

COMMITTEE DATE: 13/07/2016

APPLICATION No. **16/01046/MNR** APPLICATION DATE: 16/05/2016

ED: **ELY**

APP: TYPE: Full Planning Permission

APPLICANT: Mrs Delwara Choudhury

LOCATION: 63 GRAND AVENUE, ELY, CARDIFF, CF5 4LE

PROPOSAL: CHANGE OF USE FROM A1 (SHOP) TO A3 (CAFE)

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**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 following approved plans:

1, 2

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. The building hereby permitted shall be used for a restaurant, 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: Permission is granted only because of the characteristics peculiar to this proposal. Other uses within Class A3 could prejudice the amenities of the area.

4. Members of the public shall only be admitted to or allowed to remain on the premises between the hours of 07:00 and 18:00 Monday – Saturday, 07:00 – 16:30 Sundays.  
Reason: To ensure the amenity of occupiers of other premises in the vicinity are protected.

5. All arrival, departure, loading or unloading of delivery vehicles shall be between the hours of 08:00 and 16:00 Monday to Saturday and at no time on a Sunday.  
Reason: To ensure that the amenities of occupiers of other premises in the vicinity are protected.

6. The rating level of the noise emitted from fixed plant and equipment on the site shall not exceed the existing background noise level at any time

by more than -10dB(A) at any residential property 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 occupiers of other premises in the vicinity are protected.

7. Prior to the commencement of any cooking from the premises 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-odorising filter. All equipment shall be so mounted and installed so as not to give rise to any noise nuisance. Details of the above equipment including the chimney shall be submitted to and approved by the Local Planning Authority in writing and the approved details shall be installed prior to the commencement of use for the cooking of food and shall thereafter be retained.

Reason: To ensure the amenity of adjoining neighbours.

8. Prior to the implementation of the use hereby approved a scheme of sound insulation works to the floor/ceiling structure between the ground floor unit and the first floor flat shall be submitted to and agreed by the Local Planning Authority in writing and implemented prior to occupation.
- Reason: To ensure that the amenities of occupiers of other premises in the vicinity are protected.

9. Prior to the implementation of the use hereby approved details of the bin storage provision shall be submitted to and agreed in writing with the Local Planning Authority. The agreed details shall be implemented prior to the beneficial use and shall thereafter be retained.

Reason: To ensure a satisfactory form of development.

10. Prior to the implementation of the use hereby approved details and siting of CCTV, both internally and externally, shall be submitted and approved in writing with the Local Planning Authority. The submitted details should ensure that the CCTV can identify person(s) entering or leaving the premises and to protect the shop frontage and The CCTV system should be capable of providing evidential quality imagery to at least recognition standards.

Reason : In the interests of community safety.

**RECOMMENDATION 2:** The applicant is advised that a suitable grease trap is fitted to ensure that the integrity of the public sewage system is maintained.

**RECOMMENDATION 3:** the applicant is advised to ensure the following design details are taken into account: The shop/takeaway unit should be fitted with door sets that comply with PAS24 2016 or security rating LPS 1175 SR1, Laminated glazing to a minimum of 7.5mm should be fitted to the shop front, A monitored alarm system which is compliant with the latest version of the National Police Chiefs Council (NPCC) Alarms Policy should be installed.

1. **DESCRIPTION OF PROPOSED DEVELOPMENT**

- 1.1 Full planning permission is sought to change the use of the existing vacant shop (A1) into a café (A3).

2. **DESCRIPTION OF SITE**

- 2.1 The site is an unoccupied mid terrace shop (A1) with residential above. The adjoining terraces are commercial in nature, on the ground floor with many having residential above. To the front of the parade of shops are parking spaces, which are separated from Grand Avenue.

