

THE HIGHLAND COUNCIL

PLANNING APPLICATIONS COMMITTEE
16 February 2016

Agenda Item	7.5
Report No	PLN/012/16

15/04190/FUL: Mr Kolyo Zarbov
51 Princes Street, Thurso, KW14 7AB

Report by Area Planning Manager

SUMMARY

Description : Change of use from library to takeaway.

Recommendation - GRANT

Ward : 02 – Thurso

Development category : Local development

Pre-determination hearing : Not required

Reason referred to Committee: More than 5 separate objections/objection from Thurso Community Council.

1. PROPOSED DEVELOPMENT

- 1.1 This application is for change of use to a hot food takeaway. The last use of the building was to accommodate Thurso Library covering the period of renovation for the Library on Davidson's Lane, Miller institution building, which has now reopened rendering this building vacant.
- 1.2 In addition to the change of use, alterations are proposed to the exterior of the building namely the installation of a ventilation flue on the rear elevation which forms part of the system for grease, smoke and odour control from the kitchen. The flue is located at the rear of the building, on the north elevation roof plane of the single storey annex. It is proposed to finish this is black/grey. The elevation drawing submitted states that the flue projects 1600mm in height from the roof plane and no lower than 600mm above the ridge of the single storey annex.
- 1.3 Work on the internal fit out of the building has already commenced without the benefit of planning permission. The applicant was advised to stop work in advance of the determination of the planning application.
- 1.4 An element of the street front signage erected was requested to be removed which the applicant has, in part, complied with. New signage is proposed, exact details of which have not yet been submitted and shall be subject to separate application.

Signage erected without consent in the period of submission of this application has, in part, been removed with advice given that Advertisement Consent is required and that any such advertisement should not detract from the character of Thurso Conservation Area.

- 1.5 It is not proposed to make any changes to the existing water or drainage provisions.
- 1.6 There have been no formal pre-application discussions.
- 1.7 **Variations:** Floor Plan and Elevation Plan have both been subject to amendment.

2. SITE DESCRIPTION

- 2.1 The site is located on Princes Street in the town centre on the corner of Princes Street and Robertson's Lane. The main part of the building fronting on to the Princes Street is 2 ½ storeys in height. There are residential flats on the upper floors. There is a single storey annex projecting from the rear of the building fronting Robertson's Lane. Being located within the town centre, there is a mix of uses around the site including retail, hot food takeaways and residential. There is on street parking on Princes Street and surrounding streets. Princes Street is an arterial route within Thurso. The building is not subject to Listing however it is located within the bounds of Thurso Conservation Area.

3. PLANNING HISTORY

- 3.1 13/01784/FUL - Change of use from Class 2 (Office) to Class 10 (Library), Temporary permission, granted by Committee 18.06.2013
08/00201/ADVCA - Installation of fascia sign board, consented 25.06.2008
01/00408/COUCA - Change of use of former hydro showroom to office suite, granted 16.01.2002
99/00087/COUCA - Change of use from commercial premises to flat, granted 21.05.1999

4. PUBLIC PARTICIPATION

- 4.1 Advertised : Schedule 3 Development
Representation deadline : 01.02.2016
Timeous representations : 14
Late representations : 0
- 4.2 Material considerations raised are summarised as follows:
 - Odour, litter and vermin – impacts on residential amenity
 - Increase in traffic/parking issues
 - Anti-social behaviour/disturbance/noise
 - Impact of signage on character of conservation area
- 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 **Environmental Health:** No objection. Originally requested further information regarding the proposed ventilation system.
The ventilation system proposals appear reasonable and odour should be adequately controlled by the filters provided that these are installed and maintained properly.
- 5.2 **Transport Planning:** No objection.
- 5.3 **Thurso Community Council:** Objection. Overprovision of takeaways. Concerns raised regarding traffic congestion and littering.

6. DEVELOPMENT PLAN POLICY

The following policies are relevant to the assessment of the application

6.1 Highland Wide Local Development Plan 2012

Policy 28	Sustainable Design
Policy 29	Design Quality and Place-Making
Policy 34	Settlement Development Areas
Policy 57	Natural, Built and Cultural Heritage

6.2 Adopted Caithness Local Plan 2002 (as continued in force)

The development is located within the area defined as Thurso town centre and is within the bounds of Thurso Conservation Area. Shop front design and related advertisements subject to Appendix VI – Design Guidelines for Thurso Conservation Area.

