

LOCAL MEMBER OBJECTION

COMMITTEE DATE: 09/12/2015

APPLICATION No. **15/02311/MNR** APPLICATION DATE: 22/09/2015

ED: **CANTON**

APP: TYPE: Full Planning Permission

APPLICANT: FINTANS

LOCATION: 597 COWBRIDGE ROAD EAST, CANTON, CARDIFF,
CF5 1BE

PROPOSAL: CONVERSION OF EXISTING ICE CREAM PARLOUR
(VACANT) TO FINTANS FISH & CHIP TAKEAWAY.
INSTALLATION OF NEW EXTERNAL EXTRACT FLUE,
AND FILTRATION SYSTEM, FOR NEW COOKING GAS
RANGE. BUILD OF NEW STAFF DISABLED TOILET,
COVERED WALKWAY AND BIN STORE. SITING OF 10' X 10'
TEMPORARY STORAGE CONTAINER IN REAR ENCLOSED
COURTYARD.

RECOMMENDATION 1 : That planning permission be **GRANTED** subject to the following conditions :

1. C01 Statutory Time Limit
2. The premises shall be used only be used as a restaurant, hot food takeaway, café or coffee shop and for no other purpose (including any other purpose in Class A3 of the Schedule to the Town and Country Planning (Use Classes) Order 1987 or in any provision equivalent to that Class in any statutory instrument amending, revoking or re-enacting that Order).
Reason: The use of the premises for other purposes within Class A3 could detract from the amenities of nearby occupiers.
3. Members of the public shall only be admitted to or allowed remain on the premises between the hours of 0900 and 2200 on any day.
Reason: To ensure for the amenities of occupiers of other premises in the vicinity are protected.
4. A scheme of sound insulation works to the floor/ceiling structure between the ground floor A3 use and the first floor residential accommodation shall be submitted to and agreed in writing by the Local Planning Authority, the agreed scheme shall be implemented prior to beneficial use.
Reason: To ensure for the amenities of occupiers of other premises in the vicinity are protected

5. The extraction of all fumes from the food preparation areas shall be mechanically extracted to a point to be agreed in writing by the Local Planning Authority, and the extraction system shall be provided with a de-odourising filter. All development shall be so mounted and installed so as not to give rise to any noise nuisance. Details of the extraction equipment including the chimney shall be submitted to and approved by, the Local Planning Authority in writing and equipment installed prior to the commencement of use for the cooking of food. The equipment shall thereafter be maintained in accordance with the manufacturers guidelines, such guidelines having previously being agreed in writing by the Local Planning Authority.
Reason: To ensure that the amenities of occupiers of other premises in the vicinity are protected.
6. Prior to beneficial use a suitable grease trap shall be provided to prevent entry into the public sewerage of matter likely to interfere with the free flow of the sewer contents, or which would prejudicially affect the treatment and disposal of such contents.
Reason: To protect the integrity of the public sewerage system, and sustain an essential and effective service to existing residents.

RECOMMENDATION 2 : The applicant is advised that a commercial contract is required for the collection and disposal of all commercial wastes under section 34 of the Environmental Protection Act 1990. Owners or developers of commercial developments/properties who require Cardiff County Council to collect and dispose of their waste are advised to contact the Commercial Services dept. (tel: 029 2071 7500).

RECOMMENDATION 3 : The granting of planning permission does not remove the need to comply with the statutory nuisance provisions of the Environmental Protection Act 1990. The rating level of the noise emitted from fixed plant and equipment on the site should not exceed the existing background noise level at the nearest noise sensitive premises, when measured and corrected in accordance with BS 4142: 2014 (or any British Standard amending or superseding that standard).

