

THE HIGHLAND COUNCIL

SOUTH PLANNING APPLICATIONS COMMITTEE
8 April 2014

Agenda Item	6.8
Report No	PLS/027/14

13/04078/FUL : Mr & Mrs Zakir Khan
5-6 Cradlehall Court, Cradlehall, Inverness

Report by Area Planning Manager - South

SUMMARY

Description : Change of use to restaurant and hot-food takeaway

Recommendation - GRANT

Ward : 20 – Inverness South

Development category : Local

Pre-determination hearing : N/A

Reason referred to Committee : 5 or more objections from members of the public.

1. PROPOSED DEVELOPMENT

- 1.1 The proposal is for the change of use of a vacant retail unit within the local shopping centre at Cradlehall Court, Inverness.
- 1.2 The applicant carried out an informal pre-application consultation in August 2013. A response was issued in September 2013 advising that the proposal may be acceptable if it could be adequately demonstrated to comply with relevant development plan policies.
- 1.3 The site would be accessed via the existing access serving both the shopping centre and the adjacent nursing home and amenity housing. Parking is available as part of the parking provision within the centre.
- 1.4 The applicant has submitted a supporting statement detailing how the proposed use would be operated.
- 1.5 **Variations:** None.

2. SITE DESCRIPTION

- 2.1 The site is a vacant retail unit which is located within Cradlehall Court shopping centre. The centre comprises two buildings containing a total of 8 units with a central communal parking area. The units contain a number of mixed uses including a large grocery shop, baker's shop, hairdressers, and children's nursery.

3. PLANNING HISTORY

- 3.1 09/00814/FUL: Unit 2 & 3 - change of use to hot food takeaway. Refused April 2010. Subsequently dismissed on appeal to Scottish Ministers September 2010; 13/03109/PREAPP: change of use of vacant shop unit to Indian restaurant with takeaway facility. Response sent August 2013.

4. PUBLIC PARTICIPATION

- 4.1 Advertised : Schedule 3 Development. Advert expired 29.11.13.
Representation deadline : 29.11.13.
Timeous representations : 17 representations from 17 households.
Late representations : 3 representations from 3 households.
- 4.2 Material considerations raised are summarised as follows:

Objectors –

- The use will adversely affect residential amenity by virtue of cooking odours emanating from the premises, noise from additional traffic, and litter;
- The use is not compatible with adjacent land-uses;
- The small scale restaurant operation suggests the premises will operate predominantly as a takeaway and could set an undesirable precedent;
- The use will exacerbate anti-social behaviour.

Supporters –

- The use will provide community benefit as there is a lack of similar premises in the locality;
- The use will be of benefit to the local economy.

- 4.3 All letters of representation are available for inspection via the Council's eplanning portal which can be accessed through the internet www.wam.highland.gov.uk/wam. Access to computers can be made available via Planning and Development Service offices.

5. CONSULTATIONS

- 5.1 **Westhill Community Council:** Whilst not directly supporting or objecting to the proposal, the Community Council has expressed concern about a precedent being set for a less suitable hot food takeaway at the premises in the future. In the event of planning permission being granted, it is recommended that conditions are imposed strictly defining the nature of the takeaway use and controlling opening times.
- 5.2 **TECS (Area Roads and Community Works Manager):** Satisfied that sufficient parking provision is available.

- 5.3 **TECS (Environmental Health):** The initially proposed extraction control system was considered inadequate to effectively control grease, odour and smoke. Following extensive discussions with the applicant and agent, a revised scheme has now been submitted which addresses odour control concerns. A number of conditions have been recommended to cover odour control, plant/machinery noise and waste storage.

6. DEVELOPMENT PLAN POLICY

The following policies are relevant to the assessment of the application

6.1 Highland-wide Local Development Plan 2012

28 Sustainable Design

7. OTHER MATERIAL CONSIDERATIONS

7.1 Draft Development Plan

Inner Moray Firth Local Development Plan

7.2 Highland Council Supplementary Planning Policy Guidance

Not applicable.

7.3 Scottish Government Planning Policy and Guidance

Not applicable.

