

**LOCAL MEMBER / AM COMMENT
MP OBJECTION**

COMMITTEE DATE: 09/03/2016

APPLICATION No. **16/00042/MNR** APPLICATION DATE: 12/01/2016

ED: **GABALFA**

APP: TYPE: Full Planning Permission

APPLICANT: Urban Standard

LOCATION: 79-81 WHITCHURCH ROAD, GABALFA, CARDIFF, CF14 3JP

PROPOSAL: CHANGE OF USE FROM A1/A2 TO A3 RESTAURANT
KITCHEN/BAR, INCLUDING NEW SHOP FRONT
ARRANGEMENT, ALTERATION TO REAR GARAGE
EXTENSION AND VENTILATION DUCTING TO REAR
ELEVATIONS

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

1. C01 Statutory Time Limit
2. The development shall be carried out in accordance with the approved drawing numbered 15-014-03.
Reason: To ensure satisfactory completion of the development and for the avoidance of doubt in line with the aims of Planning Policy Wales to promote an efficient planning system.
3. Members of the public shall only be admitted to or allowed to remain on the premises between the hours of 10:00 and 23:30 on any day.
Reason: To ensure that the amenities of other premises in the vicinity are protected.
4. Members of the public shall only be permitted to use the external seating area between the hours of 10:00 and 21:00 on any day.
Reason: To ensure that the amenities of residential premises in the vicinity are protected.
5. 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 that the amenities of occupiers of other premises in the vicinity are protected.
6. The extraction system from the food preparation areas shall be installed

in accordance with the BW Fabrications details (ref SJB/SW/E15507) submitted with the application prior to the commencement of use for the cooking of food. The equipment shall thereafter be maintained in accordance with the manufacturers' guidelines.

Reason: To ensure that the amenities of occupiers of other premises in the vicinity are protected.

7. The noise emitted from fixed plant and equipment on the site shall achieve a rating noise level of background -10dB 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).

Reason: To ensure that the amenities of other premises in the vicinity are protected.

8. Prior to beneficial use of the A3 use hereby approved, refuse storage containers shall be provided within the rear yard to accommodate general waste, recycling and food waste. Refuse storage shall thereafter be retained.

Reason: To secure an orderly form of development and to protect the amenities of the area.

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 applicant is advised that a suitable grease trap should be provided to prevent entry into the public sewerage system 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.

1. **DESCRIPTION OF PROPOSED DEVELOPMENT**

- 1.1 The application seeks planning permission to change the use of the ground floor commercial unit from retail use (class A1) to a restaurant/bar (class A3) and to install a new shop front and carry out other external alterations.
- 1.2 Internally the premises would have a total floor area of 276 square metres, accommodating seating, bar, kitchen, servery, toilets and storage. Part of the roof of an existing rear garage would be removed in order to form an external seating area of 58 square metres, the existing walls and roller shutter would be retained as an enclosure. Part of the external area would be retained as an external amenity area for the first floor flats as existing.
- 1.3 A new shop front would be installed comprising of powder coated aluminium framed bi-fold doors across the entire frontage. Extraction ducting (11m long, 0.6m wide) is proposed to the rear, with an extraction point 1m above the

existing single storey rear structure. Technical specifications of the extraction system have been included with the application.

2. **DESCRIPTION OF SITE**

- 2.1 The premises occupy the ground floor of two storey terraced buildings within a terrace of twenty seven buildings along the south west side of Whitchurch Road, adjoined by a shop at no. 77 and a restaurant at no. 83. It is located within the Whitchurch Road district centre. The first floor is in separate use as three flats. There is a lane at the rear of the site, to the opposite side of the lane are rear residential gardens of Heathfield Place.

3. **SITE HISTORY**

- 3.1 12/01194/DCI – planning permission granted and implemented for conversion of first floor into three residential units and new shopfront.
- 3.2 15/00631/MNR – planning permission granted for proposed demolition of existing rear annex and conversion of existing rear ground floor to 2 self-contained units, not implemented to date.

4. **POLICY FRAMEWORK**

- 4.1 The site lies within the Whitchurch Road District Centre as defined by the Cardiff Local Development Plan (2006-2026).

