LONDON BOROUGH OF ENFIELD

PLANNING COMMITTEE

Application Number: 16/05784/FUL

Date: 21 February 2017

Ward: Town

Report of

Assistant Director, Regeneration & Planning Contact Officer:

Andy Higham Andy Bates Robert Singleton

Category: Minor Offices / R&D /

Light Industry

LOCATION: 1-3 MARKET CHAMBERS, CHURCH STREET, ENFIELD, EN2 6AA

PROPOSAL: New shopfront and entrance alteration including installation of 2 x ATM's, render and replacement door to side elevation and erection 3 storey rear extension.

Applicant Name & Address:

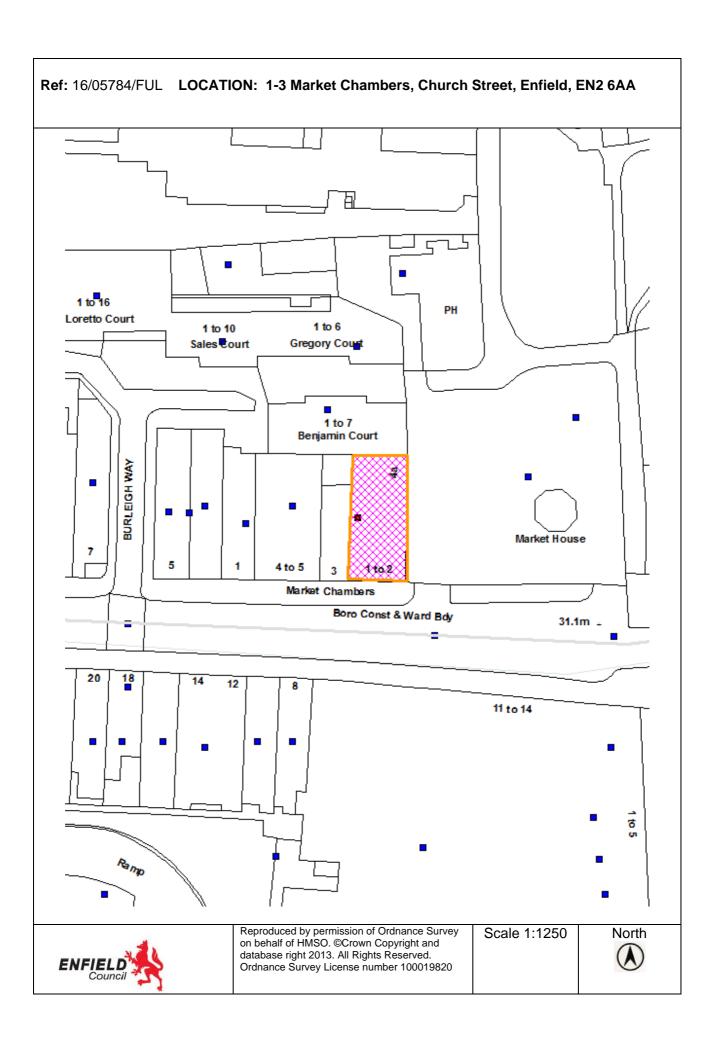
Metro Bank PLC and L.C.P Estates Limited C/O Agent

Agent Name & Address:

Mr Mark Underwood Deloitte Real Estate Athene Place 66 Shoe Lane London EC4A 3BQ

RECOMMENDATION:

That planning permission to be **GRANTED** subject to conditions.



1. Site and Surroundings

- 1.1 The subject site comprises a three storey corner property located to the north side of Church Street and adjacent to Market Square. The premises are currently in use as a bank and forms part of a parade of commercial units within the core retail frontage of the designated Enfield Town Centre.
- 1.2 The site is within the Enfield Town Conservation Area, but is not a listed building.



Illustration 1: Site Plan

2. Proposal

- 2.1 The project proposes a new shopfront and entrance alteration including installation of 2 x ATM's, render and replacement door to side elevation and erection 3 storey rear extension to the existing bank, currently occupied by the Enfield Town branch of Santander. The change of use of No.3 Market Chambers currently occupied by 'Occo' Coffee House does not require planning permission by virtue of Article 3 and Schedule 2, Part 3 Class A of the Town and Country Planning (General Permitted Development) Order 2015. Associated internal changes also do not require consent.
- 2.2 The application is a resubmission of a scheme previously approved under delegated authority (ref: 16/00850/FUL) and submitted on behalf of Metro Bank PLC, the incumbent new occupiers of the site. The consent was quashed by the Council following the decision of the High Court to grant

'leave' to the current occupiers – Santander UK – to pursue a Judicial Review of the Council's decision to grant consent for the works. The grounds for the Judicial Review cited by Santander UK focused on the following points:

Ground 1

The grant of planning permission subject to condition 3 was unlawful because:

- a. Condition 3 was invalid as a matter of law; and / or
- b. Condition 3 was imposed:
 - Without having proper regard to a material consideration, namely the NPPF Policy on the imposition of conditions; and / or
 - ii. Without any reasons being given to justify a departure from the NPPF Policy; and / or
 - iii. Irrationality in the Wednesbury sense.

Ground 2

There was a failure to understand or properly apply Local Plan Policy DMD17, and thus a breach of section 70(2) of the Town and Country Planning Act 1990. Further or alternatively, the loss of an opportunity to accommodate and alternative community use, a material consideration, was not taken into account.

- 2.3 The High Court quashed the consent granted under ref: 16/00850/FUL.
- 2.4 Members are advised that the decision to quash the notice was not taken on the basis that the Local Planning Authority considered that the decision was incorrect or indeed that scheme was not acceptable in planning terms, rather the decision to quash the notice was made on the basis of a modest omission in the delegated report pertaining to one specific point of DMD17 which exposed the Council to the risk of costs being awarded at the expense of the public purse.
- 2.5 The subject scheme differs from that of ref: 16/00850/FUL in that the proposal for the change of use of the snooker hall to the second floor has been withdrawn in spite of the fact that this use has since ceased operation. All other elements of the scheme remain consistent with the previous application and considerations are limited to the following:
 - i. The impact of the shopfront changes and rear extension to the Enfield Town Conservation Area;
 - ii. The impact of the rear extension to neighbouring properties

3. Relevant Planning Decisions

3.1 16/00850/FUL – New shopfront and entrance alteration including installation of 2 x ATMs, render and replacement door to side elevation, *change of use of second floor to ancillary office use* and erection 3 storey rear extension – Approved subject to following conditions (12/08/16):

1. The development hereby permitted shall be carried out in accordance with the approved plans, which may have been revised, as set out in the attached schedule which forms part of this notice.

