

LONDON BOROUGH OF ENFIELD

PLANNING COMMITTEE

Date : 26th April 2011

Report of
Assistant Director, Planning &
Environmental Protection

Contact Officer:
Aled Richards Tel: 020 8379 3857
Andy Higham Tel: 020 8379 3848
Mr R. Lancaster Tel: 020 8379 4019

Ward: Southgate

Application Number : TP/10/0972

Category: Change of Use

LOCATION: 8, CHASEVILLE PARADE, CHASEVILLE PARK ROAD, LONDON, N21 1PG

PROPOSAL: Change of use of ground floor from retail (A1) to mixed use retail (A1) and restaurant (A3).

Applicant Name & Address:

Mr Mustafa Kabalak
8, CHASEVILLE PARADE,
CHASEVILLE PARK ROAD,
LONDON,
N21 1PG

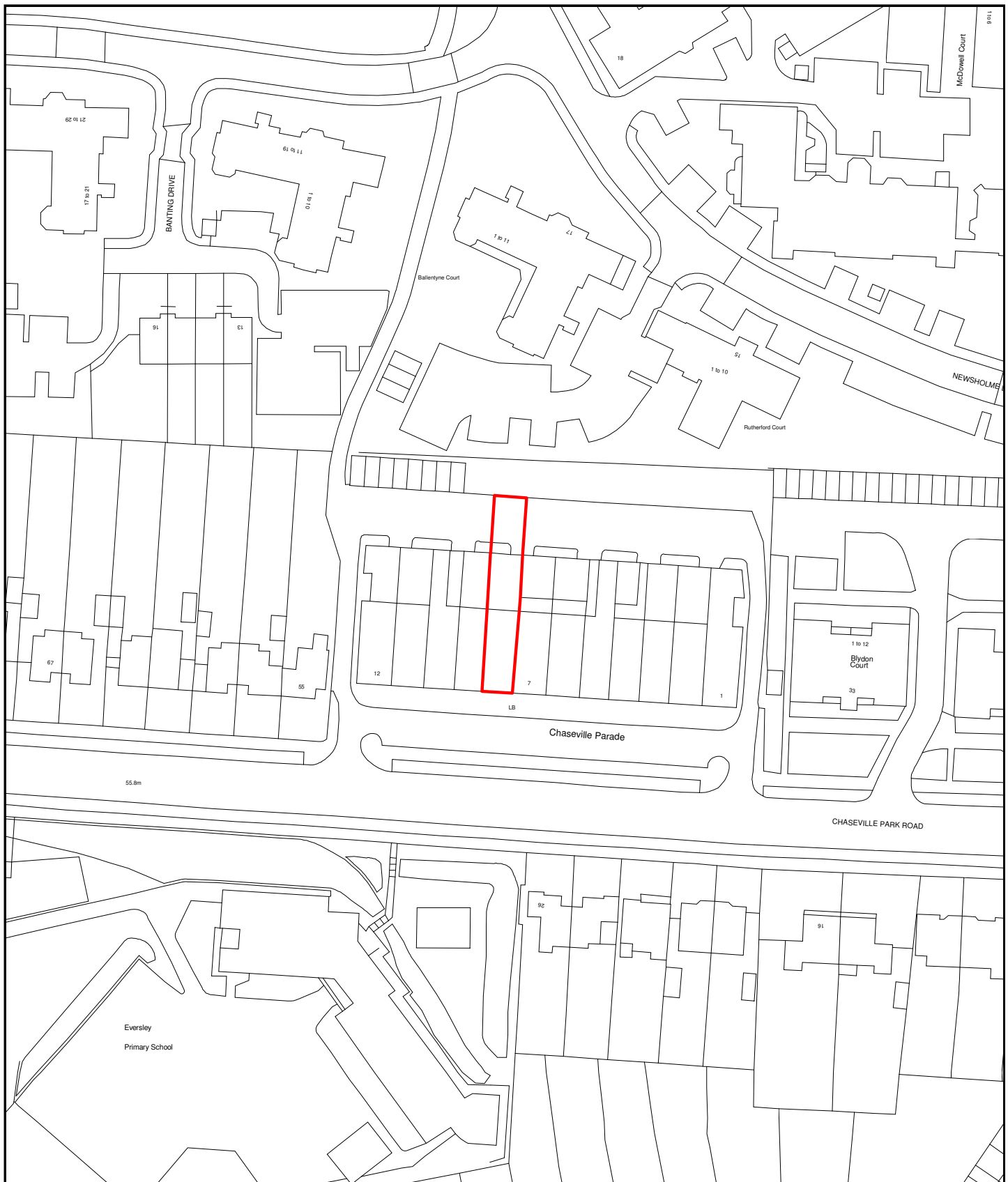
Agent Name & Address:

Mr Jun Simon,
ADA GROUP
167, Stoke Newington Road
London
N16 8BP

RECOMMENDATION: That planning permission be **REFUSED**.

Note for Members:

At Planning Committee on 29th March, Members resolved to grant permission for this development. However, the Officers report was inaccurate in a matter of fact. This inaccuracy may have been significant in Members' determination. Therefore, Officers consider it necessary to report the application back to Committee for their redetermination. In light of the correction in the number of extant but unimplemented permissions for food and drink uses on the Parade, Officers' recommendation is now that planning permission be refused.



Development Control



Scale - 1:1001
Time of plot: 15:34

Date of plot: 18/04/2011

1.0 Site and Surroundings

- 1.1 Chaseville Parade is located on Chaseville Park Road opposite Eversley Primary School. The parade contains 13 ground floor units, is 3 storeys in height with commercial units on the ground and residential above. The retail parade benefits from the service road in front. Parking and additional servicing for both the retail and residential is available to the rear.
- 1.2 The parade is designated as a Local Parade with the hierarchy of retail centres set out in the recently adopted Core Strategy and the surrounding area is residential in character.

2.0 Proposal

- 2.1 Permission is sought retrospectively, for the change of use from A1 to a mixed A1 (retail) and A3 (café / restaurant) use.
- 2.2 The proposal also involves the installation of external ducting at rear.

3.0 Planning History

Site

- 3.1 TP/09/0266: an application to change of use of ground floor from retail (A1) to restaurant and café (A3) was refused in April 2009. An appeal against this decision was dismissed in December 2009.
- 3.2 TP/10/0094: an application to change of use of ground floor from retail (A1) to restaurant and café (A3). The Council declined to determine this application on 22/02/2010 as there was no material difference between it and the previous application dismissed at appeal.

No. 9 Chaseville Parade

- 3.3 TP/07/1795: an application for change of use from A1 to A3 of one unit on the ground floor at 9 & 10 Chaseville Parade was approved in 28th February 2008.
- 3.4 TP/10/1268: an application for change of use of ground floor to a dental surgery was approved (20/12/2010) at the ground floor unit of No.9.
- 3.5 TP/07/1795/REN1: an application for replacement permission reference: TP/07/1795 for change of use of one unit of the ground floor from A1 to A3 at 9 & 10 Chaseville Parade. This application is currently before Committee with a recommendation for approval subject to conditions.

4.0 Consultations

4.1 Statutory and Non-Statutory Consultees

- 4.1.1 Environmental Health raise no objections subject to conditions

4.2 Public:

4.2.1 Consultation letters were sent to 5 neighbouring properties. In response, letters of objection were received from the residential occupiers at 5A, 6B, 7A, 7B and 8A Chaseville Parade raising the following points:

- Too many A3 uses on the parade
- Waste product problem exacerbated by application unit
- Noise and anti-social behaviour
- Rubbish and hygiene and vermin
- Too few A1 uses along parade
- Smells and Odours
- To approve the application would be inconsistent with the appeal decision
- The premises is trading without the necessary planning permission
- The use is contrary to restrictive covenants on the property
- Loss of property values
- Late opening of premises

4.2.2 In addition, the Winchmore Hill Residents Association comment that this proposal differs little from that previously resisted and the proposed change of use would further decimate the number of retail outlets in this parade.