4.2 Relevant National Planning Guidance:

Planning Policy Wales (Edition 8, 2016)
Planning Policy Wales TAN 12: Design

4.3 Relevant Cardiff Local Development Plan (2006-2026) policies:

Policy KP5 (Good Quality and Sustainable Design)
Policy EN13 (Air, Noise, Light Pollution and Land Contamination)
Policy R4 (District Centres)
Policy R8 (Food and Drink Uses)
Policy T5 (Managing Transport Impacts)
Policy W2 (Provision for Waste Management Facilities in Development)

4.5 Relevant Supplementary Planning Guidance:

The SPGs were approved as supplementary guidance to the City of Cardiff Local Plan (1996). Although the City of Cardiff Local Plan (1996) has recently been superseded by the Cardiff Local Development Plan (2016), the advice contained within the SPGs is pertinent to the assessment of the proposal and remains consistent with the aims of both LDP Policies and guidance in Planning Policy Wales and are afforded significant weight.

Restaurants, Takeaways and other Food & Drink Uses (1996)

Access, Circulation & Parking Requirements (2010)
Waste Collection and Storage Facilities (2007)

5. **INTERNAL CONSULTEE RESPONSES**

- 5.1 Pollution Control – request conditions to: secure a scheme of sound insulation works between the proposed commercial use and the residential accommodation; to restrict opening hours to 09:00 – 23:00, to control delivery times; to control plant noise output and request details of kitchen extraction. Pollution Control have subsequently examined the submitted technical specifications of the extraction and confirmed would be no objection subject to installing the filtration system as detailed in the application and a minimum dwell time of 0.2 seconds is achieved. It is noted that the plans do not show silencer specification for the system or any other form of noise attenuation however this will be covered by the plant noise condition.
- 5.2 Waste Management – The bin storage area shown site plans is acceptable. Please retain this as refuse storage for future use. Commercial and domestic waste must not be mixed, waste must not be stored on the highway. Please remind the agent/applicant that a commercial contract is required for the collection and disposal of all commercial waste.
- 5.3 Transportation – In terms of the current SPG (Access, Circulation & Parking) the parking requirements associated with both A1 and A3 uses relate to ‘maximum’ standards i.e. zero parking provision would comply. The relevant standards for A1 and A3 uses are a maximum of 1 space per 40 square metres and a maximum of 1 space per 10 square metres respectively i.e. while an A3 use would be allowed to provide more spaces than an A1 use - unless a compelling case could be made on highway safety grounds e.g. that it would encourage parking on the zig zag markings associated with a zebra crossing, then an objection of grounds of inadequate parking would have little chance of being upheld at appeal. With regards to the objections raised I would comment that the generally available on-street parking on Whitchurch Road is subject to a maximum 1 hour stay with no return within 1 hour between the hours of 8.00am and 6.30pm, while the side roads are widely covered by Resident Permit Holders Only restrictions. Any breach of these restrictions can be reported to C2C (029 20872087).

6. **EXTERNAL CONSULTEE RESPONSES**

- 6.1 None.

7. **REPRESENTATIONS**

- 7.1 The application was publicised by letter, site and press notice. Objections have been received from the following addresses:
- business occupiers of nos. 76A, 83 & 214 Whitchurch Road
 - residential occupiers of 121 & 296 Whitchurch Road
 - no. 9 Heathfield Place

- an address in Newport

Full details are viewable online, their comments are summarised as follows:

- a) There are many small established food outlets along Whitchurch Road which may not be able to compete with such a large establishment. The proposed development is adjacent to an existing successful business in the same sector;*
- b) The proposed double A3 unit would dwarf the adjoining single A3 unit, The large premises would not fit in with the character of Whitchurch Road and may conflict with policy for District Centres as it would result in a continuous stretch of non-shopping uses;*
- c) Parking in Whitchurch Road and adjacent side streets is already severely restricted and traffic is extremely busy. The proposal will increase parking demand and the amount of traffic generated, affecting local businesses and residential parking;*
- d) The bar is the focal point of the premises, this will result in noise and antisocial behaviour;*
- e) No written notification of the application was received by neighbours adjoining and opposite the site. The only notification was a notice tied to a lamp post;*
- f) The external seating area at the rear would cause noise to residents in Heathfield Place;*
- g) The bi-fold doors to the front potentially allow customers to spill out onto the pavement to smoke and drink. This will cause noise problems to the first floor flats and disturb users of the pavement, especially during summer months.*

