

MP OBJECTION

COMMITTEE DATE: 26/02/2020

APPLICATION No. **20/00044/MNR** APPLICATION DATE: 13/01/2020

ED: **CATHAYS**

APP: TYPE: Full Planning Permission

APPLICANT: The Shah Pension Scheme

LOCATION: 11-12 CHURCH STREET, CITY CENTRE, CARDIFF, CF10 1BG

PROPOSAL: CHANGE OF USE FROM MIXED USE DEVELOPMENT (RETAIL AND SUI GENERIS) TO A3 USE (RESTAURANT) AND MIXED COMMERCIAL USE

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

1. C01 Statutory Time Limit
2. The development / uses approved shall accord with the approved drawings numbered GA310-PL-rev1; GA311-PL-rev2; GA312-PL-rev1; GA313-PL-rev1; GA314-PL-rev1.
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.

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 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).

RECOMMENDATION 4: 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 a three storey terraced building from Class A1 (retail) and a restaurant/bar/nightclub to Class A3 (food & drink) and Class A2/B1/D1 (financial, & professional services, office and non-residential institutions) uses.
- 1.2 Pedestrian access would be via the existing entrances from Church Street. The application form indicates opening hours of 11:00 – 23:00 for the Class A3 premises and 08:00 – 20:00 for the Class A2/B1/D1 premises.

2. **DESCRIPTION OF SITE**

- 2.1 The building currently accommodates a shop and a restaurant/bar at ground floor and nightclubs at basement and upper floor levels. Internally the premises has a floor area of 262 square metres. The site is located within the Principal Shopping Area, Principal Business Area and the St Mary Street Conservation Area, it lies within a terrace along the south side of Church Street adjoined by a restaurant at no. 22-23 Trinity Street and a vacant building at no. 13 Church Street.

3. **SITE HISTORY**

- 3.1 08/00167/C – planning permission refused for new shop front / bar entrance.
- 94/01856/C – planning permission granted to extend restaurant dining area onto first floor level.
- 94/01515/C – planning permission granted for a new shop entrance.
- 93/00204/C – planning permission granted for alteration of shop front to provide separate access to upper floor.
- 33582 – planning permission granted for restaurant and snack bar including shop front.
- 3.2 **Related History:**
- 19/02732/MNR – planning permission granted for change of use from betting shop (A2) to a principal A3 use Class with ancillary (A1) shops and (B1) offices together with alterations to the shop front at no. 13 Church Street.
- 16/00945/MJR – planning permission granted and implemented for major refurbishment including recladding of existing building, with some changes of use, partial demolition and construction of replacement space and the inclusion of the second floor level at 5-10 Church Street.
- 13/02278/DCI – planning permission granted and implemented for change of use from vacant Class A1 (retail) to Class A3 (food & drink) at no. 17 Church Street.

4. **POLICY FRAMEWORK**

4.1 **Relevant National Planning Guidance:**

Planning Policy Wales (Edition 10, 2018)

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

Policy KP10 (Central and Bay Business Areas)
Policy EN13 (Air, Noise, Light Pollution and Land Contamination)
Policy R2 (Development in the Central Shopping Area)
Policy R3 (Protected Shopping Frontages)
Policy R8 (Food and Drink Uses)
Policy T5 (Managing Transport Impacts)
Policy W2 (Provision for Waste Management Facilities in Development)

4.3 **Relevant Supplementary Planning Guidance**

Food, Drink and Leisure Uses (2017)
Managing Transportation Impacts (Incorporating Parking Standards) 2018
Waste Collection and Storage Facilities (2016)

5. **INTERNAL CONSULTEE RESPONSES**

5.1 Neighbourhood Services – no comments to make given the existing and proposed uses for the site.

5.2 Transportation – I am content that no parking is provided and expected as much given location. It would be prudent to request the provision of cycle parking as part of the development to better accommodate any staff at the establishment and any customers.

5.3 Waste Management – The proposed storage area has been noted and is acceptable. A3 units are required to provide litter bins at the front of the unit in order to prevent littering on the adopted highway. The tenant will be required to provide, service and empty a litter bin to be placed at front of the unit during opening hours and removed from the highway during closing hours.

6. **EXTERNAL CONSULTEE RESPONSES**

6.1 None.

7. **REPRESENTATIONS**

7.1 The application was publicised by letter and site notice, objections have been received from the following addresses in Cardiff:

20 Llanbledian Gardens, 47 Heol Caerhys, Second Floor Flat 10 Conway Road,
51 Canada Road, 31 Ivydale, 91 Wentloog Road, 161 Cathays Terrace, 72

Miskin St, 126 Woodville Road, 105 Bryncyn, 4 Garnant, 90 Glyn Rhosyn, 90A City Road, 35 Maindy Road, 11 Avonridge. House 26 Talybont South, 425 Heol Trelai, Flat 1 43 Stacey Road, 2 Cyprian House, Monthermer Road, 2 Bronwydd Avenue, 45 Timothy Rees Close, 111 Wyeverne Road, Lumis Tyndall Street, Flat 4 Hazelhurst Court, 223 Loudoun House, 4 Wellfield Place, 16 Manor Rise, 9 Arthur Street. Flat 10 House T Talybont North, 4 Dolwen Road, 52 Salisbury Road, 41 Treharris Street, 18 Harriet Street, 70 Woodville Road, 105 Diana Street, 37 Treherbert Street, Flat 6 172 Newport Road, 13 Whitchurch Place, 23 Tarragon Way, 34 Clos Dewi Sant, 10 Letty St, 23 Cosmeston Street.

Objections have also been received from the following addresses outside Cardiff:

4 Highlight Lane, Barry
1 Station Road, Penarth
1a Pill Street, Penarth
71 Pinecroft Avenue, Aberdare
29 Trem Yr Efail, Ystrad Mynach
73 Marlborough Road, Cwmbran.
3 New Road, Taunton
38 Bindon Rd, Taunton
6 Stanford Road, Brighton
31 Manor Gardens, Hurspierpoint, Sussex.

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

- a) *Loss of a small live music venue, small venues are vital to grassroots musicians/artists/DJs;*
- b) *Having a kitchen in the basement presents significant safety risks;*
- c) *Loss of a family run food business;*
- d) *Competition with existing restaurants.*

7.2 Jo Stevens MP objects to the application, as follows:

If approved, this proposal would result in the loss of not one, but two important & popular live music venues right in the heart of our city centre. Between them, the venues host not only live music but poetry, spoken word and club nights for lesser know genres with strong followings, like house, drum & bass and electronic music more widely. Many a nightclub promoter or DJ will have cut their teeth at these venues. Sam Fender, now a renowned artist, played to a small crowd at the Big Top in 2018, only to now be selling out the Motorpoint Arena 2 years later – a music city in action. I note the developers in their application state that the proposals will ‘improve the balance of what’s on offer’ in the city centre. The surrounding area, as it stands, is already saturated with restaurants and cocktail bars – losing these two popular venues would be detrimental to what’s on offer in our city centre and would create an imbalance, the very opposite of what the developers’ application asserts. These plans would not just affect the music venues but also the award winning, family run Cornish Bakehouse next door. It is vital that our city centre does not just become a collection of national/international chains and good, successful local

businesses like this are supported and allowed to thrive. These venues are a cornerstone of the music community in Cardiff, and following the loss of Gwdihw and Buffalo recently. Approving this application will cause further detriment to the mix of culture on offer in Cardiff.