4.2.3 Petition

In addition two letters and a petition containing 205 signatures in support of the proposal have also been received albeit, it must be noted that not all the petitioners are from the immediate locality

5.0 **Relevant Policies**

5.1 Core Strategy

At the meeting of the full Council on 10th November 2010, the Core Strategy of the Local Development Framework was approved. The document and the policies contained therein are now material considerations to be taken into account when considering the acceptability of development proposals. The following are of relevance:

SO1: Enabling and focusing change
SO2: Environmental sustainability
SO3: Community cohesion
SO5: Education, health and wellbeing
SO10: Built environment

CP7 Health
CP9 Community cohesion
CP16 Economic Success and Improving Skills
CP18 Delivering shopping provision across Enfield
CP30 Built and Open Environment

5.2 Unitary Development Plan

After the adoption of the Core Strategy, a number of UDP policies are retained as material considerations pending the emergence of new and updates policies and development standards within the Development Management Document. The following are of relevance

- (II)GD3 Character and Design
- (II)GD6 Traffic Generation
- (II)S13 Loss of neighbourhood retail units
- (II)S14 Resist loss of retail on ground floor to non-retail
- (II)S18 Assess food and drink proposals

5.3 London Plan

- 3A.18 Protection and Enhancement of Social Infrastructure and Community
- 3A.26 Community Strategies
- 3B.11 Improving Employment Opportunities for Londoners
- 3C.23 Parking Strategy
- 3D.3 Maintaining and Improving Retail Facilities
- 4B.8 Respect Local Context and Communities

5.4 Other Material Considerations

- PPS1 Delivering Sustainable Communities
- PPS4 Planning for Sustainable Economic Growth
- Greater Flexibility for Planning Permissions: Guidance. (DCLG) October 2010

6.0 **Analysis**

6.1 Background

- 6.1.1 In December 2009, an appeal against the Council's decision to refuse planning permission for the change of use to a restaurant was dismissed. The Inspector in determining this appeal considered the loss of A1 retail harmed the vitality and viability of the Local Centre due to the grouping and number of other non retail premises in the parade. In the absence of any material change in circumstances, this appeal decision carries significant weight.
- 6.1.2 In response to the Council's decision and that of the Planning Inspectorate, the Applicant has sought to introduce an element of retail to the operation to create a mixed use which provide traditional retail offer. This does constitute a material change and the application has been assessed on this basis

6.2 Impact on Vitality and Viability of Local centre

- 6.2.1 Following the Committee resolution, it has come to Officer's attention that the information regarding composition and extant permissions along the Parade was inaccurate. In particular, an application for a replacement permission at No.9 for a change of use to A3 was received by the Council prior to 28th February and is therefore a valid application. This application is also before Members for determination. Moreover, the lawful use of the premises at No.5 was inaccurately reported as Class A1 when in fact its lawful use is as a *sui generis* tanning salon. It should be recognised, however, that a tanning salon has character similar to that of a retail use. The updated and corrected occupation of the parade (with extant permissions) is as follows:

| No | Lawful Use | Occupied / Vacant | Extant permissions |
|----|------------|-------------------|--------------------|
|----|------------|-------------------|--------------------|

| | | | |
|----|-----------------------------------------------------|--------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 1a | A2 | Office of David Burrowes MP | None relevant |
| 1c | B1a | Southgate Conservation Association | None relevant |
| 2 | A1 | Hair and Beauty | None relevant |
| 3 | A1 | Bakers & Confectionery | None relevant |
| 4 | A1 | Dry Cleaners | None relevant |
| 5 | Sui Generis (tanning shop) / Mixed Use (A1 and D1). | Vacant | Mixed Use (A1 and D2). Character is substantially A1 with a D2 element constrained by condition to rear storage area (Officer's are minded to grant permission). |
| 6 | A1 | Frames and Mirrors | None relevant |
| 7 | A2 | Betting Shop | None relevant |
| 8 | A1 | Currently trading, unlawfully, as A3 | None relevant |
| 9 | A1 | Vacant | <ul style="list-style-type: none"> • An replacement permission application under ref: TP/07/1795/RE N1 to allow a change of use from A1 to A3 is before Members • Permission (granted in December 2010) for a Dentist's Surgery (Class D1) |
| 10 | A1 | Newsagents/ Post Office | None relevant |
| 11 | A3/A5 | Indian takeaway | None relevant |
| 12 | A5 | Fish and Chips shop | None relevant |

6.2.2 The survey shows that two of thirteen units are vacant, with the application premises operating unlawfully. Five of the occupied units are in A1 retail use (38.5% of the whole parade). Three of the occupied units are in use as "food and drink" uses (Classes A3 / A4 /A5) and are at the western end of the Parade.