7. OTHER MATERIAL CONSIDERATIONS

7.1 Draft Development Plan – Caithness and Sutherland Local Development Plan – Proposed Plan

Within town centre. The town centre remains the economic, social and cultural focal point of the town. The new Town Centre First policy directs all significant footfall generating developments towards the town centre and encourages a range of uses including promoting those which are active during the daytime and evening.

7.2 Highland Council Supplementary Planning Policy Guidance

Planning Advice Note – Applications for Small Business Development, July 2011

7.3 Scottish Government Planning Policy and Guidance

Scottish Historic Environment Policy, December 2011

Planning Advice Note: PAN 59 – Improving Town Centres: October 1999

Planning Advice Note: PAN 71 – Conservation Area Management: December 2004

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 proposed hot food takeaway use would be a change of use from recent uses as a library (class 10 non residential institution) and previously as retail/showroom space. However, it is a use that is compatible with town centre uses and functions. As the proposal would bring a vacant unit back into use, it is considered to contribute to the vitality and viability of the town centre and provide local employment opportunities. The proposal is therefore in accordance with the policies for town centres contained within the development plan.

The building is located within the bounds of Thurso Conservation Area. Works which materially affect the appearance and character of the building, in turn deemed to impact the character of the Conservation Area, are subject to consideration. National and local planning policy seek to ensure that new development preserves or enhances the appearance of conservation areas. Excepting any proposed advertisement for the development (which will be the subject of a separate application for Advertisement Consent), the external flue vent will be visible from the public realm.

The external vent will be located on the north elevation roof plane of the single storey annex which projects from the rear of the building. The submitted elevation drawing states that this will project at least 600mm above the ridgeline of the single storey element of the building on this elevation. A condition is attached requiring submission and written approval of exact details prior to commencement of development. It is not envisaged that it will be substantially greater than 600mm. The flue will be visible from Robertson's Lane and from surrounding properties. The applicant has agreed to finish this ventilation flue in matt black in order to make it appear recessive. It is not considered that the flue will have a significant visual impact in this location.

8.4 Material Considerations

Material considerations are raised by third parties and by planning policy.

The potential for impact on residential amenity requires to be assessed. Environmental Health have confirmed that the proposed ventilation system is acceptable and provided that this is installed and maintained properly will not result in unacceptable odour or noise nuisance which would be significantly detrimental to residential amenity. Appropriate conditions to address these issues can be applied.

- 8.5 The potential for disturbance/anti-social behaviour to impact on residential amenity has been raised by third party objectors. The site is located within a town centre, which is characterised by a mix of uses and the proposed use is not at odds with this. There is no evidence to suggest that the proposal will result in a significant increase in anti-social behaviour.
- 8.6 The issue of littering has been raised and a condition is attached requiring the operator to provide and maintain a litter bin for public use outside the premises and to keep the area outside in a neat and tidy condition.
- 8.7 A licence will be required if food is to be served after 11pm; this is from the Council and is separate from the planning consent. Environmental Health also have responsibilities in terms of food hygiene.
- 8.8 There is existing satisfactory vehicular and pedestrian access by means of on street parking and public car parks given the town centre location and the previous use of the building as the public library.
- 8.9 Concern had been raised about the commencement of works within the building prior to determination of the planning application. The applicant was advised to stop works until such times as the planning application was determined. Although a breach of planning control has taken place, it is not material in the assessment of the planning application
- 8.10 The signage/advertisement will be subject of a separate application for Advertisement Consent. It is considered that a solution can be agreed which is suitable for this location within the conservation area.

8.11 **Other Considerations – not material**

Non material considerations raised are summarised as follows:

- Overprovision of hot food takeaways in the area
Overprovision/competition is not a material planning consideration, rather it is a matter for the market to determine. This has been long established through planning case law.
- Impact on property values
This is not a material planning consideration

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

None

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.

The proposal accords with the provisions of the Development Plan and applicable supplementary guidance. There are no material considerations which would warrant refusal of the application. The proposal is appropriate for a town centre location and will bring a vacant unit back into use, creating employment. It is not considered that the proposal will have significant adverse impacts on residential or community amenity. Access and parking are sufficient within the town centre.