7.2 The applicant's agent has responded to the objectors, summarised as follows:

- *A number of the objections have been put forward by friends and employees of the adjacent A3 business in order to block a likely competitor.*
- *With regard to percentage figures quoted by the adjacent owner "Currently 25.4% of the businesses on Whitchurch Road are A3 Licenced". We are unsure where these figures have come from. We have completed a visual check of the Whitchurch Road District Centre and of the approximate 119 business units within that area, 7 are fast food takeaways, 4 are cafes and 7 are restaurants (only 2 vacant properties, one being our application). This means that 15% of the business units are food related (A3) and it is likely that only the restaurants are licensed and this would equate to 6%, not 25.4%. If that percentage of businesses were A3 that would mean 1 in 4 on the street would be A3, which is clearly not the case.*

7.3 The business occupier of no. 83 Whitchurch Road has counter responded to the agent, summarised as follows:

- *Our employees are local residents and are entitled to their own opinions. I would have thought a local resident who works and lives in the area has a more valid objection than a business associate/employee of the prospective tenants.*

- *It's impossible to assume there will be no anti-social behaviour. These concerns have to be addressed for the benefit of local residents and businesses.*
- *The argument of business competition is not a ground for objection and not once have we stated this. In our previous letter we mentioned the possibility of a new restaurant moving in back in 2015. We welcomed this with open arms and happen to regularly work alongside these applicants in events within Cardiff.*

7.4 Comments of support have been received from the following addresses:

- flat 8, 25 Daviot Street
- no. 8 Newfoundland Road
- no. 42 Africa Gardens
- an unspecified address in Whitchurch Road
- no. 12 Heol Don
- no. 72 Seymour Street
- no. 95 Keppoch Street
- no. 4 Glan y Llyn Apartments, Lake Road East
- no. 5 Peppermint Drive
- business occupier of a premises in Senghennydd Road
- an address in Bristol

Full details are viewable online, their comments are summarised as follows:

- a) The proposal would be a welcome addition to the growing number of independently-minded outlets on this road, and would offer something different and complementary. It is important to the ongoing appeal of the wider Roath/Cathays/Gabalfa area that further quality food and drink establishments are able to open in this area;*
- b) The proposal would bring several jobs and additional trade to an area that could do with a boost. It's a positive signal to businesses and residents that the area is seen as a good investment and will hopefully mean other empty shops start to be occupied;*
- c) There are similar style restaurants within Whitchurch Road which also serve alcohol and similar sized places (Mint and Mustard);*
- d) The building has been an eye sore to the area since the sports store vacated it*
- e) Understand local residents being wary of the bar aspect of the venue but their alcohol license will not run past 11pm like other businesses on the street, so that can't be a problem;*
- f) Noise, traffic or rubbish will not be worse as a result of this development than it already is, provided the kitchen extract ventilation system is appropriately filtered to prevent spread of smells over residential gardens;*
- g) Customers would walk to a venue such as this;*
- h) This small independent company has two very successful places in Bristol, the Bristol venues are chilled bars which serve food therefore do not really attract a rowdy crowd.*

7.5 Cllr Ed Bridges has commented as follows:

- *After notifying local residents through a street letter and social media, I have received upwards of twenty comments from the community. The vast majority have been supportive, indicating that they believe a high-end restaurant/bar in the area will be a welcome addition to the area, and will certainly be an improvement on the empty units at the site currently. As such, I see no reason to oppose the application outright.*
- *Notwithstanding the above, concerns have been raised about the impact of parking on the site which do require a response from the applicant and the council's Transport Team. The proposed development is a large restaurant/bar, and is likely to generate significantly more traffic during the premises' opening hours than was associated with the previous use of a shop unit. There is very little on-street parking in the nearby area and the new premises will likely add to this parking congestion. I am not sure the applicant has adequately dealt with this problem in their application, and I would like to see further steps taken to ameliorate this impact.*
- *Some neighbours have requested that the ventilation system for the kitchen should be designed in such a way that food preparation smells are not churned out towards neighbouring residential properties. I am no expert on the installation of such equipment, but this is a reasonable request and one which I would hope can be accommodated and be made mandatory through any conditions.*

