

<b>CITY OF WESTMINSTER</b>			
<b>PLANNING APPLICATIONS COMMITTEE</b>	<b>Date</b> 23 June 2015	<b>Classification</b> For General Release	
<b>Report of</b> Director of Planning		<b>Wards involved</b> West End	
<b>Subject of Report</b>	<b>4 Berners Street, London, W1T 3LE</b>		
<b>Proposal</b>	Use of the basement, ground and part third floor as a restaurant (Class A3), installation of a new shopfront, a full height extract duct on the rear elevation and plant within an enclosure at rear third floor level.		
<b>Agent</b>	Rolfe Judd Planning		
<b>On behalf of</b>	Mr G B Boddy		
<b>Registered Number</b>	15/02367/FULL	<b>TP / PP No</b>	TP/5076
<b>Date of Application</b>	17.03.2015	<b>Date amended/ completed</b>	17.03.2015
<b>Category of Application</b>	Other		
<b>Historic Building Grade</b>	Unlisted		
<b>Conservation Area</b>	East Marylebone		
<b>Development Plan Context</b> - London Plan July 2011 - Westminster's City Plan: Strategic Policies 2013 - Unitary Development Plan (UDP) January 2007	Within London Plan Central Activities Zone Within Core Central Activities Zone		
<b>Stress Area</b>	Within West End Stress Area		
<b>Current Licensing Position</b>	Not Applicable		

## 1. RECOMMENDATION

Grant conditional permission.





4 BERNERS STREET, W1

## 2. SUMMARY

Planning permission is sought for the change of use of the basement and ground floor levels of the property to restaurant use (Class A3). External alterations include the installation of a new shopfront and the installation of associated plant, screening and a high level extraction duct at the rear of the property.

The key issues in this case are:

- The loss of the existing retail accommodation and the impact upon surrounding businesses and the character and function of the area.
- The individual and cumulative impact of another restaurant in this location.
- The impact of noise from the proposed plant upon the amenity of nearby residents.

Subject to appropriate conditions, the proposal is considered acceptable in land use, transport, design and amenity terms. The application is therefore recommended for conditional approval being in compliance with the relevant Unitary Development Plan (UDP) and City Plan policies.

## 3. CONSULTATIONS

### COUNCILLOR GLANZ

Objects to adverse impact upon residents in the vicinity resulting from the operation of the restaurant.

### FITZROVIA NEIGHBOURHOOD ASSOCIATION

Any response to be reported verbally.

### HIGHWAYS PLANNING MANAGER

Cycle parking for staff should be provided.

### ENVIRONMENTAL HEALTH

No objection subject to conditions.

### ADJOINING OWNERS/OCCUPIERS AND OTHER REPRESENTATIONS

No. Consulted: 60; Total No. of Replies: 2.  
(Two from one respondent).

Objections raised on the following grounds:

- Loss of retail floorspace.
- Overconcentration of restaurants in this area.
- Noise disturbance from the operation of the plant at the rear of the premises.
- Inaccuracies in the information supporting the planning application.

ADVERTISEMENT/SITE NOTICE: Yes

## 4. BACKGROUND INFORMATION

### 4.1 The Application Site

4 Berners Street is an unlisted building located within the East Marylebone Conservation Area, West End Stress Area and the Core Central Activities Zone. The property comprises of basement, ground and first to fifth floor levels. The property is currently in use as an A1 retail unit at basement and ground floor levels with residential flats on the upper floors.

## 4.2 Relevant History

Permission was granted on the 15 May 1996 for the 'use of the basement and ground floor for retail purposes and upper floors as five two bedroom self-contained flats'.

### Relevant History on Adjacent Properties:

In relation to 5 Berners Street, planning permission was granted on 29 October 2013 for the 'use of the basement and ground floor for restaurant purposes, installation of full height extract duct (routed internally) venting at roof level, plant at basement level, air intake at rear first floor level, acoustic louvres at rear ground floor. Installation of new shopfronts to Berners Street and Berners Place.'

In relation to 1-2 Berners Street, planning permission was granted on 5 July 2007 for the 'use of basement and ground floor of 2 Berners Street as a restaurant (Class A3), installation of full height extract duct in lightwell and new shopfront.'

## 5. THE PROPOSAL

Permission is sought for the use of the basement and ground floor as a restaurant premises (Class A3) and to install a high level extract duct on the rear elevation of the premises terminating at main roof level. Plant is also proposed within an acoustic enclosure at rear third floor level and within an existing store / toilet on the communal residential stair. It is also proposed to block up a window serving a residential flat at rear fourth floor level, to facilitate the installation of the high level ductwork.

The total floorspace of the proposed restaurant would be 347.5m<sup>2</sup> which includes the existing lawful retail unit measuring 335m<sup>2</sup> (GEA) and a new plant enclosure at rear third floor level measuring 12.5m<sup>2</sup>.

	<b>Proposed restaurant incorporating basement and ground floor level</b>
Total A3 Floorspace (m2)	347.5m <sup>2</sup>
No. of covers in restaurant	104
Hours of Operation	08.00 to 00.00 Monday to Thursday, 08.00 to 00.30 Friday and Saturday, 08.00 to 23.00 on Sundays
Ventilation arrangements	Full height kitchen extract duct and a/c units
Refuse Storage arrangements	To be stored within separate refuse and recycling storage areas at basement level.

## 6. DETAILED CONSIDERATIONS

### 6.1 Land Use

#### 6.1.1 Loss of retail (A1) floorspace:

Planning permission was granted on 15 May 1996 for the use of the basement and ground floor premises as a retail unit. It would appear that the unit has been in retail use since this permission was implemented and is currently occupied by a 'Subway' sandwich bar.

Policy S21 of the City Plan states that 'existing retail will be protected throughout Westminster except where the Council considers that the unit is not viable, as demonstrated by long term

vacancy despite reasonable attempts to let'. The supporting text advises that this approach will ensure that the needs of customers and retailers across the city are met through retention of the number of shops and overall amount of retail floorspace.

Policy SS5 of the UDP also seeks to resist the loss of retail floorspace within the Central Activities Zone; outside of the Prime Shopping Frontages the policy aims to encourage a balanced mix of appropriate street level activities, whilst maintaining and safeguarding residential communities.

Policy SS5 (A) states that A1 uses at ground, basement or first floor level in the CAZ and CAZ Frontages will be protected.

Policy SS5 (B) says that planning permission for the introduction of a non-A1 town centre use at basement, ground and first floor level will only be granted where the proposal would not be detrimental to the character and function of an area or to the vitality or viability of a shopping frontage or locality.

Policy SS5 (C) states that proposals for non-A1 uses must not:

1. Lead to, or add to, a concentration of three or more consecutive non-A1 uses.
2. Cause or intensify an existing overconcentration of A3 and entertainment uses in a street or area.

The unit is in very close proximity to the Primary Shopping Frontage of Oxford Street which clearly has a very strong retail character. Whilst the Plaza Shopping Centre occupies the entire western side of Berners Street, the main entrance into the Plaza is from Oxford Street, and there is only a secondary entrance into the shopping centre from Berners Street. On the eastern side of Berners Street (where the unit is located) there is only one other retail unit, namely the Sainsburys at 1-2 Berners Street. The remainder of the eastern side of this part of Berners Street is in restaurant and hotel use. Further north along Berners Street (past the junction with Eastcastle Street) the majority of the ground floor commercial premises are in use as office accommodation, with some sporadic retail and restaurant units. It is therefore not considered that this part of Berners Street has a strong retail character.

It is acknowledged that the proposal would result in five consecutive ground floor premises on the east side of Berners Street in non-A1 use, contrary to Part 1 of Policy SS5. An objection has been received to the application from a residential occupier within Berners Place on the grounds of the loss of retail floorspace. However, this stretch of Berners Street does not have an existing retail character or function which would be detrimentally impacted by the loss of the current retail floorspace. The proposed loss of retail floorspace would consequentially not impact upon the 'vitality or viability of a shopping frontage or locality' as set out in Policy SS5. For this reason it is not considered the loss of retail floorspace can be resisted in this instance and the objections on these grounds cannot be supported.

#### **6.1.2 Loss of residential floorspace:**

The proposal involves the creation of a plant room at rear third floor level which incorporates an existing toilet facility within the demise of the residential accommodation. The toilet facility is not associated with any individual flat and instead appears to be a communal facility situated off the main stair for the flats. Whilst the City Council seeks to protect residential floorspace and considers it a priority use within the Borough, it is considered this is an exceptional case and that the loss of this communal toilet would have no impact upon the standard of residential provision in the building. It is also noted that none of the tenants within the block of flats have objected to the application and therefore in the circumstances it is considered an exception to policy can be allowed. A condition is proposed to ensure that this area is only used for plant and is not used for any other restaurant function as this could adversely impact upon the amenity of the residents on the upper floors of the property.

### 6.1.3 New restaurant use:

As the proposal is for a new entertainment use comprising 335m<sup>2</sup> it needs to be considered under the TACE policies. Policy TACE9 of the UDP states that permission for restaurant uses (Class A3) of between 150m<sup>2</sup> – 500m<sup>2</sup> of gross floorspace inside the Core CAZ and designated West End Stress Area, may be permissible, where the proposed development will have no adverse impact on residential amenity or local environmental quality, and no adverse effect on the character or function of its area. Policy S24 of the City Plan also relates to new entertainment uses and has similar policy requirements for units of this size.

Policy TACE9 requires that within Stress Areas, permission will only be granted for restaurant uses (between 150m<sup>2</sup> and 500m<sup>2</sup>) where the City Council is satisfied that the proposed development has:

1. No adverse effect, (nor, taking into account the number and distribution of entertainment uses in the vicinity, any cumulatively adverse effect) upon residential amenity or local environmental quality as a result of:
  - a) noise
  - b) vibration
  - c) smells
  - d) increased late night activity, or
  - e) increased parking and traffic; and
2. No adverse effect on the character or function of its area.

The site is located on the periphery of the defined West End Stress Area, an area where the numbers of restaurants, cafés, takeaways, public houses, bars and other entertainment uses is considered to have reached a level of saturation. Paragraph 8.89 of the UDP states that “in some parts of the city, particularly in the Stress Areas, there are significant numbers of entertainment premises close together. In such circumstances the City Council will consider whether any additional entertainment proposal, when taken alongside others nearby, will adversely affect residential amenity, local environmental quality, or the character or function of the surrounding area.” An objection has been received to the application stating that the proposal will result in an ‘overconcentration of restaurants’ which could harm residential amenity.

Whilst this proposal would result in five consecutive restaurant premises, it is not considered that Berners Street generally is ‘saturated’ with entertainment premises. Immediately to the south is Oxford Street which is dominated by retail uses whilst to the north there are very few entertainment uses, with the majority of the ground floor commercial premises being in use as office accommodation. It is not therefore considered that an additional restaurant would result in an unacceptable concentration of entertainment uses or harm the character and function of the East Marylebone Conservation Area.

The impact on amenity is considered in Section 6.3.

## 6.2 Townscape and Design

The existing building is an attractive stone fronted design that makes a positive contribution to the street and surrounding conservation area. While the rear of the building is plain and functional it is typical of buildings of the early 20th century and is pleasant in its simplicity. The external alterations to the rear of the building involve addition of a flue discharging at high level and creation of a screened plant enclosure. At the front, changes to the shopfront are proposed.