8. **ANALYSIS**

8.1 **Land Use Policy**

The site is situated within the Central Shopping Area (Policy R2) and within Protected Shopping Frontage 54 'Church Street Southern Frontage' (Policy R3) as defined by the Cardiff Local Development Plan (2006-2026). With regard to Policy R3 (Protected Shopping Frontages), taking into consideration that the ground floor units are currently Class A3 and Sui Generis uses, the proposal would not affect the existing balance of shop to non-shop uses within the Protected Frontage. Policy R2 (Development in the Central Shopping Area) identifies that an appropriate mix of non-shop uses can contribute to vitality, attractiveness and viability by introducing a diversity of compatible uses within the Central Shopping Area. A Class A3 (restaurant) use at the ground floor / basement of the building would be considered acceptable in this regard, as would Class A2 (financial and professional services) / B1 (business) / D1 (non-residential institution) uses to the upper floors of the building.

8.2 **Residential Amenity**

Policy R8 of the LDP identifies that A3 (food and drink) uses are most appropriately located in the City Centre, the Bay and District and Local Centres, and the Food, Drink and Leisure Uses SPG identifies that A3 (food and drink) uses are most appropriately located in the City Centre Principal Shopping Area, District and Local Centres and the City Centre Principal Business Area. There is no residential accommodation within the immediate vicinity, and the site is located within a designated commercial/business area. It is noted that the existing premises has no planning restriction upon opening hours as no such conditions were imposed upon permissions 33582 and 94/01856/C, therefore it is not considered reasonable to seek to restrict the opening hours through the inclusion of a planning condition in this instance. It is also noted that the basement and upper floors have been used as nightclubs for many years and while the uses may be considered ancillary to the main A3 use of the premises they are likely to be lawful as independent operations due to the passage of time. The lawful use would have a greater amenity impact than the uses proposed, therefore it is not considered reasonable to restrict the type of Class A3 use in this instance. It is not considered that the proposal would have any unreasonable amenity impact.

8.3 **Crime & Disorder**

Paragraph 4.11.12 of Planning Policy Wales states that Local authorities are under a legal obligation to consider the need to prevent and reduce crime and disorder in all decisions that they take. Crime prevention and fear of crime are social considerations to which regard must be given by local planning

authorities in the preparation of development plans. They should be reflected in any supplementary planning guidance, and may be material considerations in the determination of planning applications.

The Food, Drink and Leisure Uses SPG identifies District Centres as an appropriate location for food and drink (A3) uses, subject to detailed considerations. The SPG states that consideration should be given to whether a proposal, in conjunction with existing and approved similar uses, would create a concentration of such uses, or give rise to (or exacerbate) problems of public safety and security. It is noted that the existing premises has no planning restriction upon opening hours. The proposed uses are unlikely to have any greater public safety and security impact than the existing uses, therefore it is not considered reasonable to restrict the type of Class A3 use or the opening hours in this instance. It is not considered that the proposal would have any unreasonable crime/disorder impact.

8.4 Transportation

The Managing Transportation Impacts (Incorporating Parking Standards) SPG identifies a minimum requirement of no car parking spaces and cycle parking for staff at a ratio of 2 per 100 square metres for Class A1, A2, A3 and B1 uses. Having regard to the existing uses of the building and that no additional commercial floor space is being created, it is not considered reasonable for cycle parking to be provided within the premises in this instance. On-street cycle parking for 28 cycles is available within the vicinity outside St John's Church.

8.5 Access

The entrance is level with the street, it is therefore considered that the proposal is inclusive in terms of access equality.

8.6 Other Matters

The request from Waste Management for a litter bin to be placed outside the front of the unit is not considered reasonable as the external area to the front is 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 are existing litter bins within close proximity at Trinity Street and St John Street.

8.7 Representations

The representations received from individual persons and Jo Stevens MP are noted. Specific issues are addressed as follows:

- a) Loss of a live music venue. It is noted that the existing use of the premises includes live music. The proposed use includes a Class A3 (food & drink) unit within the ground floor and basement, Class A3 would allow use as a public house or bar which could include live music entertainment if desired

by a future tenant. Occupation of a commercial premises by a particular tenant is not a matter that can be controlled by the planning process, therefore the inclusion of live music within the premises is not a matter that could be imposed by the Local Planning Authority.

- b) Safety of proposed basement kitchen: This matter would be controlled by the building regulations and environmental health legislation.
- c) Loss of existing food business: The proposed change of use of the existing Class A1 retail unit is considered compliant with policies R2 & R3 of the Local Development Plan. It should also be noted that there are vacant Class A1 retail units within the city centre which could accommodate the existing Class A1 business.
- d) Competition with existing restaurants: Competition is not a material planning consideration.

8.8 Other Legal Considerations

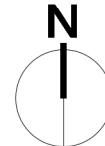
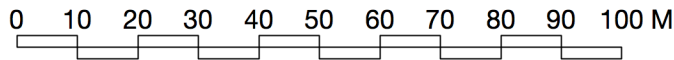
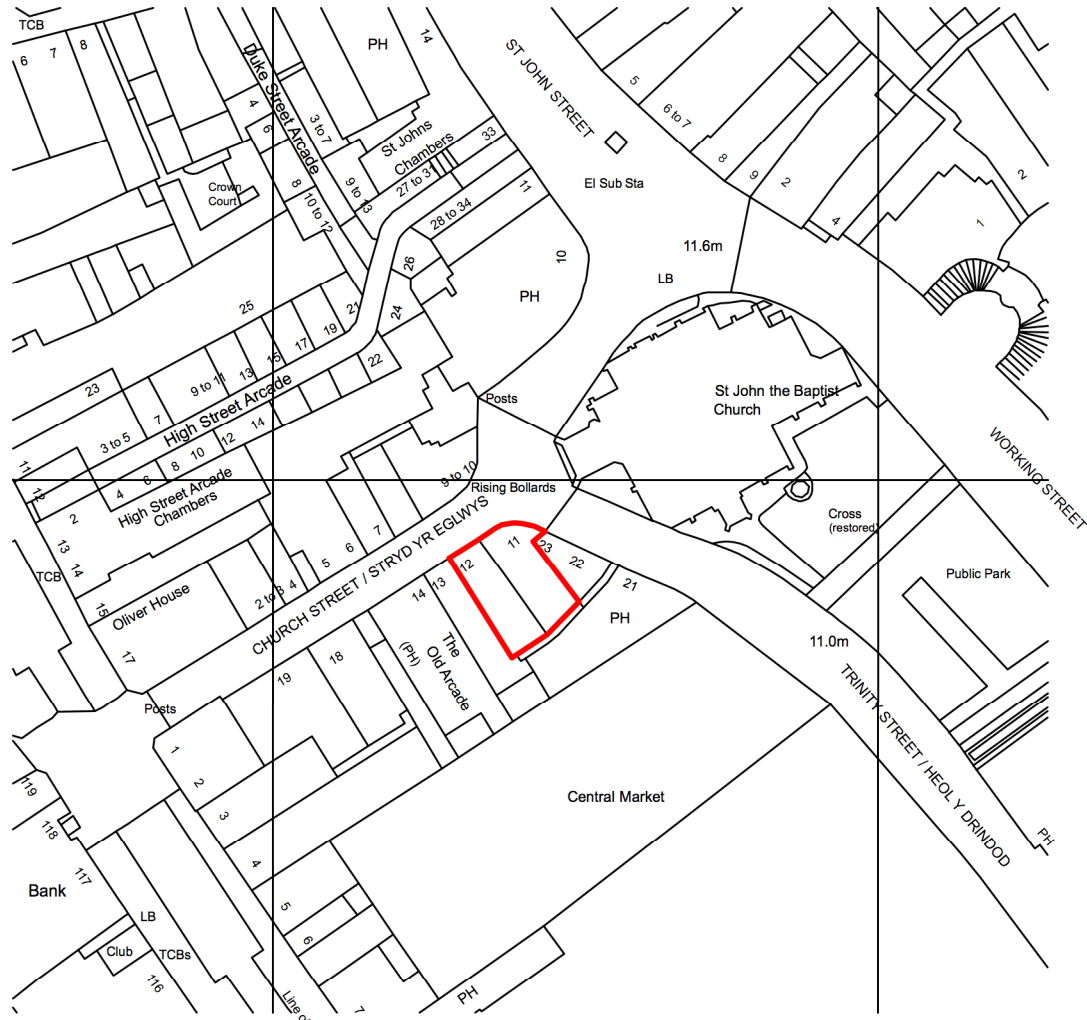
Crime and Disorder Act 1998 – Section 17(1) of the Crime and Disorder Act 1998 imposes a duty on the Local Authority to exercise its various functions with due regard to the likely effect of the exercise of those functions on, and the need to do all that it reasonably can to prevent, crime and disorder in its area. This duty has been considered in the evaluation of this application. It is considered that there would be no significant or unacceptable increase in crime and disorder as a result of the proposed decision.