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

2. The external finishing materials shall match those submitted for consideration on 12/04/16. The external finishing materials used in the construction of the rear extension – omitted from the sample palette – shall match exactly the existing building and/or areas of hard surfacing.

Reason: To ensure a satisfactory appearance within the Enfield Town Conservation Area.

3. Prior to the commencement of works and following a full structural survey, a detailed report outlining the feasibility of relocating the pilasters / columns to the ground floor shop front to more directly align with the same design features at the upper floors shall be submitted to and approved in writing by the Local Planning Authority. The feasibility study shall take account of all relevant structural considerations and any requirements for third party consents. Should it be determined that the relocation of the pilasters / columns be feasible and the location of the pilasters columns are agreed by the Local Planning Authority revised plans shall also be submitted and scheme implemented strictly in accordance with these revised details prior to the occupation of the unit.

Reason: To ensure a satisfactory appearance to a building that makes a positive contribution to the established special character of the surrounding Enfield Town Conservation Area.

4. The premises shall be open for business and working only between the hours of 08:00 – 20:00 Monday to Friday, 08:00 – 18:00 Saturdays and 11:00 – 17:00 Sundays and at no other time; and all activity associated with the use shall cease within 1 hour of the closing times specified above. All associated ground floor lighting – with the exception of lighting associated with the operation of the ATMs hereby approved – shall be illuminated only between the hours of 0700 – 22:00 hours seven days a week.

Reason: To safeguard the amenities of the occupiers of adjoining and nearby residential properties and to ensure that the illumination of the unit does not detract from the established special character of the Enfield Town Conservation Area.

5. The development to which this permission relates must be begun not later than the expiration of three years beginning with the date of the decision notice.

Reason: To comply with the provisions of S.51 of the Planning & Compulsory Purchase Act 2004.

- 3.2 Condition 3 was levied on the basis that the proposed alterations to the main shopfront – as guided by pre-app and discussions throughout the application process - and had sought to respect the architectural merit of the parent building whilst ensuring a sympathetic use of materials in the design of the public facing frontage rendering them acceptable in planning terms. Whilst CAG initially objected to the original scheme, expressing concern in relation to the arrangement of the pilasters to align more completely with the columns present on the upper floors, due to difficulties with the current leaseholder of the site a full structural survey to support a relocated set of pilasters could not be undertaken and hence alternative alignments could not be explored. This was clearly unfortunate, however, in agreement with the applicant a condition to secure a full structural survey and if deemed feasible a mechanism to secure and implement a further revised arrangement was considered to be appropriate to be attached to the consent to secure the best outcome for the site and was considered to be compliant with NPPF and NPPG Policy. In any case, it is clear that the design of the shopfront sought to reflect and pay credence to the architectural merit of the parent building and hence even if a revised arrangement cannot be secured due to structural issues, the overall design of the shopfront pays sufficient regard to the established special character of the parent dwelling and the surrounding Conservation Area to justify the decision to grant consent. This consent was subsequently quashed (27/10/16)
- 3.3 16/00851/ADV Installation of 2 x internally illuminated fascia signs, 2 x non-illuminated projecting signs, 2 x internally illuminated sign to ATMs, 2 x non-illuminated logo's to door handles Approved subject to conditions (12/08/16). This consent remains extant and has not been challenged and any and all signage does not require further consideration.

4. Consultations

4.1 Statutory and non-statutory consultees

CAG:

4.1.1 The application was considered by the Conservation Advisory Group at their meeting on 7th February 2017. No objection has been raised by the group.

Environmental Health:

4.1.2 Raise no objections to the scheme subject to conditions relating to air quality, noise transmittance and contamination.

Historic England:

4.1.3 At the time of writing, no response had been received from Historic England. Any response received will be reported as a late item.

Strategic Planning and Design

4.1.4 At the time of writing, no response had been received from the Strategic Planning and Design team. Any comments will be reported as a late item.

Enfield Town Conservation Area Group:

4.1.5 At the time of writing, no response had been received from the Enfield Town Conservation Area Group. Any comments will be reported as a late item.

4.2 Public response

- 4.2.1 The application was referred to 16 surrounding properties including the subject premises and existing occupiers, a press notice was published (05/10/16) and a site notice was posted. Following an administrative error which saw the development described inaccurately to include the change of use to the second floor, a revised description was drafted and a 14 day reconsultation issued (consultation expired 20/02/17). At the time of writing no representations had been made. A follow-up e-mail was also sent to the agents representing Santander UK to directly notify them of the application and invite further comment. No response has been received. Any representations received as part of the re-consultation shall be reported as late items for Members to consider. However, in the interests of clarity, under the original application, Santander UK objected to the proposal on the following grounds:
 - A number of the changes proposed would threaten the continued operation of the leaseholder
 - Loss of all Santander branches in Enfield Town
 - Contrary to the NPPF
 - Signage design and proliferation will have a harmful impact upon the Conservation Area
 - Non-aligned columns will result in a cluttered façade

Officer response:

- 4.2.2 Issues pertaining to interests in the land and the continued operation of the existing unit as a result of the works are not a material consideration. In any case, consent is conferred over a period of 3 years for the main planning application, there is no inference within the application that works would be immediate and hence works may progress after the current lease has expired. The point raised is a civil matter between the landowner and the leaseholders.
- 4.2.3 No specialist planning protection is afforded to company specific uses nor is there any current policy or legislative basis to compel representation of all banking companies within a Town Centre. The application does not seek to change the use of the ground floor unit and would in fact expand the use to the upper floors. In terms of financial services offered in Enfield Town (Use Class A2) there would be no net change.
- 4.2.4 Matters relating to the impact of the development to the Conservation Area are discussed in detail in the analysis section of this report.

5. Relevant Policy

5.1 The policies listed below are considered to be consistent with the NPPF and therefore it is considered that full weight should be given to them in assessing the development the subject of this application.

5.1.1 The London Plan

Policy 7.8 – Heritage assets and archaeology

5.3.2 Local Plan – Core Strategy

Core Policy 30: Maintaining and improving the quality of the built and open environment

Core Policy 31: Built and landscape heritage

Enfield Town Conservation Area Character Appraisal

5.3.3 Development Management Document

DMD44: Conserving and Enhancing Heritage Assets

5.4 National Planning Policy Framework

- 5.4.1 The National Planning Policy Framework (NPPF) introduces a presumption in favour of sustainable development. In this respect, sustainable development is identified as having three dimensions an economic role, a social role and an environmental role. For decision taking, this presumption in favour of sustainable development means:
 - approving development proposals that accord with the development plan without delay; and
 - Where the development plan is absent, silent or relevant policies are out of date, granting permission unless:

Any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole; or

Specific policies in the Framework indicate development should be restricted.

