

# Public Document Pack



To: Councillor Boulton, Convener; and Councillors Duncan and Nicoll.

Town House,  
ABERDEEN 3 August 2017

## LOCAL REVIEW BODY OF ABERDEEN CITY COUNCIL

The Members of the **LOCAL REVIEW BODY OF ABERDEEN CITY COUNCIL** are requested to meet in **Committee Room 4 - Town House** on **MONDAY, 14 AUGUST 2017 at 2.00 pm.**

FRASER BELL  
HEAD OF LEGAL AND DEMOCRATIC SERVICES

### **BUSINESS**

- 1 Procedure Notice (Pages 5 - 6)

**COPIES OF THE RELEVANT PLANS / DRAWINGS ARE AVAILABLE FOR INSPECTION IN ADVANCE OF THE MEETING AND WILL BE DISPLAYED AT THE MEETING**

**MEMBERS PLEASE NOTE THAT THE FOLLOWING LINK WILL TAKE YOU TO THE LOCAL DEVELOPMENT PLAN.**

[Local Development Plan](#)

**TO REVIEW THE DECISION OF THE APPOINTED OFFICER TO REFUSE THE FOLLOWING APPLICATIONS**

**PLANNING ADVISER - ANDREW MILLER**

- 2 12 St Swithin Street, Aberdeen, AB10 6XD - Erection of Enclosure and Area of External Seating for Cafe - P170175
  - 2.1 Delegated Report, Plans and Decision Notice and Representations Received (Pages 7 - 28)

Members, please note that the relevant plans can be viewed online at the following link by entering the reference number 170175:-  
<https://publicaccess.aberdeencity.gov.uk/online-applications>

2.2 Planning policies referred to in documents submitted

Members, the following planning policies are referred to:-

**National Policy and Guidance**

- Scottish Planning Policy (SPP)
- Historic Environment Scotland Policy Statement (HESPS)

**Aberdeen Local Development Plan 2017**

- Policy D1 (Quality Placemaking by Design)
- Policy H1 (Residential Areas)
- Policy D4 (Historic Environment)

The policies can be viewed at the following link:-

[http://www.aberdeencity.gov.uk/planning\\_environment/planning/local\\_development\\_plan/pla\\_local\\_development\\_plan.asp](http://www.aberdeencity.gov.uk/planning_environment/planning/local_development_plan/pla_local_development_plan.asp)

2.3 Notice of Review with initial application and supporting information submitted by applicant / agent (Pages 29 - 50)

2.4 Determination - Reasons for decision

Members, please note that reasons should be based against Development Plan policies and any other material considerations.

2.5 Consideration of conditions to be attached to the application - if Members are minded to over-turn the decision of the case officer

Website Address: [www.aberdeencity.gov.uk](http://www.aberdeencity.gov.uk)

Should you require any further information about this agenda, please contact Allison Swanson on [aswanson@aberdeencity.gov.uk](mailto:aswanson@aberdeencity.gov.uk) / tel 01224 522822

## LOCAL REVIEW BODY OF ABERDEEN CITY COUNCIL

### PROCEDURE NOTE

#### GENERAL

1. The Local Review Body of Aberdeen City Council (the LRB) must at all times comply with (one) the provisions of the Town and Country Planning (Schemes of Delegation and Local Review Procedure) (Scotland) Regulations 2008 (the regulations), and (two) Aberdeen City Council's Standing Orders.
2. In dealing with a request for the review of a decision made by an appointed officer under the Scheme of Delegation adopted by the Council for the determination of "local" planning applications, the LRB acknowledge that the review process as set out in the regulations shall be carried out in stages.
3. As the first stage and having considered the applicant's stated preference (if any) for the procedure to be followed, the LRB must decide how the case under review is to be determined.
4. Once a notice of review has been submitted interested parties (defined as statutory consultees or other parties who have made, and have not withdrawn, representations in connection with the application) will be consulted on the Notice and will have the right to make further representations within 14 days.  
Any representations:
  - made by any party other than the interested parties as defined above (including those objectors or Community Councils that did not make timeous representation on the application before its delegated determination by the appointed officer) or
  - made outwith the 14 day period representation period referred to abovecannot and will not be considered by the Local Review Body in determining the Review.
5. Where the LRB consider that the review documents (as defined within the regulations) provide sufficient information to enable them to determine the review, they may (as the next stage in the process) proceed to do so without further procedure.
6. Should the LRB, however, consider that they are not in a position to determine the review without further procedure, they must then decide which one of (or combination of) the further procedures available to them in terms of the regulations should be pursued. The further procedures available are:-
  - (a) written submissions;
  - (b) the holding of one or more hearing sessions;
  - (c) an inspection of the site.