Equality Act 2010 – The Equality Act 2010 identifies a number of ‘protected characteristics’, namely age; disability; gender reassignment; pregnancy and maternity; race; religion or belief; sex; sexual orientation; marriage and civil partnership. The Council’s duty under the above Act has been given due consideration in the determination of this application. It is considered that the proposed development does not have any significant implications for, or effect on, persons who share a protected characteristic.

Well-Being of Future Generations Act 2016 – Section 3 of this Act imposes a duty on public bodies to carry out sustainable development in accordance with the sustainable development principle to act in a manner which seeks to ensure that the needs of the present are met without compromising the ability of future generations to meet their own needs (Section 5). This duty has been considered in the evaluation of this application. It is considered that there would be no significant or unacceptable impact upon the achievement of wellbeing objectives as a result of the recommended decision.

8.9 CONCLUSION

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



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ISSUE STATUS	COMMENT
P PRELIMINARY	For comment and review
PL PLANNING	Planning/ Listed Building Application
BR BUILDING REGS	Building Regs Application
T TENDER	For pricing purposes only
C CONSTRUCTION	For procurement & construction
FC FINAL CONSTRUCTION	Record drawings on completion
L LEGAL	Conveyancing or other legal purposes

REVISIONS	REV	DATE	NOTES

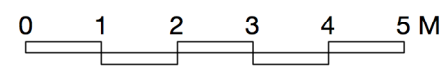
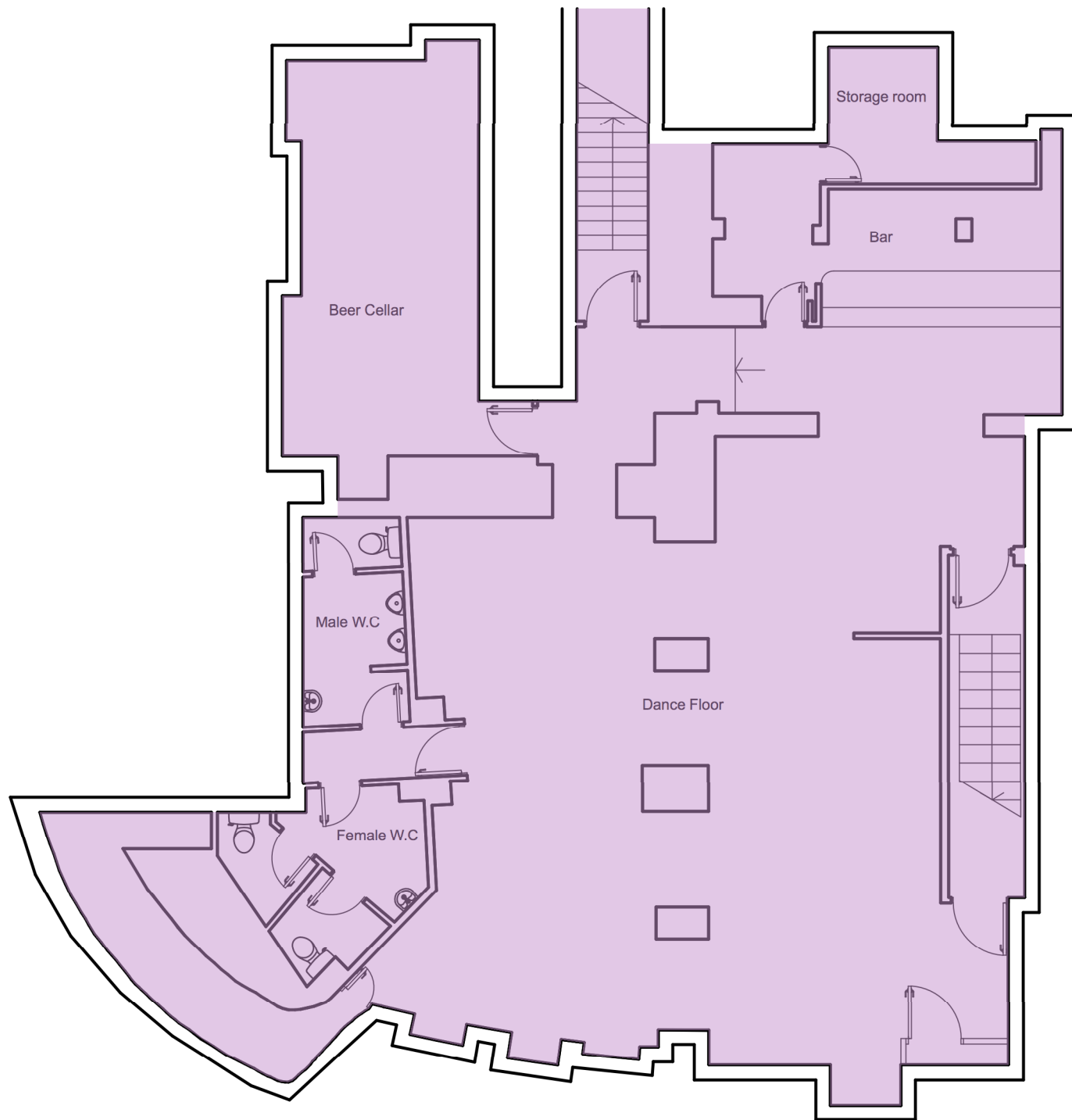
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JOB TITLE