5.4.2 The NPPF recognises that planning law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. The NPPF does not change the statutory status of the development plan as the starting point for decision making.

5.5 National Planning Practice Guidance

5.5.1 On 6th March 2014, the Department for Communities and Local Government (DCLG) launched the National Planning Practice Guidance (NPPG) to consolidate and simplify previous suite of planning practice guidance.

6. Analysis

- 6.1 The main issues to consider are as follows:
 - i. Impact of the works to the Enfield Town Conservation Area
 - ii. Impact of the rear extension to residential amenity
- 6.2 Impact of the works to the Enfield Town Conservation Area

- 6.2.1 The subject site lies within the Enfield Town Conservation Area. The Character Appraisal identifies the property as making a positive contribution to the area and is sited in a highly conspicuous location to the south west corner of the Market Square, which when coupled with the Locally Listed Barclays Bank to the south east, the Kings Head Public House and the Grade II Listed St Andrews Church to the north, provide the setting to the historic heart of Enfield Town in the form of the Market Square. Accordingly, a significant amount of protection should be afforded to the area and due regard must be given to the impact of the proposal upon these valuable historic assets.
- 6.2.2 The fact that development was proposed in a Conservation Area and would affect the setting of a Listed Building is important on a number of levels. Conservation Areas and Listed Buildings are 'designated heritage assets' as defined by National Planning Policy (NPPF) and are afforded special consideration at a national and development plan policy level. They are also afforded statutory protection by, inter alia, s.66 & s.72 of the Planning (LBCA) Act 1990 which requires 'special regard / special attention' to be paid to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses and preserving or enhancing the character or appearance of Conservation Areas and where there is identified 'harm' to a Listed Building and within a CA considerable importance and weight to be placed on that as a material planning consideration.
- 6.2.3 The NPPF states that in determining planning applications that would form part of a historic environment, that Local Planning Authorities should take account of:
 - the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation;
 - the positive contribution that conservation of heritage assets can make to sustainable communities including their economic vitality; and
 - the desirability of new development making a positive contribution to local character and distinctiveness.
- 6.2.4 When considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. The more important the asset, the greater the weight should be. Significance can be harmed or lost through alteration or destruction of the heritage asset or development within its setting. As heritage assets are irreplaceable, any harm or loss should require clear and convincing justification.
- 6.2.5 Where a proposed development will lead to substantial harm to or total loss of significance of a designated heritage asset, local planning authorities should refuse consent, unless it can be demonstrated that the substantial harm or loss is necessary to achieve substantial public benefits that outweigh that harm or loss, or all of the following apply:
 - the nature of the heritage asset prevents all reasonable uses of the site; and

- no viable use of the heritage asset itself can be found in the medium term through appropriate marketing that will enable its conservation; and
- conservation by grant-funding or some form of charitable or public ownership is demonstrably not possible; and
- the harm or loss is outweighed by the benefit of bringing the site back into use.
- 6.2.6 DMD44 reiterates that applications for development which fail to conserve and enhance the special interest, significance or setting of a heritage asset will normally be refused. Development affecting the significance of an asset may include, but is not limited to: the introduction of new structures/objects; alterations; complete or partial demolition; removal of buildings/features or parts thereof; the introduction of signage or advertisements; changes of use (including the use of open spaces); subdivision or fragmentation; changes to landscaping; the removal of built or landscape features or parts thereof; or any other form of development which fails to preserve and enhance the asset or its setting. The setting of an asset is not limited to its curtilage and is defined as the physical and non-physical environment in which the asset is experienced, including consideration of views to and from the asset, noise, dust and vibration, spatial associations and the historic relationship between places.
- 6.2.7 The case of Barnwell Manor Wind Energy Ltd v East Northamptonshire District Council [2014] EWCA Civ 137, concluded that where an authority finds that a development proposal would harm the setting ... or the character and appearance of a conservation area, it must give that harm 'considerable importance and weight'. The case of Forge Field Society & Ors, R v Sevenoaks District Council [2014] EWHC 1895 (Admin) re-confirmed the Barnwell ruling and went on to recognise that a finding of harm...gives a strong presumption against planning permission being granted.
- Indeed, under East Northamptonshire DC v Secretary of State for Communities and Local Government the judge ruled that in the assessment of harm and the balancing exercise, the duty set out in s. 66(1) needs to be considered in the context of the overall consideration of a planning application and the determination of an application for planning permission (and any appeal) is to be made in accordance with the development plan unless material considerations indicated otherwise. Here, 'material considerations' included Government planning policies and English Heritage policies and, to give effect to the s. 66(1) duty, the decision-maker should give considerable importance and weight to the desirability of preserving the setting of listed buildings when weighing that factor in the balance with other material considerations which had not been given special legislative status. The judge said that in carrying out this balancing exercise, the inspector had failed to give proper effect to s. 66(1). Although he had weighed the 'harm' of the proposal against the wider benefits and the concept of keeping safe from harm was closely linked with the meaning of 'preservation' within s. 66(1), the addition of the word 'desirability' in s. 66(1) provision meant that 'preservation' of setting was to be treated as a desired or sought-after objective, to which the inspector ought to accord 'special regard'. That went beyond the mere assessment of harm. The judge concluded that the inspector had not, during the balancing exercise, accorded 'special weight' or considerable importance to 'the desirability of preserving the setting'. The inspector had, instead, treated the 'harm' to the setting and the wider benefit of the wind farm