In design terms, the proposed duct is sited next to a similar installation on the neighbouring property to the south and it will be painted black. There are also large vertical flues on the rear of the nearby Berners Hotel. Therefore, in this context a further flue would not be out of character and it has been sited to minimise its visual impact in accordance with the City Council's SPG 'A planning guide for food and drink premises'. The faux roof to screen plant at the rear is an acceptable alteration that is considerably better than a louvred screen. However, it should be clad in natural rather than artificial slate. This may be dealt with by condition.

Openable windows to the shopfront are acceptable provided that they are modified so that fixed mullions are retained between each pair of opening windows to accord with relevant supplementary planning guidance in this respect. Subject to this minor revision, the alterations are acceptable in design terms and will accord with UDP Policies DES 1, DES 5, DES 6, DES 9 and DES 10(B), and Westminster's City Plan: Strategic Policies S25 and S28.

## **6.3 Amenity**

### **6.3.1 Noise**

There are a number of residential occupiers within the vicinity of the site including those on the upper floors of the building itself and No. 4 Berners Street, and within the mews at the rear of the site (Berners Place). Permission has also been granted for the residential use of the upper floors of 5 Berners Street to the north.

As set out above, Policy TACE 9 states that permission for new restaurant uses will only be permissible where there would be no adverse effect on residential amenity as a result of noise, vibration, smells or increased late night activity. Councillor Glanz and a residential occupier within an adjacent property object to the application on residential amenity grounds.

It is recognised that there can be considerable variation between the uses within a Use Class in terms of their effects on the local environment and residential amenity. For example, restaurants with a waiter service tend to have fewer adverse effects than bars used by large numbers of customers. Factors that the Council will take into account when assessing new entertainment uses include the gross floorspace to be occupied by the proposed use, its capacity, the type of use, servicing arrangements and any supporting statement provided in respect of the management of a use.

Whilst the application is purely speculative at this stage, the applicant confirms that given the relatively small size of the premises only a total capacity of 104 is proposed. The opening hours of the premises are proposed as 08.00 to 00.00 Monday to Thursday, 08.00 to 00.30 Friday and Saturday and 08.00 to 23.00 on Sundays. This is considered acceptable and in accordance with Paragraph 8.88 of the UDP which states that 'as a general rule, the Council expects that, in entertainment uses in predominantly residential areas, it will impose planning conditions that no customers will be allowed to remain on the premises after midnight on Sundays to Thursdays, and after 00.30 on the following morning on Friday and Saturday nights'. In order to further ensure the protection of residential occupiers in the vicinity, a condition is proposed requiring the submission of an Operational Management Plan to ensure the restaurant is managed effectively. A condition is also proposed to ensure that no more than 15% of the restaurant floor area is used for a bar / bar seating and that drinks can only be served at the bar to restaurant customers, before, during or after their meals. A standard condition is also proposed in relation to noise transference through the building structure to the residential units.

Environmental Health consider the high level extract duct proposed suitable to enable the discharge of cooking odours without detriment to neighbouring residential amenity.



The principle of the proposed restaurant is therefore considered to be in accordance with UDP Policy TACE9 and City Plan Policy S24.

### **6.3.2 Plant**

The application has been considered in the context of Policies ENV6 and ENV7 of the UDP and S32 of the City Plan. These policies seek to protect nearby occupiers of noise sensitive properties and the area generally from excessive noise and disturbance.

As some of the proposed plant will provide refrigeration for the restaurant unit, it would require permission to operate at any time over a 24 hour period. The submitted acoustic report has therefore tested the ability of all of the proposed plant to operate within the stipulated City Council noise criteria over the 24 hour period.

The area has been identified in the Acoustic Report as having background noise levels which are above WHO guideline levels during the daytime and nighttime. To accord with Policy ENV7 of the UDP the noise levels emitted by the plant will have to be 10dB below background at the nearest noise sensitive windows. The report identified a design level criteria of 38dB which is 10dB below the lowest recorded background noise level over the 24 hour period.

The nearest noise sensitive window was identified as being a residential window 2m distant from the plant serving a flat within the property itself.

In order to ensure the plant noise is compliant with the City Council criteria, Environmental Health require that certain mitigation measures are installed as detailed within the submitted acoustic report. This includes acoustic screening for a number of the units located on the rear third floor flat roof area and the installation of 'in-duct attenuation' for the kitchen extract ducting. With these acoustic mitigation measures in place Environmental Health have confirmed that the application will be compliant with the Council noise criteria and have raised no objection to the proposal subject to conditions. Whilst the objector within Berners Place has objected to the application on the grounds of potential noise disturbance from the proposed plant detrimentally affecting residential amenity, this objection is not considered sustainable given the conclusions of the Acoustic Report and the assessment by Environmental Health.

### **6.3.3 Shopfront**

The proposal includes the installation of a new shopfront which has openable windows above the fixed stallriser. Given that there are residential units on the first floor of the building and within the neighbouring buildings, a condition is proposed to limit the hours of opening of these windows to between 09.00 and 21.30 daily. With this condition in place it is considered the amenity of neighbouring residents is protected.

### **6.3.4 Residential**

To enable the installation of the high level extract duct on the rear elevation of the property it is proposed to infill an existing window serving a bathroom to a residential unit at fourth floor level. The duct would also pass in front of a small window serving a residential kitchen at fifth floor level. (This kitchen is, however, also served by a much larger unobstructed window). No objections have been received to the application from the occupiers of these units and it is noted the applicant is the freeholder of the entire property including the flats. It is considered that the obstruction to these windows would not adversely impact on loss of light or the standard of residential accommodation.

Policy TRANS 20 states that the City Council will require convenient access to premises for service vehicles and will normally require that 'vehicular servicing needs of developments are

fully accommodated on-site and off street ... sufficient to cater for the size, type and frequency of arrival of the vehicles likely to be servicing the development'. No off street servicing is proposed for the proposed use and the site is located within a Controlled Parking Zone, where single yellow lines allow for the loading and unloading of vehicles.

There is no opportunity for off street servicing in this location, however, it is common for premises within this area to be serviced on-street. The application site is within a Controlled Parking Zone (Monday to Friday 08.30 to 18.30) and directly outside the site there are on-street parking bays and a taxi rank immediately to the north (outside the Berners Hotel). The site is also well served by public transport. No objections have been raised by the Highways Planning Manager in relation to impact on parking levels, and despite the objection from a local resident, it is not considered that the use of taxis and private cars would be so significant as to justify refusal on highways grounds. In order to minimise the impact of the proposed use on the road network, it is considered that a delivery service should not operate from the premises, and a condition to this effect has been recommended. A condition is also proposed requiring the submission of a Servicing Management Strategy to ensure that deliveries to the restaurant do not adversely impact upon residential amenity or the road network.

Cycle parking is provided at basement level and a condition is proposed to ensure this is delivered and retained.

#### **6.4 Economic Considerations**

Any economic benefits generated are welcome.

#### **6.5 Access**

Level access will be provided to the ground floor of the premises and a disabled access toilet will be provided at ground floor level.

#### **6.6 Other UDP/Westminster Policy Considerations**

The objector has commented on the accuracy of the land use plan which has been submitted by the applicant in support of their application on the grounds that it does not identify the residential uses on the upper floors of the surrounding buildings. Councillor Glanz supports these concerns. However, the land use plan only shows the ground floor uses of surrounding properties and gives no indication of the uses on the upper floors of surrounding properties. The residential use of the upper floors of surrounding buildings (including the subject building itself) have been taken into account when determining the application and a full assessment of surrounding land uses has been made.

Separate storage areas are indicated at basement level for both waste and recycling materials. A condition is proposed to ensure that these storage areas are provided and retained in place.

#### **6.7 London Plan**

The proposal does not raise strategic issues and does not have significant implications for the London Plan.

#### **6.8 National Policy/Guidance Considerations**

Central Government's National Planning Policy Framework (NPPF) came into effect on 27 March 2012. It sets out the Government's planning policies and how they are expected to be applied. The NPPF has replaced almost all of the Government's existing published planning

policy statements/guidance as well as the circulars on planning obligations and strategic planning in London. It is a material consideration in determining planning applications.

Until 27 March 2013, the City Council was able to give full weight to relevant policies in the Core Strategy and London Plan, even if there was a limited degree of conflict with the framework. The City Council is now required to give due weight to relevant policies in existing plans "according to their degree of consistency" with the NPPF. Westminster's City Plan: Strategic Policies was adopted by Full Council on 13 November 2013 and is fully compliant with the NPPF. For the UDP, due weight should be given to relevant policies according to their degree of consistency with the NPPF (the closer the policies in the plan to the NPPF, the greater the weight that may be given).

The UDP policies referred to in the consideration of this application are considered to be consistent with the NPPF unless stated otherwise.

### **6.9 Planning Obligations**

The application does not raise a requirement for a planning obligation.

### **6.10 Environmental Assessment including Sustainability and Biodiversity Issues**

The scale of the proposed development does not require the submission of an Environmental Impact Assessment or provide opportunities for additional sustainability measures.

### **6.11 Conclusion**

The proposals are considered acceptable in land use, transport, amenity and design terms and accord with the relevant UDP and City Plan policies. The application is therefore recommended for conditional planning approval

## **BACKGROUND PAPERS**

1. Application form.
2. Email from Councillor Glanz dated 13 April 2015.
3. Memorandum from the Environmental Health Consultation Team dated 14 April 2015.
4. Email from the Highways Planning Manager dated 29 May 2015.
5. Letter and email from the occupier of 9 Berners Place dated 9 April 2015 and 11 April 2015.

IF YOU HAVE ANY QUERIES ABOUT THIS REPORT OR WISH TO INSPECT ANY OF THE BACKGROUND PAPERS PLEASE CONTACT JOSEPHINE PALMER ON 020 7641 2723 OR BY E-MAIL – [jpalm@westminster.gov.uk](mailto:jpalm@westminster.gov.uk)

**DRAFT DECISION LETTER**

**Address:** 4 Berners Street, London, W1T 3LE

**Proposal:** Use of the basement, ground and part third floors as a restaurant (Class A3), installation of a new shopfront, a full height extract duct on the rear elevation and plant within an enclosure at rear third floor level.

**Plan Nos:** Site Location Plan, Acoustic Report dated 11th February 2015, Drawings: (2951) 058, 059, 060, 061, 062, 063, 064, 065.

**Case Officer:** Matthew Giles **Direct Tel. No.** 020 7641 5942

**Recommended Condition(s) and Reason(s):**

- 1 The development hereby permitted shall be carried out in accordance with the drawings and other documents listed on this decision letter, and any drawings approved subsequently by the City Council as local planning authority pursuant to any conditions on this decision letter.

**Reason:**

For the avoidance of doubt and in the interests of proper planning.

- 2 You must carry out any building work which can be heard at the boundary of the site only:

- \* between 08.00 and 18.00 Monday to Friday;
- \* between 08.00 and 13.00 on Saturday; and
- \* not at all on Sundays, bank holidays and public holidays.