8. PLANNING APPRAISAL

- 8.1 Section 25 of the Town and Country Planning (Scotland) Act 1997 requires planning applications to be determined in accordance with the development plan unless material considerations indicate otherwise.

- 8.2 This means that the application requires to be assessed against all policies of the Development Plan relevant to the application, all national and local policy guidance and all other material considerations relevant to the application.

8.3 Development Plan Policy Assessment

The operation of a restaurant and hot-food takeaway at this site is supported by Policy 28 of the Highland-wide Local Development Plan providing that it can be adequately demonstrated that it is compatible with existing public service provision; is accessible by public transport, cycling and walking as well as by car; makes use of existing buildings; and does not impact on individual and community residential amenity.

The restaurant/takeaway is to be located within a well established local shopping centre and therefore meets the tests of public service provision and accessibility. In addition it will bring into use a unit which has been vacant for a number of years which in turn will benefit the local economy. The nature of the use however means that impact on individual and community amenity is the determining factor in assessing whether or not it can comply overall with the development plan.

8.4 **Material Considerations**

Effective odour control is a key consideration in ensuring that the proposed use can operate without detriment to the amenity of the area. The applicant has had extensive discussions with Environmental Health and has provided revised technical information relating to odour control. This is now to a standard acceptable to Environmental Health.

It is noted that the original planning permission for the commercial centre specifically excluded a fast food outlet. Previous planning history for the shopping centre includes refusals of hot food takeaways, once in 1996 and again in 2010, the latter being dismissed on appeal to Scottish Ministers. The current proposal does however vary materially from the previous proposal in that it consists of a dual use restaurant/takeaway and is on a smaller scale, operating from one unit instead of two. This dual use element is considered important as it is of a different character and nature to a purely hot food takeaway. It is not uncommon to find food outlets located within shopping areas and in this case the operation would bring back into use a unit which has been vacant for a number of years. As a consequence, it is considered compatible with the existing uses. It is also of note that no objections have been received from either neighbouring commercial premises or the adjacent nursing home and sheltered housing complex.

Whilst the use will inevitably lead to further pedestrian and vehicular traffic within the centre, controlling the hours of operation of the premises will ensure that it does not have an adverse impact on neighbouring land uses to an unacceptable degree.

8.5 **Other Considerations – not material**

It has been asserted that the use may lead to anti-social behaviour and noise/disturbance at night. It is difficult for this to be quantified in any meaningful way. Restrictions on the hours of operation, which would require the premises to close by 10.30pm, would mitigate any potential conflict with nearby noise sensitive premises. Anti-social behaviour itself is not a planning issue and would be a matter for the Police.

8.6 **Matters to be secured by Section 75 Agreement**

Not applicable.

9. **CONCLUSION**

9.1 All relevant matters have been taken into account when appraising this application. It is considered that the proposal accords with the principles and policies contained within the Development Plan and is acceptable in terms of all other applicable material considerations.

10. **RECOMMENDATION**

Action required before decision issued N

Notification to Scottish Ministers N

Notification to Historic Scotland	N
Conclusion of Section 75 Agreement	N
Revocation of previous permission	N

Subject to the above, it is recommended the application be **Granted** subject to the following conditions and reasons / notes to applicant:

1. The use of the premises as a restaurant and hot-food takeaway shall not commence until the proposed kitchen exhaust system as specified by the applicant (document entitled Kitchen Exhaust System Calculation and Grease Odour and Smoke Control Proposal and sketch plan of proposed system dated 19 March 2014) which incorporates stainless steel baffle filters, a combined electrostatic precipitator and UV-C lamp unit, and the flue terminating at 1 metre above roof ridge, with the flue fitted with an accelerating cone, has been installed and effectively operated to ensure that odours are not detected at neighbouring properties.

Reason : In order to safeguard the amenity of neighbouring properties and occupants.

2. The extraction equipment installed in pursuance to Condition 1 above shall be regularly maintained to ensure its continued satisfactory operation and the cooking process shall cease if, at any time, the extraction equipment ceases to function correctly.