- proposal as if those two factors were of equal importance and so he had not given effect to the duty under s.66(1).
- 6.2.9 As is made clear in paragraph 45 of Forge Field, even if the harm would be less than substantial so that paragraph 133 did not apply but paragraph 134 did, the harm must still be given considerable importance and weight. The presumption therein needs to be "demonstrably applied" see paragraph 49 of Forge Field. Put another way, in a paragraph 134 case, the fact of harm to a heritage asset is still to be given more weight than if it were simply a factor to be taken into account along with all other material considerations, and paragraph 134 needs to be read in that way.
- 6.2.10 In relation to the submitted scheme, the subject property is already in use as a bank, with the 'Occo' coffee shop located to the west and already benefits from an ATM installed to both the Market Square and Church Street elevations. As submitted, it is clear that the proposed alterations to the main shopfront as guided by pre-app and discussions throughout the application process have sought to respect the architectural merit of the parent building whilst ensuring a sympathetic use of materials in the design of the public facing frontage. The historic changes to the shop front which has seen the removal of much of the original frontage and the installation of aluminium frames sometime in the early 1990s, are considered to actively detract from the character and appearance of the building.
- 6.2.11 The Enfield Town Conservation Character Appraisal bemoans inappropriate shop front and the historic legacy of poorly designed additions to ground floor retail units which are held to cause harm to the Conservation Area. In relation to the subject property, such harm is currently evident and as a direct consequence the architectural merit of the building is largely located to the upper floors of the building where stylistically, the 1930s rendered brick building presents a long elevation to Church Street, an angled corner, and a shorter return elevation to Market Square. Designed in a distinctive inter-war style, it retains much of its original detailing to the upper storeys including Crittall windows. There is a strong vertical emphasis and rhythmic design created by the use of double height pilasters topped with capitals that act to dominate the main elevation and unify both elevations via an angled corner.
- 6.2.12 The subject scheme would see the removal of the existing shop front, as well as a number of inappropriate advertisements, and the installation of a replacement that has sought to reconnect the ground floor frontage with the upper floor, mimicking the strong verticality of the parent building to present a more unified whole that will serve to draw the eye to the upper floors. Rather than causing harm to the building and the wider designated heritage assets, it is considered the development will more positively contribute to the character of the area and while the alignment of the columns has been previously questioned to better align with the upper floors, Officers and CAG are of the opinion that the proposed shopfront is wholly acceptable in planning terms as submitted (confirmed by CAG at s meeting on 7 February 2017) and furthermore are unable to comprehend an appropriate design solution that would serve to better align the columns regardless of a structural survey. In any case, the overall design of the shopfront pays sufficient regard to the established special character of the parent dwelling and the surrounding Conservation Area and would not result in any harm.

- 6.2.13 The proposed rear extension would be barely discernible from the public realm offering only glimpses of the rear elevation due to the presence of a larger mixed use development nearby and again would not be held to cause any harm to the designated heritage assets including the setting and appearance of the application premises. As is the case with the shopfront, materials to match the parent property namely exposed brickwork will be utilised and secured by condition.
- 6.2.14 In relation to the ATMs, the subject scheme would not result in a net increase in the number of units installed, rather they are being relocated. In this regard, having regard to the statutory tests and adopted policy, it is considered that the proposal would not result in any material harm to the character and appearance of the Conservation Area. This is consistent with the provisions of Policies CP30 and CP31 of the Core Strategy, DMD37 and DMD44 of the Development Management Document and the NPPF.

6.3 <u>Impact of the Rear Extension</u>

- 6.3.1 DMD 25 extols the virtues of well-considered town centre development whereby development will only be permitted where:
 - a. The proposed use supports town centre vitality and viability;
 - b. The design and siting of the development promotes visual continuity with the surrounding built environment;
 - c. The proposed use does not harm the character, appearance and amenity of the area;
 - d. The residential amenities of local residents will not be harmed by way of noise, disturbance, loss of daylight or privacy;
 - e. The proposal will not have an adverse impact on safety and traffic flows or unacceptably add to traffic and parking problems in the area;
 - f. The scale of parking is proportionate to the size of the development; and
 - g. An active frontage is achieved at the ground floor.
- 6.3.2 As has been stated previously, the development would ensure that the established special character and appearance of the surrounding area is preserved and to some degree enhanced as a result of the works proposed. In terms of absolute impact to more sensitive residential receptors, the only units likely affected are to the rear of the site. In terms of the proposed rear extension, the design of the addition ensures that the extension is largely subsumed into the existing building envelope and will not consequently serve to have any greater impact that the existing built form and, therefore, cannot be considered as being harmful to any adjacent properties.

6.4 Community Infrastructure Levy

6.4.1 As of the April 2010, legislation in the form of CIL Regulations 2010 (as amended) came into force which would allow 'charging authorities' in England and Wales to apportion a levy on net additional floor space for certain types of qualifying development to enable the funding of a wide range of infrastructure that is needed as a result of development. Since April 2012 the Mayor of London has been charging CIL in Enfield at the rate of £20 per sqm. The Council CIL has been adopted and would require a rate of £60 per sq.m.

6.4.2 The rear extension would be under relevant thresholds for the application of the CIL charge.

7. Conclusion

7.1 The subject development result in not harm to designated heritage assets and would actively enhance the appearance of the building and surrounding Conservation Area. Accordingly, it is recommended that this application be GRANTED subject to conditions.

8. Recommendation

8.1 That planning permission be granted subject to conditions

8.2 Conditions

1. The development hereby permitted shall be carried out in accordance with the approved plans, which may have been revised, as set out in the attached schedule which forms part of this notice.