Noisy work must not take place outside these hours. (C11AA)

**Reason:**

To protect the environment of neighbouring residents. This is as set out in S29 and S32 of Westminster's City Plan: Strategic Policies adopted November 2013 and ENV 6 of our Unitary Development Plan that we adopted in January 2007. (R11AC)

- 3 All new work to the outside of the building must match existing original work in terms of the choice of materials, method of construction and finished appearance. This applies unless differences are shown on the drawings we have approved or are required by conditions to this permission. (C26AA)

**Reason:**

To make sure that the appearance of the building is suitable and that it contributes to the character and appearance of this part of the East Marylebone Conservation Area. This is as set out in S25 and S28 of Westminster's City Plan: Strategic Policies adopted November 2013 and DES 1 and DES 5 or DES 6 or both and paras 10.108 to 10.128 of our Unitary Development Plan that we adopted in January 2007. (R26BE)

- 4 You must paint all new outside rainwater and soil pipes black and keep them that colour. (C26EA)

**Reason:**

To make sure that the appearance of the building is suitable and that it contributes to the character and appearance of this part of the East Marylebone Conservation Area. This is as

set out in S25 and S28 of Westminster's City Plan: Strategic Policies adopted November 2013 and DES 1 and DES 5 or DES 6 or both and paras 10.108 to 10.128 of our Unitary Development Plan that we adopted in January 2007. (R26BE)

- 5 You must not attach flues, ducts, soil stacks, soil vent pipes, or any other pipework other than rainwater pipes to the outside of the building unless they are shown on the approved drawings. (C26KA)

Reason:

To make sure that the appearance of the building is suitable and that it contributes to the character and appearance of this part of the East Marylebone Conservation Area. This is as set out in S25 and S28 of Westminster's City Plan: Strategic Policies adopted November 2013 and DES 1 and DES 5 or DES 6 or both and paras 10.108 to 10.128 of our Unitary Development Plan that we adopted in January 2007. (R26BE)

- 6 You must apply to us for approval of detailed drawings showing the following alteration(s) to the scheme:

- 1) the new plant screen to be clad in natural blue-grey slate,
- 2) the shopfront to have fixed mullions between each pair of opening windows.

You must not start on these parts of the work until we have approved what you have sent us. You must then carry out the work according to the approved drawings.

Reason:

To make sure that the appearance of the building is suitable and that it contributes to the character and appearance of this part of the East Marylebone Conservation Area. This is as set out in S25 and S28 of Westminster's City Plan: Strategic Policies adopted November 2013 and DES 1 and DES 5 or DES 6 or both and paras 10.108 to 10.128 of our Unitary Development Plan that we adopted in January 2007. (R26BE)

- 7 (1) Where noise emitted from the proposed plant and machinery will not contain tones or will not be intermittent, the 'A' weighted sound pressure level from the plant and machinery (including non-emergency auxiliary plant and generators) hereby permitted, when operating at its noisiest, shall not at any time exceed a value of 10 dB below the minimum external background noise, at a point 1 metre outside any window of any residential and other noise sensitive property, unless and until a fixed maximum noise level is approved by the City Council. The background level should be expressed in terms of the lowest LA90, 15 mins during the proposed hours of operation. The plant-specific noise level should be expressed as LAeqTm, and shall be representative of the plant operating at its maximum.

(2) Where noise emitted from the proposed plant and machinery will contain tones or will be intermittent, the 'A' weighted sound pressure level from the plant and machinery (including non-emergency auxiliary plant and generators) hereby permitted, when operating at its noisiest, shall not at any time exceed a value of 15 dB below the minimum external background noise, at a point 1 metre outside any window of any residential and other noise sensitive property, unless and until a fixed maximum noise level is approved by the City Council. The background level should be expressed in terms of the lowest LA90, 15 mins during the proposed hours of operation. The plant-specific noise level should be expressed as LAeqTm, and shall be representative of the plant operating at its maximum.

(3) Following installation of the plant and equipment, you may apply in writing to the City

Council for a fixed maximum noise level to be approved. This is to be done by submitting a further noise report confirming previous details and subsequent measurement data of the installed plant, including a proposed fixed noise level for approval by the City Council. Your submission of a noise report must include:

- (a) A schedule of all plant and equipment that formed part of this application;
- (b) Locations of the plant and machinery and associated: ducting; attenuation and damping equipment;
- (c) Manufacturer specifications of sound emissions in octave or third octave detail;
- (d) The location of most affected noise sensitive receptor location and the most affected window of it;
- (e) Distances between plant & equipment and receptor location/s and any mitigating features that may attenuate the sound level received at the most affected receptor location;
- (f) Measurements of existing LA90, 15 mins levels recorded one metre outside and in front of the window referred to in (d) above (or a suitable representative position), at times when background noise is at its lowest during hours when the plant and equipment will operate. This acoustic survey to be conducted in conformity to BS 7445 in respect of measurement methodology and procedures;
- (g) The lowest existing L A90, 15 mins measurement recorded under (f) above;
- (h) Measurement evidence and any calculations demonstrating that plant and equipment complies with the planning condition;
- (i) The proposed maximum noise level to be emitted by the plant and equipment.

Reason:

Because existing external ambient noise levels exceed WHO Guideline Levels, and as set out in ENV 6 (1), (6) and (8) and ENV 7 (A)(1) of our Unitary Development Plan that we adopted in January 2007, so that the noise environment of people in noise sensitive properties is protected, including the intrusiveness of tonal and impulsive sounds; and as set out in S32 of Westminster's City Plan: Strategic Policies adopted November 2013, by contributing to reducing excessive ambient noise levels. Part (3) is included so that applicants may ask subsequently for a fixed maximum noise level to be approved in case ambient noise levels reduce at any time after implementation of the planning permission.

- 8 No vibration shall be transmitted to adjoining or other premises and structures through the building structure and fabric of this development as to cause a vibration dose value of greater than 0.4m/s (1.75) 16 hour day-time nor 0.26 m/s (1.75) 8 hour night-time as defined by BS 6472 (2008) in any part of a residential and other noise sensitive property.

Reason:

As set out in ENV6 (2) and (6) of our Unitary Development Plan that we adopted in January 2007, to ensure that the development is designed to prevent structural transmission of noise or vibration.

- 9 You must install all the acoustic mitigation measures as described within the acoustic report dated 11th February 2015 at the same time as the plant is installed and maintain it in this manner for as long as the plant remains in place.

Reason:

To protect neighbouring residents from noise and vibration nuisance, as set out in S29 and S32 of Westminster's City Plan: Strategic Policies adopted November 2013 and ENV 6 and ENV 7 of our Unitary Development Plan that we adopted in January 2007. (R13AC)

- 10 If you choose to provide the bar and bar seating as shown on the submitted drawings, it must

not take up more than 15% of the floor area of the property, or more than 15% of each unit if you let the property as more than one unit. You must use the bar to serve restaurant customers only, before, during or after their meals.

Reason:

To prevent a use that would be unacceptable because of the character and function of this part of the East Marylebone Conservation Area. This is in line with S25 of Westminster's City Plan: Strategic Policies adopted November 2013 and DES 9 of our Unitary Development Plan that we adopted in January 2007. (R05FC)

- 11 The openable element of the shopfront hereby approved shall be fixed shut between the hours of 21.30 and 09.00 daily.

Reason:

To protect neighbouring residents from noise nuisance, as set out in S24, S29 and S32 of Westminster's City Plan: Strategic Policies adopted November 2013 and ENV 6 of our Unitary Development Plan that we adopted in January 2007. (R13EC)

- 12 You must not allow more than 104 customers into the property at any one time. (C05HA)

Reason:

We cannot grant planning permission for unrestricted use in this case because it would not meet TACE9 of our Unitary Development Plan that we adopted in January 2007. (R05AB)

- 13 Customers shall not be permitted within the restaurant premises before 08.00 to 00.00 Monday to Thursday, 08.00 to 00.30 Friday and Saturday, and 08.00 to 23.00 on Sundays

Reason:

To protect the environment of people in neighbouring properties as set out in S24, S29 and S32 of Westminster's City Plan: Strategic Policies adopted November 2013 and ENV 6, ENV 7 and TACE9 of our Unitary Development Plan that we adopted in January 2007. (R12AC)

- 14 The design and structure of the development shall be of such a standard that it will protect residents within the same building or in adjoining buildings from noise and vibration from the development, so that they are not exposed to noise levels indoors of more than 35 dB LAeq 16 hrs daytime and of more than 30 dB LAeq 8 hrs in bedrooms at night.

Reason:

As set out in ENV6 of our Unitary Development Plan that we adopted in January 2007, and the related Policy Application at section 9.76, in order to ensure that design, structure and acoustic insulation of the development will provide sufficient protection for residents of the same or adjoining buildings from noise and vibration from elsewhere in the development.

- 15 You must provide each cycle parking space shown on the approved drawings prior to occupation. Thereafter the cycle spaces must be retained and the space used for no other purpose without the prior written consent of the local planning authority.

Reason:

To provide cycle parking spaces for people using the development as set out in TRANS 10 of our Unitary Development Plan that we adopted in January 2007.

- 16 You must hang all doors or gates so that they do not open over or across the road or pavement. (C24AA)

Reason:

In the interests of public safety and to avoid blocking the road as set out in S41 of Westminster's City Plan: Strategic Policies adopted November 2013 and TRANS 2 and TRANS 3 of our Unitary Development Plan that we adopted in January 2007. (R24AC)

- 17 Prior to the occupation of the premises for restaurant purposes, you shall submit and have approved in writing by the local planning authority a management plan to show how you will prevent customers who are leaving the building from causing nuisance for people in the area, including people who live in nearby buildings. You must not start the restaurant use until we have approved what you have sent us. You must then carry out the measures included in the management plan at all times that the restaurant is in use.

Reason:

We cannot grant planning permission for unrestricted use in this case because it would not meet TACE9 of our Unitary Development Plan that we adopted in January 2007. (R05AB)

- 18 Prior to the occupation of the premises for restaurant purposes, you shall submit and have approved in writing by the local planning authority, a detailed servicing management strategy for the restaurant use. All servicing shall be undertaken in accordance with the approved strategy unless otherwise agreed in writing by the local planning authority.

Reason:

To avoid blocking the surrounding streets and to protect the environment of people in neighbouring properties as set out in S42 of Westminster's City Plan: Strategic Policies adopted November 2013 and STRA 25, TRANS 20 and TRANS 21 of our Unitary Development Plan that we adopted in January 2007. (R23AC)

- 19 You must not operate a delivery service

Reason:

To avoid blocking the surrounding streets and to protect the environment of people in neighbouring properties as set out in S42 of Westminster's City Plan: Strategic Policies adopted November 2013 and STRA 25, TRANS 20 and TRANS 21 of our Unitary Development Plan that we adopted in January 2007. (R23AC)

- 20 The rear third floor area hereby approved for the installation of plant is only to be used for plant and is not to be used for any other restaurant function.