7. If the LRB do decide to seek further information or representations prior to the determination of the review, they will require, in addition to deciding the manner in which that further information/representations should be provided, to be specific about the nature of the information/representations sought and by whom it should be provided.
8. In adjourning a meeting to such date and time as it may then or later decide, the LRB shall take into account the procedures outlined within Part 4 of the regulations, which will require to be fully observed.

#### DETERMINATION OF REVIEW

9. Once in possession of all information and/or representations considered necessary to the case before them, the LRB will proceed to determine the review.
10. The starting point for the determination of the review by the LRB will be Section 25 of the Town and Country Planning (Scotland) Act 1997, which provides that:-
 

“where, in making any determination under the planning Acts, regard is to be had to the Development Plan, the determination shall be made in accordance with the Plan unless material considerations indicate otherwise.”
11. In coming to a decision on the review before them, the LRB will require:-
  - (a) to consider the Development Plan position relating to the application proposal and reach a view as to whether the proposal accords with the Development Plan;
  - (b) to identify all other material considerations arising (if any) which may be relevant to the proposal;
  - (c) to weigh the Development Plan position against the other material considerations arising before deciding whether the Development Plan should or should not prevail in the circumstances.
12. In determining the review, the LRB will:-
  - (a) uphold the appointed officers determination, with or without amendments or additions to the reason for refusal; or
  - (b) overturn the appointed officer’s decision and approve the application **with or without appropriate conditions.**
13. The LRB will give clear reasons for its decision in recognition that these will require to be intimated and publicised in full accordance with the regulations.

## Report of Handling Detailed Planning Permission

**170175/DPP:** Erection of enclosure and area of external seating for café at 12 St Swithin Street, Aberdeen, AB10 6XD,

For: Mrs Samina Tariq

Application Date:	27 February 2017
Officer:	Linda Speers
Ward:	Hazlehead/Ashley/Queens Cross
Community Council:	Queen's Cross And Harlaw
Advertisement:	Conservation Area – S60/65
Advertised Date:	08.03.2017

**RECOMMENDATION: Refuse**

### **SITE DESCRIPTION**

This application relates to an area of external seating associated with a ground floor café unit located on the east side of St Swithin Street, close to its junction with Stanley Street. The extent and location of the existing outdoor seating area is conditioned by a previous planning application P160883; thus ensuring the visual character and amenity of the area is protected. Residential flats are also located directly above the premises, accessed via a communal entrance door between the café and the off-licence. The street forms part of the wider Albyn Place/Rubislaw Conservation Area. The character of the area is predominantly residential with St Swithin Street providing a busy north/south thoroughfare with several other local amenities and community facilities located on and immediately adjacent to, the street.

### **DESCRIPTION OF PROPOSAL**

Planning permission is sought to form an enclosure and an area of external seating associated with the existing café unit. The enclosed area would be offset 4.8m from the front of the café and occupies a sole area of 5.6m wide and 2.3m deep adjacent to the front gardens of neighbouring property No.14 St Swithin Street on the south side of the site. The proposed external seating would be positioned within this new area and in addition to the conditioned and designated area allowed for seating under application P160883. While the proposed plans do not indicate that the existing areas of external seating are to be used it's possible for both permissions to be implemented should approval be granted. The enclosure would be constructed as a screen in timber (MDF) linings with a paint finish in a dark grey colour. The height of the proposed structure would be 900mm from pavement level. The screen would also include signage on the west street facing elevation in the form of individual lettering. The matter of signage would be dealt with under application 170174/ADV.