Reason : In order to safeguard the amenity of neighbouring properties and occupants.

3. The use of the premises as a restaurant and hot-food takeaway shall not commence until a scheme providing for adequate storage of refuse has been submitted to, and approved in writing by the Planning Authority and thereafter implemented and maintained for that purpose.

Reason : To ensure that waste generated by the use is managed in a sustainable manner.

4. All plant, machinery and equipment associated with ventilation, air-conditioning, heating and refrigeration services or similar, including fans, ducting and external openings shall be so installed, maintained and operated such that any associated operating noise does not exceed NR 20 when measured or calculated within any noise sensitive premises with windows open for ventilation purposes.

Reason : In order to safeguard the amenity of neighbouring properties and occupants.

5. The use of the premises as a restaurant and hot-food takeaway shall only operate between the hours of 4.30pm and 10.30pm, Monday to Sunday inclusive, and at no other time.

Reason : In order to safeguard the amenity of neighbouring properties and occupants.

REASON FOR DECISION

The proposals accord with the provisions of the Development Plan and there are no material considerations which would warrant refusal of the application.

TIME LIMITS

In accordance with Section 58 of the Town and Country Planning (Scotland) Act 1997 (as amended), the development to which this planning permission relates must commence within THREE YEARS of the date of this decision notice. If development has not commenced within this period, then this planning permission shall lapse.

FOOTNOTE TO APPLICANT

Initiation and Completion Notices

The Town and Country Planning (Scotland) Act 1997 (as amended) requires all developers to submit notices to the Planning Authority prior to, and upon completion of, development. These are in addition to any other similar requirements (such as Building Warrant completion notices) and failure to comply represents a breach of planning control and may result in formal enforcement action.

1. The developer must submit a Notice of Initiation of Development in accordance with Section 27A of the Act to the Planning Authority prior to work commencing on site.
2. On completion of the development, the developer must submit a Notice of Completion in accordance with Section 27B of the Act to the Planning Authority.

Copies of the notices referred to are attached to this decision notice for your convenience.

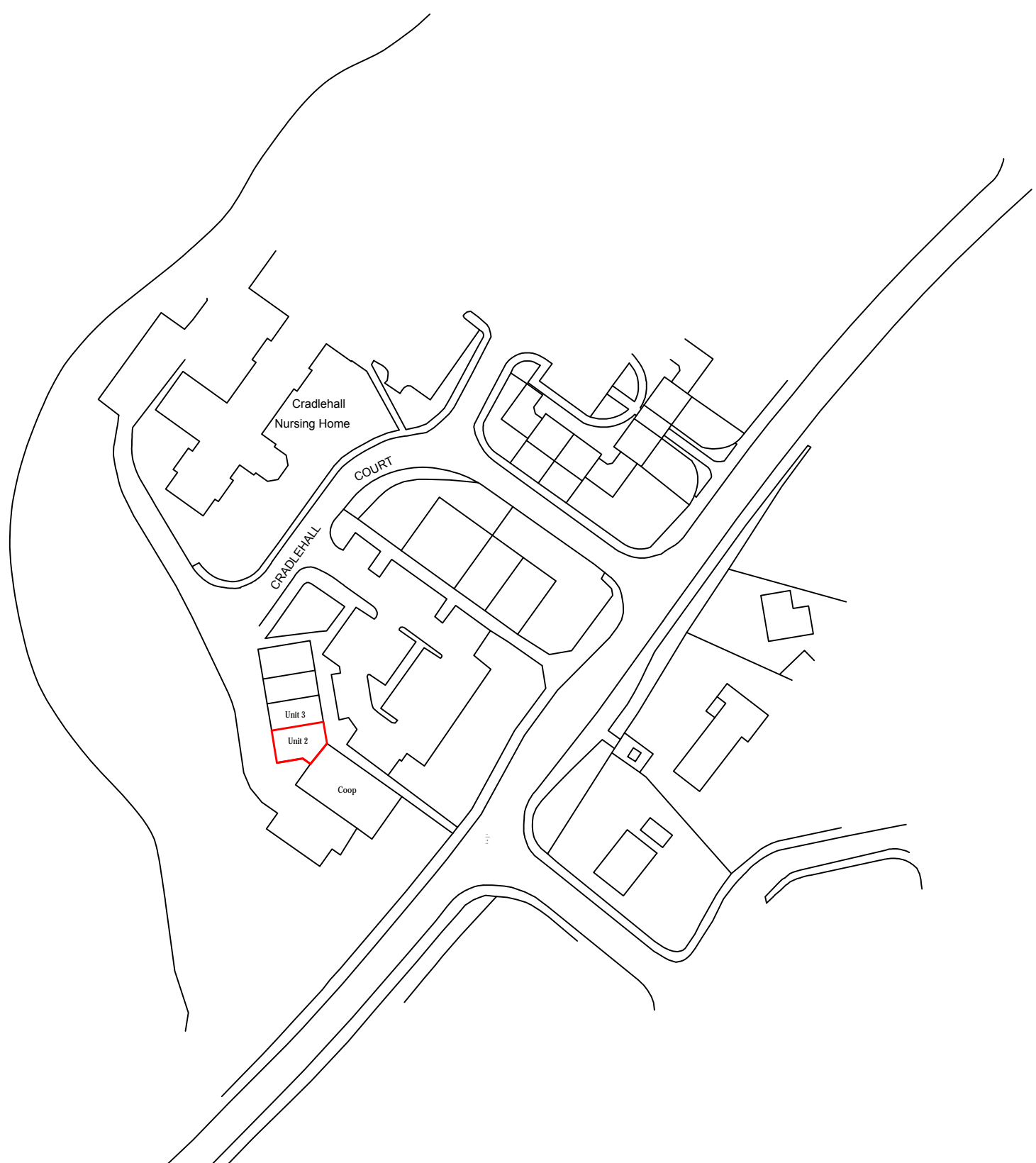
Accordance with Approved Plans & Conditions