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

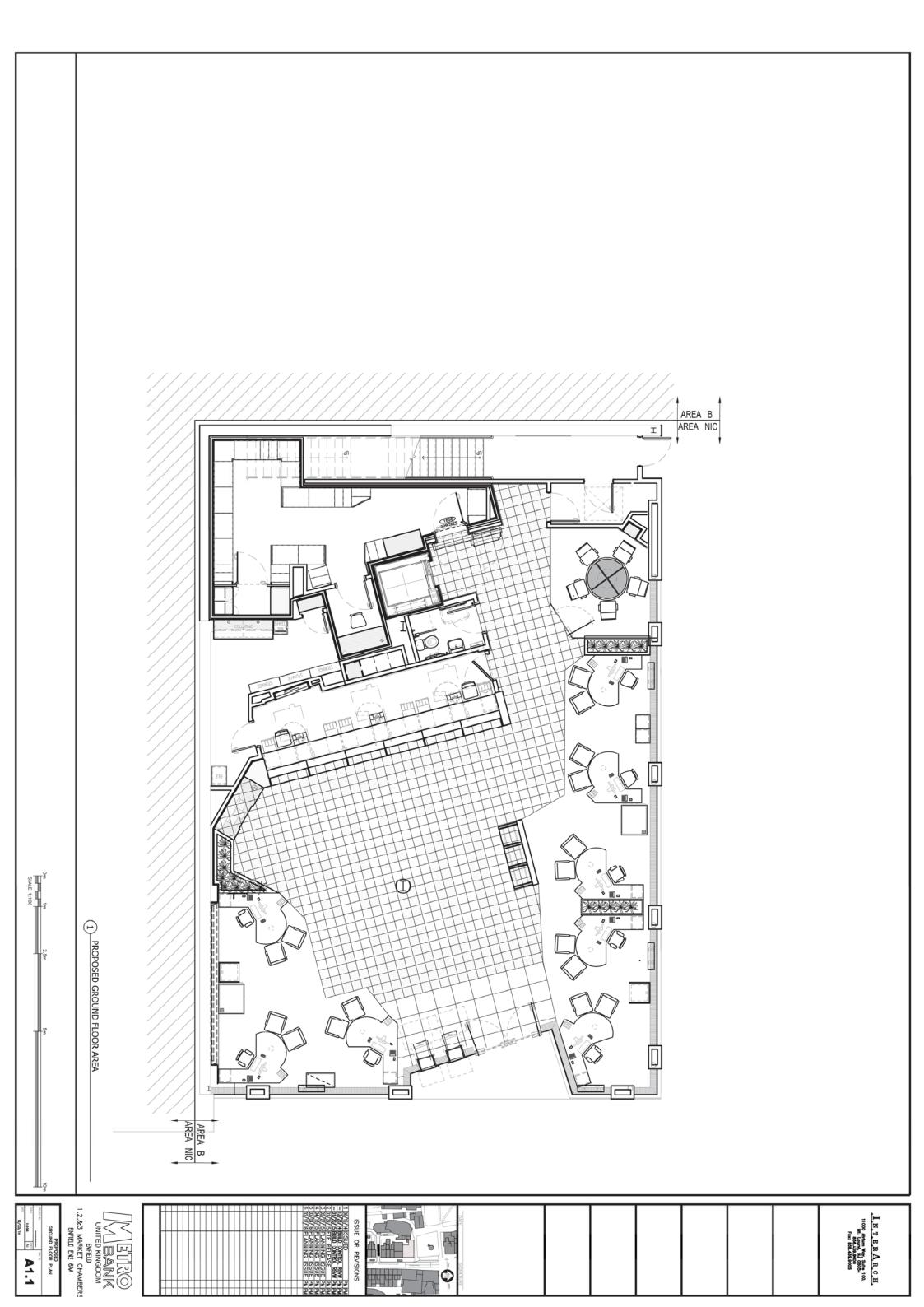
2. The external finishing materials shall match those submitted for consideration. The external finishing materials used in the construction of the rear extension – omitted from the sample palette – shall match exactly the existing building and/or areas of hard surfacing.