**11 & 12 Church Street
 Cardiff CF10 1BG**
 DRAWING TITLE
Site Location Plan

DRAWN	DATE	SCALE
PL	Nov 2019	1:1250 @ A4
JOB NR	DRAWING - ISSUE - REVISION	
4159	GA001-PL-Rev1	



- A5 Use (Pie Shop)
- Sui Generis (Nightclub)
- Sui Generis (ancillary to nightclub)

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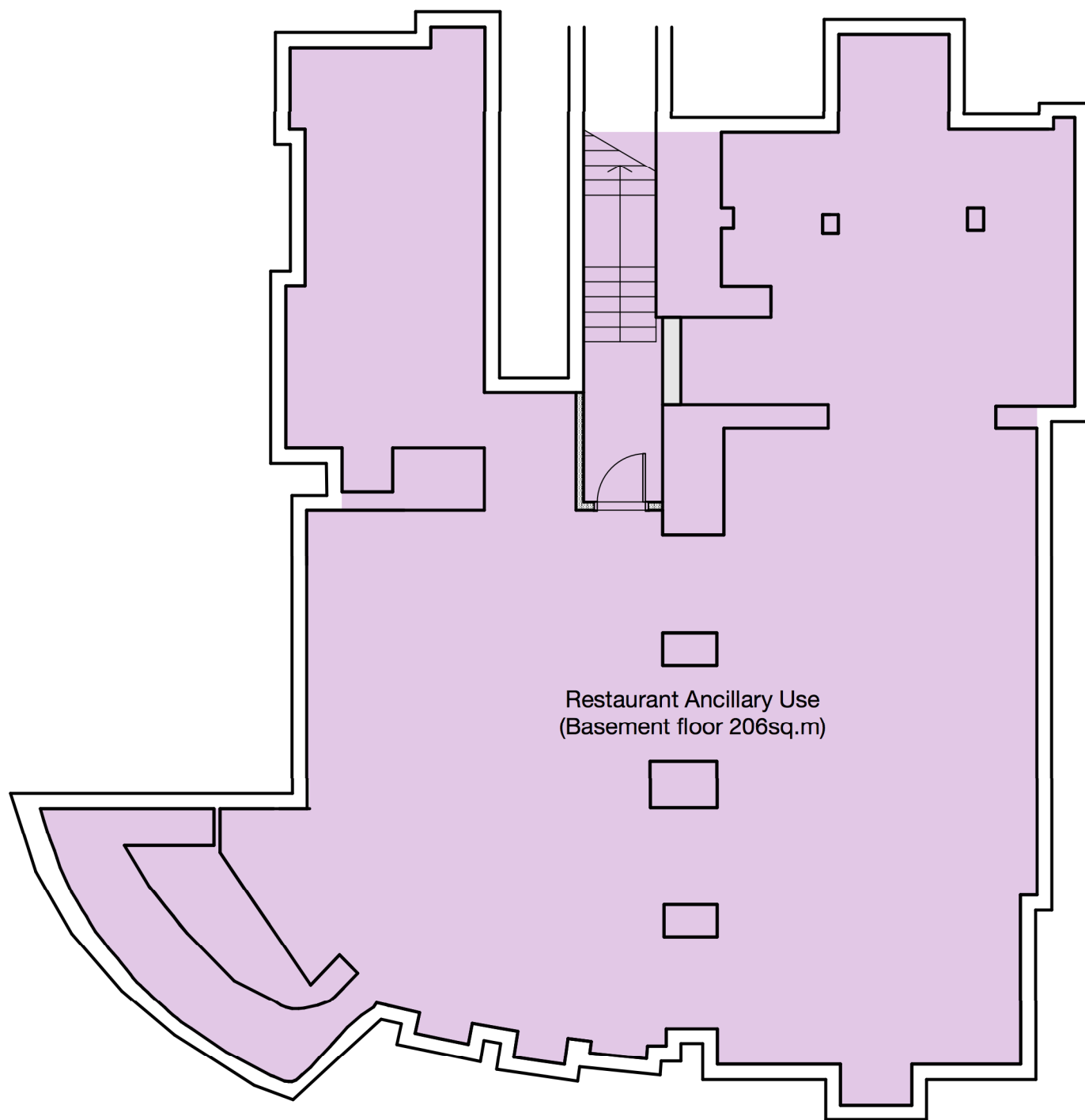


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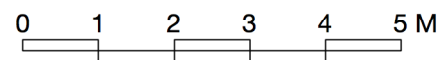
JOB TITLE
11 & 12 Church Street
Cardiff CF10 1BG

DRAWING TITLE
Basement Floor Plan
As Existing

DRAWN DATE
PL **Nov 2019**
 JOB NR SCALE
4159 **1:100 @ A3**
 DRAWING - ISSUE - REV
GA010-PL-Rev1



Restaurant Ancillary Use
(Basement floor 206sq.m)



- A3 Use (Restaurant)
- A3 Use (Ancillary to Restaurant)
- A2 / B1a / D1 Use (Commercial TBC)

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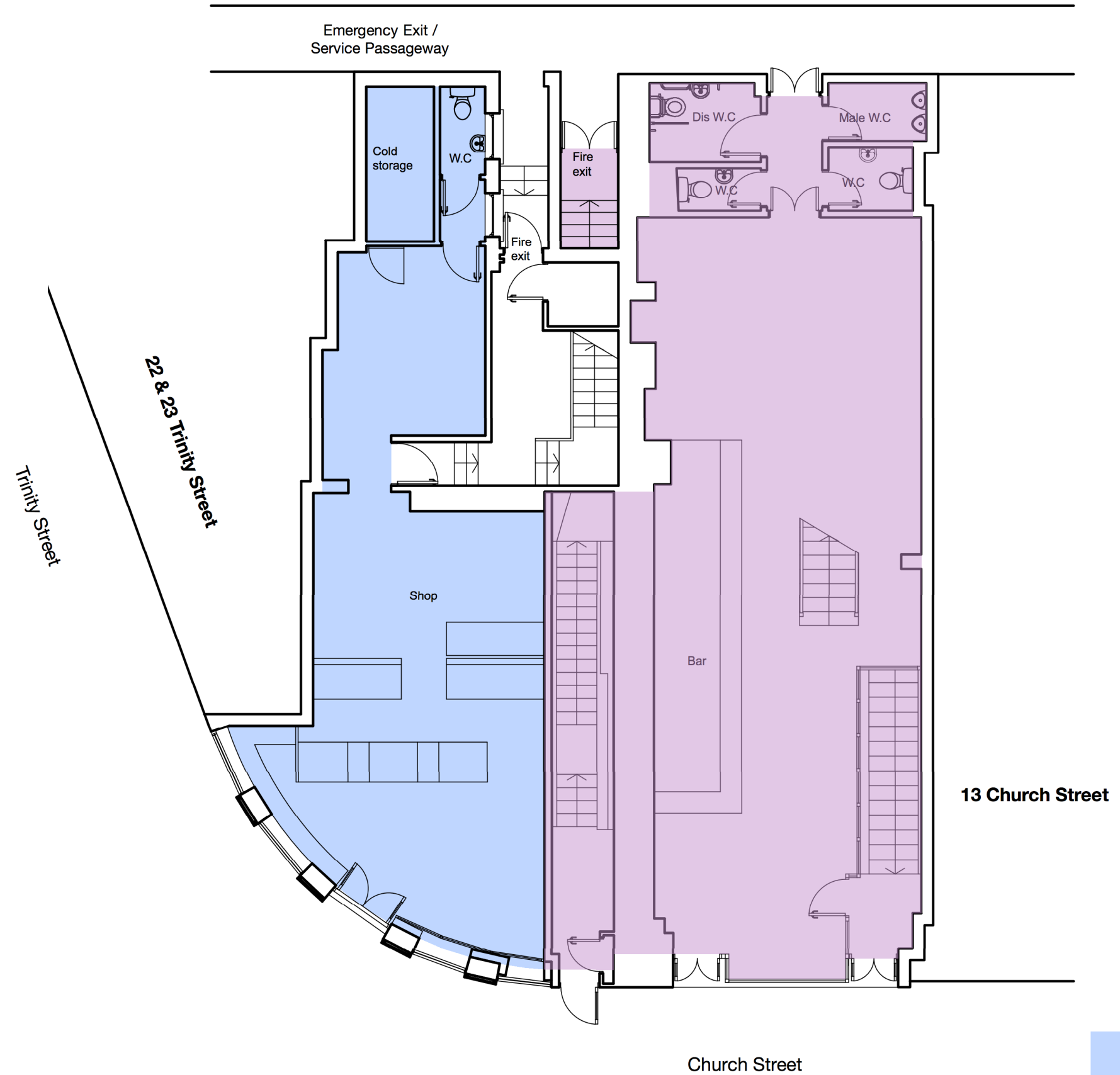
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**11 & 12 Church Street
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DRAWING TITLE