You are advised that development must progress in accordance with the plans approved under, and any conditions attached to, this permission. You must not deviate from this permission without consent from the Planning Authority (irrespective of any changes that may separately be requested at the Building Warrant stage or by any other Statutory Authority). Any pre-conditions (those requiring certain works, submissions etc. prior to commencement of development) must be fulfilled prior to work starting on site. Failure to adhere to this permission and meet the requirements of all conditions may invalidate your permission or result in formal enforcement action.

Signature: Allan J Todd
Designation: Area Planning Manager – South
Author: John Kelly 01463 255199
Background Papers: Documents referred to in report and in case file.
Relevant Plans: Plan 1 – Location Plan
Plan 2 – Site Layout Plan
Plan 3 – Elevation Plan
Plan 4 – Floor Plan

Appendix – Letters of Representation

Name	Address	Date Received	For/Against
SL Hulbert	85 Cradlehall Court, Inverness	19/11/13	Against
M Idris	17 Woodlands Crescent, Inverness	22/11/13	For
SJ Taylor	7 Caulfield Road North, Inverness	22/11/13	Against
M Brown	21 Westfield Avenue, Inverness	23/11/13	For
L Derbyshire	25 Abbey Court, Inverness	23/11/13	For
D Lawson	20 Lochy Road, Inverness	25/11/13	For
E Morrison	1 Merlin Crescent, Inverness	28/11/13	For
D Steel	22 Oakdene Court, Inverness	28/11/13	For
J Sutherland	40 Castlehill Drive, Inverness	28/11/13	For
NW Murray	40 Cradlehall Park, Inverness	28/11/13	Against
I Barke	45 Cradlehall Park, Inverness	28/11/13	Against
F Boni	43 Cradlehall Park, Inverness	28/11/13	Against
D McKenzie	41 Cradlehall Park, Inverness	28/11/13	Against
M McIntosh	18 Cradlehall Court, Inverness	28/11/13	Against
J & S Munro	113 Cradlehall Park, Inverness	28/11/13	Against
A Barnett	44 Cradlehall Park, Inverness	28/11/13	Against
M Mackinnon	19 Briargrove Drive, Inverness	29/11/13	For
J McLaren	98 Cradlehall Park, Inverness	01/12/13	For
A Urquhart	60 Inshes Crescent, Inverness	05/12/13	For
D Macpherson	19 Towerhill Avenue, Inverness	07/12/13	Against