10. RECOMMENDATION

Action required before decision issued N

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

1. No development shall commence until exact dimensions of the external ventilation flue have been submitted to and approved in writing by the Planning Authority in consultation with Environmental Health. Thereafter the development shall be completed and maintained in accordance with the approved details.

Reason: In order to clarify the planning permission as the approved elevation plan states that it shall "terminate no lower than 600mm over roof ridge".

2. Prior to the commencement of use of the premises as a hot food takeaway as hereby approved, the extract ventilation system used to vent the premises, including the flue shall be designed and installed in accordance with supporting information including odour control elements. It shall thereafter be maintained to ensure its continued satisfactory operation and any cooking processes reliant on the extract system shall cease to operate if, at any time, the extract equipment ceases to function effectively in accordance with these requirements.

Reason : To ensure the use of the premises as a hot food takeaway does not harm the amenity of nearby residential properties.

3. All plant, machinery and equipment associated with ventilation, air conditioning, heating and refrigeration services or similar and 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. For the purposes of this condition, "noise-sensitive premises" includes, but is not necessarily limited to, any building, structure or other development the lawful use of which a) falls within Classes 7 (Hotels and Hostels), 8 (Residential Institutions) or 9 (Houses) of the Town and Country Planning (Use Classes) (Scotland) Order 1997 (as amended), or b) is as a flat or static residential caravan.

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

4. The external ventilation flue and all components shall be finished and maintained in a matt black colour, to the satisfaction of the Planning Authority.

Reason: In order to make it appear recessive so that its visual impact is minimised and to safeguard the character of the conservation area.

5. Prior to first opening of the premises, the operator shall provide and thereafter maintain a litter bin available for public use, outside the premises and the operator shall ensure that the area in front of the premises is maintained in a tidy condition, free of litter generated by the premises, to the satisfaction of the Planning Authority and Environmental Health.

Reason: In the interests of amenity.

6. The advertising signage shown on the approved elevation drawing including the “El Mondo” lettering is not approved.

Reason: Insufficient details have been submitted to date to allow a full assessment to be made given the site’s location within the conservation area. An application for Advertisement Consent requires to be submitted and determined prior to the erection of any advertisement/signage. This shall be designed to ensure that it does not have an adverse impact on the character or amenity of the area.

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

LIMIT FOR THE IMPLEMENTATION OF THIS PLANNING PERMISSION

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 and 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

Flood Risk

It is important to note that the granting of planning permission does not imply there is an unconditional absence of flood risk relating to (or emanating from) the application site. As per Scottish Planning Policy (p.198), planning permission does not remove the liability position of developers or owners in relation to flood risk.

Scottish Water

You are advised that a supply and connection to Scottish Water infrastructure is dependent on sufficient spare capacity at the time of the application for connection to Scottish Water. The granting of planning permission does not guarantee a connection. Any enquiries with regards to sewerage connection and/or water supply should be directed to Scottish Water on 0845 601 8855.

Local Roads Authority Consent

In addition to planning permission, you may require one or more separate consents (such as dropped kerb consent, a road openings permit, occupation of the road permit etc.) from TECS Roads prior to work commencing. These consents may require additional work and/or introduce additional specifications and you are therefore advised to contact your local TECS Roads office for further guidance at the earliest opportunity.

Failure to comply with access, parking and drainage infrastructure requirements may endanger road users, affect the safety and free-flow of traffic and is likely to result in enforcement action being taken against you under both the Town and Country Planning (Scotland) Act 1997 and the Roads (Scotland) Act 1984.

Further information on the Council's roads standards can be found at:
<http://www.highland.gov.uk/yourenvironment/roadsandtransport>

Application forms and guidance notes for access-related consents can be downloaded from:

<http://www.highland.gov.uk/yourenvironment/roadsandtransport/roads/Applicationformsforroadoccupation.htm>

Schedule 3 Development Site Notice

Prior to the commencement of this development, the attached Site Notice must be posted in a publicly accessible part of the site and remain in place until the development is complete. This is a statutory requirement of the Town and Country Planning (Scotland) Acts and associated regulations.