7.6 Craig Williams MP objects to the application, as follows:

- The application will lead to additional increase in traffic and parking caused by the new restaurant. Previously the premises was a sports shop whereas as a restaurant, customers will park for longer periods of time, reducing the turnover in spaces.
- Where will deliveries be made? Deliveries made via the front will cause congestion on Whitchurch Road if, as is likely, the vehicle cannot park properly. If any deliveries are made via the rear access then it could be dangerous for any pedestrians walking in the lane.
- The frontage of the building will dominate this area of Whitchurch Road to the detriment of smaller units.
- The level of A3 usage on Whitchurch Road is increasing and at what point does saturation occur?
- What impact will the noise from the garden seating area have on existing residents living nearby in Heathfield Place or in units above the shops?
- There will be noise and anti-social behaviour created by customers arriving and leaving the premises late at night. Additionally there is the potential from late night noise as, for example, empty bottles are dropped into the bins when the bar closes.
- There is a potential for odours to affect neighbouring flats and properties, especially as the flue exits in the garden area.
- In relation to these concerns, the proposed opening hours of 10am – midnight every day will only exacerbate the problem.

7.7 Julie Morgan AM has commented as follows:

I have been approached by a constituent who owns a restaurant next door to the proposed development. As you may appreciate the traffic conditions in that area of Whitchurch Road are at saturation levels. There is virtually no vacant parking spaces throughout the day and night and the traffic that this proposed development is likely to generate will only mean that adjoining street, (which are already saturated) will bear the brunt of additional parking. Concern has also been expressed by local residents as to the arrangement for fume extraction, which they fear will be directed towards their properties which are situated to the rear of the premises. For these reasons I am unable to support this application.

7.8 A prospective AM for Cardiff North objects to the application, summarised as follows:

- *Additional increase in traffic and parking potentially caused by the new business.*
- *Concern has been expressed with regard to the logistics of deliveries.*
- *The frontage of the building will dominate this area of Whitchurch Road to the detriment of smaller units.*
- *Concern has been expressed regarding the number of A3 premises in the vicinity.*
- *Concern has been expressed regarding the hours of operation.*
- *I would also request the committee chairman to place this application on the committee agenda rather than determining it using delegated powers.*

8. **ANALYSIS**

8.1 **Land Use Policy Considerations**

The application site falls within the Whitchurch Road District Centre as defined by the Adopted Local Development Plan (2006-2026) Proposals Map. Policy R4: District Centres aims to promote and protect the shopping role of District Centres while supporting a mix of appropriate uses. Policy R8: Food and Drink Uses also applies. This policy states that Food and Drink Uses are most appropriately located within (v) District Centres. They are considered complimentary, in principle to the main shopping role of District Centres, so 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.

8.2 The unit is currently vacant, so could not be said to be contributing to the vitality and viability of the frontage, or the centre, at present. The loss of existing A1 uses of this size (double frontage/187 square metres net retail floorspace) would usually raise policy concerns. However, in this instance, the unit has been vacant for over 3 years despite marketing efforts. Furthermore, the sport equipment occupier relocated from this unit to larger premises within the District Centre (units 188-194). It is not considered that the loss of the A1 unit would have a significant detrimental impact upon the shopping role of the

centre. Within the frontage the non-shopping uses are predominantly open during core shopping hours and there will be no more than two A3 uses in a row. Furthermore, 45% of the uses within the frontage 45-99 remains in A1 use. This also incorporates two double units, and a treble unit. It is not considered that a further A3 use would lead to an over concentration of such uses, to the extent that the shopping character of the area would be undetermined. The unit would also be open during core shopping hours. Taking the above factors into consideration the application does not raise any land use policy concerns.

8.3 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 centre, residents in such a mixed use area cannot expect the same standards of amenity as those living in a wholly residential area. The Council's Pollution Control Service has no objection to the application.