Planning Reference
Building Control Reference

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Architectural Technologist &
Building Design Consultant
Dunedin House
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07889 722463 (mob)
e-mail: bill@dunedin.go-plus.net
website: www.billmacdonald.co.uk

client
Mr Z Khan

project
**Preparation of ethnic hot food
restaurant/takeaway
Unit 2, Cradlehall Court
Inverness**

Location plan

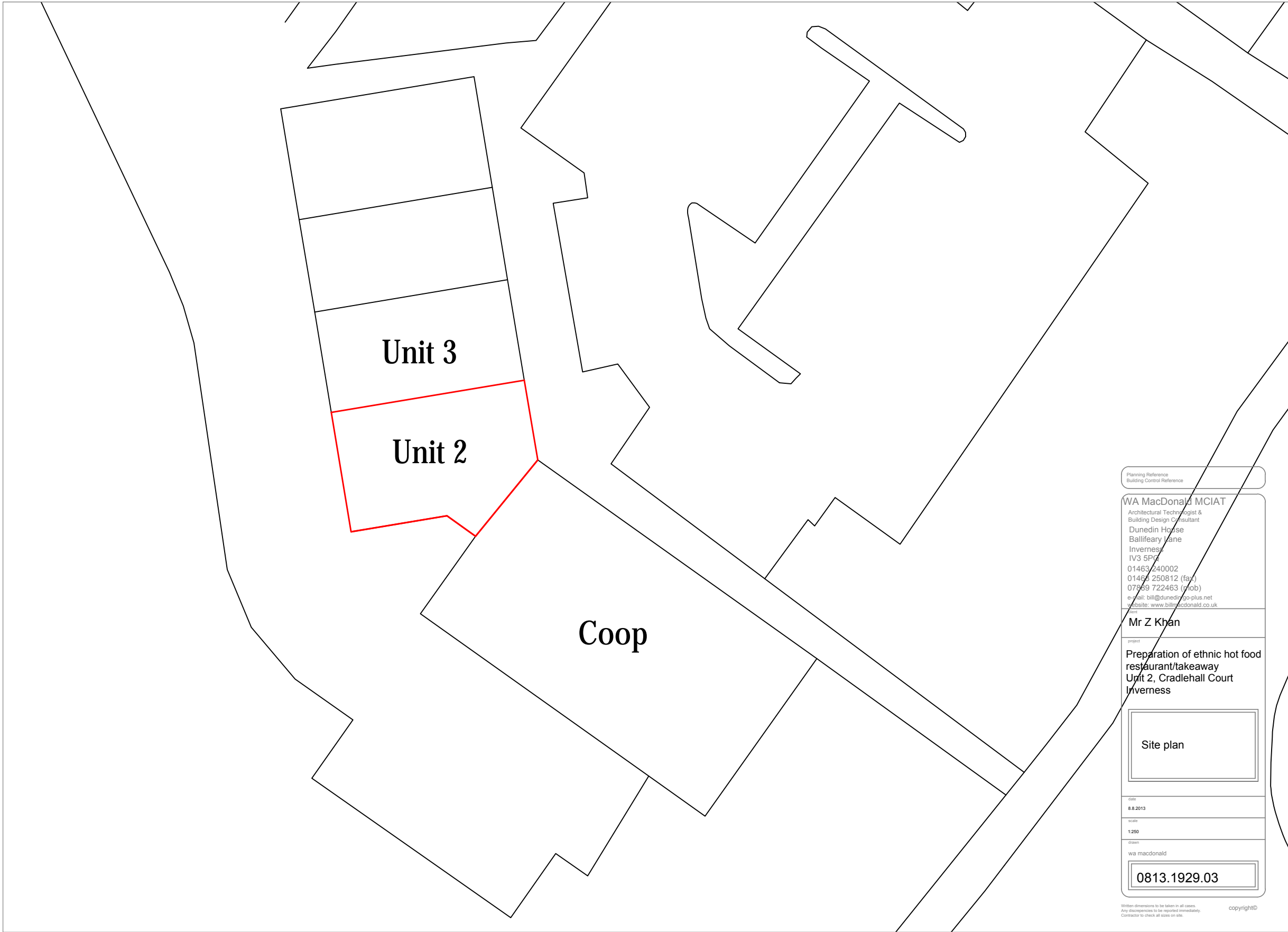
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8.8.2013

