Agenda Item	6.6
Report No	PLS-12-25

## **HIGHLAND COUNCIL**

**Committee:** South Planning Applications Committee

**Date:** 06 February 2025

**Report Title:** 24/03103/FUL: Dog Falls Brewing Co

23 Queensgate, Inverness, IV1 1DG

**Report By:** Area Planning Manager – South

# **Purpose/Executive Summary**

**Description:** Change of use from shop (Class 1A) to public house

Ward: 14 – Inverness Central

Development category: Local

Reason referred to Committee: More than 5 objections

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.

#### Recommendation

Members are asked to agree the recommendation to **GRANT** the application as set out in section 11 of the report.

## 1. PROPOSED DEVELOPMENT

- 1.1 The proposal is for the change of use of an existing vacant shop unit to a public house (taproom) with associated alterations and refurbishment.
- 1.2 The developer has indicated that the proposal would provide:
  - outlet for a local independent brewer
  - light food offering to complement the beer
  - small retail display of Dog Falls merchandise; and
  - loud music or live entertainment are not proposed
- 1.3 Pre-Application Consultation: None
- 1.4 Supporting Information:
  - Supporting Statement
  - Signage Scheme
- 1.5 Variations: Amended signage scheme, amendments to existing floor plan of wider building.

## 2. SITE DESCRIPTION

- 2.1 The site is an existing shop unit on the southwestern end of Queensgate within the defined Inverness City Centre, on the southern side of the street. The shop unit has been vacant since April 2023 and was formerly a pharmacy. The unit forms part of a building containing 4No shop units on the ground floor and flats above. The entrance to the flats lies adjacent to the site.
- 2.2 The unit measures 7.2m wide by 24.5m deep or thereby. The main access is taken from Queensgate with a fire exit/service entrance via communal exit corridors which extend the length of Queensgate.
- 2.3 The building is Category B Listed and a separate application (Ref: 24/03193/LBC) for Listed Building Consent has been made. The site is also located within the Inverness Riverside Conservation Area.

# 3. PLANNING HISTORY

3.1		24/03193/LBC Alterations to building	Pending Consideration
3.2	09.05.2018	18/01140/ADV Installation of ATM machine (retrospective)	Consent Granted
3.3	12.02.2015	14/04657/FUL Paint Shopfront	Planning Permission Granted
3.4	29.01.2015	14/04532/ADV Advertisements	Consent Granted

3.5 29.01.2015 14/04497/LBC Erection of signage and painting of Listed Building Consent Granted
 3.6 20.03.2002 98/00094/FULIN Use of vacant retail unit as bank Application Withdrawn

### 4. PUBLIC PARTICIPATION

4.1 Advertised: Affecting Conservation Area, Schedule 3

Date Advertised: 09.08.2024

Representation deadline: 30.08.2024

Timeous representations: 37 Representations (34 Households)

Late representations: 4 Representations (4No. Households)

4.2 Material considerations raised are summarised as follows:

For

- Support for small, local independent business, producing artisanal products, being able to expand and showcase its produce, particularly in contrast to chain pubs
- We should be promoting local business, especially as the brewery is actually based in Inverness
- Low carbon footprint of the proposal due to the proximity to the brewery and use of local ingredients
- We want to bring in tourists and locals alike to discover the food and drink of the Highlands
- Part of the regeneration of the town centre which is so badly needed
- There are no plans for music or entertainment which should limit noise disturbance to neighbouring properties and create a relaxed peaceful atmosphere to enjoy a drink
- The proposal is for a craft beer taproom, selling high quality locally produced beer rather than a "pub". Therefore, is likely to attract a more discerning clientele less disposed to antisocial behaviour
- A taproom should foster a sense of community
- It will add positively with variety, another independent business occupying an eyesore of a vacant unit
- While there are residential properties on Queensgate the city centre is not a 'residential area'
- Business owners are "excellent to their customers, kind, fair and considerate" and would be "the most responsible and amicable of stewards for an establishment like the one proposed"

#### Against

 21 Residential flats within the building 27-67 Queensgate, some of which have bedrooms positioned directly above the proposed pub

- Noise and disturbance could impact residents' amenity
- The 4No commercial units have always been shops, converting the site to a pub would set an unwelcome precedent
- Reduce property values and increase insurance premiums
- Increase in anti-social behaviour and vandalism
- Error in floor plan configuration of corridors within the building but outwith the site area
- Overprovision of pubs in the vicinity of the site, especially now Church Street and Queensgate seem to be the main hub at weekends
- 4.3 All letters of representation are available for inspection via the Council's eplanning portal which can be accessed through the internet <a href="www.wam.highland.gov.uk/wam">www.wam.highland.gov.uk/wam</a>.

