

DEVELOPMENT MANAGEMENT COMMITTEE 17th APRIL 2023

Case No: 20/00318/FUL

Proposal: CHANGE OF USE FROM BAKERY AND CAFE TO FISH AND CHIP SHOP AND RESTAURANT/ TAKE AWAY INCLUDING REAR EXTENSION, FRONT VERANDAH AND REPLACEMENT EXTRACTION SYSTEM/FLUE (RETROSPECTIVE)

Location: 20 GREEN END ROAD SAWTRY HUNTINGDON

Applicant: MR HASAN AYGUN

Grid Ref: 516716 283524

Date of Registration: 1 FEBRUARY 2020

Parish: SAWTRY

RECOMMENDATION - APPROVE

This application is referred to the Development Management Committee (DMC) because the Officer recommendation is contrary to the Parish Council recommendation.

1. DESCRIPTION OF SITE AND APPLICATION

Site and Surroundings

- 1.1 The site is located within the built up area of Sawtry. The site is located on the western side of Green End Road in a predominantly residential area with a fire station immediately adjacent to the south. The site is bound by residential properties to the north and west, and on the opposite side of the road to the east.

Proposal

- 1.2 This application seeks approval for the change of use of 20 Green End Road from a coffee shop/bakery (Previously Use class A3, now Use Class E b) to a fish and chip shop, and a restaurant/takeaway (mixed used development therefore Sui Generis). The proposal also seeks planning permission for the erection of a rear extension, front verandah and installation of a replacement extraction system/flue.
- 1.3 21 day consultation is currently underway due to the amendment of the description to include the front verandah, replacement extraction system/flue. This is because the plans show the

verandah and new flue and the applicant is applying for planning permission for these as part of this application.

1.4 Officers have scrutinised the plans and have familiarised themselves with the site and surrounding area.

1.5 The application is supported by the following documents;

- Odour assessment
- Noise assessment
- Proposed drawings

2. NATIONAL GUIDANCE

2.1 The National Planning Policy Framework (20th July 2021) (NPPF 2021) sets out the three objectives - economic, social and environmental - of the planning system to contribute to the achievement of sustainable development. The NPPF 2021 at paragraph 10 provides as follows: 'So that sustainable development is pursued in a positive way, at the heart of the Framework is a presumption in favour of sustainable development (paragraph 11).

2.2 The NPPF 2021 sets out the Government's planning policies for (amongst other things):

- delivering a sufficient supply of homes;
- building a strong, competitive economy;
- achieving well-designed, beautiful and safe places;
- conserving and enhancing the natural, built and historic environment

2.3 Planning Practice Guidance and the National Design Guide 2021 are also relevant and material considerations.

For full details visit the government website [National Guidance](#)

3. PLANNING POLICIES

3.1 Huntingdonshire's Local Plan to 2036 (Adopted 15th May 2019)

- LP1: Amount of Development
- LP2: Strategy for Development
- LP4: Contributing to Infrastructure Delivery
- LP5: Flood Risk
- LP7: Spatial Planning Areas
- LP11: Design Context
- LP12: Design Implementation
- LP14: Amenity
- LP15: Surface Water
- LP16: Sustainable Travel
- LP17: Parking Provision and vehicle movement

- LP25: Accessible and adaptable homes
 - LP30: Biodiversity and Geodiversity
 - LP31: Trees, Woodland Hedges and Hedgerows
- 3.2 Supplementary Planning Documents (SPD) and Guidance:
- Huntingdonshire Design Guide Supplementary Planning Document (2017):
 - Developer Contributions SPD (2011)
 - Huntingdonshire Landscape and Townscape Assessment (2007)
 - Cambridgeshire Flood and Water SPD 2017
 - Huntingdonshire Tree Guidance Note 3
 - Annual Monitoring Report – Part 1 (Housing) 2019/2019 (October 2019)
 - Annual Monitoring Report – Part 2 (Non- Housing) 2018/2019 (December 2019)
 - RECAP CCC Waste Management Design Guide (CCC SPD) 2012
- 3.3 The National Design Guide (2021)
- * C1 - Understand and relate well to the site, its local and wider context
 - * I1 - Respond to existing local character and identity
 - * I2 - Well-designed, high quality and attractive
 - * B2 - Appropriate building types and forms
 - *M3 - Well-considered parking, servicing and utilities infrastructure for all users
 - * H1 - Healthy, comfortable and safe internal and external environment

For full details visit the government website [Local policies](#)

4. PLANNING HISTORY

- 4.1 1400093S73 - Variation of Condition 3 of Planning Permission 1001002FUL and Condition 4 of Planning Permission 1300886FUL to allow for extended opening hours from 08.00 to 22.30 Monday to Saturday and 09.00 to 18.00 Sundays and Bank Holidays - Approved.
- 4.2 Condition 2 preventing opening on Sundays and Bank Holidays was appealed and allowed.
- 4.3 1301557S73 - Variation of Condition 4 of Planning Permission 1300886FUL to allow extended opening hours to 08.00 - 22.30 Monday to Saturday, 09.00 - 18.00 Sundays and Bank Holiday Mondays – Withdrawn
- 4.4 1300886FUL - Single storey front and rear extensions to retail unit - Approved.

- 4.5 1001002FUL - Single storey rear extension to existing retail unit to provide office and WC. Change from A1 to mixed use A1 and A3 to allow for hot food to be prepared and served on the premises - Approved.
- 4.6 1000413FUL - Change of use from A1 (retail) to mixed use A1 (retail) and A3 (coffee shop/cafe). Rear extension to provide new and improved WC provision - Refused.
- 4.7 9400430FUL - New Shopfront – Approved
- 4.8 9200370FUL - Extension to workshop/store - Approved

5. CONSULTATIONS

- 5.1 Sawtry Parish Council – Recommends refusal.

Recommend the application be refused on highway grounds. They also note the omission of a larger extraction system and chimney within the application that has been installed and the covered veranda and seating area at the front of the premises which has not been applied for. Also draw attention to condition 5 of 13/00086/FUL - this condition is not being adhered to currently and is not addressed in the planning application.

- 5.2 Local Highway Authority – No objection.

No objections to the proposal, following the implementation of a Traffic Regulation Order (TRO) which installed double yellow lines which are now in place on site to prevent cars parking outside the site.

- 5.3 Environmental Health - No objection.

No objections to the submitted odour and noise controls. The Plant Noise Assessment identifies a number of mitigation measures required to reduce noise from the plant and prevent an adverse impact. Although the business is already operating these mitigation measures will still need to be implemented by means of condition.

6. REPRESENTATIONS

- 6.1 Eight letters of objection were received during the course of the application. The concerns raised have been summarised below:

- Lorries and cars parking in dangerous places leading to highway safety concerns.
- Impact on neighbouring properties amenities (operating hours, licensed premises, noise, odour and litter).
- Unauthorised works.