Scale
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wa macdonald

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Written dimensions to be taken in all cases.
Any discrepancies to be reported immediately.
Contractor to check all sizes on site. copyright©



Planning Reference
Building Control Reference

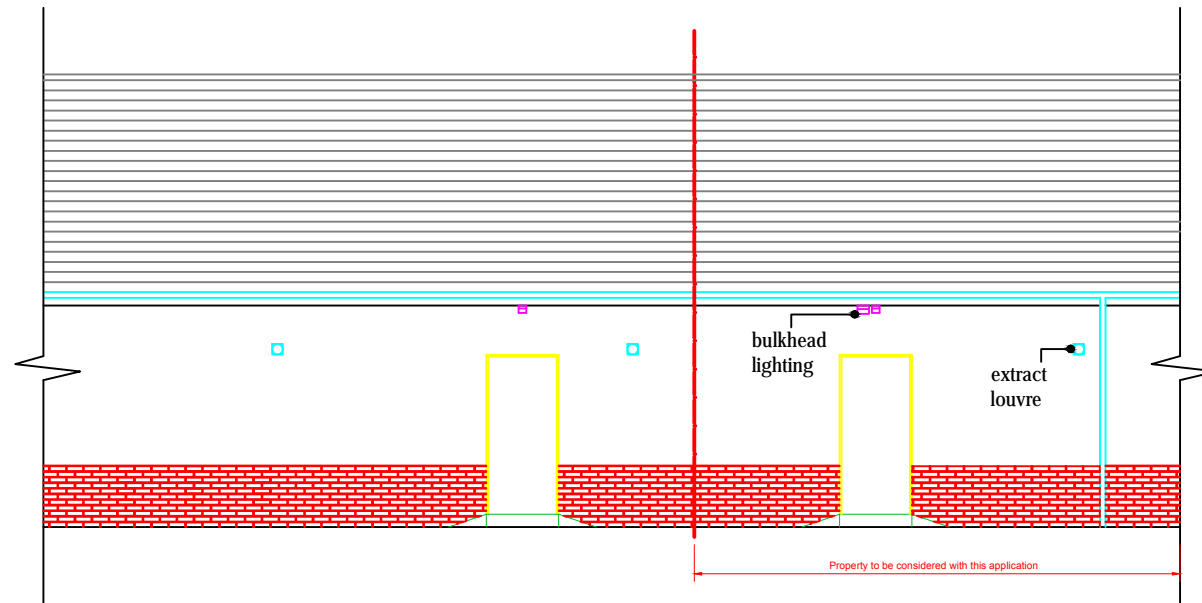
WA Macdonald MCIAT
Architectural Technologist &
Building Design Consultant
Dunedin House
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07969 722463 (mob)
e-mail: bill@dunedin-go-plus.net
website: www.billmacdonald.co.uk

Mr Z Khan
project
**Preparation of ethnic hot food
restaurant/takeaway
Unit 2, Cradlehall Court
Inverness**