### 5. CONSULTATIONS

- 5.1 **Environmental Health:** No objection subject to the provision of a Noise Management Plan and conditions relating to noise, cooking and refuse storage.
- 5.2 **Historic Environment Team:** Required further information on colour and materials of the shopfront and provide advice on the suitability of the lighting proposals.

## 6. DEVELOPMENT PLAN POLICY

The following policies are relevant to the assessment of the application

# 6.1 National Planning Framework 4 (2023) (NPF4)

- Policy 1 Tackling the Climate and Nature Crises
- Policy 2 Climate Mitigation and Adaptation
- Policy 3 Biodiversity
- Policy 7 Historic Assets and Places
- Policy 9 Brownfield, Vacant and Derelict Land and Empty Buildings
- Policy 14 Design Quality and Place
- Policy 15 Local Living and 20 Minute Neighbourhoods
- Policy 27 City, Town, Local and Commercial Centres

## 6.2 Highland Wide Local Development Plan 2012 (HwLDP)

- 28 Sustainable Design
- 29 Design Quality and Place-making
- 34 Settlement Development Areas
- 42 Previously Used Land
- 43 Tourism
- 57 Natural, Built and Cultural Heritage

## 6.3 Inner Moray Firth Local Development Plan 2 (2024) (IMFLDP2)

Inverness Settlement Development Area

Inverness City Centre

Policy 6 Town Centre First

# 6.4 Highland Council Supplementary Planning Policy Guidance

Highland Historic Environment Strategy (Jan 2013)

#### 7. OTHER MATERIAL POLICY CONSIDERATIONS

7.1 Creating Places

#### 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 Section 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 states that, the Planning Authority has to pay special attention to the desirability of preserving or enhancing the character or appearance of the (Inverness Riverside) Conservation Area.

## **Determining Issues**

8.3 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.

## **Planning Considerations**

- 8.4 The key considerations in this case are:
  - a) compliance with the Development Plan and other planning policy
  - b) proposed alterations and the Historic Environment
  - c) noise, disturbance and impact on amenity
  - d) any other material considerations

## **Development Plan/other planning policy**

- 8.5 NPF4 acknowledges that food and drink is a key sector in the 'North' and that a key priority of the strategy is to support local economic development by making sustainable use of the areas' worldclass environmental assets to innovate and lead greener growth.
- 8.6 NPF4 Policy 27 supports proposals that enhance and improve the vitality and viability of city, town and local centres, including proposals that increase the mix of uses. However, development proposals for non-retail uses are not supported if further provision of these services will undermine the character and amenity of the area or the health and wellbeing of communities, particularly in disadvantaged areas.
- 8.7 The recently adopted Inner Moray Firth Local Development Plan seeks to protect the function and role of town centres (Policy 6). It sets out that proposals for conversion of buildings to other footfall generating uses, including to residential use, will be

- supported within town centres, providing there is no loss of existing or potential viable footfall generating use(s).
- 8.8 HwLDP Policy 28 Sustainable Design supports developments which promote and enhance the social, economic and environmental wellbeing of the people of Highland, with proposals assessed on the extent to which they comply with a number of factors including: accessible by public transport, cycling and walking as well as car; making use of existing buildings; impact on individual and community residential amenity; demonstrate sensitive siting and high quality design in keeping with local character and historic and natural environment and in making use of appropriate materials; contribute to the economic and social development of the community.
- 8.9 The site lies within the defined city centre which is the preferred location for significant footfall generating uses and where there are good public transport connections. A public house is considered to be an acceptable city centre use that supports both the daytime and nighttime economy. While concerns have been raised over the number of such uses within the area, this is a relevant consideration with regard to amenity, not viability. The proposal will bring back into use what would otherwise be a vacant shop unit.
- 8.10 Providing that the proposal does demonstrate sensitive siting and high quality design in keeping with local character and historic and natural environment and in making use of appropriate materials; contribute to the economic and social development of the community; and does not adversely impact individual and community residential amenity, the principle of this change of use would be acceptable and therefore would be considered to comply with the Development Plan.