- The application is incomplete.
- Should cater for all dietary choices, vegans/vegetarians/halal.
- The large sign, lighting and ducting etc on roof are an eyesore, not in keeping with village and on edge of a Conservation Area.

Two letters of support were received:

- This establishment has served the community well in the past, as a convenient eatery, good food and high standards of hygiene.
- As for parking, the road adjacent has coped in the past without having an impact on the local community.
- Great asset for the village. Parking on the main road is associated with other uses, not just this site. There are other options to safely and legally park nearby, and people will walk to this facility.

7. ASSESSMENT

7.1 When determining planning applications, it is necessary to establish what weight should be given to each plan's policies in order to come to a decision. The following legislation, government policy and guidance outline how this should be done.

7.2 As set out within the Planning and Compulsory Purchase Act 2004 (Section 38(6)) and the Town and Country Planning Act 1990 (Section 70(2)) in dealing with planning applications the Local Planning Authority shall have regard to have provisions of the development plan, so far as material to the application, and to any other material considerations. This is reiterated within paragraph 47 of the NPPF (2021). The development plan is defined in Section 38(3)(b) of the 2004 Act as "the development plan documents (taken as a whole) that have been adopted or approved in that area".

7.3 In Huntingdonshire the Development Plan consists of:

- Huntingdonshire's Local Plan to 2036 (2019)
- Cambridgeshire & Peterborough Minerals and Waste Local Plan (2021)

7.4 The statutory term 'material considerations' has been broadly construed to include any consideration relevant in the circumstances which bears on the use or development of the land: *Cala Homes (South) Ltd v Secretary of State for Communities and Local Government & Anor* [2011] EWHC 97 (Admin); [2011] 1 P. & C.R. 22, per Lindblom J. Whilst accepting that the NPPF does not change the statutory status of the Development Plan, paragraph 2 confirms that it is a material consideration and significant weight is given to this in determining applications.

7.5 The main issues to consider as part of this application are:

- Principle of Development
- Design, Visual Amenity and impact on the surrounding area
- Residential Amenity
- Parking Provision and Highway safety
- Flood Risk
- Biodiversity
- Other matters

Principle of Development

- 7.6 The site is located within a built-up area of Sawtry, which the adopted Huntingdonshire Local Plan to 2036 identifies as a 'Key Service Centre'. Policy LP8 of the adopted Local Plan states that a proposal for development on a site which is additional to those allocated in this plan will be supported where it is located within a built-up area of a Key Service Centre. As the site is located within the built up area, the proposal is compliant with Policy LP8.
- 7.7 The proposal seeks a change of use from a coffee shop/bakery (Previously Use class A3, now Use Class E b) to a fish and chip shop, and a restaurant/takeaway (mixed used development therefore Sui Generis). There are no policies which restrict this proposed use in this location.
- 7.8 Therefore the proposal is considered to be in accordance with Policy LP8 of the adopted Huntingdonshire Local Plan to 2036 and the principle of development is acceptable, subject to consideration of the below material considerations.

Design, Visual Amenity and impact on the surrounding area

- 7.9 Policy LP11 of the Local Plan states that proposals will be supported where it is demonstrated that they positively respond to their context and draw inspiration from the key characteristics of their surroundings, including the natural, historic and built environment.
- 7.10 Policy LP12 of the Local Plan states that proposals will be supported where they contribute positively to the area's character and identity and where they successfully integrate with adjoining buildings, topography and landscape.
- 7.11 The application seeks approval for the change of use of the existing building to a fish and chip shop and restaurant/take away. Given the previous use of the property as a bakery/café and the mixed use of properties in the immediate vicinity, the proposed change of use is not considered to result in any detrimental impacts on the character and appearance of the streetscene or surrounding area.

- 7.12 The proposed change of use includes the erection of a single storey rear extension, the installation of replacement flue/extraction systems and the erection of a front verandah.
- 7.13 The extension is considered to be small in scale and has been constructed to a matching style, design and materials as the existing property. The extension is located to the rear of the property and is not be readily visible from the public highway of Green End Road. The front verandah is of a simple appropriate functional design. Officers consider it would not have an adverse impact on the visual amenity of the area. The site is some distance from the Conservation Area located further along the road to the north of the site. Due to the siting and scale of the development and its relationship to the nearby Conservation Area it is not considered any adverse impact on the setting or character and appearance of the Conservation Area would result.
- 7.14 Furthermore, the replacement flue/extraction system is considered to be similar in style and scale and would not result in any detrimental visual impacts over and above the existing arrangement at the property.
- 7.15 Overall, the proposal is not considered to result in any detrimental impacts on the character and appearance of the existing property, the street scene of Green End Road and the surrounding area. As such, the proposal is considered to be in accordance with Policies LP11 and LP12 of Huntingdonshire's Local Plan to 2036, the Huntingdonshire Design Guide SPD and Section 12 of the National Planning Policy Framework in this regard.

Residential Amenity

- 7.16 Policy LP14 states that a proposal will be supported where a high standard of amenity is maintained for all occupiers of neighbouring land and buildings.
- 7.17 The closest neighbouring residential properties that are likely to be impacted upon as a result of the proposed development are No. 18 Green End Road and Nos. 22 and 24 Papyrus Way, Sawtry.
- 7.18 The rear extension measures approximately 4.9m in depth with an eaves height of 3m. The extension runs along the shared boundary to No. 18 Green End Rd and is located approximately 1m from the boundary fence. Whilst it is recognised that the proposal would result in some impact on the neighbouring properties private rear amenity space, it is noted that the extension replaces a shed that previously ran along this boundary. Furthermore, there are trees to the south-west corner of the neighbouring properties garden that screen the majority of the proposal.

- 7.19 With regards to No. 24 Papyrus Way, the extension is approximately 1.2m from the boundary at its closest point and due to its position and the orientation of the two properties, is not considered to result in any detrimental impacts on the neighbouring property or its private rear amenity space.

Noise impact

- 7.20 The application has been accompanied by a Noise Impact Assessment which concludes that the impact of the proposed development on neighbouring properties would be limited, subject to mitigation measures. The Council's Environmental Health Officer has raised no objections to the submitted Assessment and requests a condition be imposed on any planning permission to ensure the mitigation measures detailed within the Noise Impact Assessment are carried out and retained in perpetuity. Whilst the concerns about the noise and amenity impacts for neighbours in respect of the outdoor seating area under the front verandah have been considered. Officers consider due to the size, scale and nature of this area its use would be limited, and the resulting noise generated for surrounding neighbours would not be of a level to be considered unacceptable.