Reason:

To protect the environment of residents and the area generally as set out in S29 of Westminster's City Plan: Strategic Policies adopted November 2013 and STRA 25, TRANS 23, ENV 5 and ENV 6 of our Unitary Development Plan that we adopted in January 2007. (R22CC)

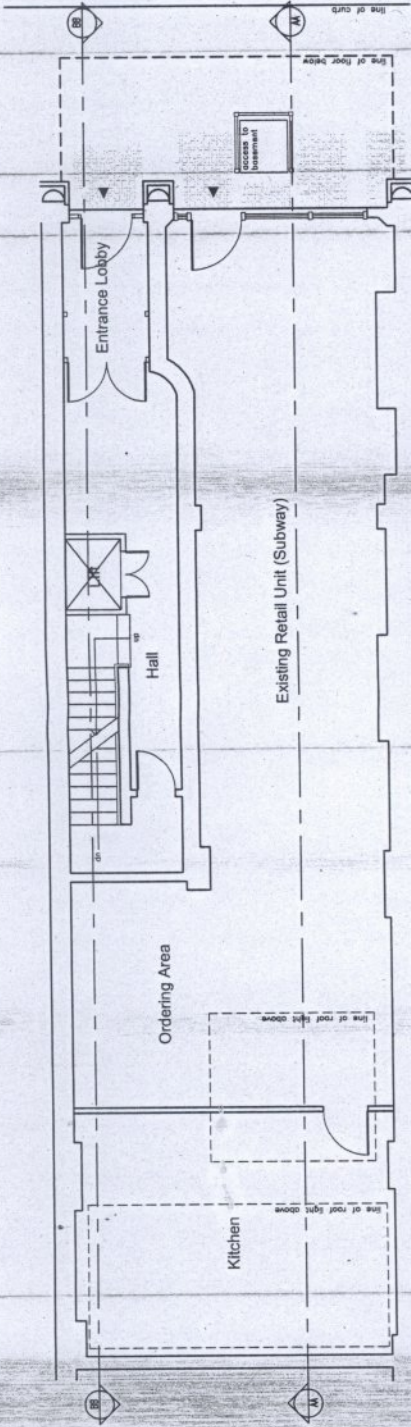


**Informative(s):**

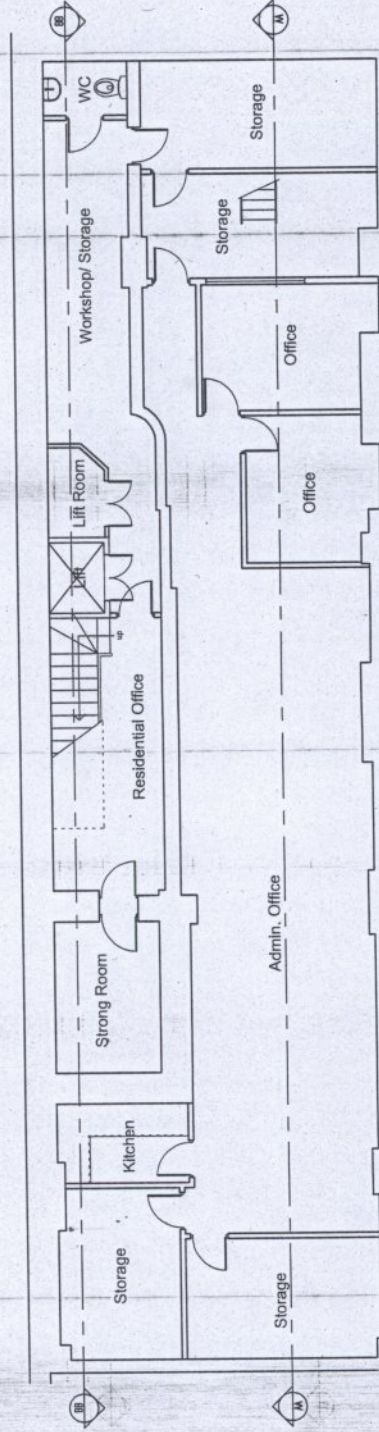
- 1 In dealing with this application the City Council has implemented the requirement in the National Planning Policy Framework to work with the applicant in a positive and proactive way. We have made available detailed advice in the form of our statutory policies in Westminster's City Plan: Strategic Policies adopted November 2013, Unitary Development Plan, Supplementary Planning documents, planning briefs and other informal written guidance, as well as offering a full pre application advice service, in order to ensure that applicant has been given every opportunity to submit an application which is likely to be considered favourably. In addition, where appropriate, further guidance was offered to the applicant at the validation stage.
  
- 2 Conditions 7 and 8 control noise from the approved machinery. It is very important that you meet the conditions and we may take legal action if you do not. You should make sure that the machinery is properly maintained and serviced regularly. (182AA)
  
- 3 Regulation 12 of the Workplace (Health, Safety and Welfare) Regulations 1992 requires that every floor in a workplace shall be constructed in such a way which makes it suitable for use. Floors which are likely to get wet or to be subject to spillages must be of a type which does not become unduly slippery. A slip-resistant coating must be applied where necessary. You must also ensure that floors have effective means of drainage where necessary. The flooring must be fitted correctly and properly maintained.  
 Regulation 6 (4)(a) Schedule 1(d) states that a place of work should possess suitable and sufficient means for preventing a fall. You must therefore ensure the following:
  - \* Stairs are constructed to help prevent a fall on the staircase; you must consider stair rises and treads as well as any landings;
  - \* Stairs have appropriately highlighted grip nosing so as to differentiate each step and provide sufficient grip to help prevent a fall on the staircase;
  - \* Any changes of level, such as a step between floors, which are not obvious, are marked to make them conspicuous. The markings must be fitted correctly and properly maintained;
  - \* Any staircases are constructed so that they are wide enough in order to provide sufficient handrails, and that these are installed correctly and properly maintained. Additional handrails should be provided down the centre of particularly wide staircases where necessary;
  - \* Stairs are suitably and sufficiently lit, and lit in such a way that shadows are not cast over the main part of the treads.
  
- 4 You are advised to permanently mark the plant/ machinery hereby approved with the details of this permission (date of grant, registered number). This will assist in future monitoring of the equipment by the City Council if and when complaints are received.
  
- 5 Asbestos is the largest single cause of work-related death. People most at risk are those working in the construction industry who may inadvertently disturb asbestos containing materials (ACMs). Where building work is planned it is essential that building owners or occupiers, who have relevant information about the location of ACMs, supply this information to the main contractor (or the co-ordinator if a CDM project) prior to work commencing. For more information, visit the Health and Safety Executive website at [www.hse.gov.uk/asbestos/regulations.htm](http://www.hse.gov.uk/asbestos/regulations.htm) (180AB)

- 6 Regulation 12 of the Workplace (Health, Safety and Welfare) Regulations 1992 requires that every floor in a workplace shall be constructed in such a way which makes it suitable for use. Floors which are likely to get wet or to be subject to spillages must be of a type which does not become unduly slippery. A slip-resistant coating must be applied where necessary. You must also ensure that floors have effective means of drainage where necessary. The flooring must be fitted correctly and properly maintained.  
Regulation 6 (4)(a) Schedule 1(d) states that a place of work should possess suitable and sufficient means for preventing a fall. You must therefore ensure the following:
- \* Stairs are constructed to help prevent a fall on the staircase; you must consider stair rises and treads as well as any landings;
  - \* Stairs have appropriately highlighted grip nosing so as to differentiate each step and provide sufficient grip to help prevent a fall on the staircase;
  - \* Any changes of level, such as a step between floors, which are not obvious, are marked to make them conspicuous. The markings must be fitted correctly and properly maintained;
  - \* Any staircases are constructed so that they are wide enough in order to provide sufficient handrails, and that these are installed correctly and properly maintained. Additional handrails should be provided down the centre of particularly wide staircases where necessary;
  - \* Stairs are suitably and sufficiently lit, and lit in such a way that shadows are not cast over the main part of the treads.
- 7 Buildings must be provided with appropriate welfare facilities for staff who work in them and for visiting members of the public.  
Detailed advice on the provision of sanitary conveniences, washing facilities and the provision of drinking water can be found in guidance attached to the Workplace (Health, Safety and Welfare) Regulations 1992. [www.opsi.gov.uk/SI/si1992/Uksi\\_19923004\\_en\\_1.htm](http://www.opsi.gov.uk/SI/si1992/Uksi_19923004_en_1.htm)
- The following are available from the British Standards Institute - see <http://shop.bsigroup.com/>:
- BS 6465-1:2006: Sanitary installations. Code of practice for the design of sanitary facilities and scales of provision of sanitary and associated appliances  
BS 6465-3:2006: Sanitary installations. Code of practice for the selection, installation and maintenance of sanitary and associated appliances. (I80HA)
- 8 Please contact our Environmental Health Service (020 7641 2971) to register your food business and to make sure that all ventilation and other equipment will meet our standards. Under environmental health law we may ask you to carry out other work if your business cause noise, smells or other types of nuisance. (I06AA)
- 9 The kitchen extract duct should be designed to discharge vertically at highest roof level and clear of all existing and proposed windows in the vicinity. We accept systems with a full height level which is higher than any building within 20 metres of the building housing the commercial kitchen.
- 10 All kitchen extract ducts must be fitted with doors/hatches for cleaning, at 3 metre intervals, complying with the H&S safe access standards.