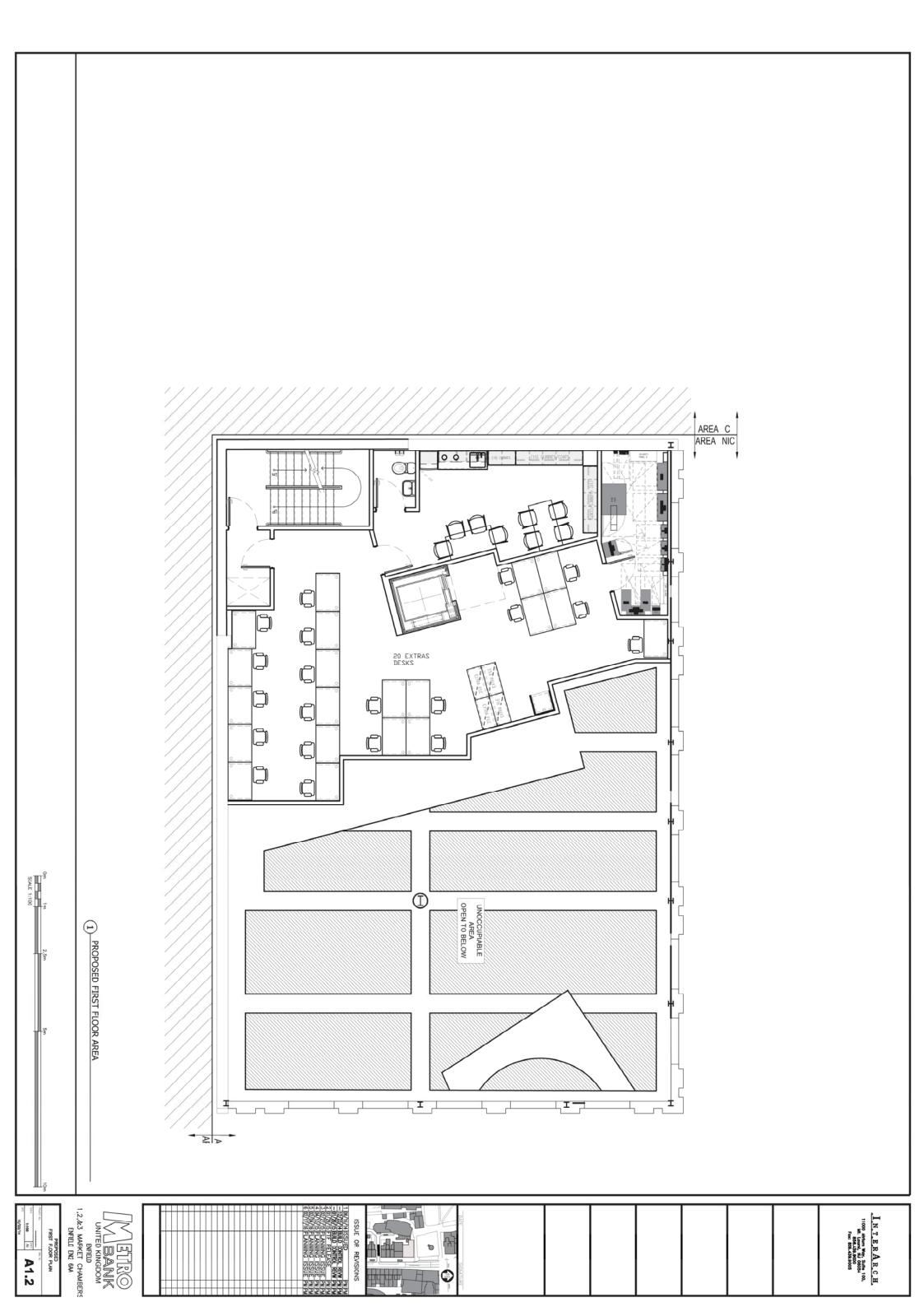
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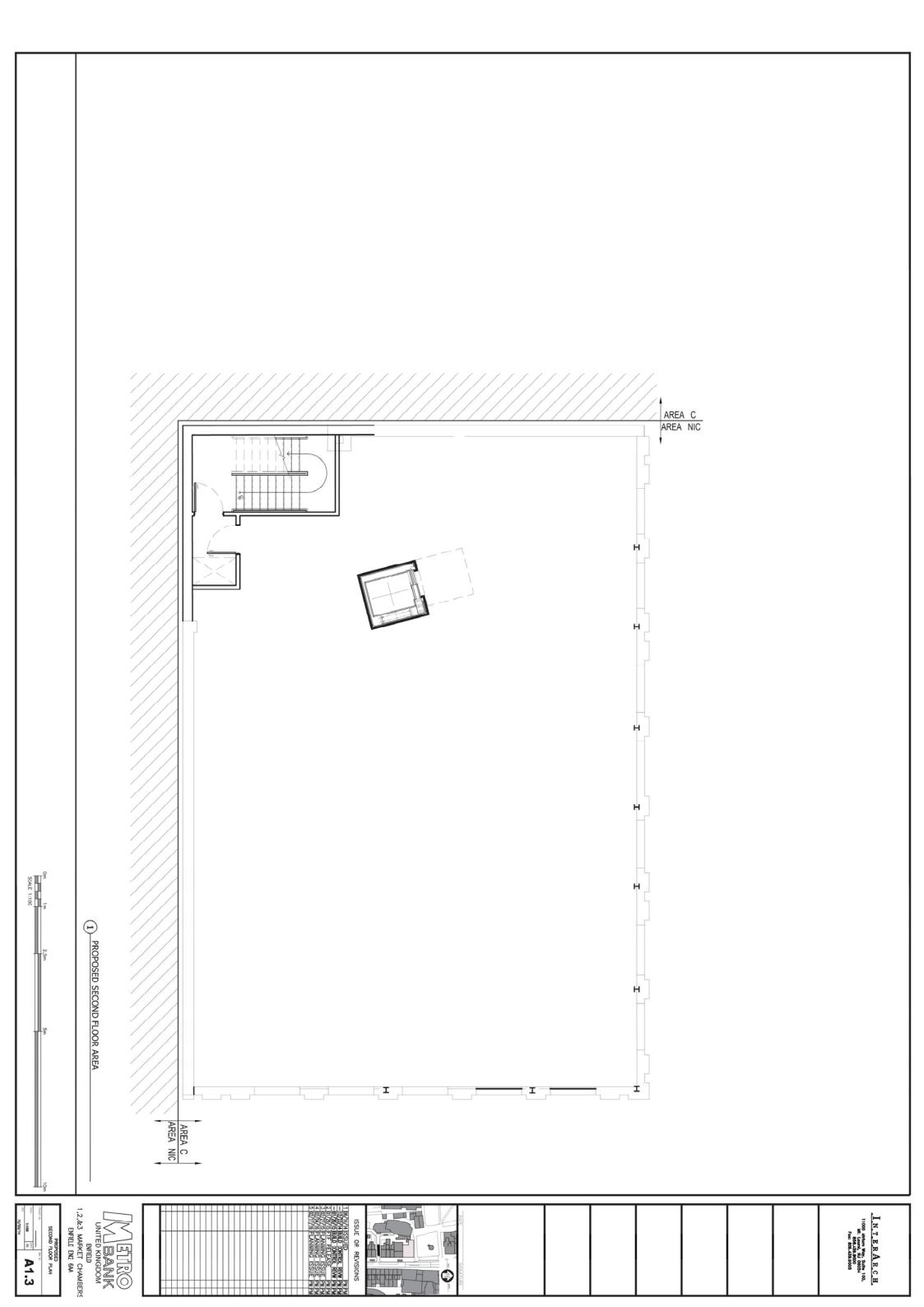
3. The development to which this permission relates must be begun not later than the expiration of three years beginning with the date of the decision notice.