Odour impact

- 7.21 A complaint has also been received about odour coming from the site, although this has not been substantiated. Odour control measures have been submitted with the application, and have been found to be acceptable by the Environmental Health Officer, however, it is unclear whether these have already been installed. A condition requiring the implementation of the measures identified shall be imposed on any grant of planning permission.

Parking amenity

- 7.22 Double yellow lines have been painted on the road under a Traffic Regulation Order (TRO) outside the site to prevent the possibility of cars parking in unsafe locations. As such any clientele using the site will need to park further away and are expected to do so in a sensible manner. This therefore has the potential to create amenity issues with cars parked further up the road. However, given the variety of uses in the vicinity of the site including fire station and a Methodist Church further north along Green End Road and the previous use of the site as a coffee shop/café it is not considered to adversely affect residential amenity to such an extent to warrant a refusal of planning permission.
- 7.23 Therefore, taking the above factors into consideration, the proposal is considered to be acceptable with regard to its impact on residential amenity and therefore accords with Policy LP14 of Huntingdonshire's Local Plan to 2036 in this regard.

Highway Safety and Parking Provision

- 7.24 Green End Road, Sawtry is a classified C road, subject to a 30mph speed limit. The proposed development seeks to utilise an existing access point and the area to the front of the property to provide 2 off-street car parking spaces.
- 7.25 Policy LP16 (Sustainable Travel) aims to promote sustainable travel modes and supports development where it provides safe physical access from the public highway. Policy LP17 states a proposal will be supported where it incorporates appropriate space for vehicle movements, facilitates accessibility for service and emergency vehicles and incorporates adequate parking for vehicles and cycles.
- 7.26 Whilst Cambridgeshire County Council's Highway Authority originally raised objection to the proposal in terms of the proposed use, the intensification of the site and inadequate off-street car parking provision. Following the implementation of a Traffic Regulation Order (TRO) along Green End Road to include double yellow lines on and in the immediate vicinity of the site, the Local Highway Authority are now satisfied that the proposal would not result in any detrimental impacts on highway safety and this has overcome their objection. The Council does not have any set parking standards so the provision of the 2 spaces on site is not contrary to any requirement of the Local Plan. Officers are now satisfied that due to the TRO works the limited on site parking is not going to led to unsafe parking and highway safety dangers on the adjacent public highway.
- 7.27 The site's previous uses were lower key in nature with regard to the generation of vehicle movements and parking demand. However, the Highway Department have indicated that they are not aware of any specific safety incidents regarding the parking associated with the use currently in operation. As with all parking on the highway, it is not a right but is tolerated, provided that such parking is undertaken in a sensible manner and does not impact upon highway safety. It is also noted that the rear extension provides a cold room and storage areas and does not increase the seating capacity of the restaurant.
- 7.28 A condition would be imposed on any planning permission granted to ensure the area to the front of the property is retained for off-street car parking in perpetuity. The proposal is therefore compliant with policies LP16 and LP17 of the Huntingdonshire's Local Plan to 2036.

Flood Risk

- 7.29 The application site lies within Flood Zone 1 which means that it has a low probability of fluvial flooding. The proposal involves the

change of use of the property to a fish and chip shop restaurant/takeaway, including the erection of a rear extension - which is classified as 'Less Vulnerable' development. This type of development is considered to be acceptable in Flood Zone 1 and accordingly Exception or Sequential Tests are not required.

- 7.30 It is stated that surface water is disposed of via a soakaway and foul sewage is connected to the existing mains drainage system. These methods are considered to be acceptable in this instance, and there has been no drainage issues recorded at the site.
- 7.31 Therefore, the proposal is considered to be acceptable with regard to its impact on both flood risk and surface water and therefore accords with Policies LP5, LP6 and LP15 of Huntingdonshire's Local Plan to 2036 in this regard.

Biodiversity

- 7.32 Paragraph 174 of the NPPF (2021) states Planning policies and decisions should contribute to and enhance the natural and local environment. Policy LP30 of the Local Plan to 2036 requires proposals to demonstrate that all potential adverse impacts on biodiversity and geodiversity have been investigated and ensure no net loss in biodiversity and provide a net gain where possible, through the planned retention, enhancement and creation of habitats and wildlife features, appropriate to the scale, type, and location of development.
- 7.33 Policy LP30 of Huntingdonshire's Local Plan to 2036 requires proposals to demonstrate that all potential adverse impacts on biodiversity and geodiversity have been investigated. Policy LP30 also requires development proposals to ensure no net loss in biodiversity and provide a net gain in biodiversity where possible.
- 7.34 The rear extension is located on an existing area of hard surfacing and replaces an existing shed. As such, the proposal is not considered to result in any loss of biodiversity, nor result in any detrimental impacts on the natural environment. Accordingly, the proposal is considered to be in line with Policy LP30 of the adopted Huntingdonshire Local Plan to 2036 and Section 15 of the National Planning Policy Framework in this regard.

Other Matters

- 7.35 The issues concerning condition 5 of the permission 1300086FUL not being adhered to (outside seating, eating or drinking facilities including furniture, heaters and canopies) and there not being an application for the large ventilation system, veranda, sign and lighting at the front of the building which are already installed, are noted. As this application seeks to regularise the works that have been carried out. If this application is approved, this planning consent would supersede 1300086FUL.

- 7.36 A number of concerns about unauthorised works and the application being incomplete. As outlined above, the applicant has provided additional information and amended plans during the course of the application. The applicant has implemented a TRO. Officers have also amended the description to include the front verandah and extraction system/flue.
- 7.37 Mixed uses are also sui generis uses. Therefore any future change of use would require planning permission and no use restriction condition is therefore required.
- 7.38 The plans do not show the signage and lighting at the front of the property. A condition is recommended to highlight that the signage and lighting is not part of the application and therefore is not granted permission.

Conclusion

- 7.39 The application is retrospective as works have been completed. Through the submission of this application, through the submission of additional information and through the implementation of the TRO, the applicant has sought to regularise the works and to provide mitigation to address issues/concerns raised by neighbours and consultees.
- 7.40 Both the Highways Team and the Environmental Health Team now support the application. Officers consider the proposal would not have a significant impact in terms of visual amenity, highway safety, parking, noise, odour and impact upon neighbouring properties.
- 7.41 Having regard to all relevant material considerations, it is concluded that the proposal would accord with local and national planning policy. Therefore, it is recommended that planning permission be approved.