BERNERS STREET



A 051 Ground Floor Plan - Scale 1:100@A3



B 051 Basement Floor Plan - Scale 1:100@A3

SCALE COPY

17 MAR 2015



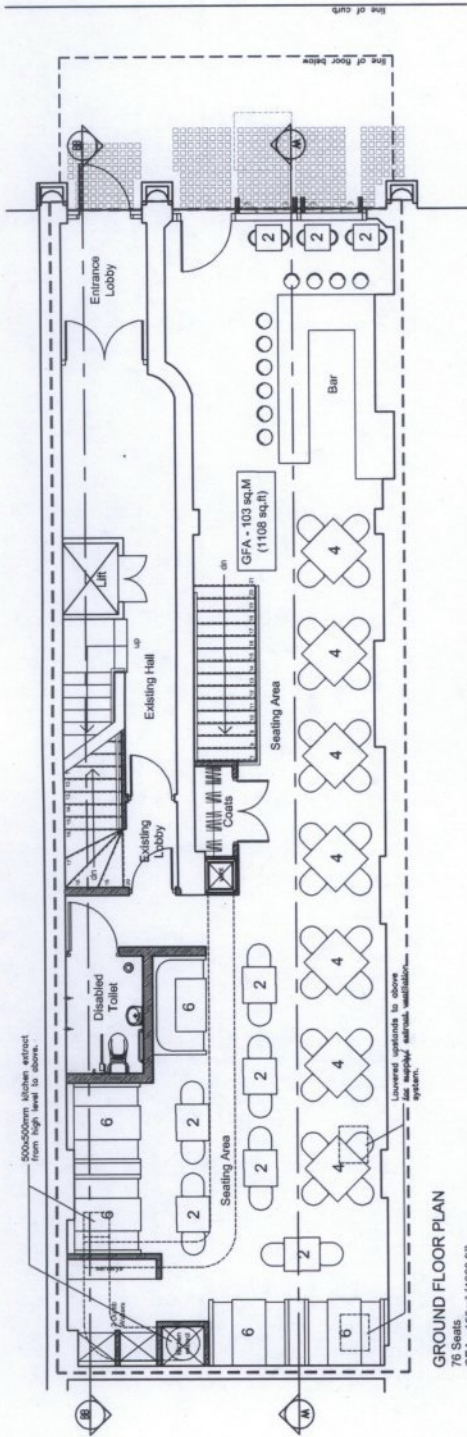
EXISTING BASEMENT & GROUND FLOOR PLAN • SCALE AS SHOWN@A3

NO. 4 BERNERS STREET • NO. 4 BERNERS STREET • DATE: 01.02.2015 • DR. No. 2951 051 Rev

M•R PARTNERSHIP  
ARCHITECTS AND INTERIOR DESIGNERS

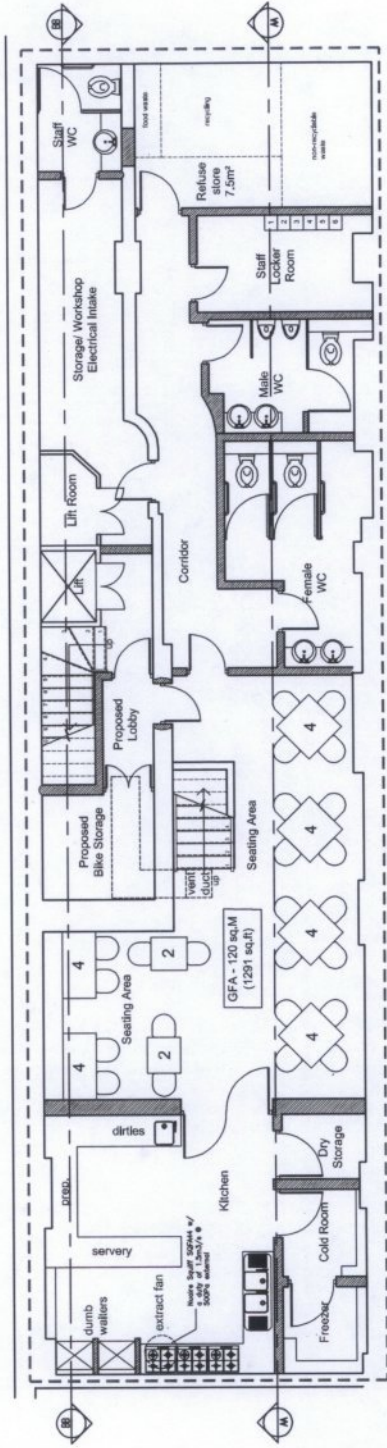


BERNERS STREET



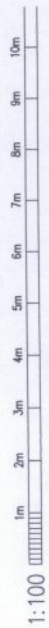
**GROUND FLOOR PLAN**  
76 Seats  
GEA - 155m<sup>2</sup> (1666 ft<sup>2</sup>)

**A** 056 Ground Floor Plan - Scale 1:100@A3



**BASEMENT FLOOR PLAN**  
28 Seats  
GEA - 180m<sup>2</sup> (1939 ft<sup>2</sup>)

**B** 056 Basement Floor Plan - Scale 1:100@A3

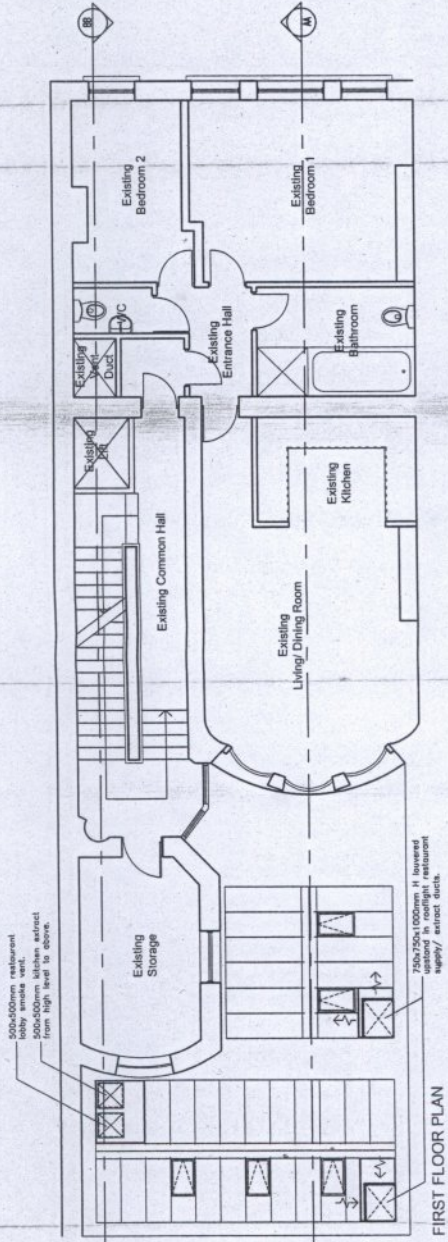


PLANNING APPLICATION

PROPOSED GROUND & BASEMENT FLOOR PLAN • SCALE AS SHOWN@A3

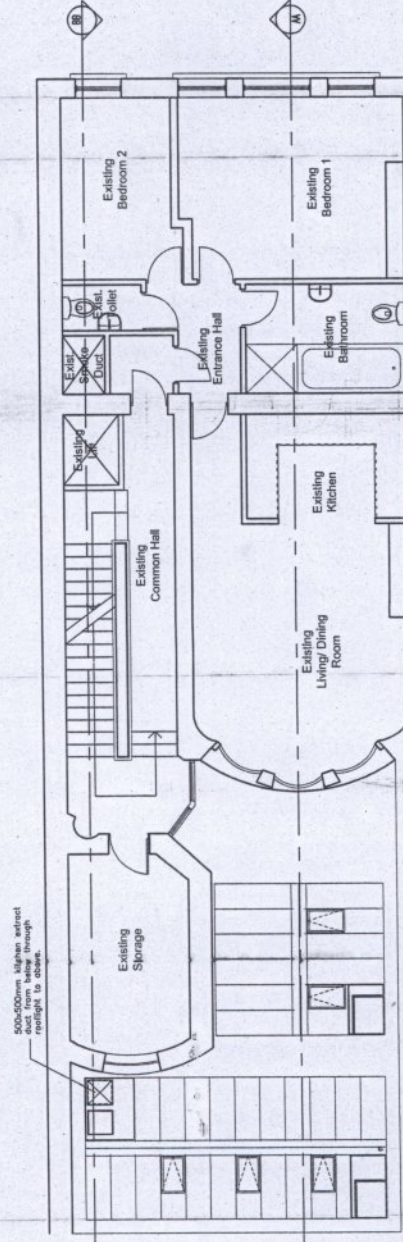
NO. 4 BERNERS STREET • NO. 4 BERNERS STREET • DATE: MAY 2015 • DR. No. 2951 058 Rev