RECOMMENDATION 4 : To protect the amenities of occupiers of other premises in the vicinity attention is drawn to the provisions of Section 60 of the Control of Pollution Act 1974 in relation to the control of noise from demolition and construction activities. Further to this the applicant is advised that no noise audible outside the site boundary adjacent to the curtilage of residential property shall be created by construction activities in respect of the implementation of this consent outside the hours of 0800-1800 hours Mondays to Fridays and 0800 - 1300 hours on Saturdays or at any time on Sunday or public holidays. The applicant is also advised to seek approval for any proposed piling operations.

1. **DESCRIPTION OF PROPOSED DEVELOPMENT**

- 1.1 Planning permission is sought to convert a vacant ice cream parlour/café (A3

use class) to a fish and chip shop (A3 use).

1.2 The proposed opening hours of the business are from 08:00 to 22:00.

1.3 External alterations are proposed to the building, as follows:

- i) 3m wide, 3m long and 2.4m high storage container;
- ii) 2.5m high covered walkway to rear;
- iii) External staff toilet and bin store;
- iv) Installation of a fume extraction system.

2. **DESCRIPTION OF SITE**

2.1 The application premises is a two-storey end of terrace building, sited within a small parade of six commercial units, The first floor is occupied by a flat unaffected by this application, there is a small enclosed courtyard to the rear.. The site is located within the Cowbridge Road East district centre.

2.2 To north of the site is Victoria Park and to west/south the junction with Cowbridge Road and Landsdowne Road.

3. **SITE HISTORY**

3.1 13/00332/DCO – planning permission granted for change of use from shop to ice cream parlour/café (A3 use).

3.2 Related History: 15/02030/MNR – planning permission granted for change of use of the ground floor of no. 587 Cowbridge Road East to A3 restaurant / takeaway.

4. **POLICY FRAMEWORK**

4.1 The site lies within the Cowbridge Road East district centre as defined by the proposals map of the City of Cardiff Local Plan and the Deposit Unitary Development Plan (October 2003).

4.2 **National Planning Policy**

Planning Policy Wales (Edition 7, 2014)

Planning Policy Wales Technical Advice Note 11 (Noise)

4.3 **City of Cardiff Local Plan (1996)**

Policy 11 (Design and Aesthetic Quality)

Policy 20 (Provision for special needs groups)

Policy 49 (District & Local centres)

4.4 **Deposit Cardiff Unitary Development Plan (October 2003)**

Policy 2.20 (Good Design)

Policy 2.24 (Residential Amenity)

Policy 2.36 (District & Local centres)

Policy 2.57 (Access Circulation & Parking Requirements)

Policy 2.64 (Air, noise & light pollution)
Policy 2.74 (Provision for Waste Management facilities)

4.5 **Supplementary Planning Guidance**

Restaurants, Takeaways and other Food & Drink Uses (1996)
Access, Circulation & Parking Standards (2010)
Waste Collection and Storage Facilities (2007)

5. **INTERNAL CONSULTEE RESPONSES**

5.1 **The Operational Manager, Environment & Public Protection (Pollution Control)** requests conditions to: restrict opening hours to 09:00 – 22:00, to restrict delivery times to 08:00 – 18:00; to secure a scheme of sound insulation works between the proposed ground floor A3 use and first floor residential accommodation; to control delivery times; to control plant noise output and to request details of any future kitchen extraction system.

5.2 **The Operational Manager, Transportation** states that the premises is located at the junction of 2 busy roads and that there is an area of limited 1 hour parking located very close to the premises. The Restaurants, Takeaways and other Food and Drink Uses SPG advises that such applications are unlikely to be considered where they'd generate illegal parking including zig zag protection markings associated with pedestrian crossings. The objections received which refer to a nearby zebra crossing are noted. However, this is located some 70 metres from the premises and on balance, consider that an objection on highway grounds would be difficult to sustain and would not withstand an appeal.