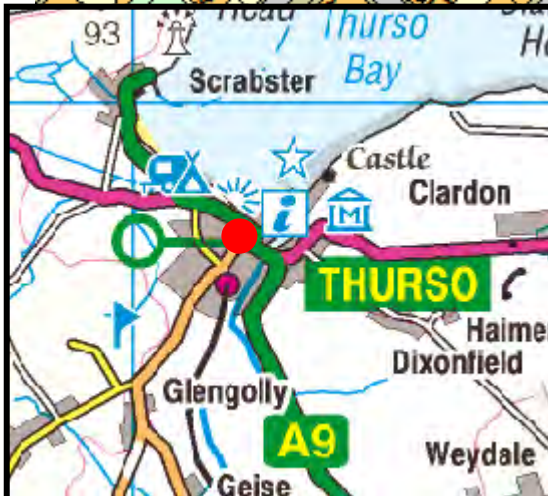
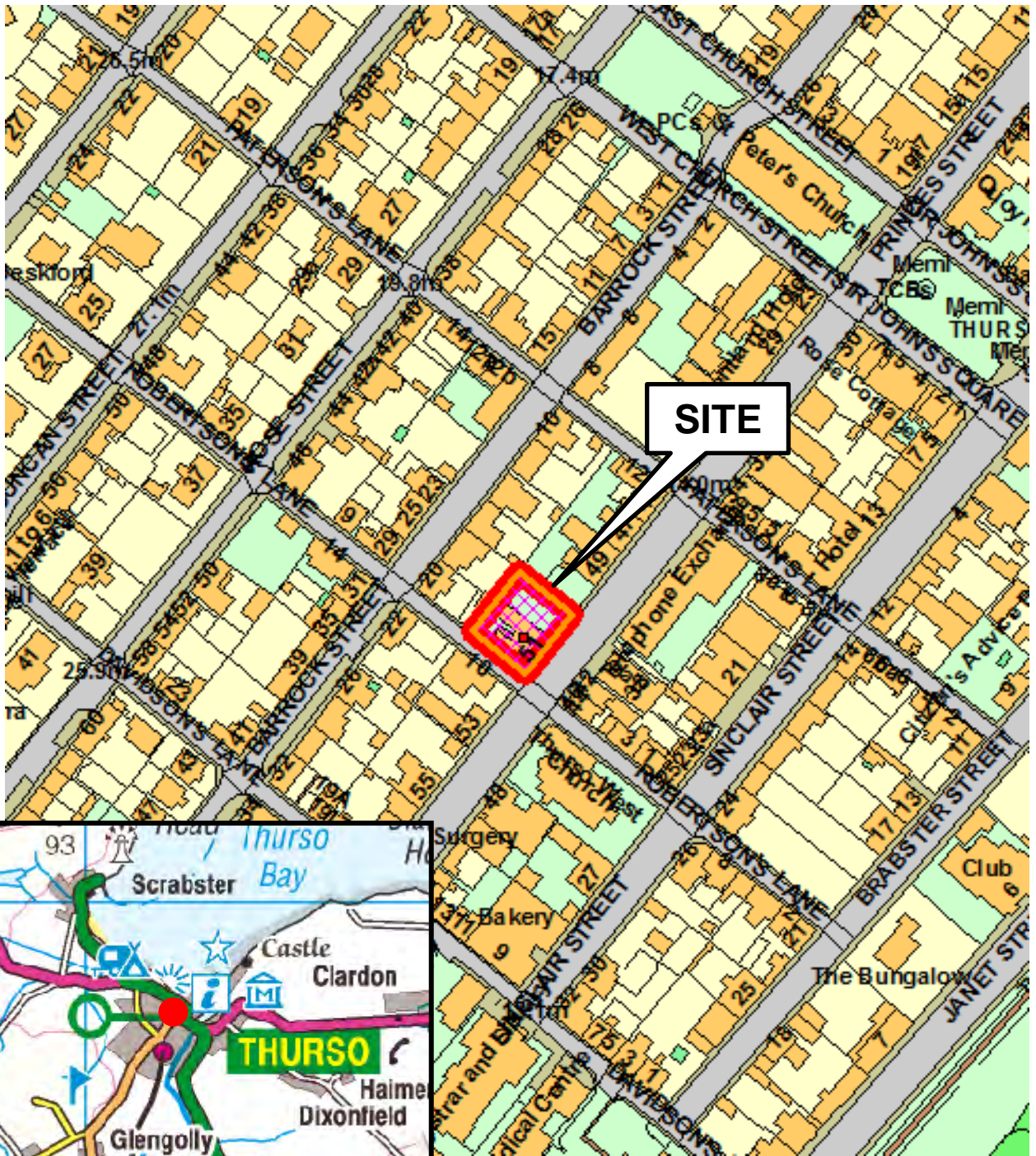
Advertisement Consent

Advertisement Consent is neither implied nor granted as a component of the approved application and shall be subject to separate Advertisement Consent. For the avoidance of doubt in the event of Advertisement Consent being pursued such advertisement must not detract from the character and appearance of Thurso Conservation Area.