8. RECOMMENDATION - APPROVAL subject to the outcome of the 21 day public consultation, and to delegate the authority of the final decision to Chief Planning Officer in consultation with Chair and Vice Chair, and subject to conditions to include the following:

- Drawings
- Parking to be provided and retained
- Submission of cycle storage details
- Noise mitigation compliance
- Odour mitigation compliance
- Signage and lighting at the front not granted permission
- Hours of opening

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CONTACT OFFICER:

Enquiries about this report to **Lewis Tomlinson Senior Development Management Officer** – lewis.tomlinson@huntingdonshire.gov.uk

Lewis Tomlinson

From: clerk@sawtry-pc.gov.uk
Sent: 28 April 2021 16:24
To: Control, Development (Planning)
Subject: Comments on 20/00318/FUL

Reference: 20/00318/FUL

Site Address: 20 Green End Road Sawtry Huntingdon

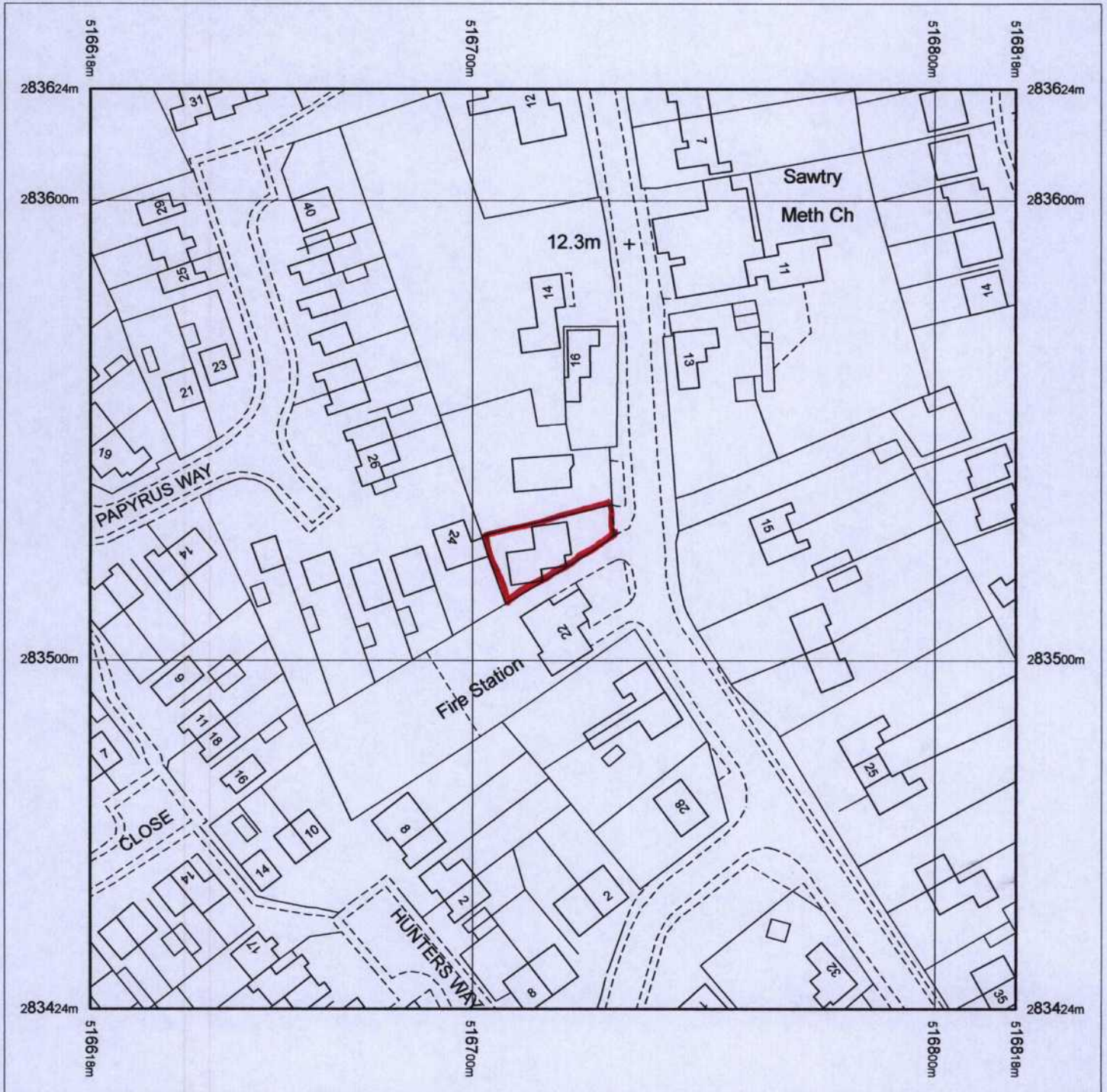
Proposal: change of use from bakery and cafe to fish and chip shop and restaurant/ take away including rear extension only.

Recommend Refusal:

Sawtry Parish Council have many issues regarding this application which have been submitted previously. The Parish Council have requested on more than one occasion that HDC enforcement look into this site. Why is trading as a fish and chip shop being allowed to continue without the necessary planning permission. Alterations have been undertaken on site and nothing has been approved by the District Council. These issues need to be addressed as trading is being carried out illegally.

Sawtry Parish Council

In accordance with the law, Sawtry Parish Council (SPC) only collect a limited amount of information. The personal information you provide (name, address, email address, phone number), will be processed and stored so that it is possible to contact you and respond to your correspondence and provide information. SPC do not use your data for purposes other than those specified. SPC do not use profiling, sell or pass on your data to third parties. SPC ensure your data is stored securely and delete all information deemed to be no longer necessary. SPC constantly review Privacy Policies-copy available on request.