**Basement Floor Plan
As Proposed**

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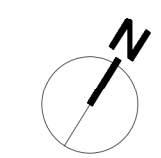
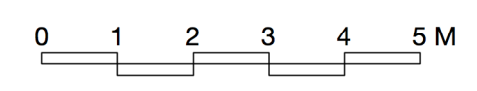
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 As Existing**

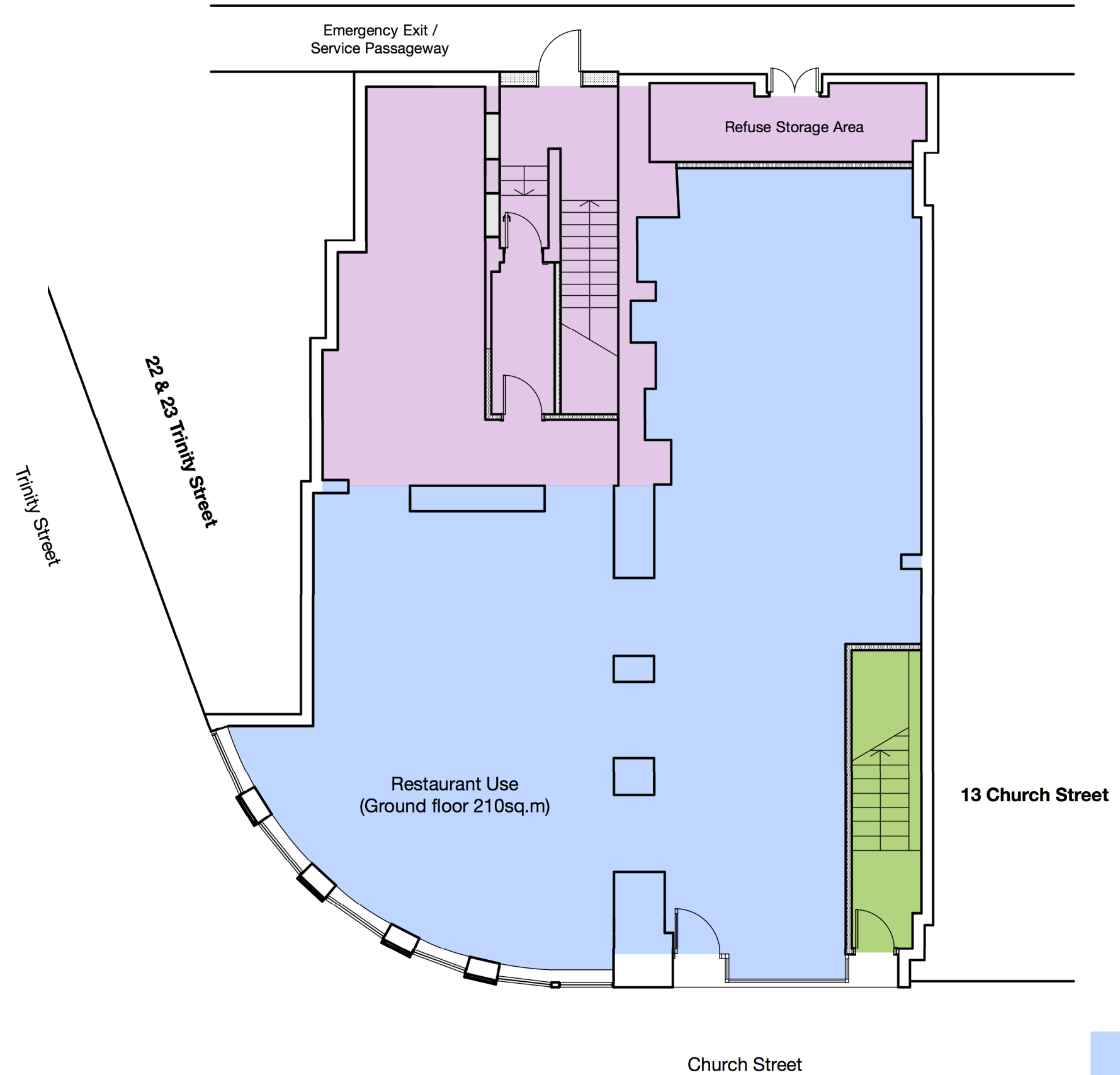
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- A5 Use (Pie Shop)
- Sui Generis (Nightclub)
- Sui Generis (ancillary to nightclub)





- A3 Use (Restaurant)
- A3 Use (Ancillary to Restaurant)
- A2 / B1a / D1 Use (Commercial TBC)