Licences

The applicant is advised to establish if any other licences/permissions are required.

Signature:	Dafydd Jones
Designation:	Area Planning Manager North
Author:	David Barclay
Background Papers:	Documents referred to in report and in case file.
Relevant Plans:	Plan 1 – Location Plan Drawing No. 000001 Plan 2 – Proposed Floor Plan Drawing. No. 011215-03 Rev. C Plan 3 – Elevations Drawing. No. 011215-04 Rev. C Supporting information – Electrostatix System Brochure, Plasma Clean Xtract Brochure, Carbon Filters Brochure, Eliminair Brochure and Grease Filters Brochure.

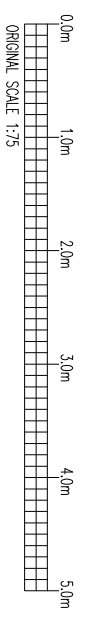
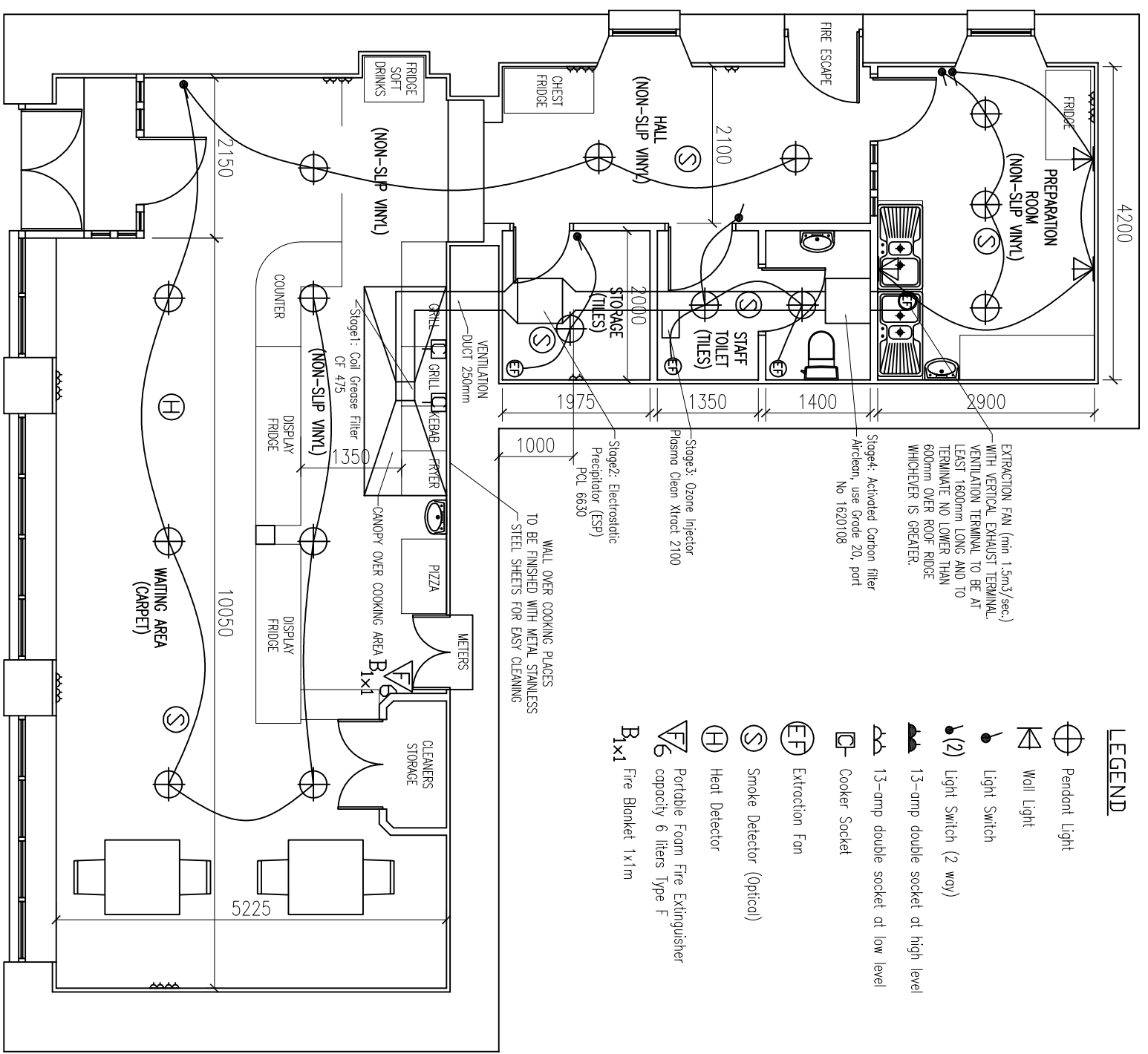