The site is not located within a conservation area/flood risk zone but is located within a local centre. No Listed Buildings or protected trees are affected by this proposal

3. **SITE HISTORY**

- 3.1 Nil

4. **POLICY FRAMEWORK**

The application site is located within the Grand Avenue Local Centre as defined by the adopted LDP Proposals Map; therefore, the following policies apply

***National Planning Policy***

- *Planning Policy Wales (8<sup>th</sup> Ed) 2016*
- *Technical Advice Note: 4 Retail, 11 Noise, 12 Design, 18 Transportation, 23 Economic Development*

***Cardiff Local Development Plan 2006-2026 (2016)***

- *Policy KP5 (Good Quality and Sustainable Design)*
- *Policy T5 (Managing Transport Impacts)*
- *Policy R5 ( Local Centres)*
- *Policy R8 (Food and Drink uses)*
- *Policy C3(Community Safety/ Creating safe environment)*

***Supplementary Planning Guidance***

- *Access, Circulation and Parking Standards (2010)*
- *Residential Extensions and Alterations (2015)*

*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*

## 5. **INTERNAL CONSULTEE RESPONSES**

- 5.1 Pollution Control: No objections subject to conditions ( see conditions 4-8)
- 5.2 Operational Manager (Transportation): No objections
- 5.3 Operational Manager (Waste): No details of waste provision have been submitted.

## 6. **EXTERNAL CONSULTEE RESPONSES**

- 6.1 Police Architectural Liaison Officer: No objections subject to conditions.
- 6.2 Welsh Water: Request a grease trap condition

## 7. **REPRESENTATIONS**

- 7.1 Adjoining neighbours have been notified of this application with additional publicity undertaken by a site notice. Ten letters of representation have been received from properties of 61, 63, 65, 77, 79, 83, 85-87 - Grand Avenue, 2 - Charteris Road and 17 - Treseder Way, who object on the following grounds:

Insufficient parking;  
Anti-social behaviour,  
Oversaturation of A3 uses;  
Lack of consultation;  
Restrictive covenants;  
Smells.

- 7.2 Local Ward Councillors have been notified of this application, while no comments have been received to date any comments received prior to committee will be reported on the late representation schedule.

## 8. **ANALYSIS**

- 8.1 Key Issues: Land Use considerations, Impact upon the amenity of adjoining residential properties and highway safety/ parking provision.

### 8.2 **Land Use considerations**

The application site is located within the Wilson Road Local Centre as defined by the adopted LDP Proposals Map.

Policy R5 aims to promote and protect the shopping role of local centres whilst supporting a mix of appropriate uses and permits proposals for uses other than Class A1 at ground floor level if they would not cause unacceptable harm to the predominant shopping role and character of the centre, the vitality, attractiveness and viability of a specific frontage or group of frontages. Proposals that result in, or add to a continuous stretch of

non-shopping uses (3 or more units in non-shopping use) will be less favourably considered.

Policy R8 identifies that food and drink uses are most appropriately located in the City Centre, the Bay and District and Local Centres subject to amenity considerations, highway matters and crime and fear of crime considerations and where they do cause unacceptable harm to the shopping role and character of designated centres. Paragraph 5.296 recognises that food and drink uses are complementary, in principle, to the main shopping role of 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. Paragraph 5.297 recognises that Local centres are generally more residential in nature and A3 proposals may be more difficult to accommodate and are less likely to be acceptable on amenity grounds. As such more emphasis will be placed on protecting residential amenity in these centres through restricting closing times and the type of A3 premises.

Assessed against this policy framework, the proposal would not result in 3 or more non shopping uses in a row and would bring into viable use a vacant retail unit which is not currently contributing to the vitality and viability of the centre As such, the proposal raises no land use policy concerns. However, in order to protect the amenity of the centre it is suggested that a condition is attached to the grant of any planning permission to restrict its use to a café. Officers have also restricted the hours of opening, at this time, to ensure that the use as café during the day to adds to the vitality of the Local Centre.

### 8.3 **Impact upon the amenity of adjoining residential properties**

Paragraph 5.297 of Policy R8 recognises that Local centres are generally more residential in nature and A3 proposals may be more difficult to accommodate and are less likely to be acceptable on amenity grounds. As such more emphasis will be placed on protecting residential amenity in these centres through restricting closing times and the type of A3 premises. The Council's Pollution Control Section raises no objections (in terms of noise and smells) subject to the imposition of conditions. The suggested conditions from Pollution Control meet the requirements of the statutory test of a valid condition as set out in Welsh Government Circular 016/2014; the Use of Planning Conditions for Development Management and will ensure that the amenities of adjoining residential properties are not undermined.