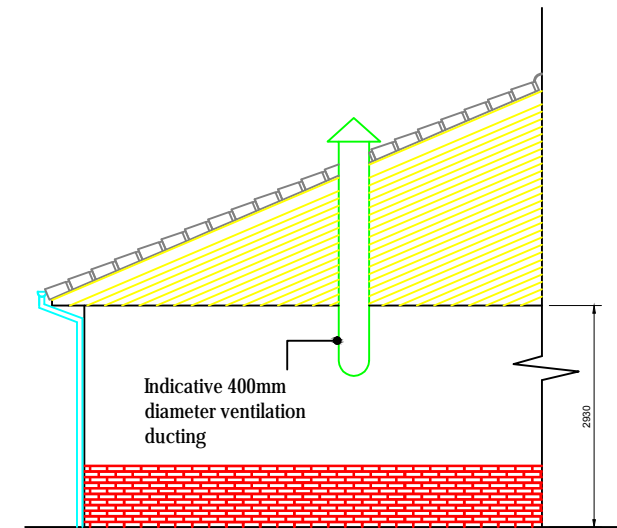
Site plan

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wa macdonald
0813.1929.03

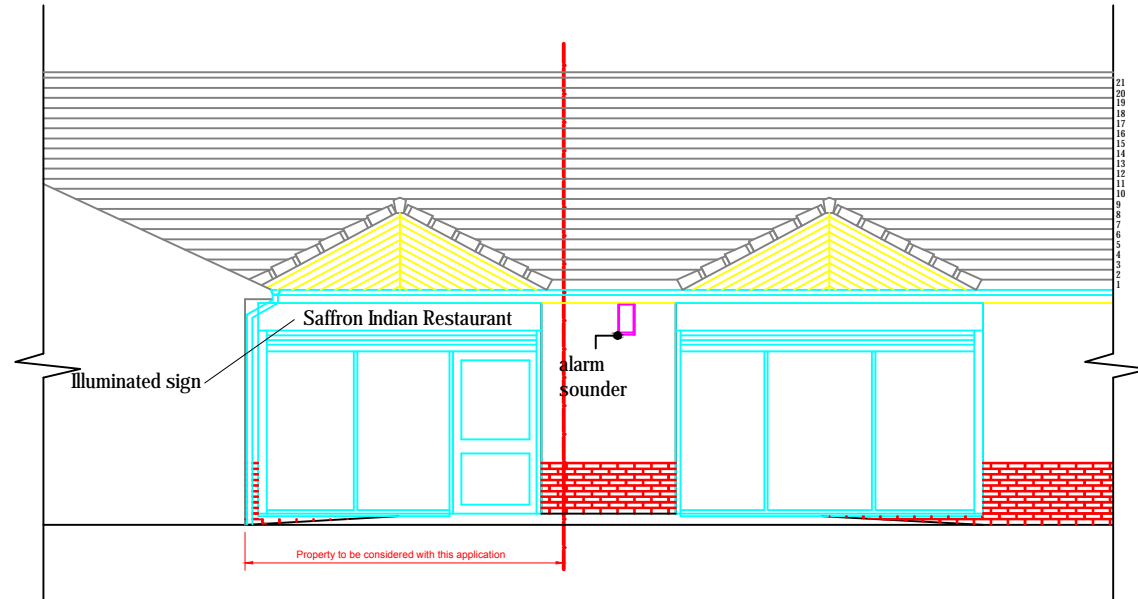
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Indicative
Rear Elevation



Indicative
Side Elevation



Indicative
Front Elevation

Rev C 11.10.2013 Sign added
Rev B 7.8.2013 Client revs
Rev A 7.8.2013 Comments from BS re wc

Planning Reference
Building Control Reference

Saffron Indian Restaurant

Preparation of ethnic hot food
restaurant/takeaway
Unit 2, Cradlehall Court
Inverness