- 6.2.3 In the light of this survey and taking into account the extant permissions, particularly at No.9 Chaseville Parade, there has been no material change in the composition of the retail parade since the previous appeal decision that would indicate that a further Class A3 Use along with Parade could be accommodated without harm to the vitality and viability of the Parade. Consequently, the assessment and conclusion of the Inspector remains pertinent to the assessment of this application. The following is an extract from the appeal decision letter:
- 6.2.4 *“The appellant calculates that, if planning permission is granted and implemented in the present case, the parade would have seven units in Class A1 use and five units in uses other than Class A1. This analysis does not, however, take into account that no. 9 was granted planning permission for Class A3 use in 2007. Consequently, if I allow the change of use proposed, potentially there could be six units in uses other than Class A1 (50% of the parade as a whole, with four of the units being in food and drink use). Furthermore, five of the six non-retail uses (existing and potential) would be concentrated in the western half of the parade (nos. 7 to 12) – retail uses would thus be largely restricted to the eastern half.*
- 6.2.5 *The appellant states that there is no policy basis for taking extant permissions into account. However, in my view, the extant permission at no. 9 is an important material consideration. I note the support that has been expressed for the proposed use, but I consider that a further permission for a non-retail use in this parade, particularly one located in the western half and particularly a further food and drink use, would be to the detriment of the character and viability of this local shopping area. I have carefully considered all other matters raised, but find none that outweighs the harm that would arise.*
- 6.2.6 *I conclude that the proposed change of use would have an adverse effect on the retail character and function of Chaseville Parade and be in conflict with the saved UDP policies to which I have referred. The appeal in respect of the proposed change of use therefore fails.”*
- 6.2.7 In the light of the above, the objection to the loss of retail remains unless the alterations to the application materially address the concern.
- 6.2.8 The key alteration by the Applicant is the inclusion of retail to the cafe use. The submitted plan shows a small section of the shop given over to retail sales. It has subsequently been indicated that this would include organic food for sale and since the deferral, additional information has been received indicating that the ‘Crazy Jacks’ brand of organic food will be sold. The Applicant estimates that 25% of the shop area will be used for retail use and 25% of the business’ revenue will be from the retail element. The agent has indicated that applicant considers the current plans are adequate to demonstrate this and thus has not supplied amended plans.
- 6.2.9 However the retail element is fairly limited and taking this into account, and having regard to extant permissions and the Inspector’s identification of harm to the retail function and character of the parade, it is considered that the proposal is contrary adopted Council policy.
- 6.2.10 Therefore, in the light of the above, this proposal is considered harmful to the function and character of this local parade. Thus, it does not overcome the appeal inspector’s decision and it is considered that the proposal does not

accord with Policies (II) S13, (II)S14 and (II) S18 of the UDP and Policy 18 of the Core Strategy and therefore, is unacceptable.

6.3 Health and Wellbeing

6.3.1 With reference to issues of health and wellbeing, particularly of young people, it is noted that Eversley Primary School is in close proximity. However the proposal is for a café rather than a takeaway and children attending Primary Schools are more likely to be under parental supervision and certainly not allowed out at lunch or break times to avail themselves on the café. Therefore, and having regard to the adopted Core Strategy and previous decisions including that on appeal, it is not considered that the impact on health and wellbeing of the local population would merit refusal of this application.

6.4 Extract Ducting

6.4.1 The external ducting system has been assessed by Environmental Health and is considered to be acceptable, in terms of noise, vibration and odour subject to appropriate conditions. However, since the premises have been operating, the Council have received a number of complaints from neighbouring occupiers on, *inter alia*, the level of odour. Environmental Health have advised the problems are likely to relate to the filtration system of the extract ducting, which can be adequately controlled through condition.