**M • R PARTNERSHIP**  
ARCHITECTS AND INTERIOR DESIGNERS



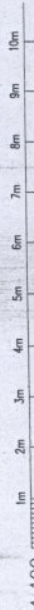
FIRST FLOOR PLAN

**A** 059 First Floor Plan - Scale 1:100@A3



SECOND FLOOR PLAN

**B** 059 Second Floor Plan - Scale 1:100@A3



**M•R PARTNERSHIP**  
ARCHITECTS AND INTERIOR DESIGNERS

**CASE COPY**

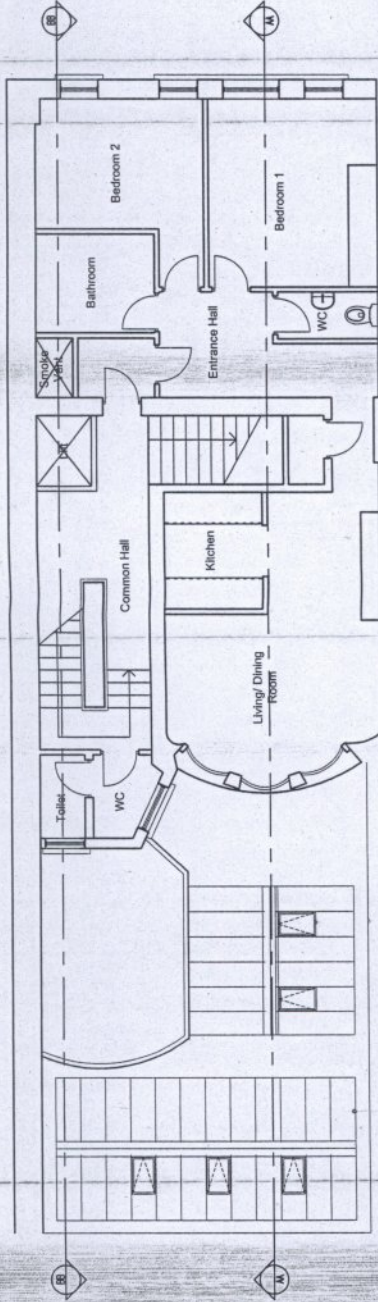
17 MAR 2015

PLANNING APPLICATION

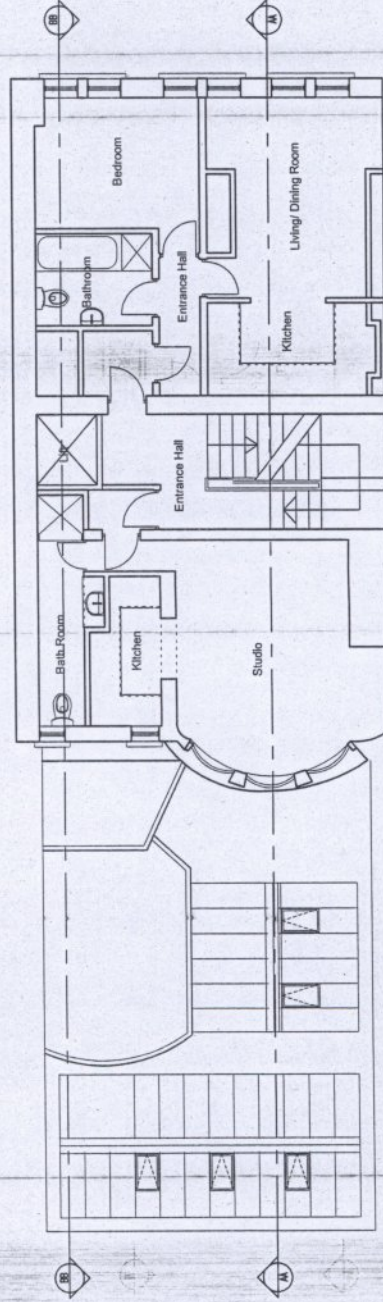
PROPOSED FIRST & SECOND FLOOR PLAN • SCALE AS SHOWN@A3

NO. 4 BERNERS STREET • NO. 4 BERNERS STREET • DATE: 01.02.2015 • DR. No. 2951 059 Rev





A 053 Third Floor Plan - Scale 1:100@A3



B 053 Fourth Floor Plan - Scale 1:100@A3

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EXISTING THIRD & FOURTH FLOOR PLAN • SCALE AS SHOWN@A3

NO. 4 BERNERS STREET • NO. 4 BERNERS STREET • DATE: 01.02.2015 • DR. No. 2951 053 Rev

WASTE COPY

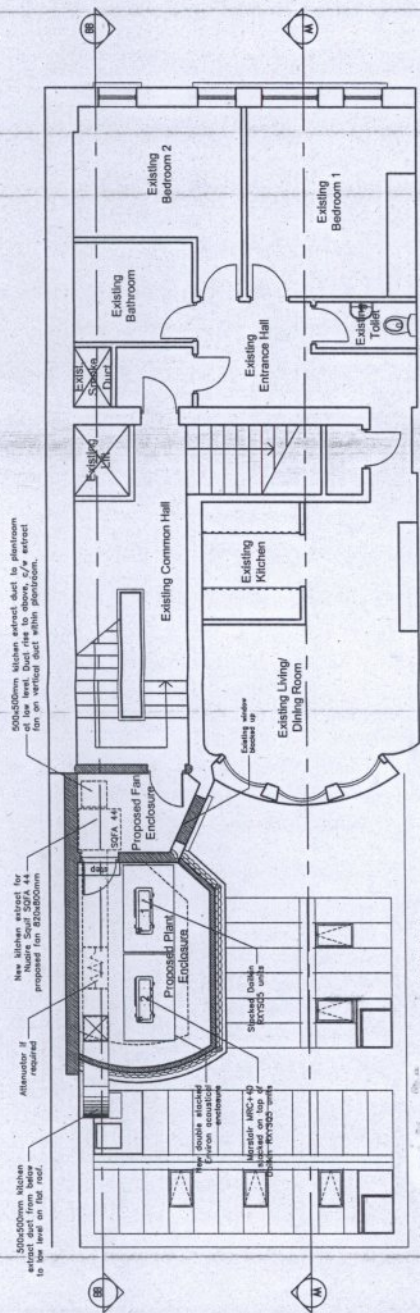
17 MAR 2015



PLANNING APPLICATION

PROPOSED THIRD & FOURTH FLOOR PLAN • SCALE AS SHOWN@A3

NO. 4 BERNERS STREET • NO. 4 BERNERS STREET • DATE: 01.02.2015 • DR. No. 2951 060 Rev

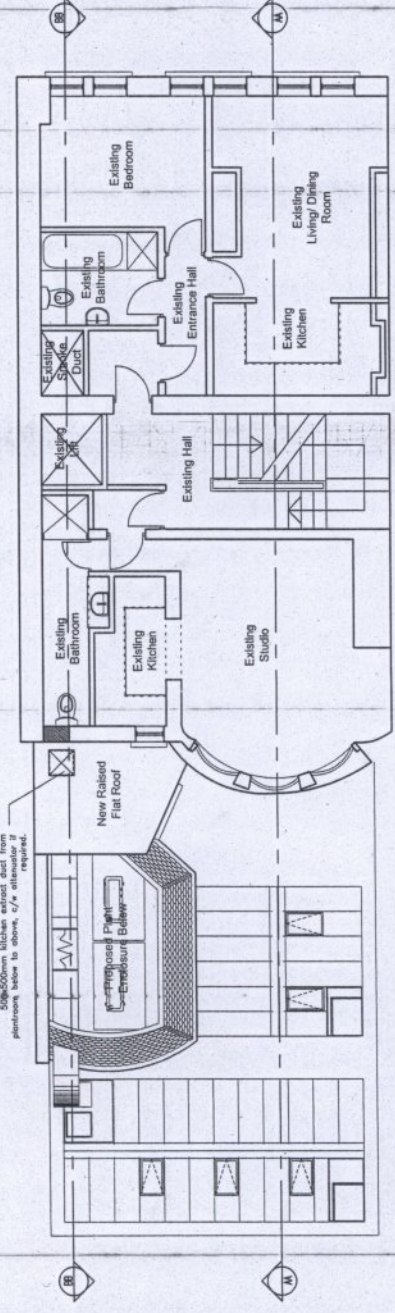


AC Option 1

- 1- Daktin RYXSOE (No.)
- 2- Merstair MRCH45 (No.)