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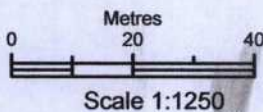
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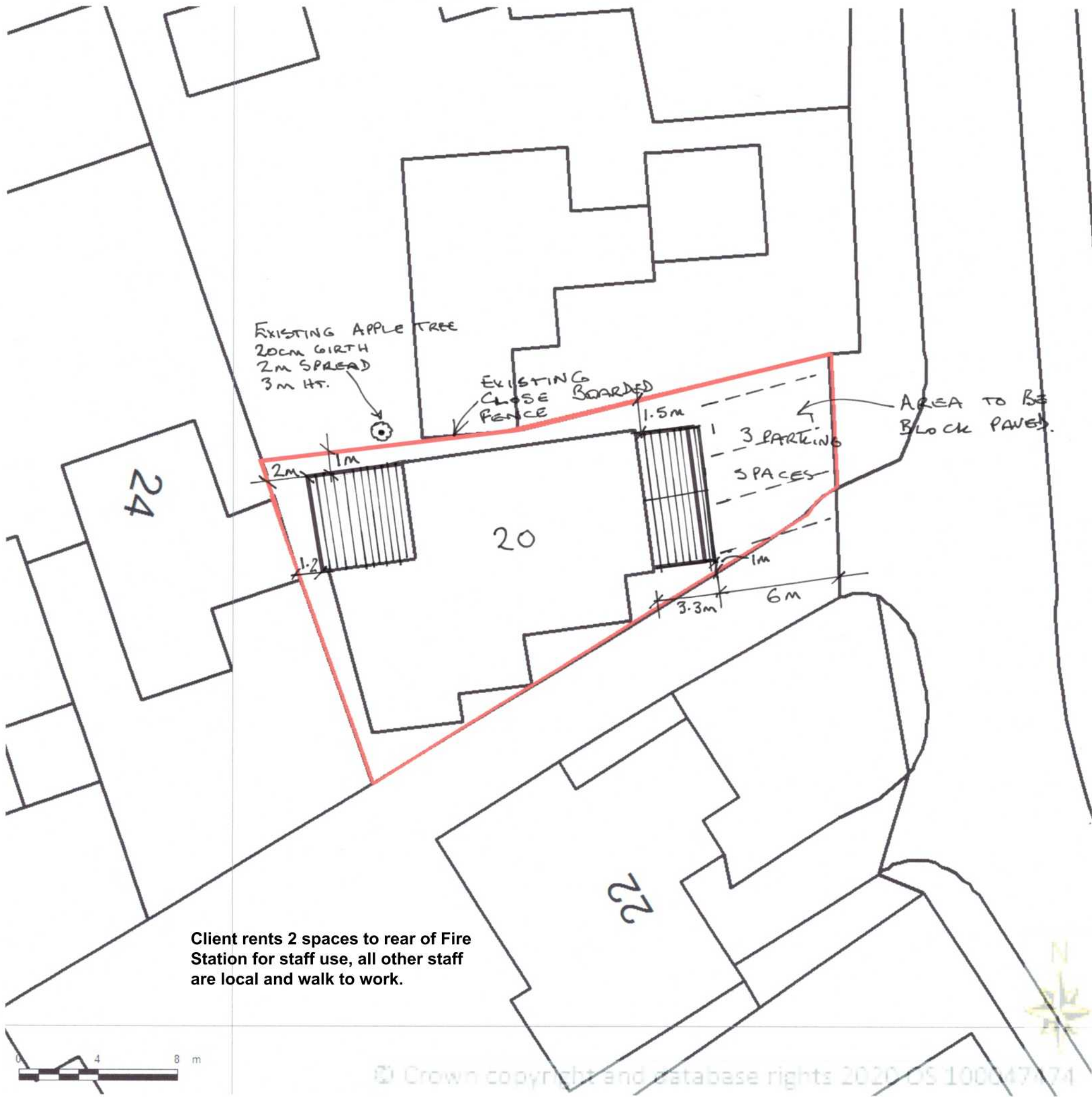


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20 Green End Road
Sawtry

BLOCK/SITE PLAN
AREA 55m x 55m A3
SCALE 1:200
CENTRE COORDINATES: 516716, 283524



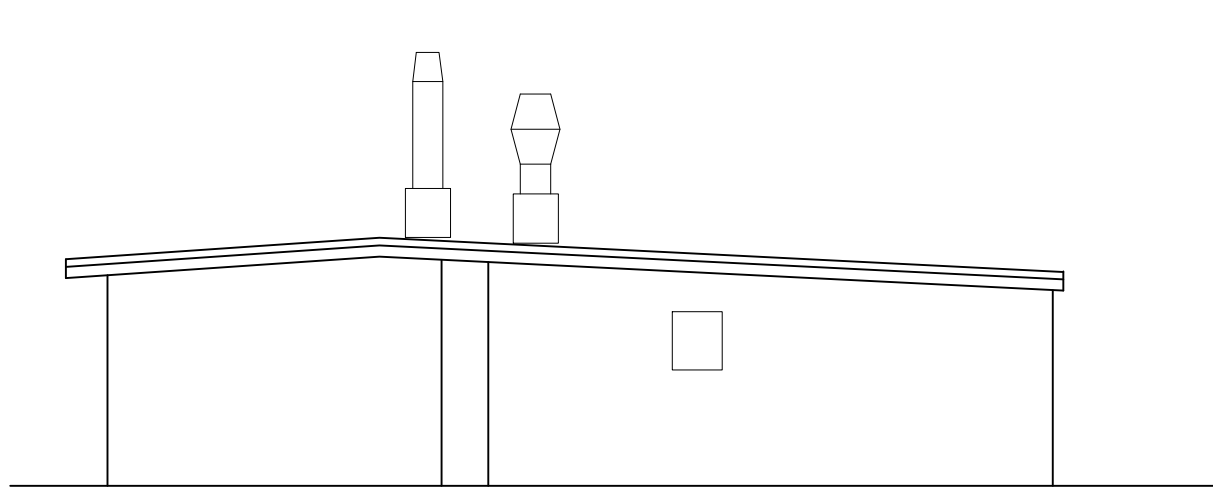
Client rents 2 spaces to rear of Fire Station for staff use, all other staff are local and walk to work.

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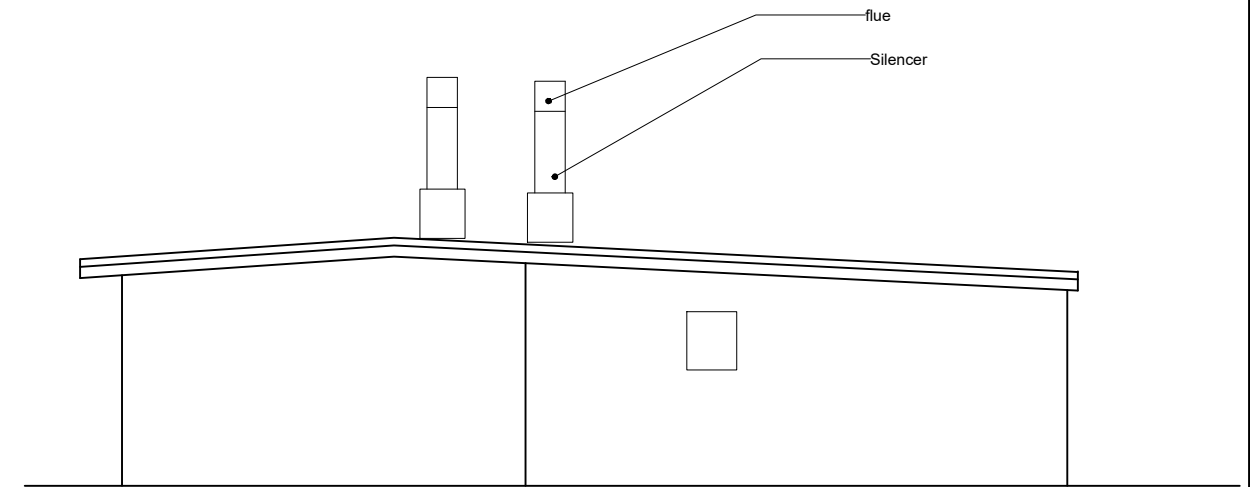