6.4.2 Under the previous application, it was considered that the size and siting of the ducting, located to the rear of the premises was visually acceptable and does not appear intrusive or affect the outlook of neighbouring and nearby residential properties or the wider area. It is not considered that the cumulative impact of this flue along with the proposed flue at No.9 would be unduly harm to the visual amenities of the occupier at No.8a Chaseville Parade. Therefore this element of the proposal is acceptable subject to compliance with the approved plans and conditions.

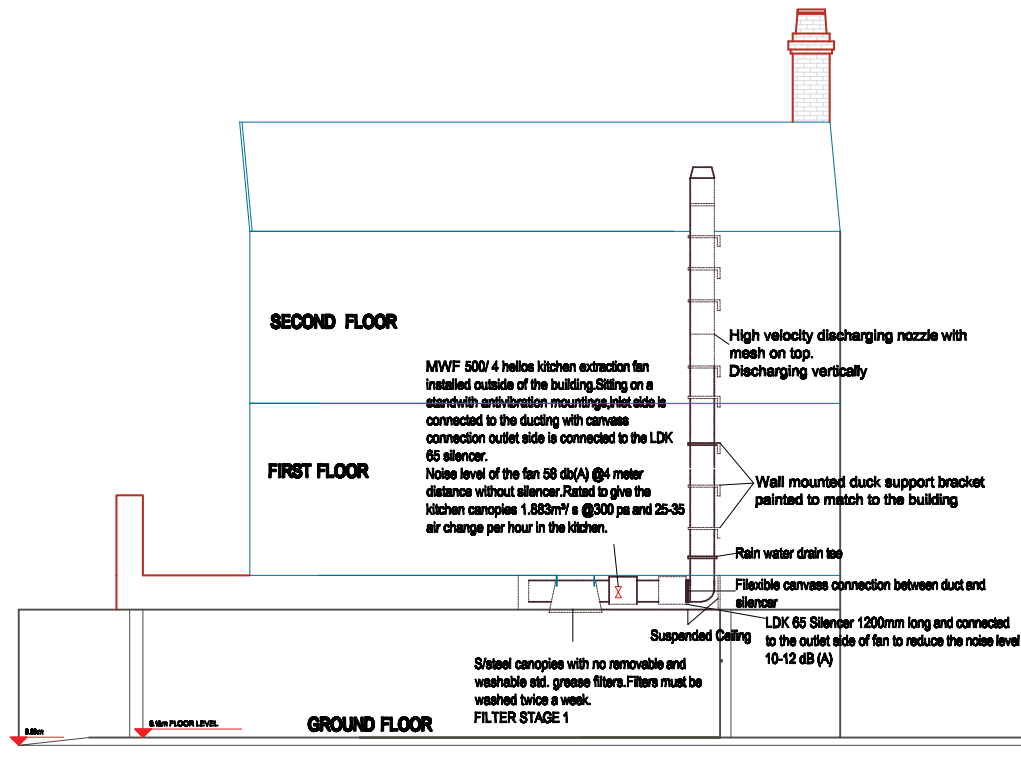
7. **Conclusion**

7.1 The proposed restaurant / cafe, in light of the proposed replacement permission for a café use at No.9 and notwithstanding the proposed retail use, is considered to harm the vitality, viability and retail character of the Parade and thus has not overcome the Inspector's objections.

8. **Recommendation**

8.1 That planning permission be refused for the following reason:

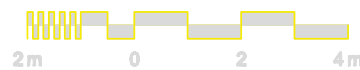
1. The proposed loss of a further retail unit and introduction of a mixed use A1 and A3 restaurant would give rise to an unacceptable over representation of non A1 uses and would increase the already high proportion of food and drink premises in this area, detracting from the vitality and viability and retail character of the shops along Chaseville Parade contrary to Policies (II) S13, (II) S14 and (II) S18 of the Unitary Development Plan and Policy CP18 of the adopted Core Strategy.