- 8.4 It is noted that the external seating area would be sited approximately 4m from the rear gardens of nos. 5, 7 & 9 Heathfield Place and approximately 17m from the rear windows of these residential properties. Having regard to the fact there is no planning restriction on the hours of use of the external seating area of the adjoining class A3 restaurant premises at no. 83 it is considered reasonable to allow the external area to be used until 21:00.
- 8.5 It is noted that a scheme of sound insulation between the ground floor and first floor residential accommodation was previously required by condition 3 of permission 12/01194/DCI for conversion of the upper floors to flats. The agent has stated that an acoustic ceiling was installed and approved by Building Control, however the applicant intends to install improved sound insulation and will submit details to be agreed by planning condition as requested by Pollution Control.
- 8.6 It is considered reasonable to impose conditions (3) to require the premises to close at 23:30; (4) to restrict the hours of use of the external seating area to 10:00 – 21:00; (5) to secure a scheme of sound insulation works between the proposed A3 use and adjoining first floor residential accommodation; (6) to ensure the kitchen extraction system is installed in accordance with the submitted technical specifications and (7) to control the noise output of the external extraction equipment.
- 8.7 It is not considered reasonable to impose a condition to restrict delivery hours given that the site lies adjacent to a busy and noisy traffic route within a designated district centre, and delivery vehicles could ordinarily park within the on street parking spaces to load/unload at any time of the day or night without being subject to planning control.

8.8 Design Considerations

It is not considered that the new shop front would have any would adverse impact upon the character of the street scene, bi-fold doors/windows have been approved and installed at other restaurant premises within District Centres, a recent example is visible nearby at 153 Crwys Road. It is not considered that the extraction ducting would have any adverse visual impact as it would be positioned at a relatively low level and sited discreetly at the rear, not visible from the street. Refuse storage containers can be satisfactorily accommodated externally at the rear, condition 8 is considered necessary to ensure storage is provided prior to beneficial use.

8.9 Transportation Considerations

It is not considered that the proposed use would have any adverse impact in terms of car parking and highway safety. The Access, Circulation & Parking Standards SPG advises the minimum standards for class A1 and A3 uses are a maximum of 1 space per 40 square metres and a maximum of 1 space per 10 square metres respectively. The Transportation officer has advised that an objection of grounds of inadequate parking would have little chance of being upheld at appeal as there are no highway restrictions (e.g. pedestrian crossings) within the vicinity of Whitchurch Road and on-street parking is available subject to a maximum 1 hour stay with no return within 1 hour between the hours of 8.00am and 6.30pm. Although the side roads are widely covered by Resident Permit Holders Only restrictions, any breach of these restrictions can be reported to C2C.

8.10 Access Considerations

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

8.11 Representations

The representations received from neighbouring businesses & residents, Cllr Ed Bridges, Craig Williams MP, Julie Morgan AM and prospective AM are noted, however in light of the above analysis, it is considered that any refusal of consent on these grounds would be unreasonable and unsustainable. Specific issues are addressed as follows:

- a) Competition with existing establishments: competition is not a material planning consideration.
- b) Size of frontage: the proposal is considered acceptable in land use terms, compliant with Policy R4 of the Local Development Plan as detailed in the above analysis, concluding it would be difficult to sustain an argument that the proposed change of use would have a detrimental impact upon the shopping role of the centre. There are other existing double unit A3 restaurant premises within the Whitchurch Road District Centre at nos.