Reason: To comply with the provisions of S.51 of the Planning & Compulsory Purchase Act 2004.

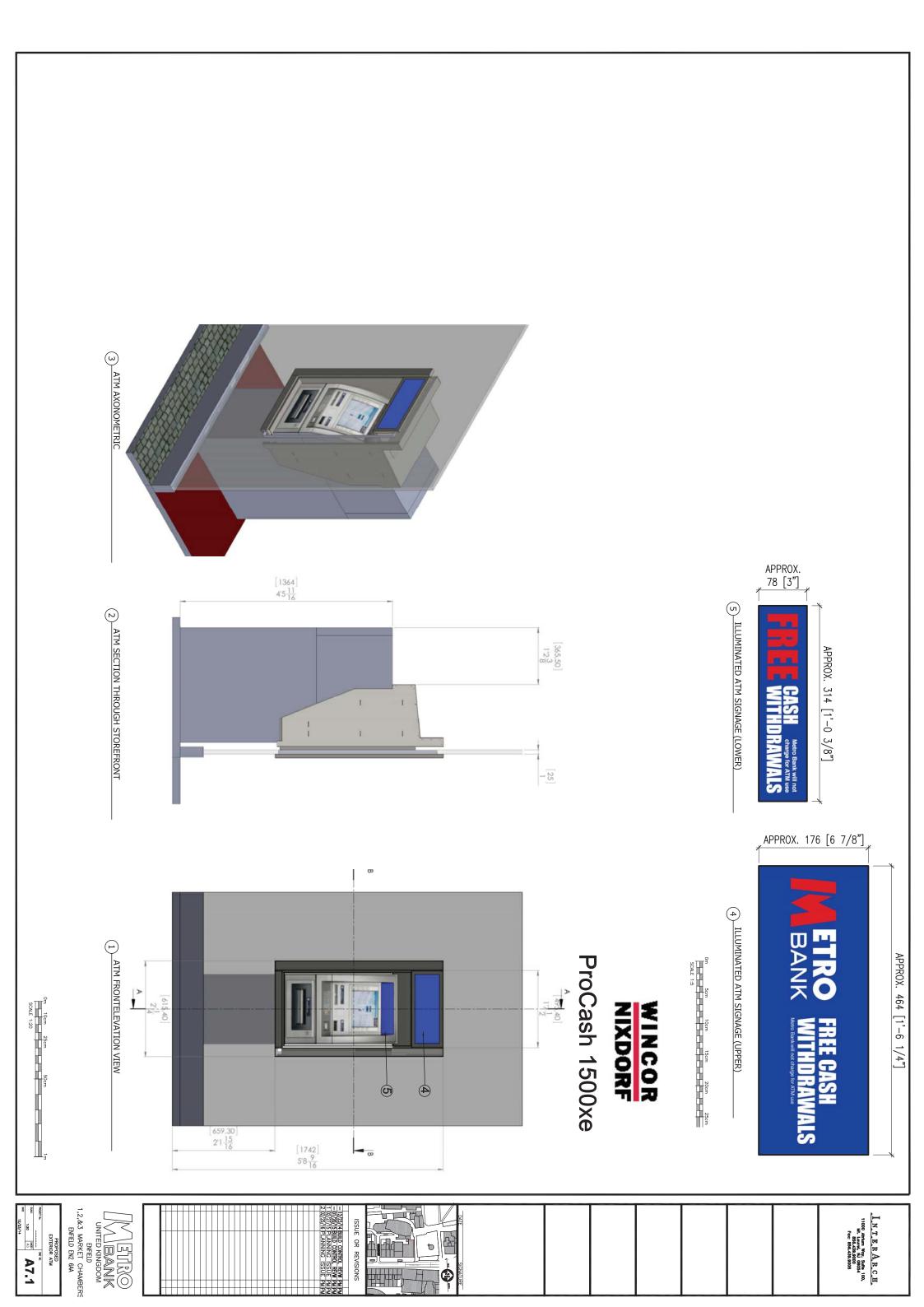
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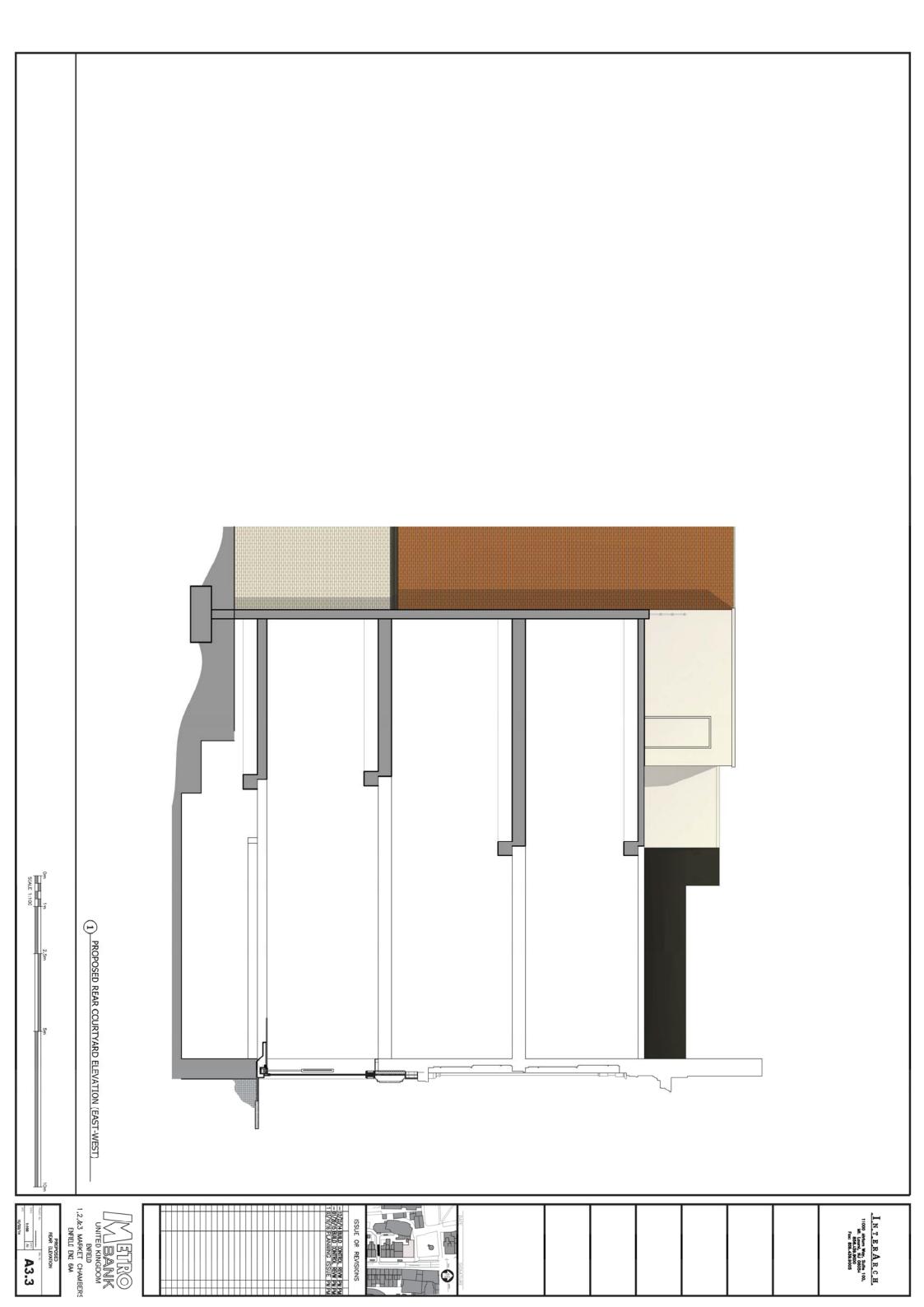