## RELEVANT HISTORY

**170174/ADV** – Advertisement Consent required for Installation of lighting to illuminate existing fascia sign with non-illuminated signage on enclosure. Decision pending.

**P160883** – Planning Permission for change of use from pavement to outdoor seating area. The application was approved conditionally by the Planning Development Management Committee on 28.10.2016. The conditions include:

- That the area of the pavement to be used for outdoor seating shall be restricted to that as shown on approved drawing 101 Rev D and that no tables or chairs shall be sited outwith this area at any time.
- That the outdoor seating area hereby approved shall only be used between the hours of 8am and 8pm on any given day and that any tables, chairs and other street furniture for the purpose of, or associated with, facilitating outdoor seating shall be removed from the pavement outwith the hours of operation for the outdoor seating area.
- That no amplified music shall be played in the outdoor seating area at any time.

**P151514** – Planning permission for change of use from a hairdresser to a coffee shop including a hot and cold food takeaway. The application was approved conditionally on 13.11.2015. The conditions include:

- No cooking or deep fat/shallow frying to take place on the premises;
- Service deliveries/uplifts only to occur between 7am and 7pm Monday to Saturday or 10am to 4pm on Sundays; and
- That the outdoor area to the front of the premises shall not be used for outdoor seating.

## SUPPORTING DOCUMENTS

All drawings and supporting documents listed below can be viewed on the Council's website at

<https://publicaccess.aberdeencity.gov.uk/online-applications/applicationDetails.do?activeTab=documents&keyVal=OLTNS5BZJ4A00>

## CONSULTATIONS

Consultee	Date of Comments	Summary of Comments
ACC - Roads Development Management Team	07.03.2017	No Objections
ACC - Environmental Health	09.03.2017	No Observations

## REPRESENTATIONS

3 letters of representation have been received all of which object to the application. The matters raised can be summarised as follows:-

## **APPLICATION REF: 170175/DPP**

- Enclosing the pavement with a relatively high fence affects the character of the area and spatial quality of the streetscape.
- The residential area is affected by the number of cafes within the street and is having the following negative impact for residents:
  - Littering from take-aways
  - Increased vermin
  - Parking Issues
  - Impede and blocking public pavement areas (bikes, prams etc.)

In addition the objections highlight the following concerns:

- The applicant has not notified all the affected parties.
- The outcome of the previous planning application P160883 was not made known to those who objected.

## **PLANNING POLICY**

Scottish Planning Policy (SPP)

Historic Environment Scotland Policy Statement (HESPS)

Aberdeen Local Development Plan 2017 (ALDP)

- Policy D1 (Quality Placemaking by Design)
- Policy H1 (Residential Areas)
- Policy D4 (Historic Environment)

## **EVALUATION**

Sections 25 and 37(2) of the Town and Country Planning (Scotland) Act 1997 require that where, in making any determination under the planning acts, regard is to be had to the provisions of the Development Plan and that determination shall be made in accordance with the plan, so far as material to the application unless material considerations indicate otherwise.

The application site is located within a Conservation Area and also an area zoned for residential in the ALDP and relates to an existing established café and associated external seating. The proposal seeks permission to erect a timber enclosure and extend the area of external seating. The application must examine if the proposed development would have a detrimental impact on the character or amenity of the residential area (Policy H1) or upon the character or appearance of the conservation area (Policy D4) and it would also need to be acceptable in terms of design, appearance and location (Policy D1).