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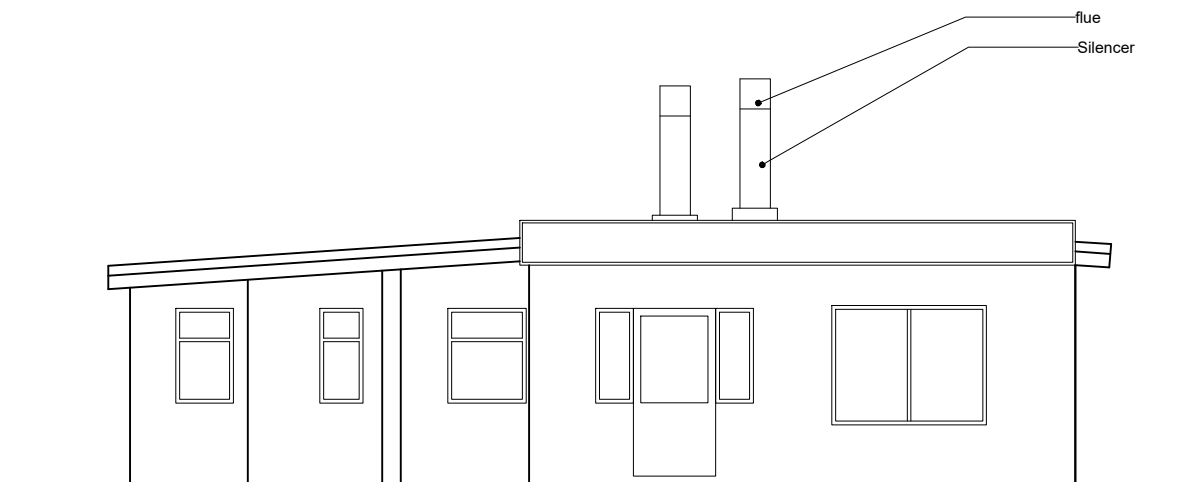
EXISTING REAR ELEVATION



PROPOSED REAR ELEVATION



EXISTING FRONT ELEVATION



PROPOSED FRONT ELEVATION

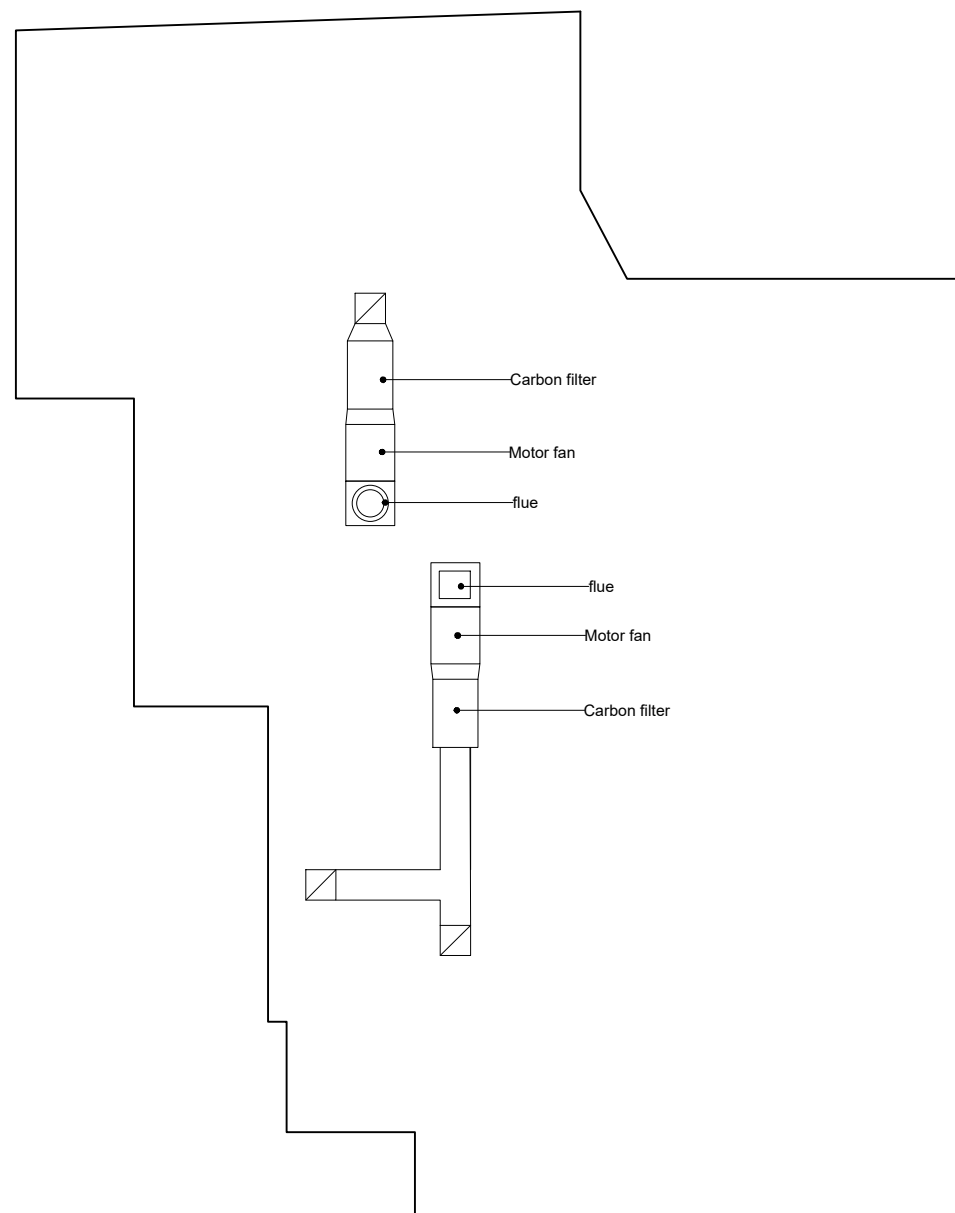
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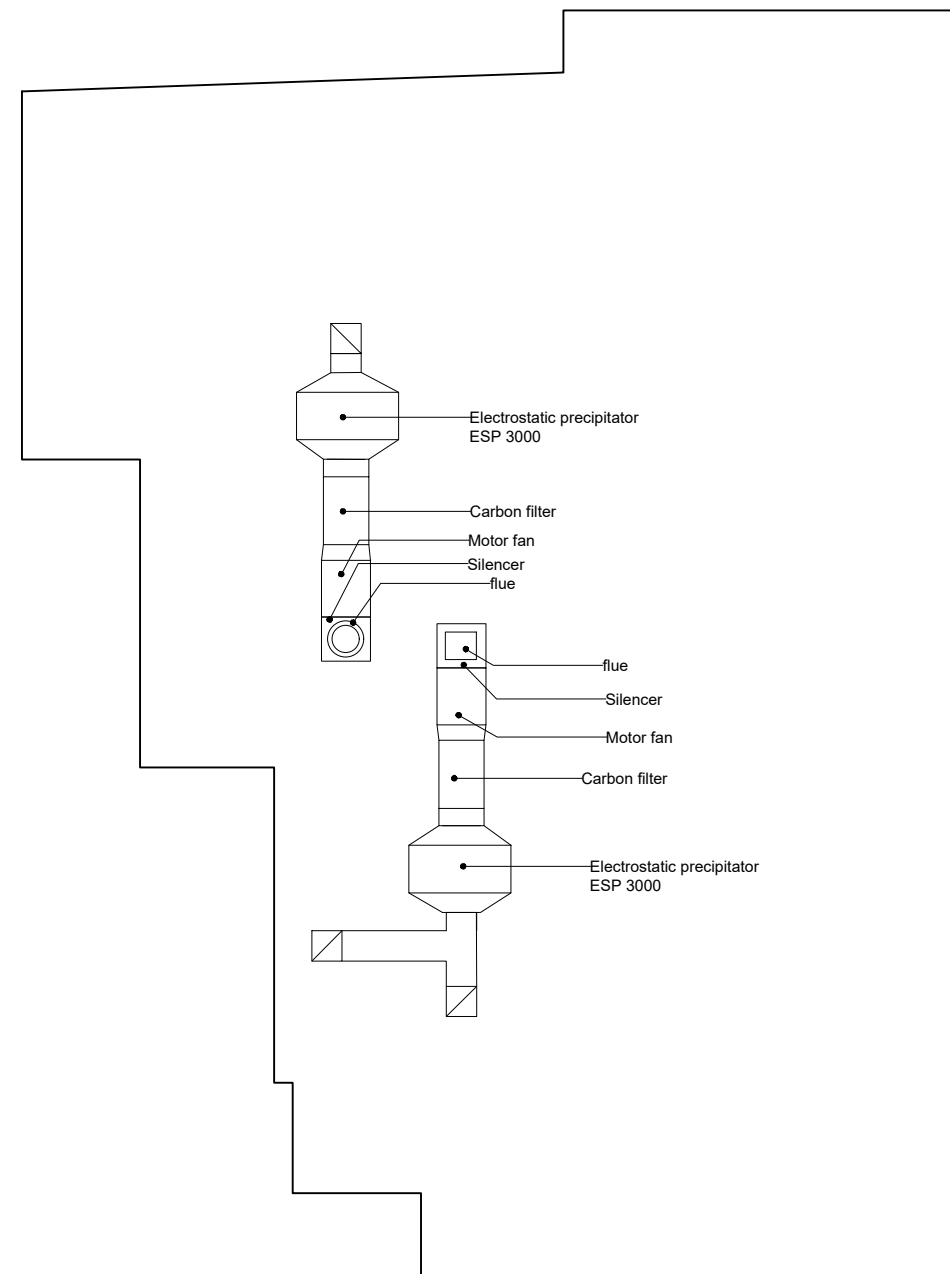
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Drawing Title	Front and Rear Elevations		
Project Number	20GE	Date	24/09/2020
Drawn by	DS	Checked by	-
Scale	1:100@A3	Revision	-
Drawing No	P-105		