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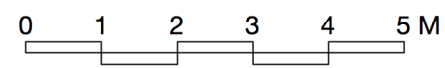
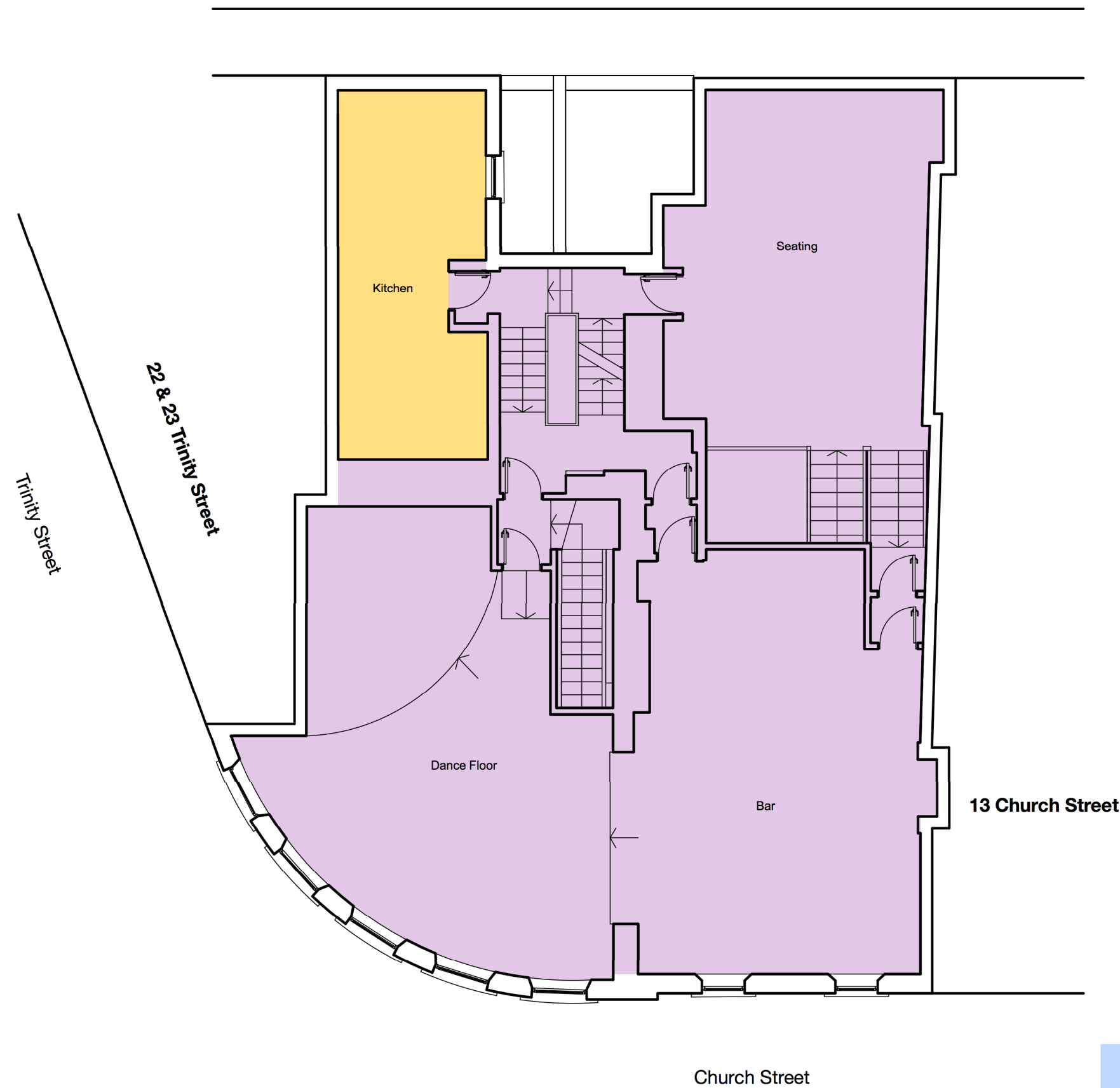
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JOB TITLE
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DRAWING TITLE
**Ground Floor Plan
 As Proposed**

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PL	Nov 2019
JOB NR	SCALE
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GA311-PL-Rev2	



- A5 Use (Pie Shop)
- Sui Generis (Nightclub)
- Sui Generis (ancillary to nightclub)

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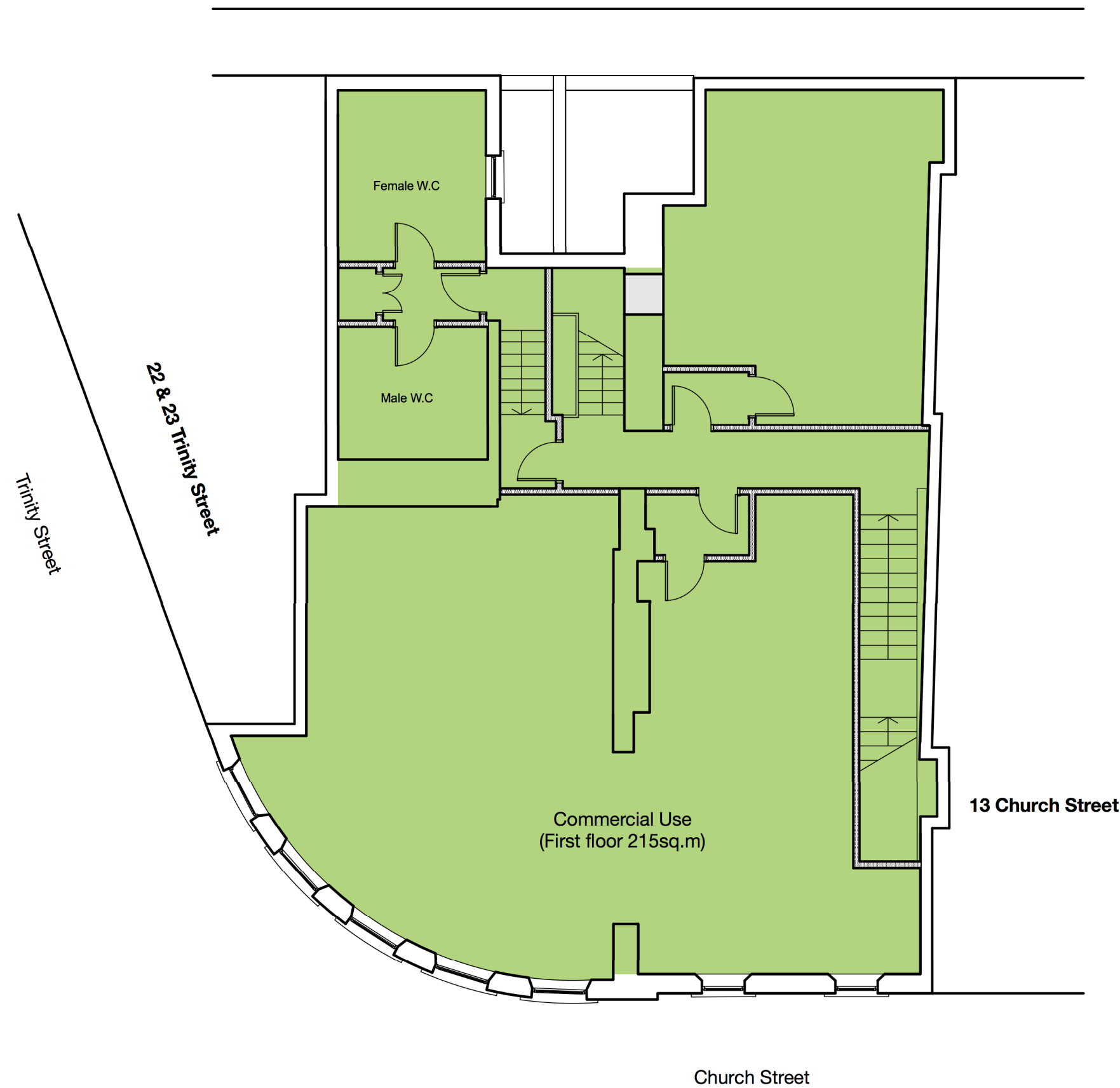
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 11 & 12 Church Street
 Cardiff CF10 1BG