## **Proposed alterations and the Historic Environment**

- 8.11 Externally the proposed works include the removal of the ATM machine from the shop frontage with it replaced by a glazed window. The existing frames and doorway are to be painted along with a scheme of revised signage to include a painted timber sign to the fascia with traditional painted sign writing applied, a projecting sign and etch vinyl decals with the brewery logo on the windows.
- 8.12 Internally a 6.5m x 2.26m bar area is proposed along the northeastern wall, with a mixture of tables, booth seating and bar seating. To the rear of the unit is proposed bathrooms, a kitchen area, cellars and storage. Since it will be capable of being removed, this arrangement would not preclude the reuse of the unit for other uses in the future.
- 8.13 The building is Category B Listed. Consideration of the heritage impact of the proposal on the listed building are assessed by the separate application (24/03193/LBC). An application for consent to display an advertisement is not required as elements of the signage scheme, including lighting proposals, were removed. Should lighting be reintroduced this will require consent to display an advertisement.
- 8.14 The frontage of the unit is modern and uninspiring, though it is characteristic of the other units in the row. The existing colour scheme and banking ATM machine which resulted in the partial blocking up of the frontage is considered to be incongruous

- and unattractive. The shop unit requires minimal alteration to form a public house, with the majority of works being internal.
- 8.15 It is considered that the new colour scheme will provide an improvement to the visual amenity of the building and streetscape. The proposals are considered to not only preserve but also make some enhancement to the character and appearance of the Conservation Area and are therefore considered acceptable.

# Noise, disturbance and impact on amenity

- 8.16 The site is located on the ground floor of an established unit within the defined city centre of Inverness. Within this area of the city, there are a mix of retail, commercial, business and residential activities, with a commensurate mix of noise and activity. It is however recognised that the unit is located below residential properties. Therefore, there is potential for operational noise, in particularly from any live or amplified music, or plant equipment, to adversely impact on residents.
- 8.17 The supporting statement states that the proposed public house will not provide live music or entertainment, as it wishes to allow patrons to interact and talk. This will help limit any noise and disturbance to the adjacent properties.
- 8.18 Environmental Health do not object to the proposal but have recommended conditions be added to any decision requiring the provision of a Noise Management Plan as well as restricting the audible noise to any noise sensitive premises. This is considered sufficient to address concerns regarding noise.
- 8.19 A kitchen/food preparation area is shown on the proposed plan. The supporting information indicates that the food offer is to be limited and targeted to beer and food pairings, primarily with cold foods such as chocolates, charcuterie boards and cheese platters, etc. The kitchen is proposed to be largely a cold-food prep area with limited re-heat capacity for supplier-pre-cooked items utilising microwaves. No substantive cooking is proposed to take place on site. This will therefore limit/prevent any cooking smells or the need for extraction equipment and any resultant noise.
- 8.20 The Agent has advised that all deliveries will take place through the shared rear corridor as utilised by the neighbouring bars for their deliveries. Deliveries from suppliers generally occur between 9am and 5pm.
- 8.21 Waste collection is also managed through the rear shared corridor. Waste is to be stored internally in a dedicated bin storage room and taken out for regular morning collections as per the waste company schedule.
- 8.22 In light of the mitigation, and the advice from Environmental Health, it is not considered that there will be any unacceptable noise or amenity disturbance that would detrimentally impact neighbouring amenity, particularly given this city centre location.

## Other material considerations

8.23 There are no other material considerations.

#### Non-material considerations

- 8.24 Representations refer to potential anti-social behaviour and vandalism. This is not a material planning consideration and would be a matter for Police Scotland.
- 8.25 In addition, representations identify that any anti-social behaviour would be the direct result of the hours of usage of the premises (as a public house). It should be noted that hours of operation are not a material planning consideration and are controlled by the Council as Licensing Authority.
- 8.26 Finally, representations suggest that the proposal would reduce property value and lead to an increase in insurance premiums. These are not material planning considerations.