5.3 **The Waste Management Officer** advises that a change of use from an ice cream parlour to a take away may lead to an increase in the volume of waste produced. The current plans for bin storage do not indicate the size of receptacles required. This should be addressed with the commercial contractor for waste collection. A commercial contract is required for the collection and disposal of all commercial waste. Due to the nature of the development, the applicant will be required to place a litter bin in front of the property, as the customers will increase of the risk of litter on the highway. This litter bin will be owned, maintained and emptied by the owner/applicant.

6. **EXTERNAL CONSULTEE RESPONSES**

6.1 South Wales Police – no comments received.

6.2 Welsh Water/Dwr Cymru – request a condition that a grease trap is fitted and maintained so as to prevent grease entering the public sewerage system.

7. **REPRESENTATIONS**

7.1 The proposal was advertised by letter, site notice and press notice; the consultation period expired on 5th November 2015. Letters and emails have been received from the occupiers of 317 and 333 Lansdowne Road, 5 and 6

Victoria Park Road West, 13 and 14 Windway Avenue, 32 Redcliffe Avenue. 16 Kensington Avenue, 436 Cowbridge Road East (Han-Sing Takeaway) and 25 Granville Avenue. Three other letters/e-mails have been received with no addresses given. The objections are summarised below:

- (i) Highway Safety;
- (ii) Parking problems;
- (iii) Noise and odours from extraction system;
- (iv) Saturation of food outlets with surrounding area;
- (v) Increased litter;
- (vi) Anti-social behaviour;
- (vii) Impact on viability of existing businesses.

7.2 A petition of objection has also been received, containing more than 50 signatures.

7.3 Councillor Richard Cook objects, to the proposal for the following summarised reasons:

- (i) Saturation of food outlets within the surrounding area. States that between Kingsland Road and Fairfield Avenue, there are 29 shop units, 10 are either takeaways, café and restaurants, of the six units in the adjoining row, 2 currently sell food. Proposal would contravene the SPG, Restaurants, Takeaways and Other Food and Drink Uses.
- (ii) Increase in litter to the local area. Ask that if recommended for approval that conditioned to install litter bins outside premises
- (iii) Asks that the application is taken to Planning Committee and requests a site visit

8. **ANALYSIS**

8.1 **Land Use Policy Considerations**

The site falls within the Cowbridge Road East District Centre as defined by the Local Plan. The application should therefore be assessed against Policy 49, the aim of which is to protect the predominant shopping role of the centre and maintain the vitality and viability of its shopping frontages. Also of relevance is Supplementary Planning Guidance 'Restaurants, Takeaways and Other Food and Drink Uses (June 1996), which states that food and drink uses are complimentary in principle to the main shopping role of district and local centres as long as they do not adversely affect the living environment of nearby residents, or, with other non-shopping uses, reach such a level that they undermine the shopping character of the area. The site currently accommodates a vacant A3 café/ice cream parlour, it would therefore be difficult to sustain an argument that the proposed change of use would have a detrimental impact upon the shopping role of the centre or harm the vitality of viability of the shopping frontages.

8.2 Residential Amenity Considerations

Paragraph 3.1 of the 'Restaurants, Takeaways and other Food and Drink Uses' supplementary planning guidance (June 2006) states that food and drink uses are unlikely to be acceptable within or adjacent to residential areas, if they would cause nuisance and loss of amenity to residents, or result in the loss of residential property. As the site is located within a designated commercial district centre, residents in such a mixed use area cannot expect the same standards of amenity as those living in a wholly residential area. It is noted that permission (13/332/DCO) was granted and implemented for class A3 use of this property as an ice cream parlour/café and permission (15/02030/MNR) has recently been granted for a class A3 restaurant/takeaway at no. 587 Cowbridge Road East. The Council's Pollution Control Service has no objection to this application. It is therefore considered reasonable to impose conditions (2) to prevent any future changes of use within the A3 use class to more harmful uses such as a public house or a bar, (3) to require the premises to close at 22:00; and (4) to secure a scheme of sound insulation works between the proposed use and the first floor residential accommodation. It is not considered reasonable to impose the condition requested by Pollution Control to restrict delivery hours given that the site lies adjacent to a busy and noisy traffic route within a designated district centre. It is also not considered reasonable to impose the plant noise output condition requested given that noise would be controlled under Environmental Health legislation, this is included as an additional recommendation rather than by condition.