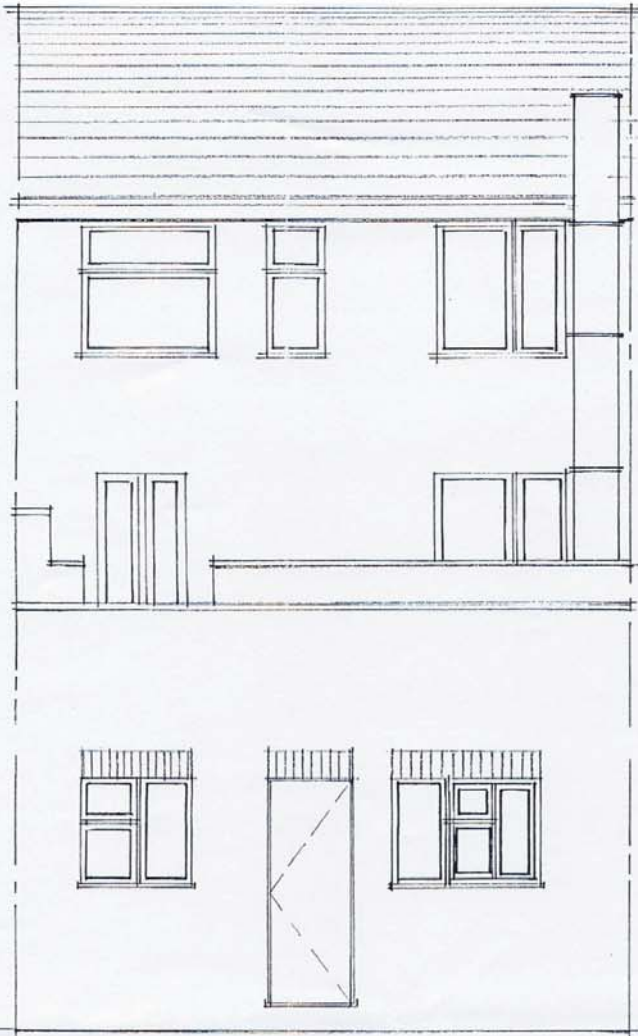
PROPOSED SECTION 1:100



the condition that is not copied, reproduced, retained or disclosed to any unauthorised person without the prior consent in written of ADA GROUP
Do not scale from this drawings. Dimensions in mm.

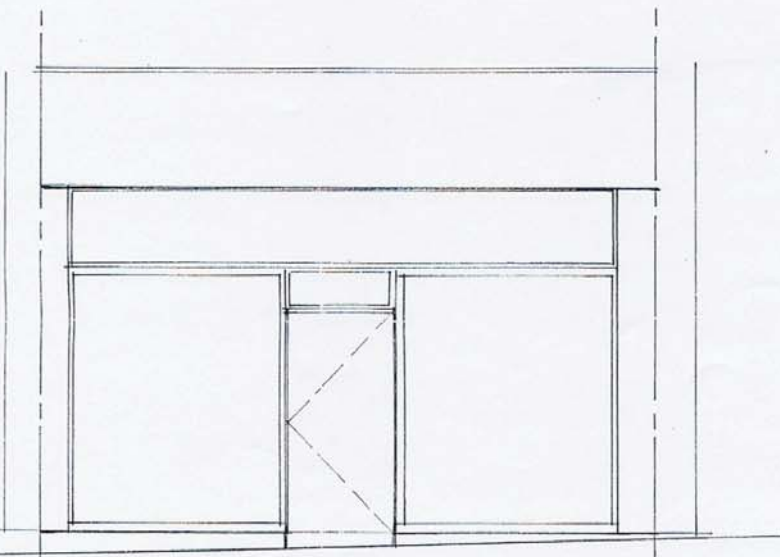


| | | | |
|--------------------------------------------------------------|---------------------|-----------------------------|-----------------|
| Project: CHASEVILLE PARADE, CHASEVILLE PARK ROAD, N21 1PG | Date: 19/08/2010 | Drawn: ST | Scale: 1:100 |
| Drawing Title: PROPOSED GROUND FLOOR SECTION PLAN | | Drawing no : C/N21PG/001 | |



MECHANICAL EXTRACTION
SYSTEM TO BE PROVIDED
WITH TRUNKING FIXED TO
REAR WALL
ALL IN ACCORDANCE WITH
SPECIALIST'S RECOMMENDATIONS.