# Matters to be secured by Legal Agreement / Upfront Payment

8.27 None

## 9. CONCLUSION

- 9.1 The proposed use of the existing shop unit at 23 Queensgate, Inverness as a public house is considered to be an appropriate use of a vacant city centre unit, subject to a number of conditions to limit any noise and disturbance emanating from the operational use of the public house.
- 9.2 The proposal will make use of a vacant commercial unit, and its re-use will enhance the vitality and viability of the city centre.
- 9.3 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. IMPLICATIONS

10.1 Resource: Not applicable

10.2 Legal: Not applicable

10.3 Community (Equality, Poverty and Rural): Not applicable

10.4 Climate Change/Carbon Clever: Not applicable

10.5 Risk: Not applicable

10.6 Gaelic: Not applicable

### 11. RECOMMENDATION

Action required before decision issued N

Notification to Scottish Ministers

Conclusion of Section 75 Obligation N

Revocation of previous permission N

**Subject to the above actions,** it is recommended to **GRANT** the application subject to the following conditions and reasons:

1. 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.

**Reason**: In accordance with Section 58 of the Town and Country Planning (Scotland) Act 1997 (as amended).

2. No development or work shall commence until written and plan details of all external materials and paint finishes (including manufacturer product codes and/or RAL numbers) have been submitted to, and approved in writing by, the Planning Authority. Thereafter, development and work shall progress in accordance with these approved details.

**Reason**: As the site lies within Inverness Riverside Conservation Area and forms and in order to retain and/or protect important elements of the existing character and amenity of the site.

3. No development shall commence until a Noise Management Plan (NMP) which sets out proposals to reduce the impact of noise arising from the development has been submitted to, and approved in writing by, the Planning Authority.

The NMP may include, but is not limited to: -

- Restriction of delivery times.
- Choosing low noise plant and equipment.
- Management controls of noise sources.
- Physical controls of noise sources.
- Monitoring proposals.
- Complaints procedures.

Thereafter the development shall progress in accordance with the approved Noise Management Plan and all approved mitigation measures shall be in place prior to the first occupation of the development, or as otherwise may be agreed in writing by the Planning Authority

**Reason**: In order to ensure that the use of the premises remains compatible with the character of the surrounding area, and that no activities or processes take place which may be detrimental to its amenities.

 Any noise from amplified sound associated with this development shall be inaudible within any noise sensitive premises. 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 & 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.

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

5. All plant, machinery and equipment associated with the development shall be so installed, maintained and operated such that any associated operating noise does not exceed NR25 when measured or calculated within any noise sensitive property 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 & 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.

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

6. The cooking and preparation of food on the premises shall be limited to the reheating of foods in a microwave. No other forms of cooking, heating or reheating shall take place without prior written approval from the Planning Authority.

**Reason**: In order to ensure that the use of the premises remains compatible with the character of the surrounding area, and that no activities or processes take place which may be detrimental to its amenities.

#### **REASON FOR DECISION**

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.

#### **INFORMATIVES**

# **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.

#### 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 (paragraph 259), 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.

# **Septic Tanks and Soakaways**

Where a private foul drainage solution is proposed, you will require separate consent from the Scottish Environment Protection Agency (SEPA). Planning permission does not guarantee that approval will be given by SEPA and as such you are advised to contact them direct to discuss the matter (01349 862021).

#### **Local Roads Authority Consent**

In addition to planning permission, you may require one or more separate consents (such as road construction consent, dropped kerb consent, a road openings permit, occupation of the road permit etc.) from the Area Roads Team prior to work commencing. These consents may require additional work and/or introduce additional specifications and you are therefore advised to contact your local Area 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: <a href="http://www.highland.gov.uk/yourenvironment/roadsandtransport">http://www.highland.gov.uk/yourenvironment/roadsandtransport</a>

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

http://www.highland.gov.uk/info/20005/roads and pavements/101/permits for working on public roads/2

#### Mud and Debris on Road

Please note that it an offence under Section 95 of the Roads (Scotland) Act 1984 to allow mud or any other material to be deposited, and thereafter remain, on a public road from any vehicle or development site. You must, therefore, put in place a strategy for dealing with any material deposited on the public road network and maintain this until development is complete.

# **Construction Hours and Noise-Generating Activities**

You are advised that construction work associated with the approved development (incl. the loading/unloading of delivery vehicles, plant or other machinery), for which noise is audible at the boundary of the application site, should not normally take place outwith the hours of 08:00 and 19:00 Monday to Friday, 08:00 and 13:00 on Saturdays or at any time on a Sunday or Bank Holiday in Scotland, as prescribed in Schedule 1 of the Banking and Financial Dealings Act 1971 (as amended).