General Notes

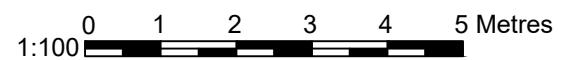
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EXISTING ROOF PLAN



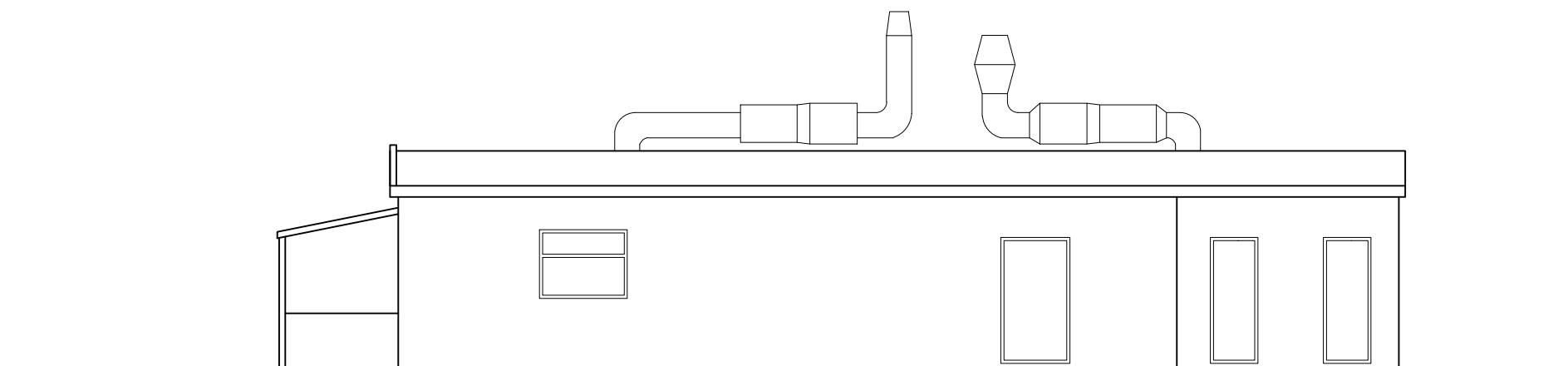
PROPOSED ROOF PLAN



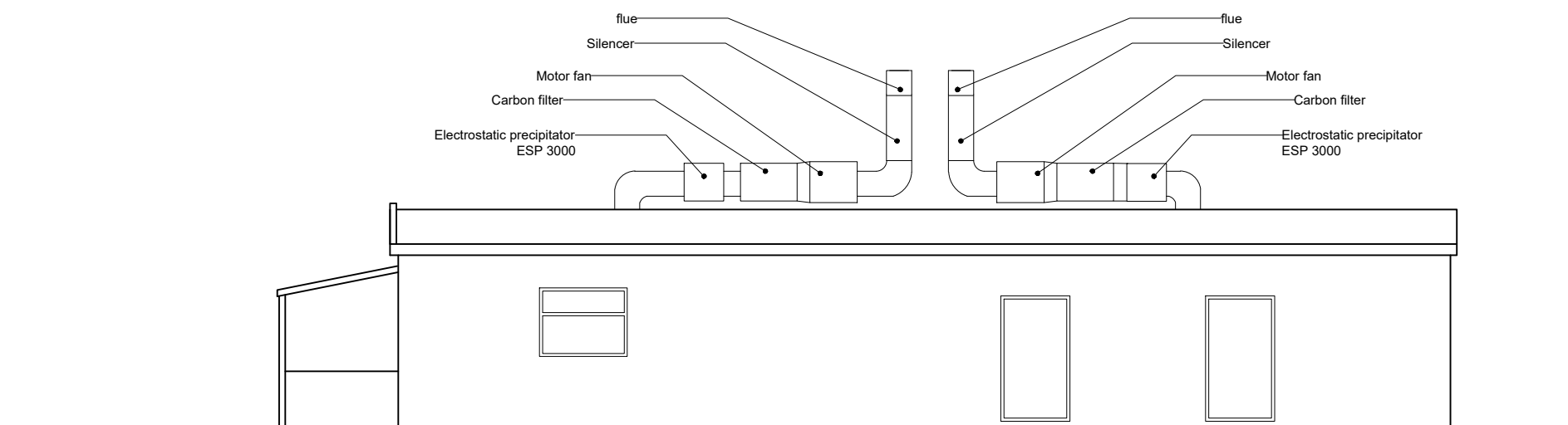
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Drawing Title	Roof Plans		
Project Number	20GE	Date	24/09/2020
Drawn by	DS	Checked by	-
Scale	1:100@A3	Revision	-
Drawing No	P-102		