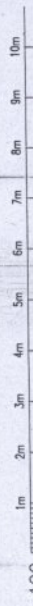
THIRD FLOOR PLAN

Third Floor Plan - Scale 1:100@A3



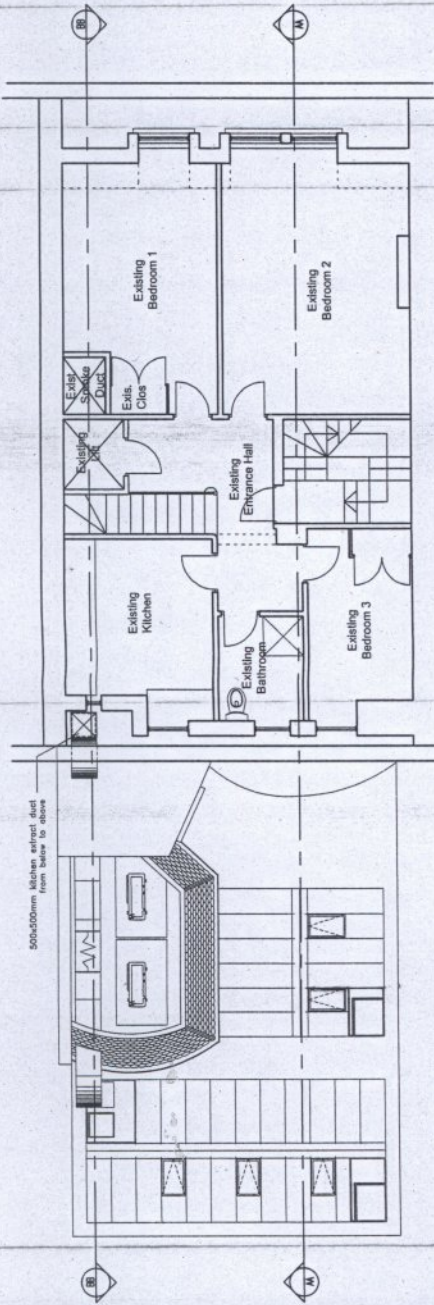
FOURTH FLOOR PLAN

Fourth Floor Plan - Scale 1:100@A3



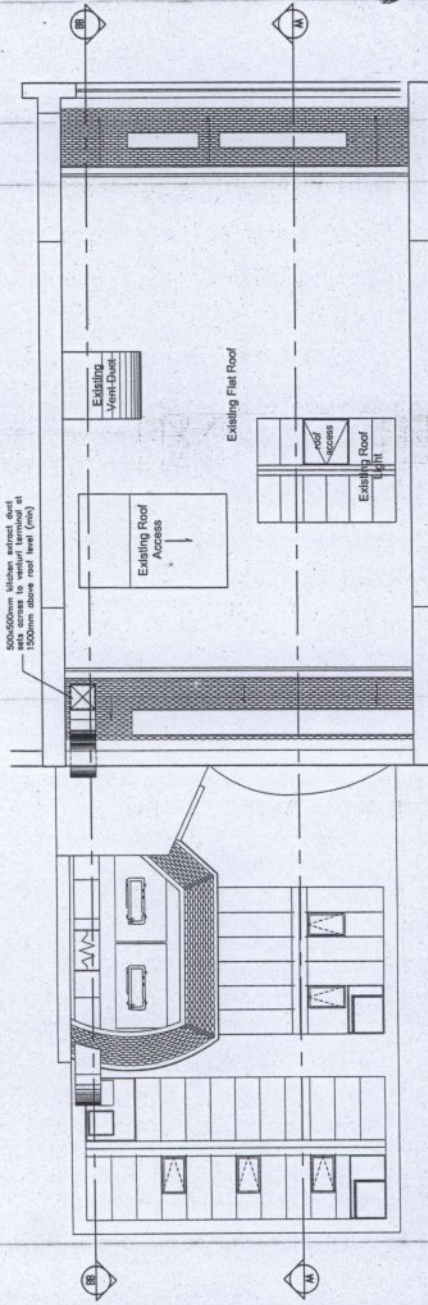
M•R PARTNERSHIP

ARCHITECTS AND INTERIOR DESIGNERS



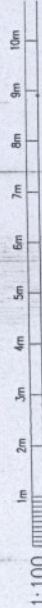
FIFTH FLOOR PLAN

**(A/06)** Fifth Floor Plan - Scale 1:100@A3



ROOF PLAN

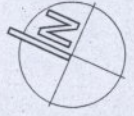
**(B/06)** Roof Plan - Scale 1:100@A3



**M•R PARTNERSHIP**  
ARCHITECTS AND INTERIOR DESIGNERS

NO. 4 BERNERS STREET • NO. 4 BERNERS STREET • DATE: 01.02.2015 • DR. No. 2951 061 Rev

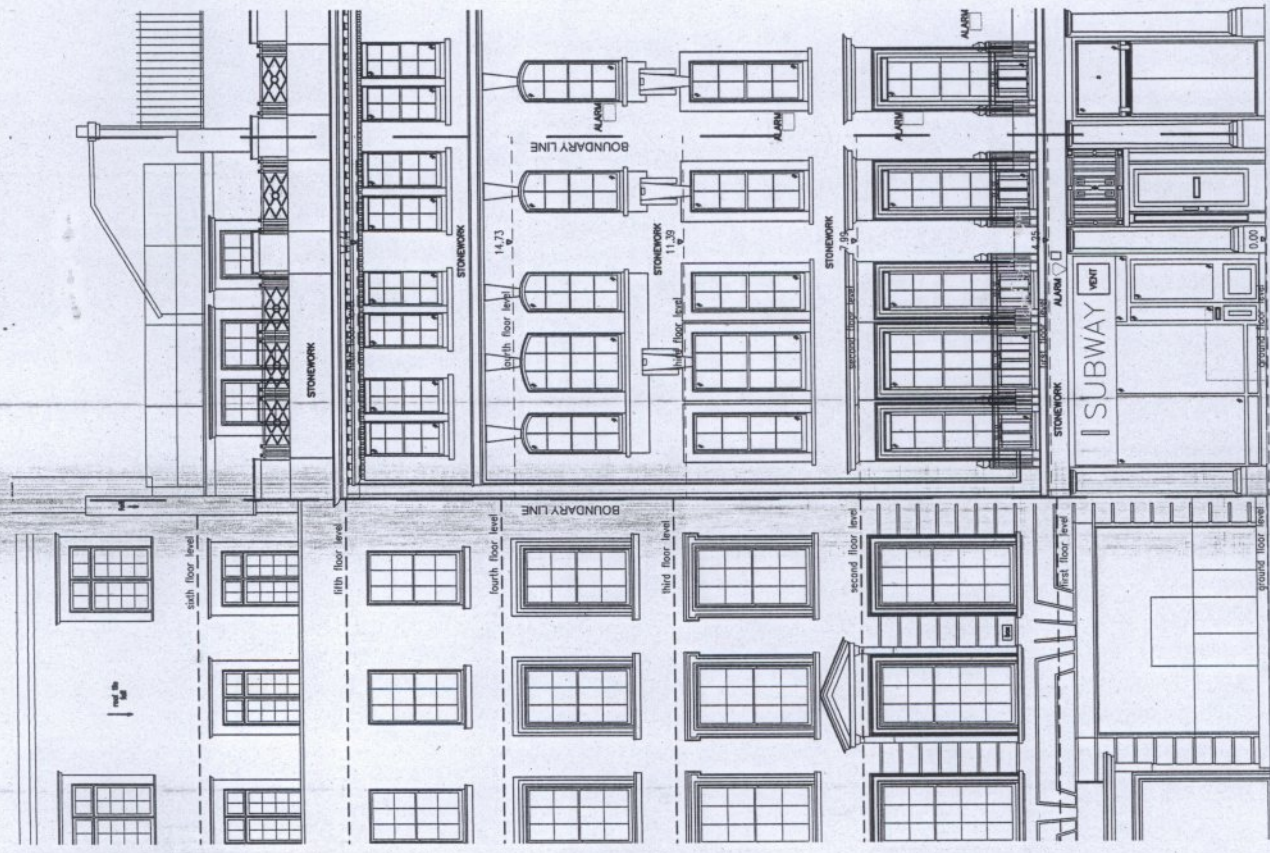
PLANNING APPLICATION



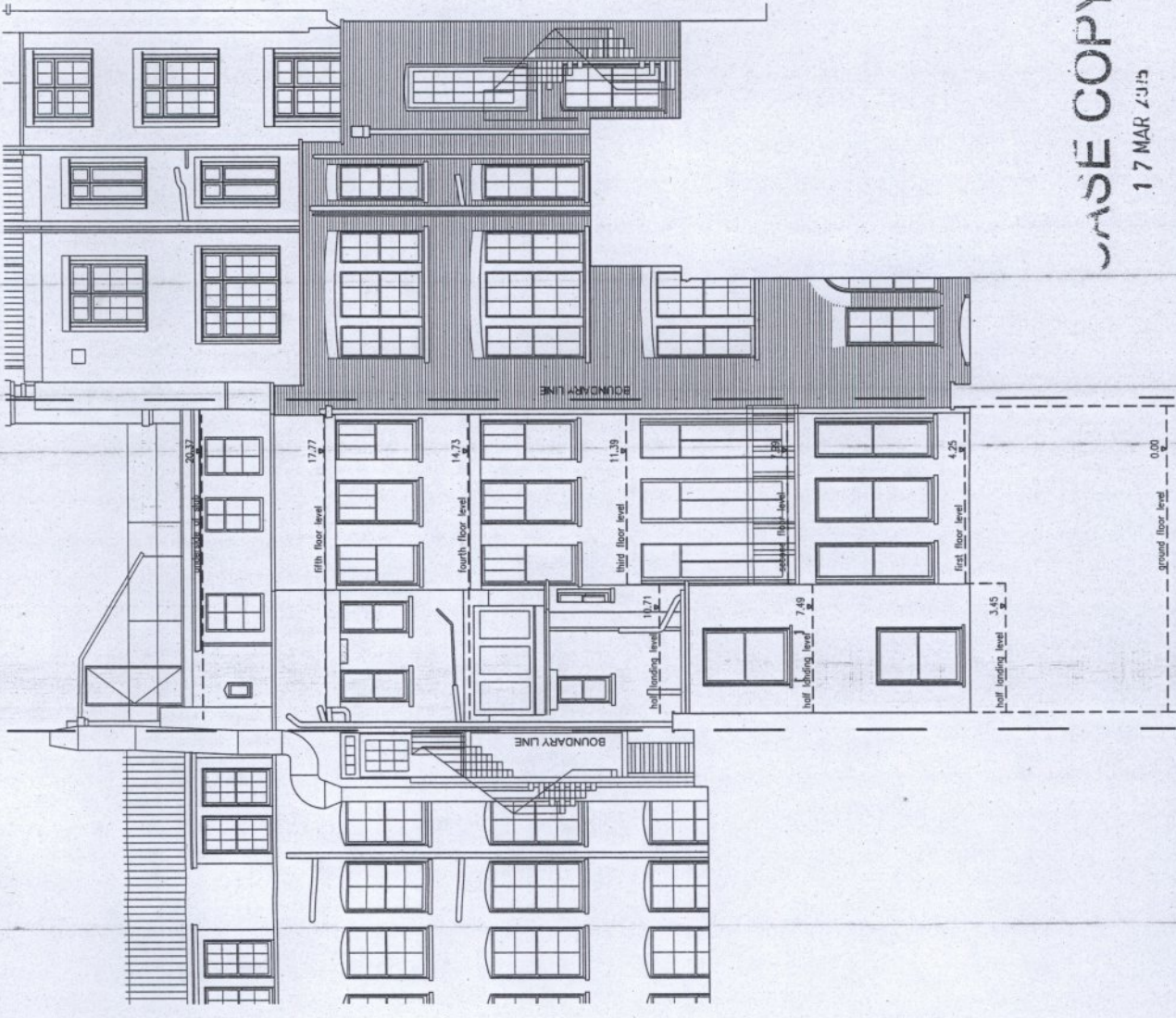
CASE COPY

17 MAR 2015





**A** 055 Front Elevation - Scale 1:100@A3



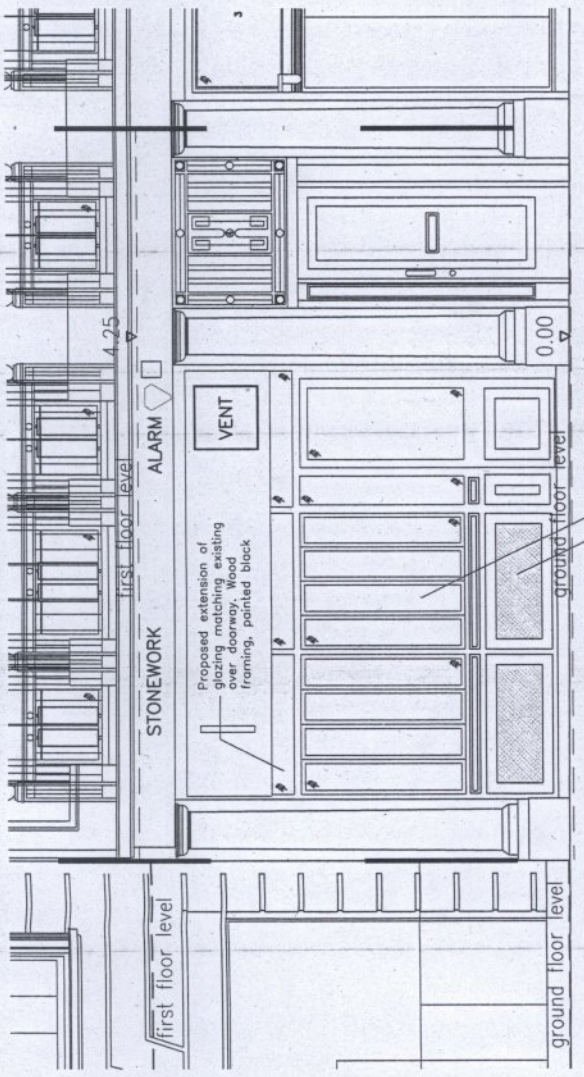
**B** 055 Rear Elevation - Scale 1:100@A3