### 8.4 **Highway safety/ parking provision**

In terms of the Councils adopted Access, Circulation & Parking Standards SPG (Jan '10) there is no minimum parking requirement for A3 uses, i.e. in terms of operational use. The parking demand for customers would be expected to be similar for both the A1 and A3 uses and as such it is considered that there would likely be a negligible increase in trips as a direct result of the proposal.

### 8.5 **Crime**

Concern has been raised about potential anti-social behaviour. Officers note that crime and the perception of crime are material considerations and that there is a legal duty on the council to seek to reduce crime ( S78 of the Crime and Disorder Act 1988) and having regard to the above officers have consulted with

South Wales Police who do not object. South Wales Police also state in their response the following:

*“Over a period between June 2015 and June 2016, there were 53 incidents reported to South Wales Police in the vicinity of 63 Grand Avenue. These include 6 thefts, 4 anti-social behaviour, 4 violent incidents, 2 damages and 1 burglary.*

*South Wales Police Neighbourhood Policing Team have advised that they are not currently experiencing any issues with anti-social behaviour in the area and that the adjacent shop owners have not mentioned any ongoing problems. They have no concerns with the possibility of a café opening in the area however it is difficult to say if it would attract incidents of anti-social behaviour.”*

The suggested conditions from the Police are noted but having regard to the statutory test of a valid condition, as set out in Welsh Government Circular 016/2014; the Use of Planning Conditions for Development Management a number of them do not meet that test but the requirements for CCTV, is considered reasonable, necessary and related to planning and therefore this condition has been imposed. In regards to the other suggested conditions, these have been imposed as advisory notes to make the applicant aware of best practise.

## 8.6 **Other matters not assessed above**

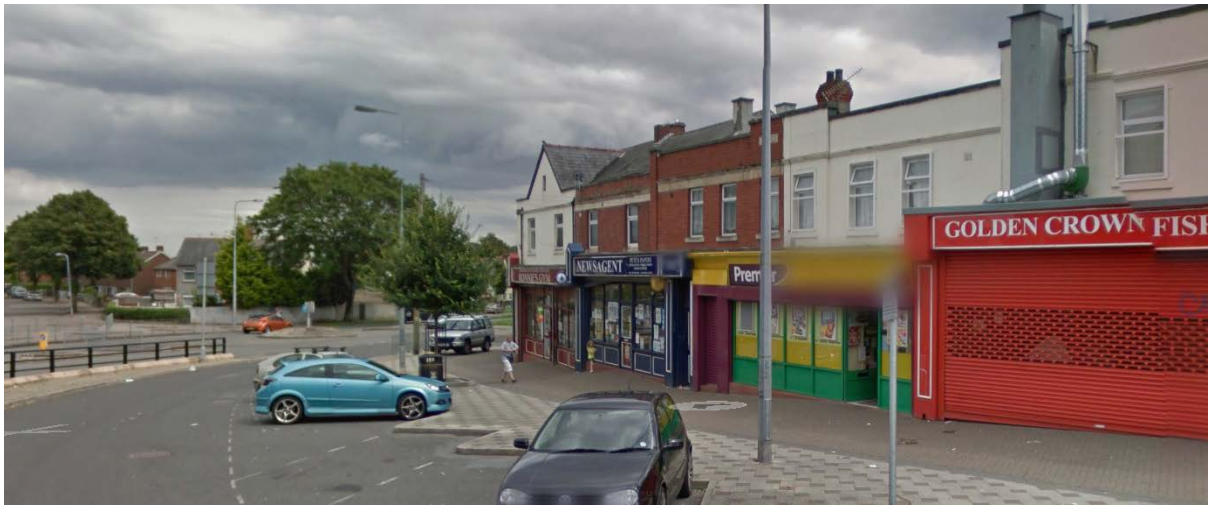
It is not the function of the planning system to interfere with or inhibit competition between users of and investors in land or to regulate development for other than land use planning reasons. (Para 1.2.3 Planning Policy Wales).