DRAWING TITLE
 First Floor Plan
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 PL Nov 2019

JOB NR **SCALE**
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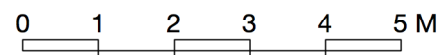
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- A3 Use (Restaurant)
- A2 / B1a / D1 Use (Commercial TBC)





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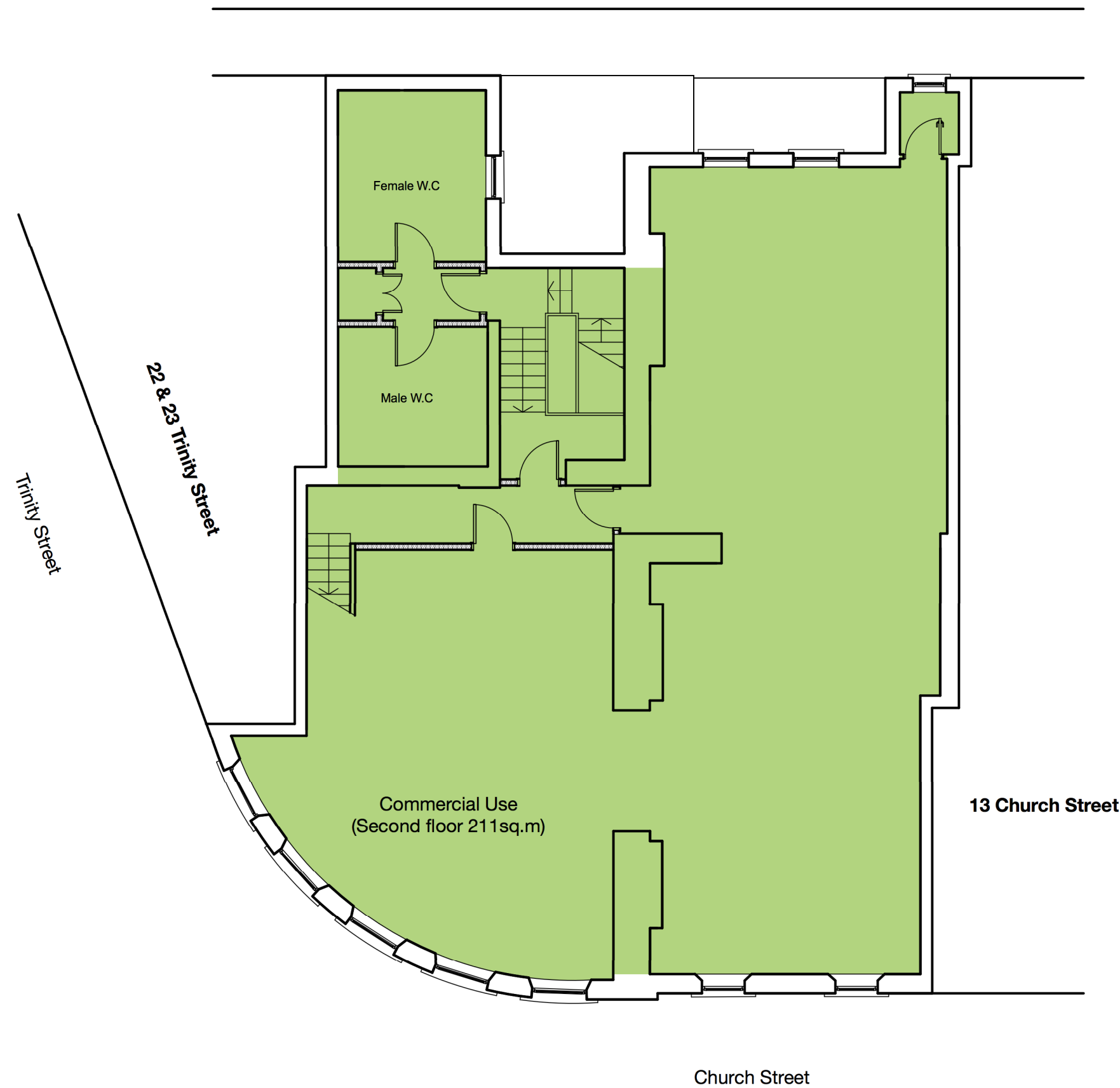
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JOB TITLE
 11 & 12 Church Street
 Cardiff CF10 1BG

DRAWING TITLE
 Second Floor Plan
 As Existing

DRAWN PL **DATE** Nov 2019
JOB NR 4159 **SCALE** 1:100 @ A3
DRAWING - ISSUE - REV
GA013-PL-Rev1



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DRAWING ISSUE STATUS

ISSUE	STATUS	COMMENT
P	PRELIMINARY	For comment and review
PL	PLANNING	Planning/ Listed Building Application
BR	BUILDING REGS	Building Regs Application
T	TENDER	For pricing purposes only
C	CONSTRUCTION	For procurement & construction
FC	FINAL CONSTRUCTION	Record drawings on completion
L	LEGAL	Conveyancing or other legal purposes

REVISIONS

REV	DATE	NOTES
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JOB TITLE

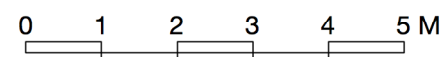
**11 & 12 Church Street
Cardiff CF10 1BG**