Elevations

7.8.2013

1:50

wa macdonald

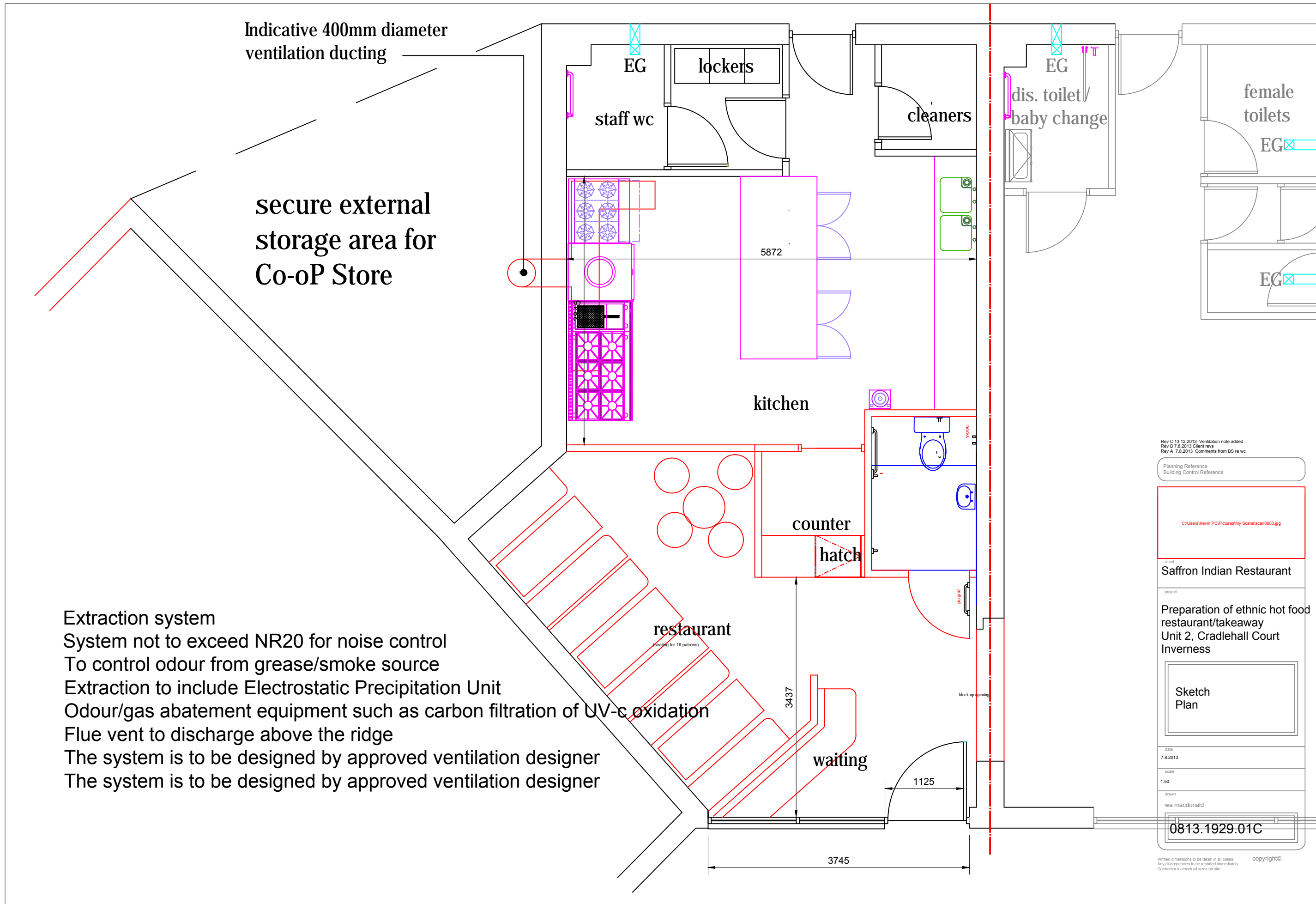
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Indicative 400mm diameter ventilation ducting

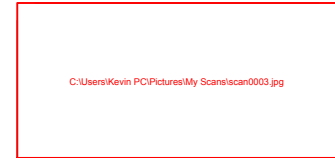
secure external storage area for Co-oP Store

Extraction system
System not to exceed NR20 for noise control
To control odour from grease/smoke source
Extraction to include Electrostatic Precipitation Unit
Odour/gas abatement equipment such as carbon filtration or UV-c oxidation
Flue vent to discharge above the ridge
The system is to be designed by approved ventilation designer
The system is to be designed by approved ventilation designer



Rev C 13.12.2013 Ventilation note added
Rev B 7.8.2013 Client revs
Rev A 7.8.2013 Comments from BS re wc

Planning Reference
Building Control Reference



client
Saffron Indian Restaurant

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