The application site immediately borders 2 residential dwellings; No.10 St Swithin Street which is a flatted development directly above the premises and No. 14 St Swithin Street a 2.5-storey terrace dwelling with large bay window lies to the south of the site. The enclosure and associated seating area would project a total of 4.8m from the front building line. This additional area of external seating is positioned further away from the building and would increase the ability to overlook these

adjoining residential dwellings. Both the flat at first floor level and the terrace property have a number of large windows fronting the street and the level of privacy currently experienced by the residents occupying the dwellings is likely to be breached by members of the public sitting and using the café facility within the proposed enclosure. The café can currently utilise up to 8 tables directly outside their premises which includes the adjacent off-licence which is within the same ownership; the proposal includes a further 5 tables giving a total capacity for 26 individuals. This is considered excessive given the establishment is a small café and unprecedented for this residential location. The applicant may choose not to facilitate the maximum capacity for external seating; nonetheless the planning authority is required to examine the overall impact. While it's acknowledged that the outdoor seating is not useable all year round and weather permitted the impact on the residential amenity is still considered significant. Policy H1 states that within existing residential areas, proposals for non-residential uses that conflict with, or cause any nuisance to, the enjoyment of existing residential amenity should be refused. In this case the position of the seating within the enclosure is considered to have an adverse impact on the privacy of the existing dwellings and warrants a refusal of the application.

The design of the enclosure on a whole is considered mediocre; the MDF linings are not considered a high quality material and the proposal lacks any detail with regard to the fitting and stability of this permanent structure. Policy D1 states "*that all development must ensure high standards of design and have a strong and distinctive sense of place which is a result of context appraisal, detailed planning, quality architecture, craftsmanship and materials*". While the dark grey colour of the linings would correspond to the existing fascia boards; the window frames and door are an unrelated colours and the overall appearance of the shop front lacks distinctiveness; the addition of the enclosure is questionable. While the location of the enclosure would not physically impede on the existing pavement area of the street used for pedestrian access; the proposed location directly impacts the seating arrangement which has been highlighted as having a negative impact on the adjoining uses. The design, appearance and location of the enclosure are inadequate and inappropriate for this particular area. The proposals are contrary to Policy D1 as they fail to comply with successful placemaking.

Section 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 places a duty on planning authorities to preserve and enhance the character or appearance of conservation areas. Within this Conservation Area outdoor seating and enclosures associated with eateries are not uncommon where the proposal has been well designed and is of suitable scale and siting. In this instance the principle of such an enclosure would unlikely have a detrimental impact on the visual character of the conservation area however not withstanding this; the overall impact of the entire external seating area is considered overwhelming and fails to comply with said policies for reasons identified within the above evaluation. Therefore the proposal would not enhance the character of the conservation and does not accord with SPP, HESPS and subsequently Policy D4 (Historic Environment) of the ALDP.

It should be noted that previous planning applications (P151514 and P160883) also addressed applications for outdoor seating areas. The 2015 application included seating to the edge of the pedestrian footpath which would have increased the potential for overlooking of the neighbouring property thus this element of the



application was denied. In turn the 2016 application eradicated concerns in relation to a loss of privacy by restricting the size and location of seating area and is controlled via an appropriately worded planning condition. On the basis of the above, and following on from the evaluation under policy and guidance, it is considered that the current proposal does not provide anything unique or different from past applications to warrant approval of the application.

Concerns raised in letters of objection

The majority of the concerns raised in the letters of objection to the application were in relation to the impact of the existing cafés on St Swithin Street on the residential area. These points are not relevant to current proposal and an already established café. Other concerns were in relation to the impact of the outdoor seating area on the character and amenity of the surrounding area. Issues in this regard have been addressed in the foregoing evaluation.

Other concerns raised can be addressed as follows:

- *The applicant has not notified all the affected parties.*

Firstly, it should be noted that the responsibility for neighbour notification does not lie with the applicant. Planning authorities are required to notify those with an interest in "neighbouring land" of a planning application. The term "neighbouring land" is defined as "an area or plot of land which, or part of which, is conterminous with or within 20 metres of the boundary of the land for which the development is proposed." The boundary of the site is identified on the Location Plan by a 'red line'. A single notice must be sent to the "Owner, Lessee or Occupier" at the address of the neighbouring land. The authority notified all the neighbours within the 20 metre requirement based on the red boundary line shown on the applicant's site location plan for application 170175/DPP.