General Notes

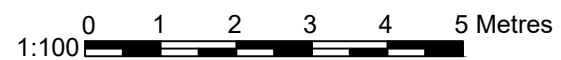
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EXISTING SIDE ELEVATION



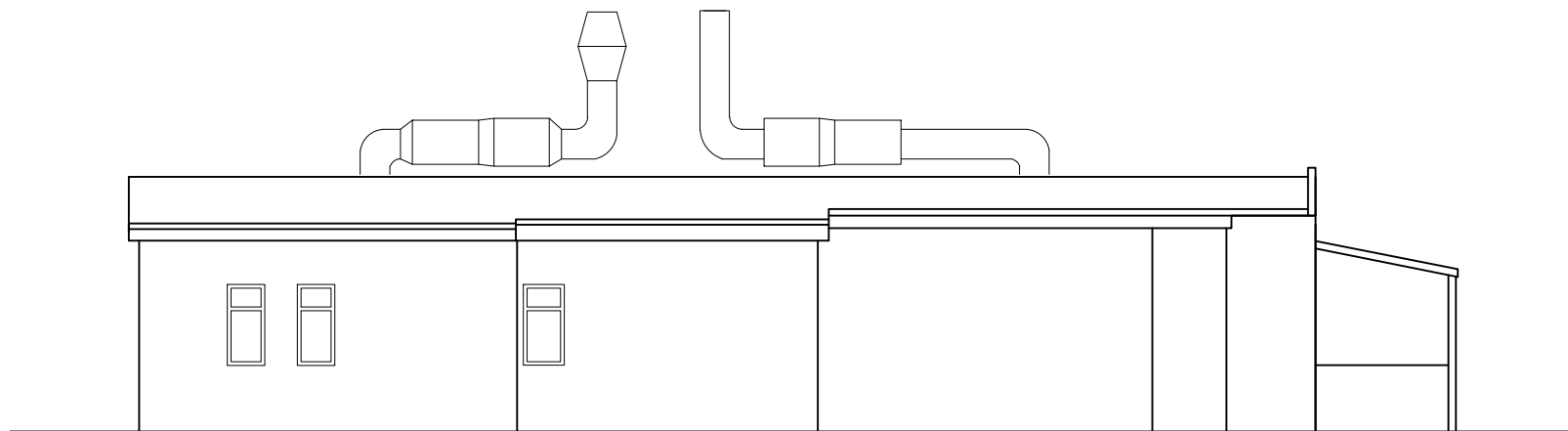
PROPOSED SIDE ELEVATION



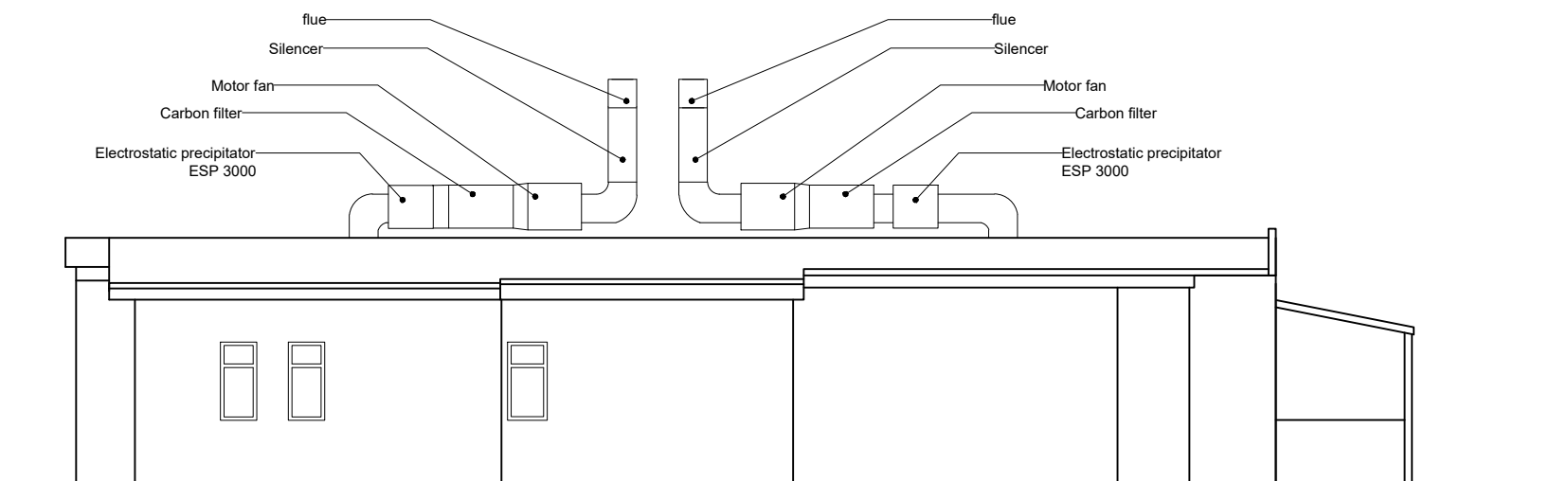
Project	20 Green End Rd, Sawtry, PE28 5UX		
Drawing Title	Side Elevations		
Project Number	20GE	Date	24/09/2020
Drawn by	DS	Checked by	-
Scale	1:100@A3	Revision	-
Drawing No	P-103		

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EXISTING SIDE ELEVATION



PROPOSED SIDE ELEVATION

1:100 0 1 2 3 4 5 Metres



Project	20 Green End Rd, Sawtry, PE28 5UX		
Drawing Title	Side Elevations		
Project Number	20GE	Date	24/09/2020
Drawn by	DS	Checked by	-
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