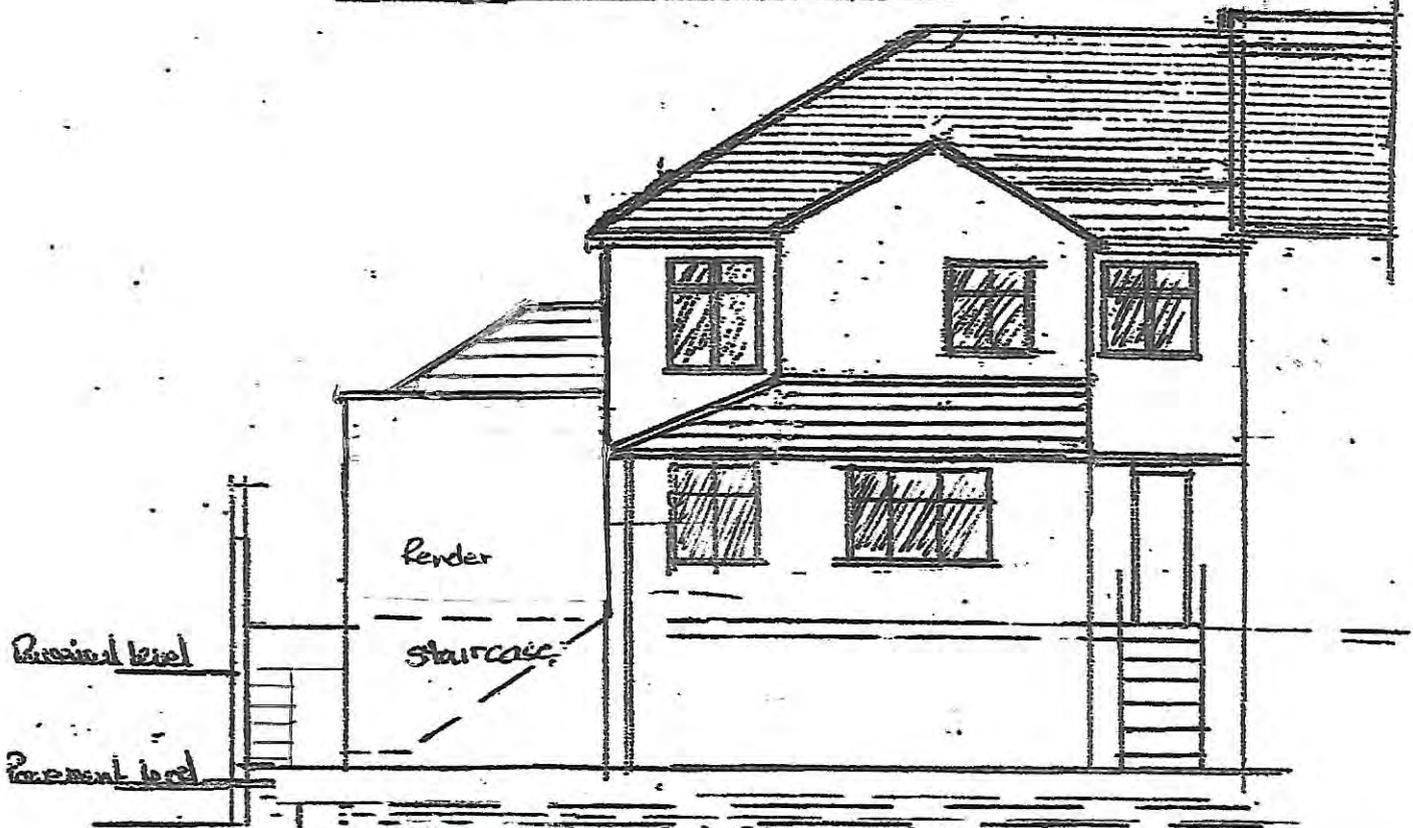
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1		2 BIRCHWOOD ROAD BROOMHILL BRISTOL BS14 2JH		PROPOSED GROUND FLOOR PLAN	
1		Scheme No.		Scale	Drawing No.
	Date			1:100	DJR/MB/508
	Tracing Checked				Rev
	Drawing Checked				
	Design Checked				