Work falling outwith these hours which gives rise to amenity concerns, or noise at any time which exceeds acceptable levels, may result in the service of a notice under Section 60 of the Control of Pollution Act 1974 (as amended). Breaching a Section 60 notice constitutes an offence and is likely to result in court action.

If you wish formal consent to work at specific times or on specific days, you may apply to the Council's Environmental Health Officer under Section 61 of the 1974 Act. Any such application should be submitted after you have obtained your Building Warrant, if required, and will be considered on its merits. Any decision taken will reflect the nature of the development, the site's location and the proximity of noise sensitive premises. Please contact <a href="mailto:env.health@highland.gov.uk">env.health@highland.gov.uk</a> for more information.

## Protected Species – Halting of Work

You are advised that work on site must stop immediately, and NatureScot must be contacted, if evidence of any protected species or nesting/breeding sites, not previously detected during the course of the application and provided for in this permission, are found on site. For the avoidance of doubt, it is an offence to deliberately or recklessly kill, injure or disturb protected species or to damage or destroy the breeding site of a protected species. These sites are protected even if the animal is not there at the time of discovery. Further information regarding protected species and developer responsibilities is available from NatureScot: <a href="https://www.nature.scot/professional-advice/protected-areas-and-species/protected-species">https://www.nature.scot/professional-advice/protected-areas-and-species/protected-species</a>

Signature: David Mudie

Designation: Area Planning Manager – South

Author: Jennifer Mair

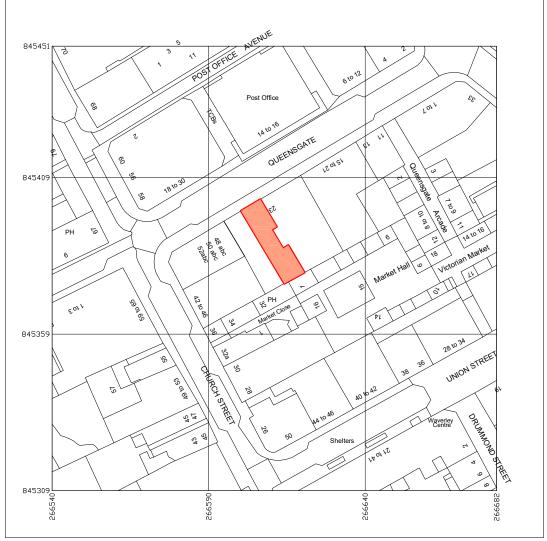
Background Papers: Documents referred to in report and in case file.

Relevant Plans: Plan 1 - LOC 001 Location Plan

Plan 2 - 001 REV C Floor/Elevation Plan

Plan 3 - Signage Scheme





Produced on 28 June 2024 from the Ordnance Survey National Geographic Database and incorporating surveyed revision available at this date.
This map shows the area bounded by 266540 045309,266680 845309,266680 845451,266540 045451,266540 0454509
Crown copyright and database rights 2024 DS 100054135. Supplied by copia itd trading as UKPlanningMaps.com a licensed Ordnance Survey partner (OS 100054135).
Data licence expires 28 June 2025. Unique plan reference v2F/7117968/1504257