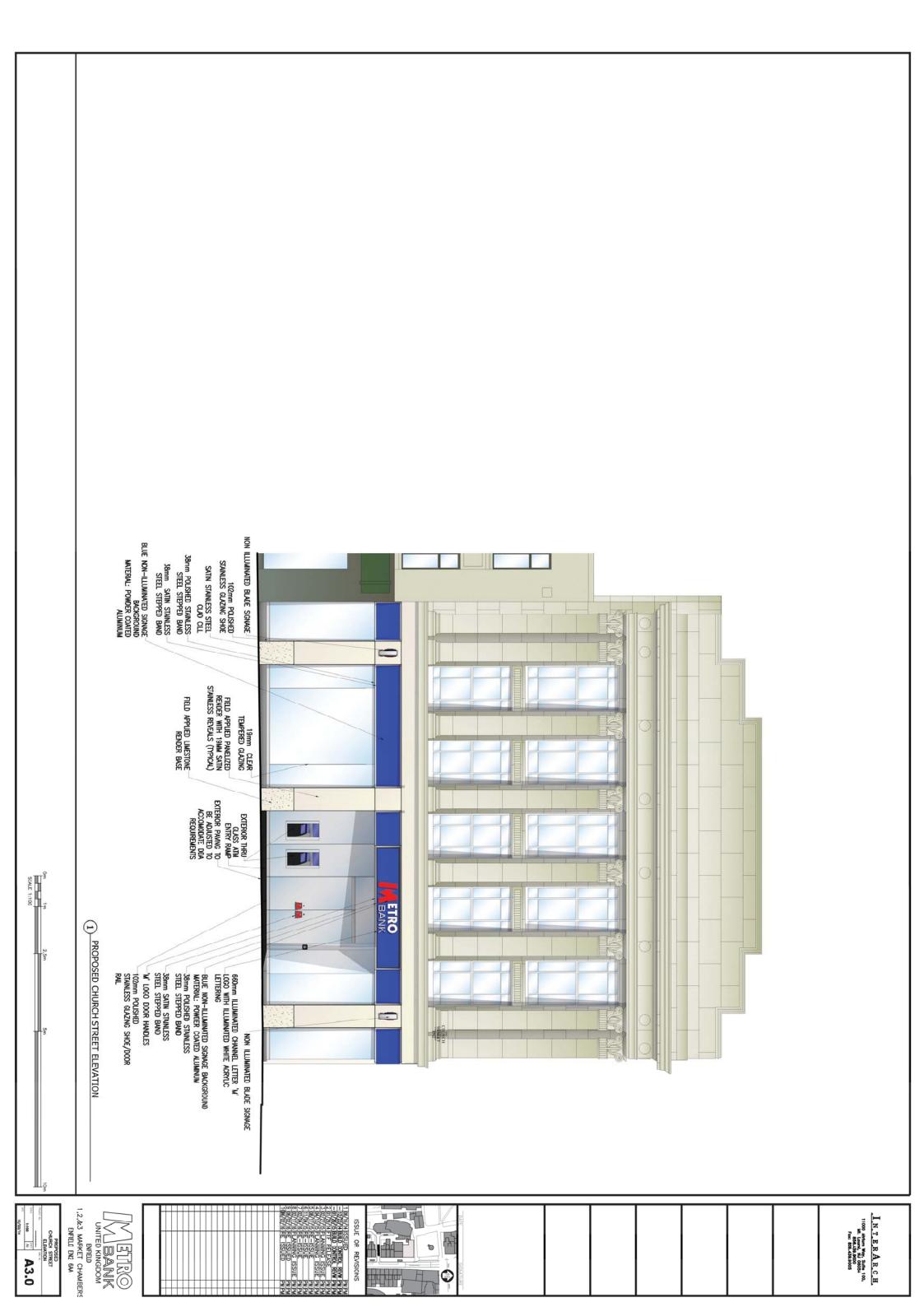


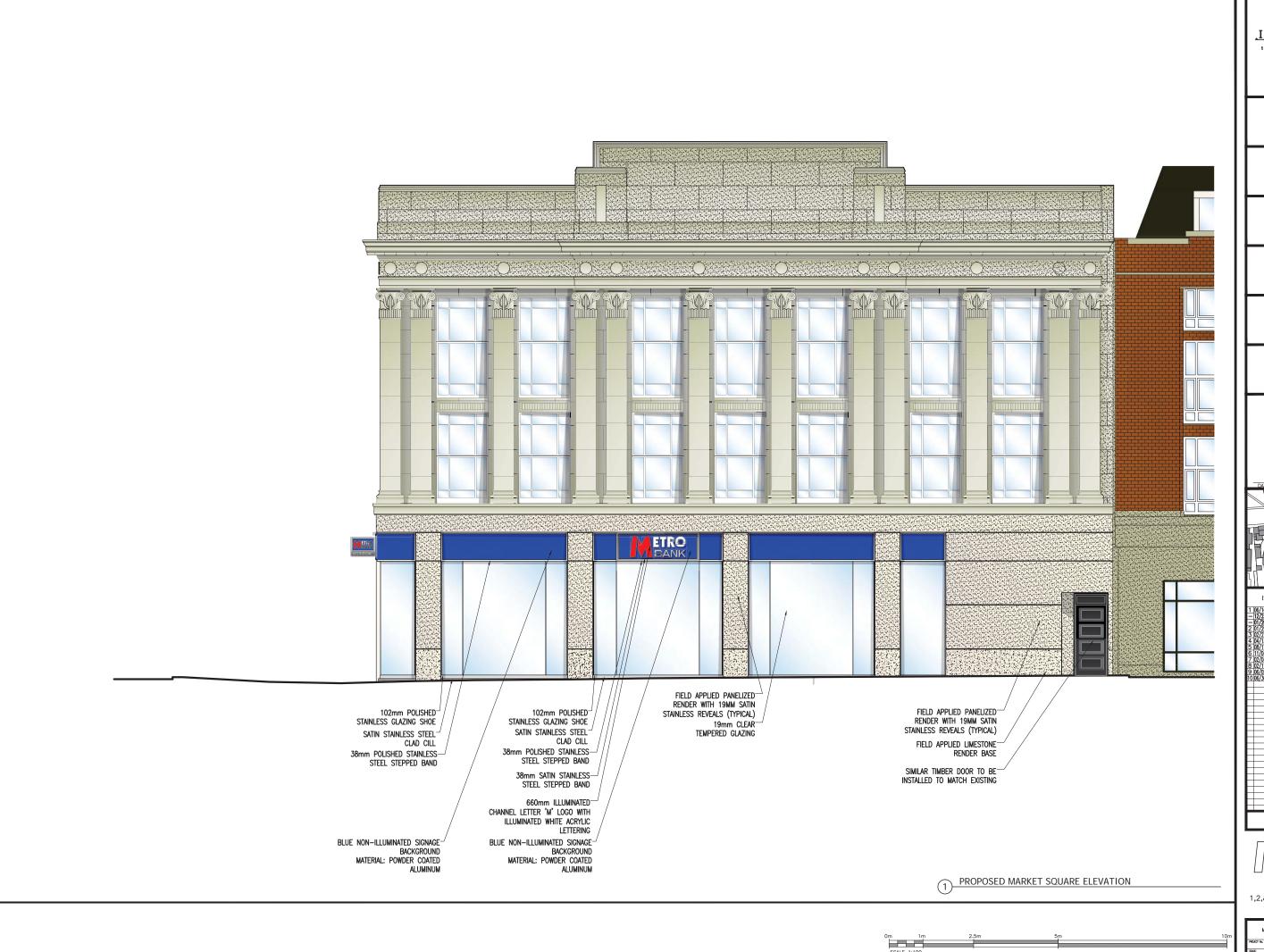












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UNITED KINGDOM
ENFIELD

1,2,&3 MARKET CHAMBERS

PROPOSED MARKET SQUARE ELEVATION

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