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SCALE KEY

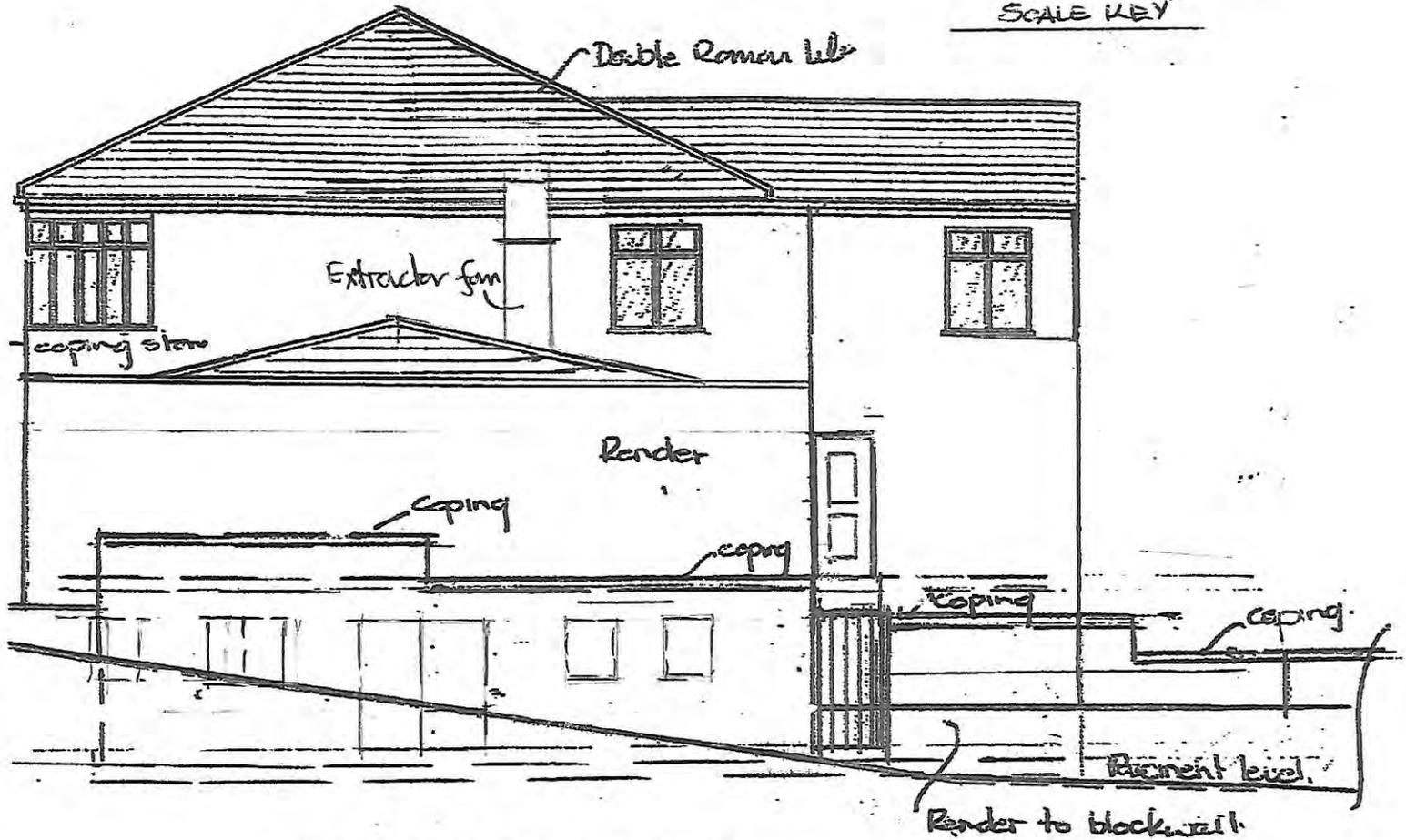
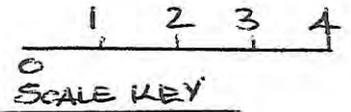


PROPOSED FRONT ELEVATION



PROPOSED REAR ELEVATION

	2 BIRCHWOOD ROAD BROOMHILL BRISTOL BS44 9JH	PROPOSED ELEVATIONS
Tel : 0117 9 Fax 0117 9	SCALE: 1:100	DJR/MB/703



PROPOSED SIDE ELEVATION

Issue Date		Project		Title	
		2 BIRCHWOOD ROAD BROOMHILL BRISTOL BS44 4RH		PROPOSED SIDE ELEVATION	
	Date	Scheme No.		Scale	Drawing No.
				1:100	DJR/MB/511
	Tracing Checked				Rev
	Drawing Checked				
	Design Checked				