8.3 Transportation Considerations:

It is noted that the site is adjacent to a busy main road junction, however it is not considered that the proposed use would have any adverse impact in terms of car parking as confirmed by the Transportation Officer. Short stay on-street car parking bays are available within the vicinity in front of nos. 591-595 Cowbridge Road East and on the opposite side in front of 444-456 Cowbridge Road East.

8.4 Waste Management Considerations:

Refuse storage containers can be satisfactorily accommodated within the rear yard as confirmed by Waste Management. The request from Waste Management for a litter bin to be placed outside the shop front is not considered reasonable as the pavement outside the premises is adopted highway land and not within the application site boundary, a condition relating to provision of a bin on land outside the application site would not be enforceable. Furthermore, there is an existing litter bin within 15m of the site on the pavement of Cowbridge Road East.

8.5 Access Considerations

The existing shop front door is level with the pavement, it is therefore considered that the proposed use would be inclusive in terms of access equality.

8.6 Design Considerations

The external alterations (store container, bin store, walkway) are considered to be acceptable as they would be sited in the rear yard, which is screened by a 2m high boundary wall.

8.7 Representations

The representations received from neighbouring occupiers are noted, specific issues are addresses as follows:

- (i+ii) The Operational Manager, Transportation raises no objections to the proposal;
- (iii) Noted.
- (iv) It is not considered that there is a saturation of hot food outlets within surrounding area. It is noted that there is no 'saturation' policy in regards to Cowbridge Road District Centre;
- (v) There is There is an existing litter bin within close proximity on the pavement of Cowbridge Road East, and it is not considered reasonable to require provision of a bin on highway land outside the application site (see paragraph 8.4);
- (vi) Noted;
- (vii) Not a material planning consideration.

8.8 The representations received from Cllr Richard Cook is noted, specific issues are addresses as follows:

- (i) It is not considered that there is a saturation of food & drink outlets with the Cowbridge Road District Centre. The adjoining parade (nos 587-597) currently contains two A3 uses (plus a tea shop) and a recent survey (June 2015) by the Council shows that there are approximately 223 commercial units within the Cowbridge Road District Shopping Centre, 53 of which have an A3 use (approx. 23.75% of units). It is also noted that this property has an extant A3 use consent as an ice cream parlour/café and it would be difficult to defend an appeal on this basis;
- (ii) There is an existing litter bin within close proximity on the pavement of Cowbridge Road East, and it is not considered reasonable to require provision of a bin on highway land outside the application site (see paragraph 8.4);
- (iii) Noted.

8.9 Conclusion

It is concluded that the application is acceptable in accordance with the planning policies listed above, and is recommended that planning permission be granted, subject to conditions.