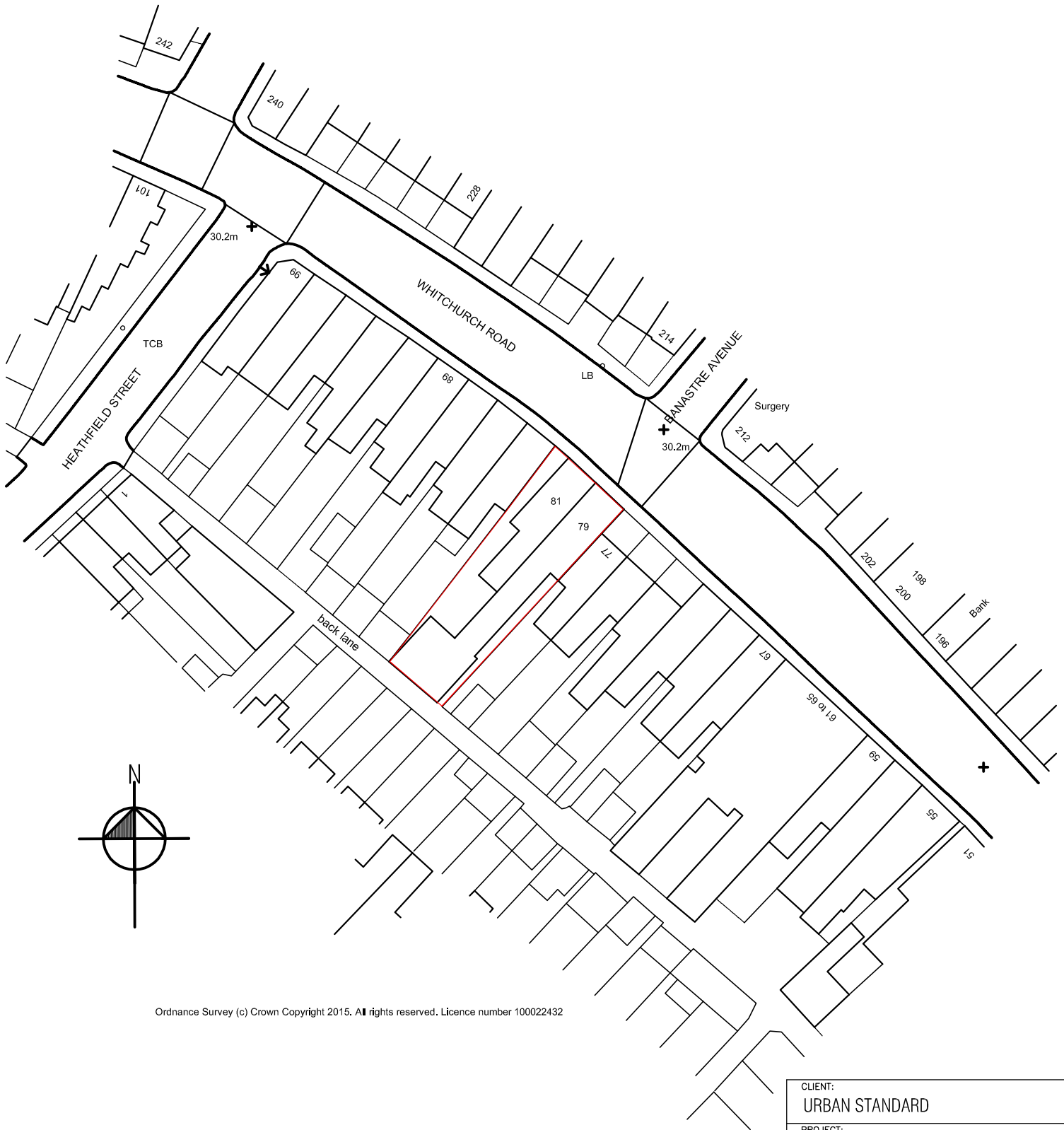
132-134 (Mint & Mustard) and nos. 90-92 (Chutney Roti).

- c) Parking & traffic impact: The proposed use is considered acceptable with regard to traffic and car parking as confirmed by the Transportation Officer within the above analysis.
- d) Noise & antisocial behaviour: It is not considered that the proposed use would have any unreasonable amenity impact as detailed within the above analysis, Policy R4 of the Local Development Plan supports food and drink uses within designated district centres. Condition 3 would ensure the premises are only open to the public between the hours of 10:00 – 23:30. The extraction system has Pollution Control officer
- e) Notification procedure: Addresses adjoining both sides, opposite and to the rear of the site were notified by letter on 15th January 2016, a site notice was displayed outside the front of the application site on 28th January and a press notice published in The Western Mail on 28th January. The Council cannot take responsibility for letters allegedly lost by Royal Mail. Paragraph 12 (5) of the Town and Country Planning (Development Management Procedure) (Wales) Order 2012 states that: *the application must be publicised by giving requisite notice— (a) by site display in at least one place on or near the land to which the application relates for not less than 21 days; or (b) by serving the notice on any adjoining owner or occupier.* The Council has therefore complied with the legal obligation to publicise the application by either displaying a site notice or sending the letters. The consultation period expired on 19th February.
- f) Noise impact of external seating area: considered valid, condition 4 would ensure the rear yard is only used by members of the public between the hours of 10:00 – 21:00 as detailed within the above analysis.
- g) Odours from extraction system: The proposed extraction system is considered acceptable as confirmed by the Pollution Control officer. Condition 6 would ensure the extraction system is installed and retained in accordance with the submitted specifications.
- h) Impacts of bi-fold doors: the provision of bi-fold doors are considered acceptable in design and amenity terms as detailed in the above analysis. Placing of any chairs and tables on the pavement is not a planning matter, and would be subject to a separate license from Highways.