- *The outcome of the previous planning application P160883 was not made known to those who objected.*

The application P160883 was approved conditionally by planning committee on the 27 October 2016. Minutes from the committee can be found on the Aberdeen City Council website:

<https://committees.aberdeencity.gov.uk/ieListDocuments.aspx?CId=348&MId=3875&Ver=4> .

It is standard procedure to notify those that submit a letter of representation the final decision made by the council in writing or by email. In this particular case and a number of other applications around this time the standard procedure was implicated by new software which meant for a short period those whom made representation were not notified of the outcome as standard. This matter has now been addressed.

The approved drawings and decision documents for P160883 can be found online on the Planning section of the Aberdeen City Council Website <https://publicaccess.aberdeencity.gov.uk/online-applications/search.do?action=simple&searchType=Application>

Aberdeen Local Development Plan 2017 – Legal Challenge

Combined Corp BVI Ltd has lodged an appeal against the adoption of the Aberdeen Local Development Plan 2017. The appellant seeks to quash that part of the Plan which incorporates the recommendations made by the Reporter in relation to Issue 11 – Allocated Sites and General Area Strategy; Deeside and Issue 12 – Alternative Sites; Deeside.

The remainder of the proposals and policies in the Local Development Plan 2017 are not subject to legal challenge and therefore, with the exception of the sites affected by Issue 11 and 12, planning applications can continue to be determined in accordance with the adopted Local Development Plan 2017.

**RECOMMENDATION: Refuse**

**REASONS FOR RECOMMENDATION**

1. The proposal is contrary to Policy H1 of the Aberdeen Local Development Plan 2017 as the proposed enclosure and external seating area would have a negative impact on surrounding residential amenity in terms of privacy.
2. The design, appearance and location of the enclosure are inadequate and inappropriate and do not contribute to successful placemaking and fail to comply with Policy D1 of the Aberdeen Local Development Plan 2017
3. Subsequently, as this application would create an adverse impact on the immediate area; the proposals do not enhance the character of the Conservation Area and do not accord with Scottish Planning Policy, Historic Environment Scotland Policy Statement and Policy D4 (Historic Environment) of the Aberdeen Local Development Plan 2017.

## **DECISION NOTICE**

### **The Town and Country Planning (Scotland) Act 1997**

### **Detailed Planning Permission**

Kevin Duguid  
Fitzgerald + Associates Ltd  
53 Albert Street  
Aberdeen  
Scotland  
AB25 1XT

on behalf of **Mrs Samina Tariq**

With reference to your application validly received on 27 February 2017 for the following development:-

#### **Erection of enclosure and area of external seating for café at 12 St Swithin Street, Aberdeen**

Aberdeen City Council in exercise of their powers under the above mentioned Act hereby **REFUSE PLANNING PERMISSION** for the said development in accordance with the particulars given in the application form and the following plans and documents:

<b>Drawing Number</b>	<b>Drawing Type</b>
102 REV A	Elevations and Floor Plans

The reasons on which the Council has based this decision are as follows:-

1. The proposal is contrary to Policy H1 of the Aberdeen Local Development Plan 2017 as the proposed enclosure and external seating area would have a negative impact on surrounding residential amenity in terms of privacy.
2. The design, appearance and location of the enclosure are inadequate and inappropriate and do not contribute to successful placemaking and fail to comply with Policy D1 of the Aberdeen Local Development Plan 2017

3. Subsequently, as this application would create an adverse impact on the immediate area; the proposals do not enhance the character of the Conservation Area and do not accord with Scottish Planning Policy, Historic Environment Scotland Policy Statement and Policy D4 (Historic Environment) of the Aberdeen Local Development Plan 2017.