BASE COPY  
17 MAR 2015

EXISTING FRONT & REAR ELEVATIONS • SCALE AS SHOWN@A3

NO. 4 BERNERS STREET • NO. 4 BERNERS STREET • DATE: 01.02.2015 • DR. No. 2951 055 Rev

**M•R PARTNERSHIP**  
ARCHITECTS AND INTERIOR DESIGNERS



**B** 062 Front Elevation - Scale 1:50@A3

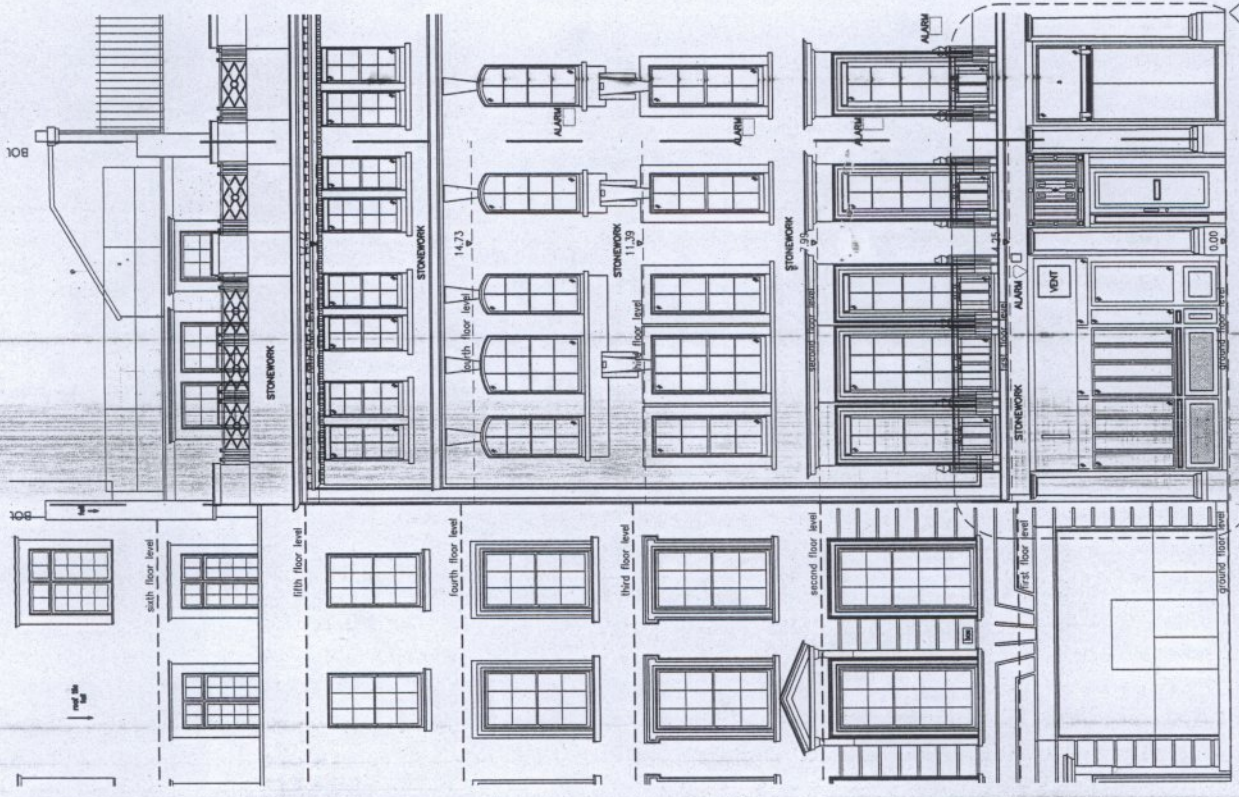
CASE COPY  
17 MAR 2015

PLANNING APPLICATION

1:100

PROPOSED FRONT ELEVATIONS • SCALE AS SHOWN@A3

NO. 4 BERNERS STREET • NO. 4 BERNERS STREET • DATE: 01.02.2015 • DR. No. 2951 062 Rev



**A** 062 Front Elevation - Scale 1:100@A3

M•R PARTNERSHIP  
ARCHITECTS AND INTERIOR DESIGNERS

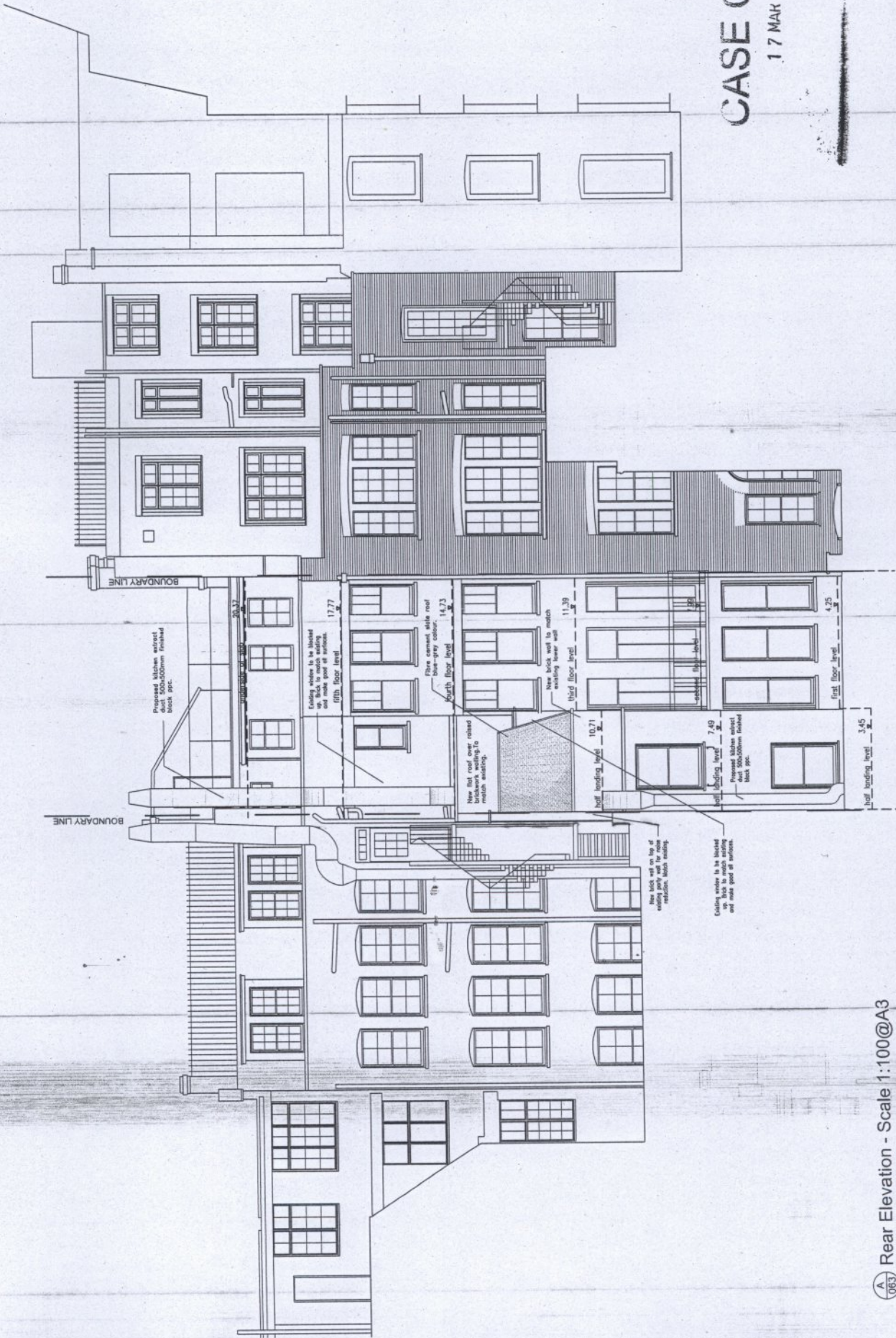
CASE COPY

17 MAR 2015

PLANNING APPLICATION

PROPOSED REAR ELEVATIONS • SCALE AS SHOWN@A3

NO. 4 BERNERS STREET • NO. 4 BERNERS STREET • DATE: 01.02.2015 • DR. No. 2951 063 Rev



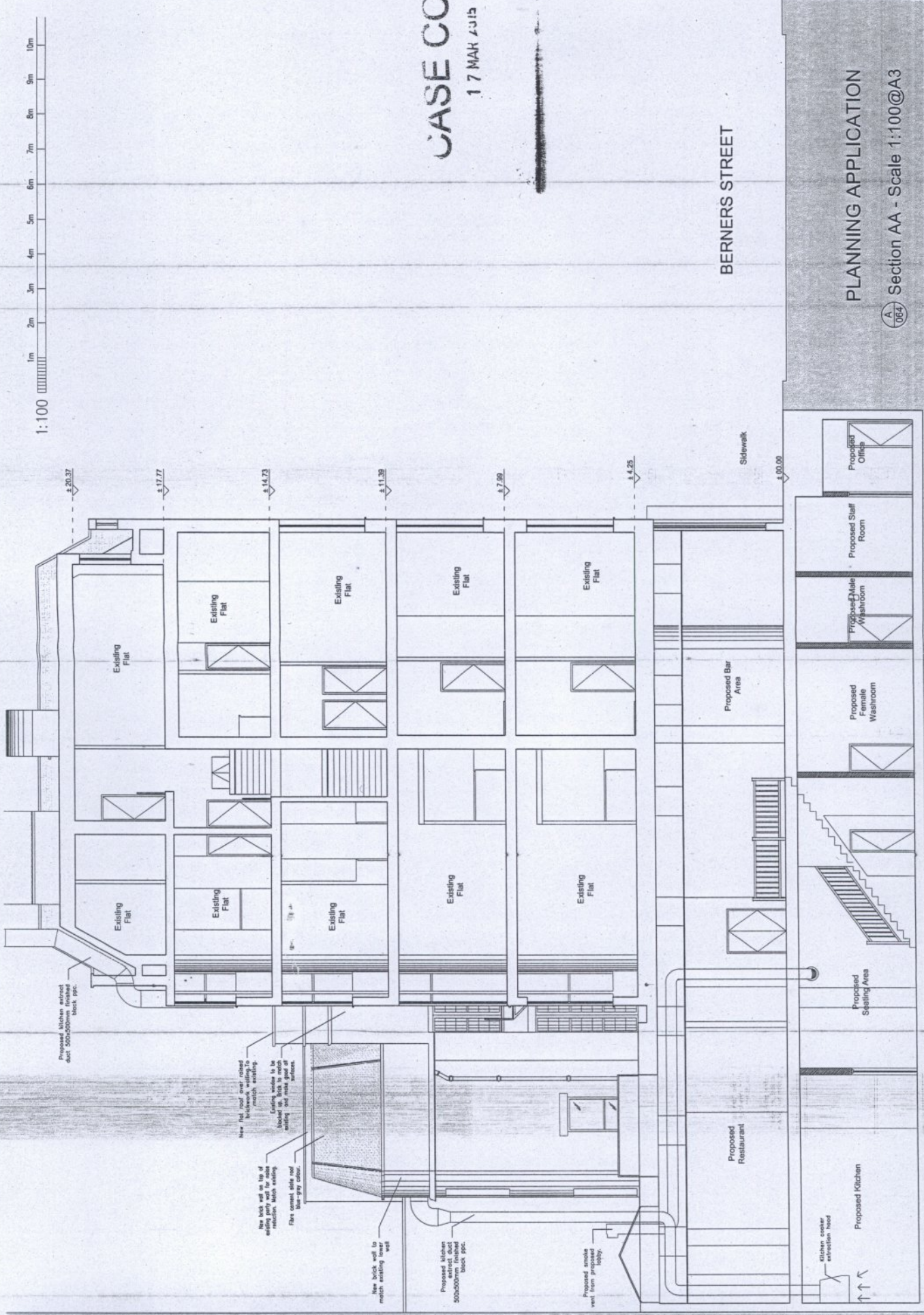
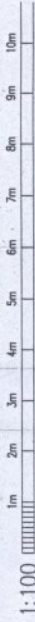
063 Rear Elevation - Scale 1:100@A3



M•R PARTNERSHIP  
ARCHITECTS AND INTERIOR DESIGNERS

CASE COPY

17 MAR 2015



BERNERS STREET

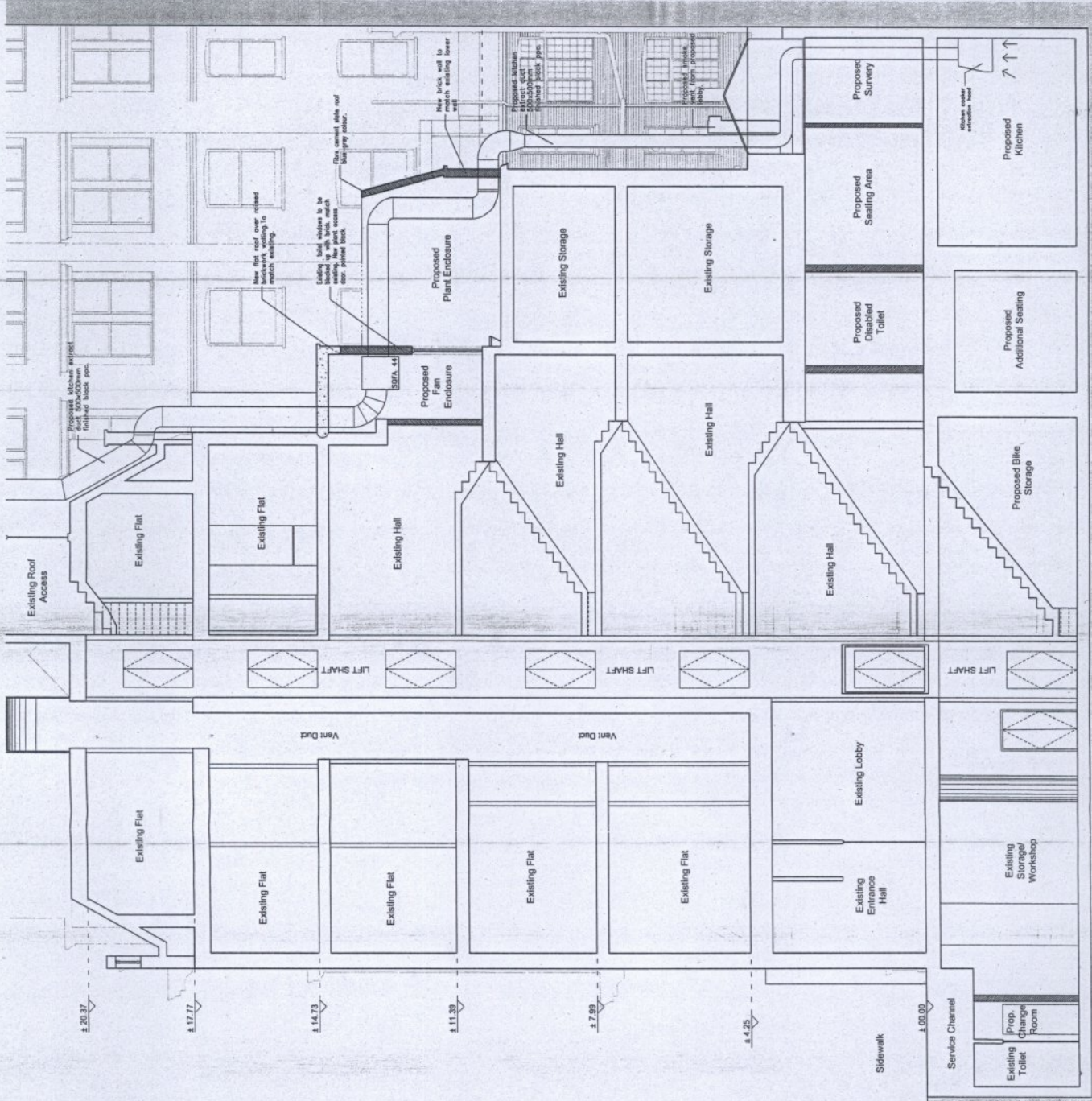
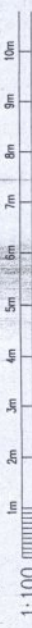
PLANNING APPLICATION

Section AA - Scale 1:100@A3

PROPOSED SECTION AA • SCALE AS SHOWN@A3

NO. 4 BERNERS STREET • NO. 4 BERNERS STREET • DATE: 01.02.2015 • DR. No. 2951 064 Rev

M•R PARTNERSHIP ARCHITECTS AND INTERIOR DESIGNERS



± 20.37  
 ± 17.77  
 ± 14.73  
 ± 11.39  
 ± 7.89  
 ± 4.25  
 ± 0.00

BERNERS STREET

Sidewalk

PLANNING APPLICATION

Section BB - Scale 1:100@A3



M•R PARTNERSHIP  
 ARCHITECTS AND INTERIOR DESIGNERS

PROPOSED SECTION BB • SCALE AS SHOWN@A3

NO. 4 BERNERS STREET • NO. 4 BERNERS STREET • DATE: 01.02.2015 • DR. No. 2951 065 Rev 7 MAK 4/13