Officers note the requested condition from Welsh Water but as Welsh Water have powers under their own legislation to ensure the drainage system is not polluted these powers should not be duplicated by the Planning system ( para 1.2.4 Planning Policy Wales). However, an advisory note has been imposed to inform the applicant of the requirements of Welsh Water.

Adjoining neighbours have been notified with a site notice within the local centre and close to the site. It is considered by officers that the requirements as set within W/O circular 32/92 ‘Publicity of planning applications’ and Article 12 of The Town and Country Planning (Development Management Procedure) (Wales) Order 2012 have been met.

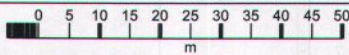
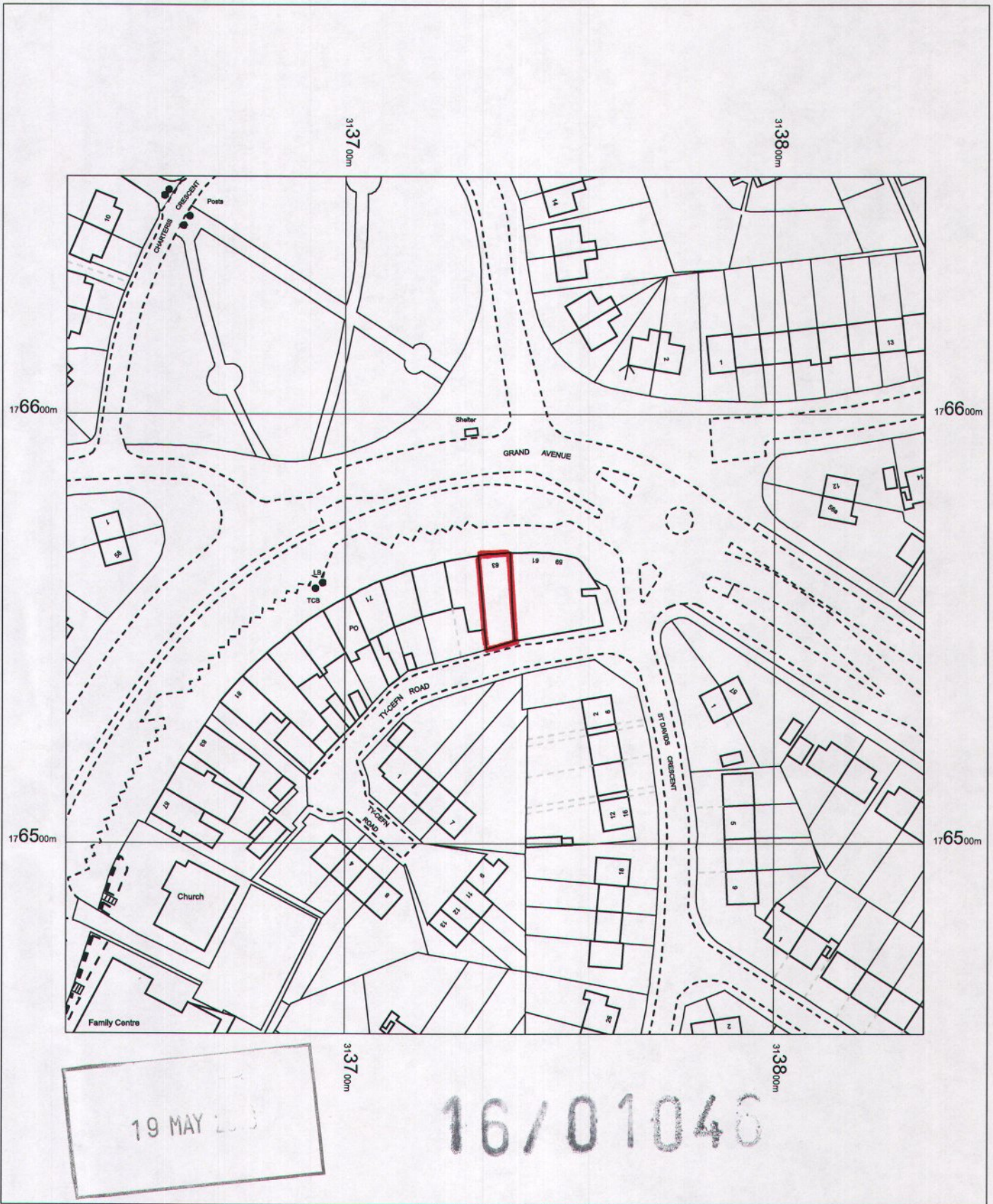
9. **CONCLUSION**