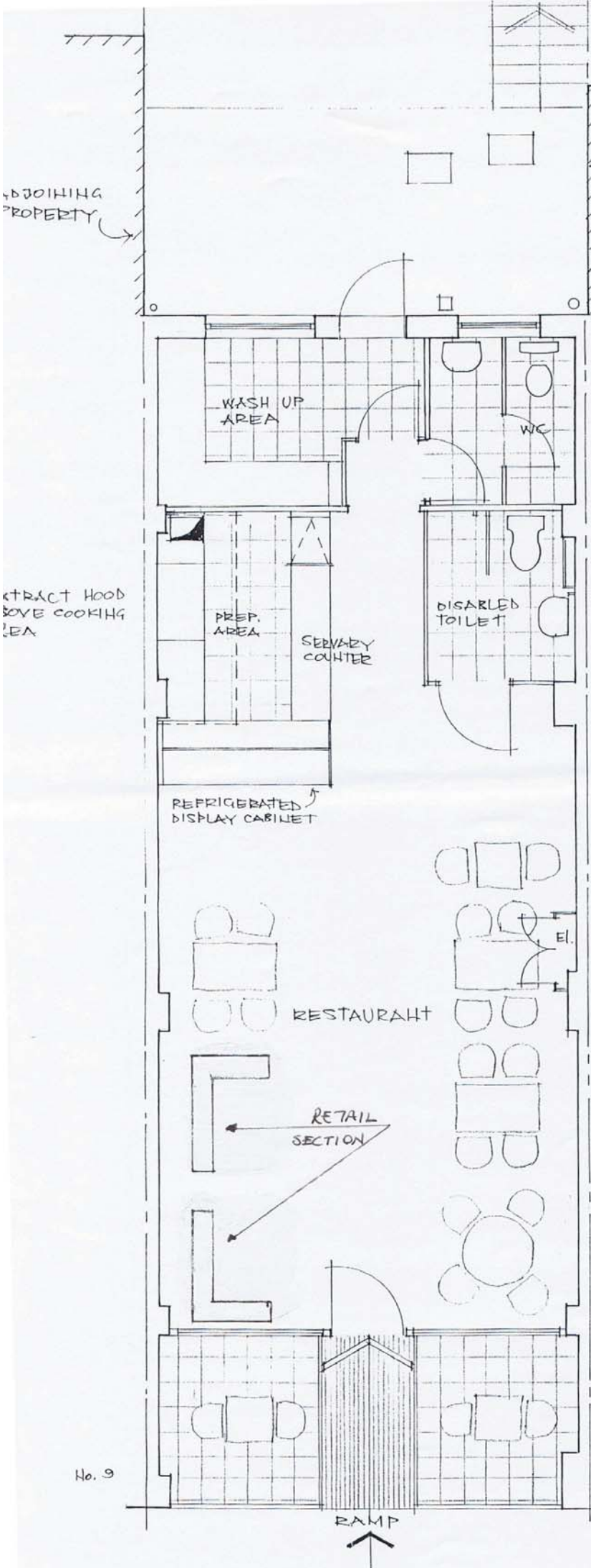
EXISTING & PROPOSED
REAR ELEVATION



EXISTING & PROPOSED
FRONT ELEVATION (SHOPFRONT)

SC: 1/50
DWG. NO: C/N21/P01/003





ADJOINING PROPERTY

ADJOINING PROPERTY

WASH UP AREA

W.C.

PREP. AREA

SERVARY COUNTER

DISABLED TOILET

REFRIGERATED DISPLAY CABINET

RESTAURANT

RETAIL SECTION

PROPOSED PLAN

SC: 1/50
 DWG. NO.: C/1/211PG/002

No. 9

No. 7

RAMP

ADJOINING PROPERTY

ADJOINING PROPERTY

FENCE

FENCE

PATIO

MH

MH

No. 9

G

WVP

WC

EI

SHOP

EXISTING PLAN

SC: 1/50
DWG NO: C/N211PG/001

No. 9

No. 7