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The Highland Council
 Comhairle na Gàidhealtachd
 Planning & Development Service

Plan 1
 15/04190/FUL
 Change of use from library to take away
 51 Princes Street, Thurso KW14 7AB
 16 February 2016





LEGEND

- Pendant Light
- Wall Light
- Light Switch
- Light Switch (2 way)
- 13-amp double socket at high level
- 13-amp double socket at low level
- Cooker Socket
- Extraction Fan
- Smoke Detector (optical)
- Heat Detector
- Portable Foam Fire Extinguisher capacity 6 liters Type F
- Fire Blanket 1x1m

PROPOSED

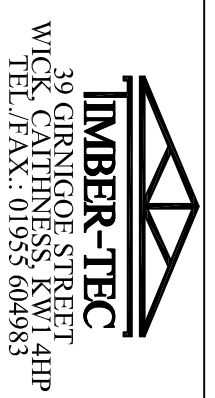
REVISION NOTES

Rev	Description	Date
A	First issue.	14.12.15
B	Ventilation amended.	26.01.16
C	Ventilation details amended.	28.01.16

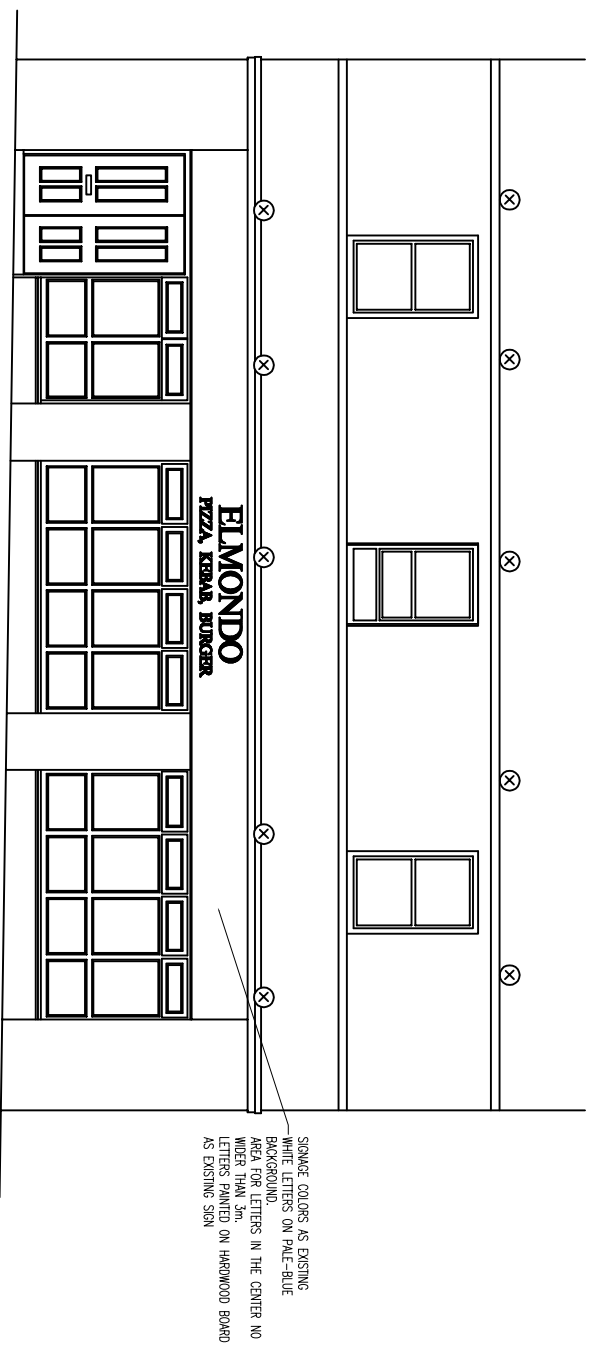
DRAWING NAME:

PROPOSED PLAN

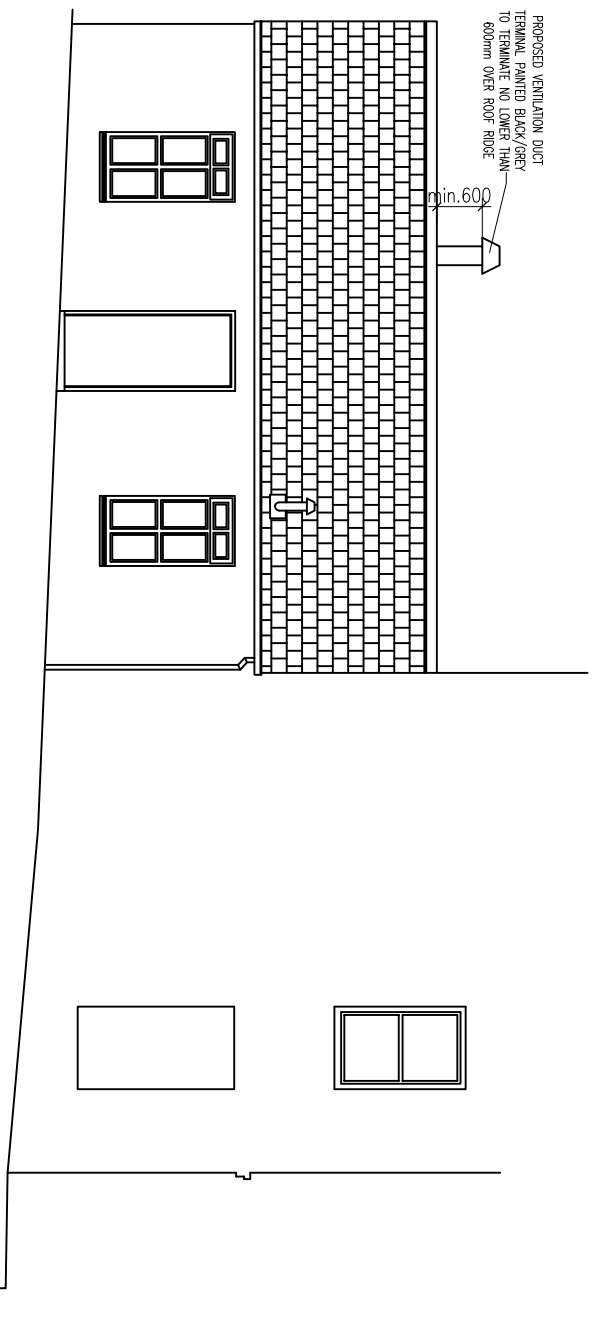
PROJECT: Proposed Takeaway 51 Princess Street, Thurso			
DRAWING STATUS: FORMAL			
SCALE	DATE	DRAWN BY:	CHECKED
1:75	12.15	MW	
DRAWING NUMBER	011215 - 03 rev.C		



39 GIRNIGOE STREET
WICK, CATHNESS, KW1 4HP
TEL./FAX.: 01955 604983



SOUTH - EAST ELEVATION



SOUTH - WEST ELEVATION

REVISION NOTES		
Rev	Description	Date
A	First issue.	14.12.15
B	Signage and vent terminal added.	26.01.16
C	Notes amended.	28.01.16

PROJECT: Proposed Takeaway
51 Princess Street, Thurso

DRAWING NAME:
EXISTING / PROPOSED ELEVATIONS

SCALE	DATE	DRAWN BY:	CHECKED
1:100	12.15	MW	
DRAWING NUMBER	011215 - 04 rev.C		
DRAWING STATUS	FORMAL		

TIMBER-TEC

39 GIRNIGOE STREET
WICK, CATHNESS, KW1 4HP
TEL./FAX.: 01955 604983