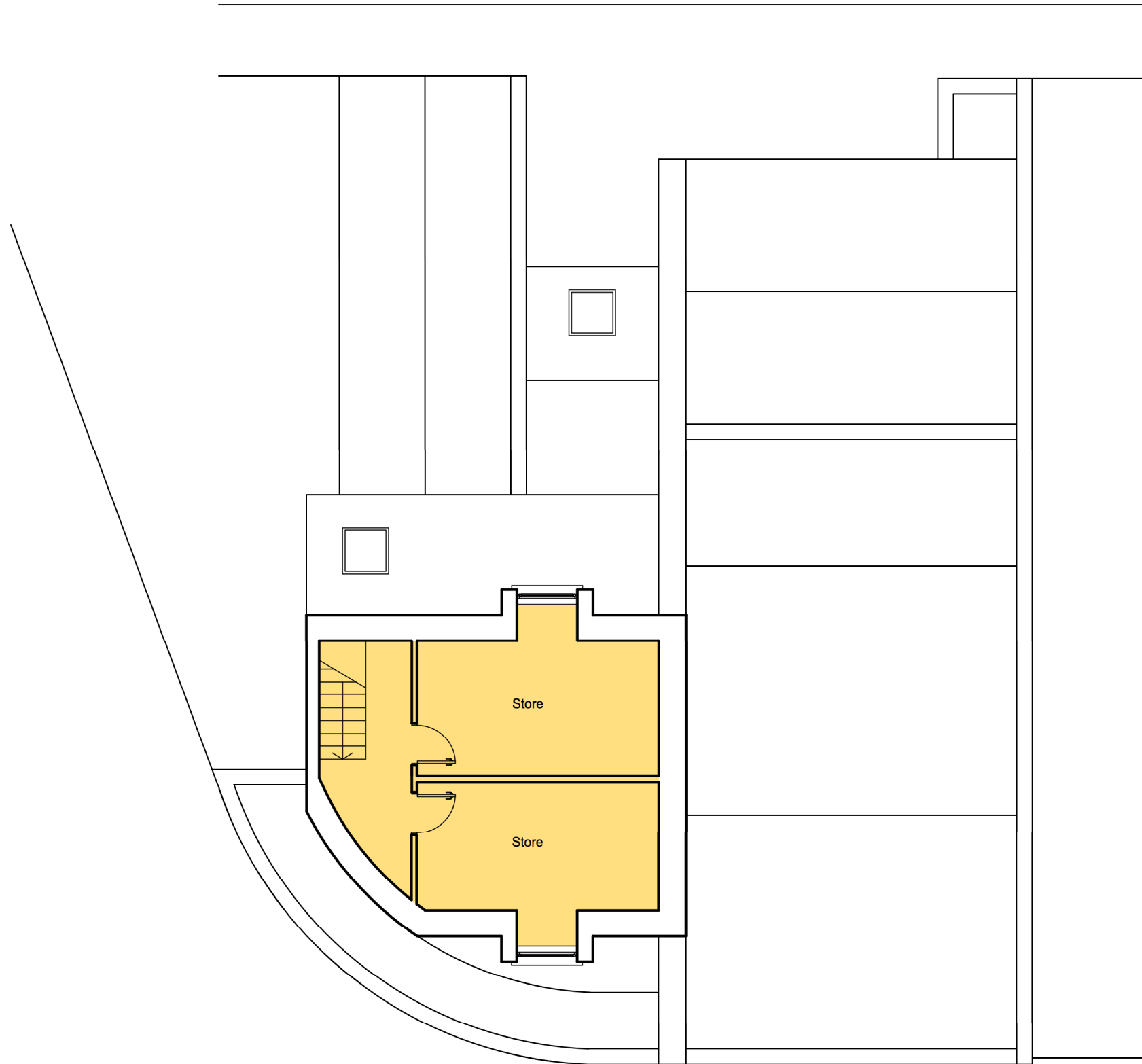
DRAWING TITLE

**Second Floor Plan
As Proposed**

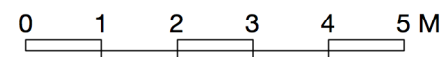
DRAWN	DATE
PL	Nov 2019
JOB NR	SCALE
4159	1:100 @ A3
DRAWING - ISSUE - REV	
GA313-PL-Rev1	

- A3 Use (Restaurant)
- A2 / B1a / D1 Use (Commercial TBC)





- A5 Use (Pie Shop)
- Sui Generis (Nightclub)
- Sui Generis (ancillary to nightclub)



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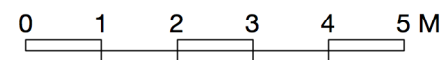
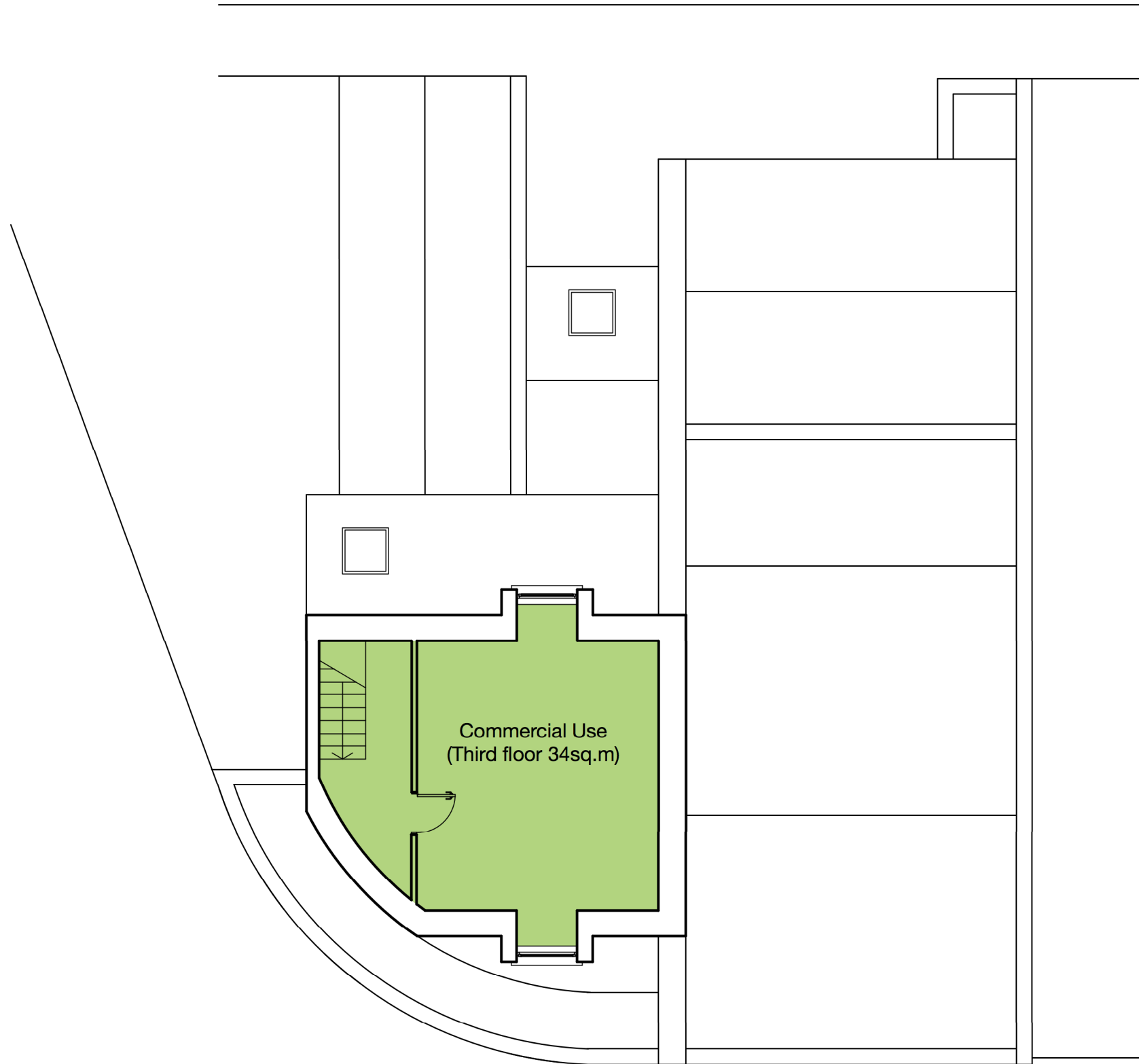
JOB TITLE

**11 & 12 Church Street
Cardiff CF10 1BG**

DRAWING TITLE

**Third Floor Plan
As Existing**

DRAWN DATE
PL Nov 2019
 JOB NR SCALE
4159 1:100 @ A3
 DRAWING - ISSUE - REV
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- A3 Use (Restaurant)
- A2 / B1a / D1 Use (Commercial TBC)

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DRAWING TITLE

**Third Floor Plan
As Proposed**

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GA314-PL-Rev1