597 Cowbridge Road East, Cardiff, CF5 1BE

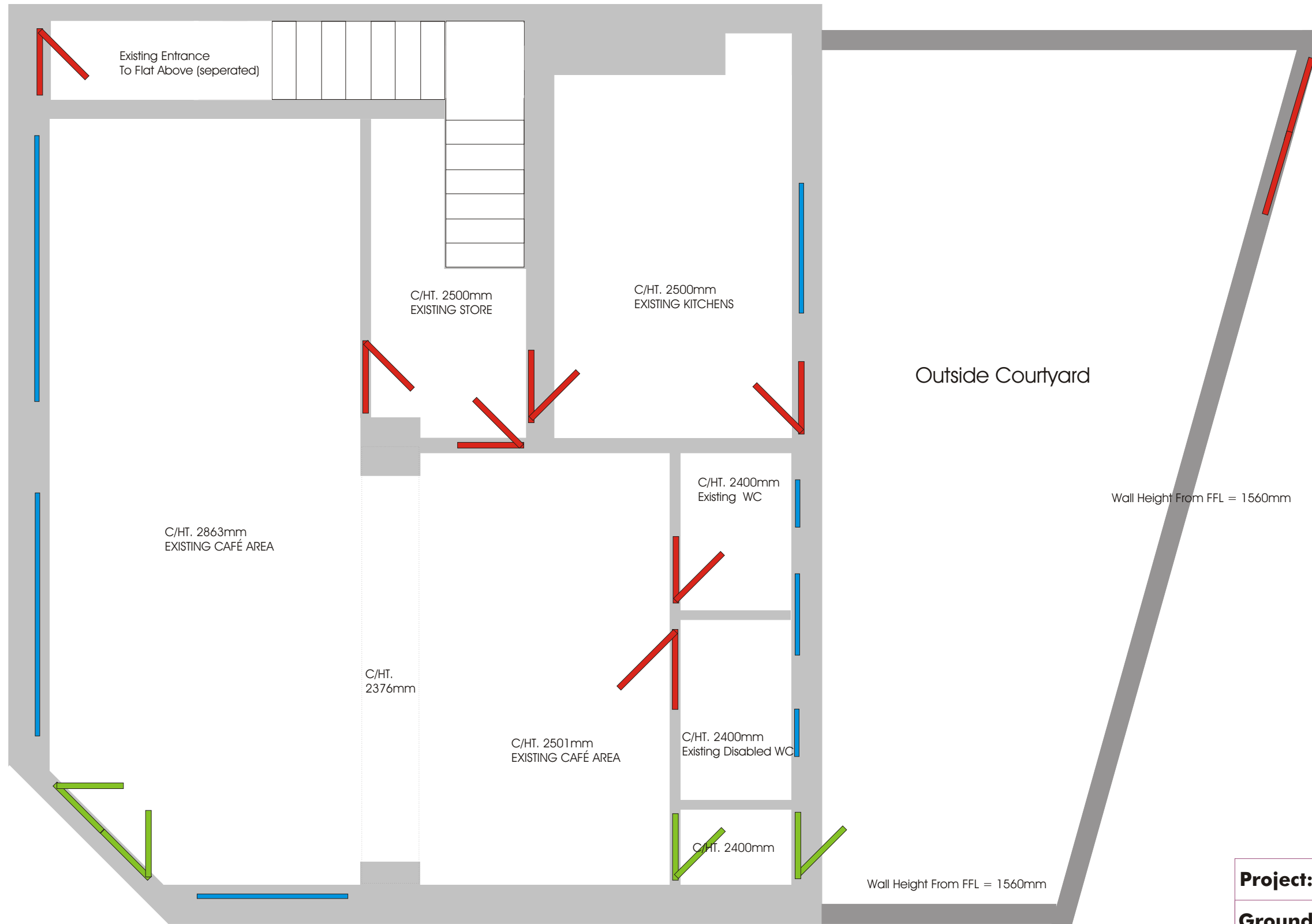


Site Plan shows area bounded by: 315351.27343086,176626.30762539 315492.69483086,176767.72902539 (at a scale of 1:1250) The representation of a road, track or path is no evidence of a right of way. The representation of features as lines is no evidence of a property boundary.