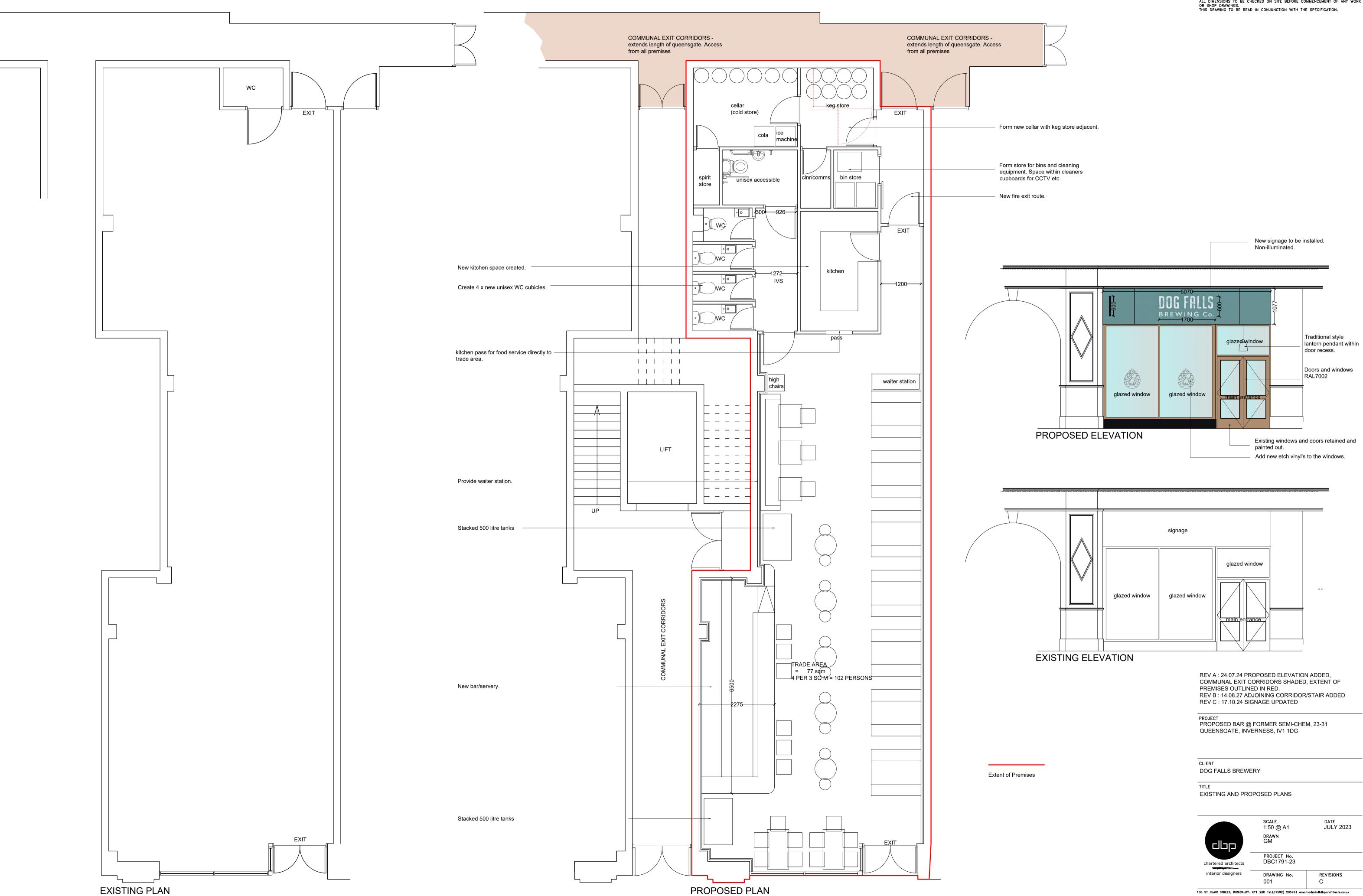




interior designers

PROJECT			
EODMED SEMI CHEM LINIT	23 31 OHEENSCATI	INIVEDNIESS	1//1 1DC

CLIENT DOG FALLS BREWERY	SCALE 1: 1250 @ A4	<b>DATE</b> JUNE 2024	
TITLE LOCATION PLAN	<b>DRAWN</b> GM		
PROJECT No. DBC1791-23	DRAWING No. LOC 001	REVISION No.	



# DOG FALLS BREWING Co.





BUILDING COLOURS:

PLEASE REFER TO PAINT MANUFACTURER SWATCHES PRIOR TO APPROVAL



FASCIA

# DOG FALLS BREWING Co.

В



SIGNAGE:

ITEM A. ONE X SIGNWRITTEN HOUSENAME
ITEM B. ONE X FEATURE PENDANT LIGHT.
ITEM C. ONE X PROJECTING SIGN JULIMINATED BY SIGN JUL

ITEM C. ONE X PROJECTING SIGN. ILLUMINATED BY SPOT WALL LIGHTS.

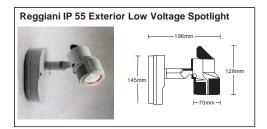
ITEM D. TWO X WINDOW DECALS

LETTERSTYLES.BIG NOODLE TILTING, GILL SANS

ALL PLANTING TO BE SUPPLIED BY OTHERS UNLESS SPECIFIED

С





D



# SIGNAGE COLOURS:



**BLACK** 



WHITE



DH MARITIME TEAL (RAL 6034)

PLEASE REFER TO PAINT MANUFACTURER SWATCHES PRIOR TO APPROVAL







# DOG FALLS BREWING Co.