The representations in support are noted.

8.12 **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.



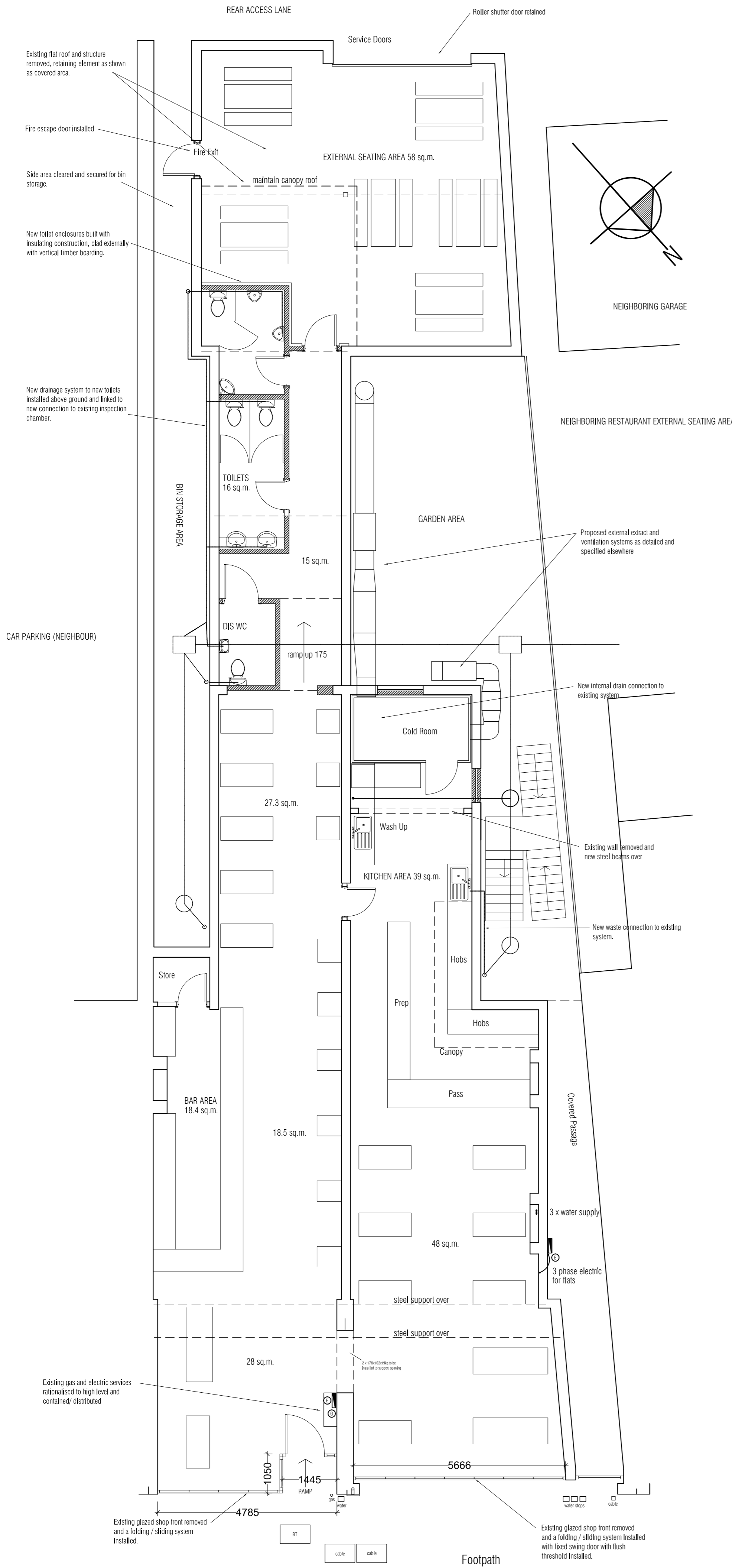
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CLIENT: URBAN STANDARD		
PROJECT: 79-81 WHITCHURCH ROAD CARDIFF CF14 3JP		
SHEET TITLE: LOCATION PLAN		
SCALE: 1:750	DATE: 10.2015	DRAWN: RAP
DRAWING No 15-014-01		REV

REF DATE REVISION

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ARCHITECTURAL SERVICES

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PROPOSED FLOOR PLAN