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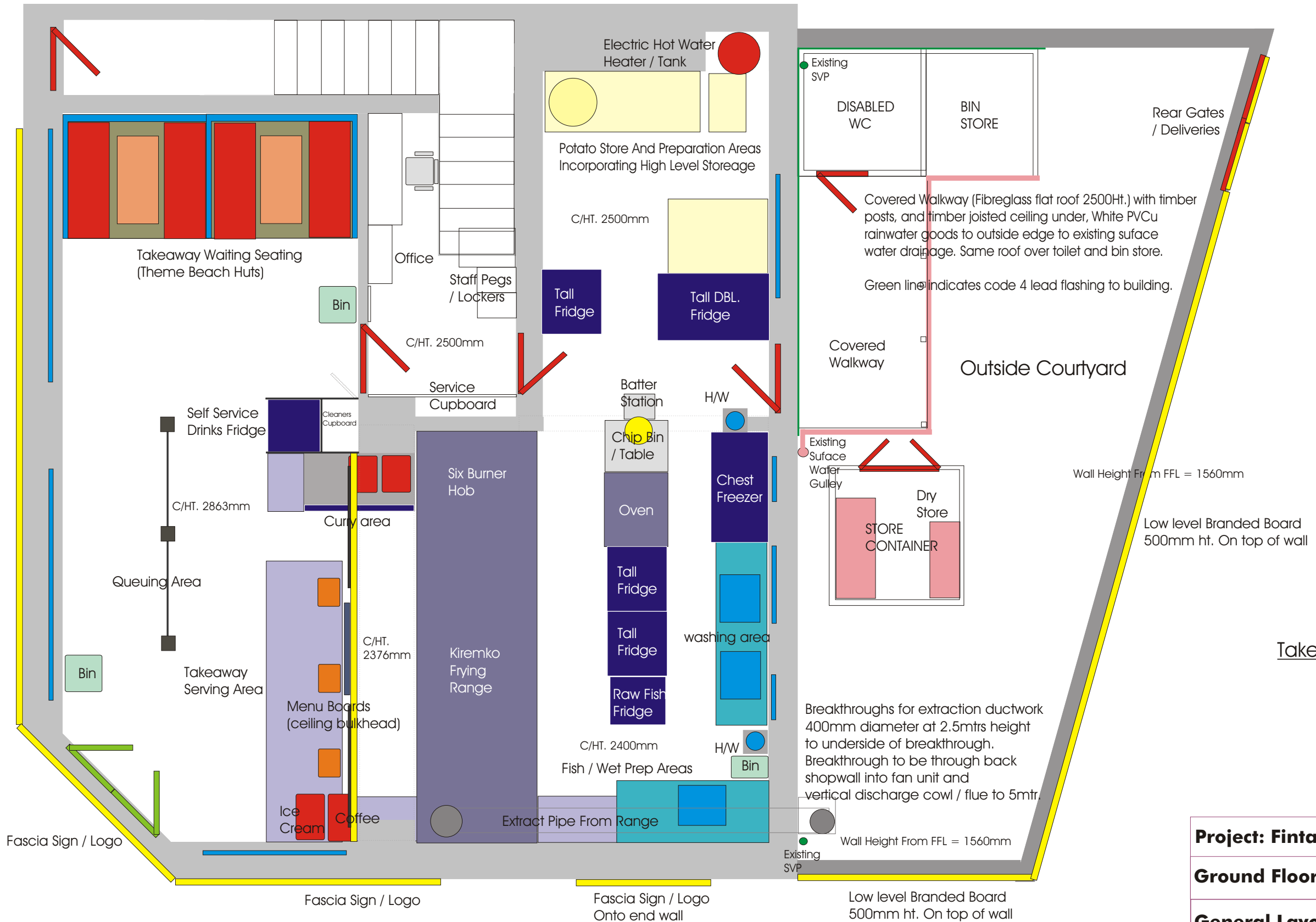
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Ground Floor Plan - Existing



Project: Fintans' Fish & Chip Co Victoria Park	
Ground Floor Plan	Scale: 1:50 (A3)
General Layout	Revision:02/09/15
Drawn: GAK	Drwg. No:FVPPL01F1

Ground Floor Plan - Proposed



Takeaway Waiting Seating : 8 (6)

1468 sq. Ft. Internal

Project: Fintans' Fish & Chip Co Victoria Park	
Ground Floor Plan	Scale: 1:50 (A3)
General Layout	Revision: 19/09/15
Drawn: GAK	Drwg. No: FVPPL01P1

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