Having regard to the policy context above, the proposal is considered acceptable and planning permission is recommended subject to conditions.





# 63 Grand Avenue



63 Grand Avenue

OS MasterMap 1250/2500/10000 scale  
03 May 2016, ID: BW1-00524940  
maps.blackwell.co.uk

1:1250 scale print at A4, Centre: 313735 E, 176556 N

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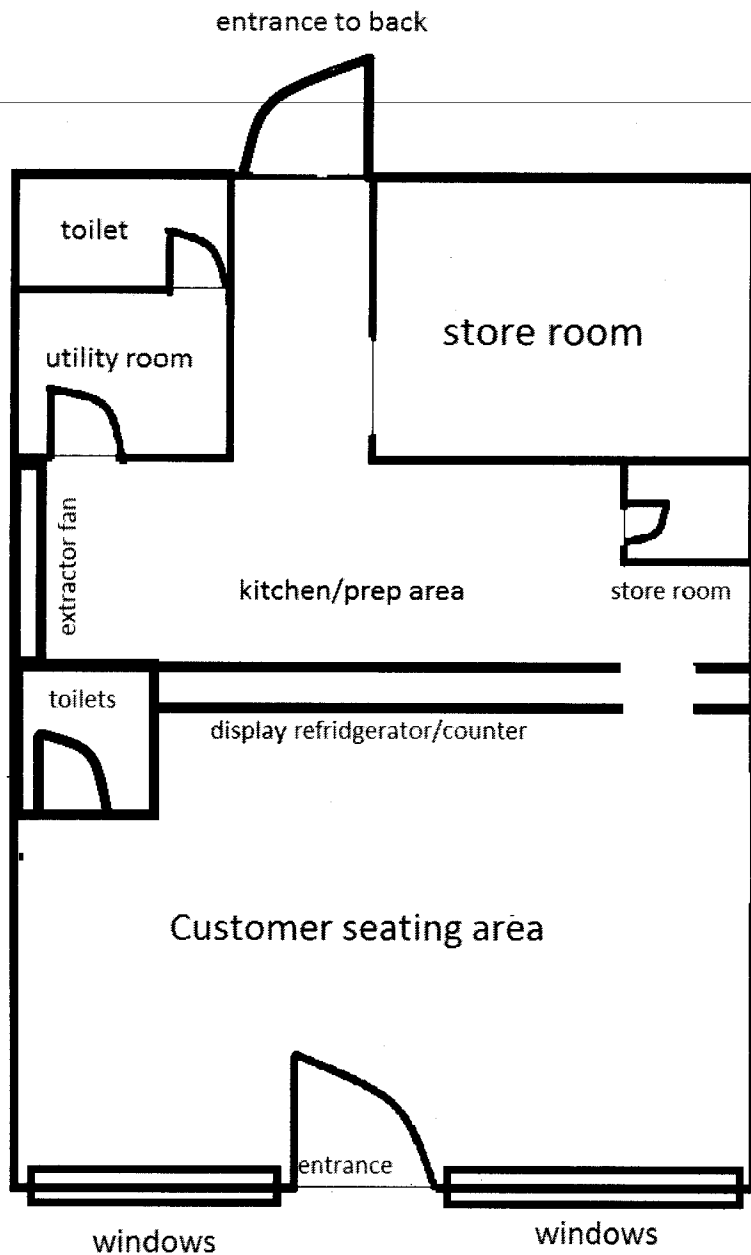






Existing floor plan

16/01046



**Proposed floor plan**

10/01048