**Date of Signing** 9 May 2017



**Daniel Lewis**  
Development Management Manager

### **IMPORTANT INFORMATION RELATED TO THIS DECISION**

#### **DETAILS OF ANY VARIATION MADE TO ORIGINAL PROPOSAL, AS AGREED WITH APPLICANT (S32A of 1997 Act)**

None.

#### **RIGHT OF APPEAL THE TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997**

If the applicant is aggrieved by the decision of the planning authority –

- a) to refuse planning permission;
- b) to refuse approval, consent or agreement required by a condition imposed on a grant of planning permission;
- c) to grant planning permission or any approval, consent or agreement subject to conditions,

the applicant may require the planning authority to review the case under section 43A(8) of the Town and Country Planning (Scotland) Act 1997 within three months from the date of this notice. Any requests for a review must be made on a 'Notice of Review' form available from the planning authority or at [www.eplanning.scot](http://www.eplanning.scot).

Notices of review submitted by post should be sent to Planning and Sustainable Development (address at the top of this decision notice).

#### **SERVICE OF PURCHASE NOTICE WHERE INTERESTS ARE AFFECTED BY A PLANNING DECISION**

If permission to develop land is refused and the owner of the land claims that the land has become incapable of reasonably beneficial use in its existing state and cannot be rendered capable of reasonably beneficial use by the carrying out of any development that would be permitted, the owners of the land may serve on the planning authority a purchase notice requiring the purchase of the owner of the land's interest in the land in accordance with Part 5 of the Town and Country Planning (Scotland) Act 1997.

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# MEMO

Environmental Health and Trading Standards  
**Communities, Housing and Infrastructure**  
3<sup>rd</sup> Floor South, Marischal College



To	Linda Spears Planning & Sustainable Development	
From	Barbara Armstrong-Hill, Environmental Protection	
Email	bahill@aberdeencity.gov.uk	Date 6/02/2017
Tel.	01224 522064	Our Ref. BAH /PLNS
Fax.	01224 523887	Your Ref. 170175/DPP

**Planning Reference: 170175/DPP**

**Address: 12 St Swithin Street, Aberdeen, AB10 6XD**

**Description: Erection of enclosure to external seating area of café**

**Applicant: Samina Tariq, c/o 53 Albert Street, Aberdeen, AB25 1XT**

Having reviewed this application, this service has no observations to make.

Kind regards

**Barbara Armstrong-Hill**  
**Senior Authorised Officer**

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# **Consultee Comments for Planning Application 170175/DPP**

## **Application Summary**

Application Number: 170175/DPP

Address: 12 St Swithin Street Aberdeen AB10 6XD

Proposal: Erection of enclosure to external seating area of cafe

Case Officer: Linda Speers

## **Consultee Details**

Name: Miss Christine McShane

Address: Aberdeen City Council, Marischal College, Broad Street, Aberdeen AB10 1AB

Email: chmcshane@aberdeencity.gov.uk

On Behalf Of: ACC - Roads Development Management Team

## **Comments**

Roads Development Management have no objections to this application.

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Hi Allison,

I received your email dated 3<sup>rd</sup> July 2017 advising of notice of review for application 170175, 12 St Swithin Street, Aberdeen, AB10 6XD.

To further my previous response, Roads have no concerns because:

- 1) The proposed external seating area lies outwith any adopted footway, and sufficient footway clearance has been left in order that pedestrians still have an unobstructed route.
- 2) At the time of review, an officer from the Street Occupations team was consulted in respect of this application, and determined that there were no issues surrounding this proposal.

Kind Regards,

**Christine Steel MSc BSc (Hons)**  
**Technical Officer**

Roads Projects | Communities, Housing and Infrastructure | Aberdeen City Council | Business Hub 4 |  
Ground Floor North | Marischal College | Broad Street, Aberdeen | AB10 1AB

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# Comments for Planning Application 170175/DPP

## Application Summary

Application Number: 170175/DPP

Address: 12 St Swithin Street Aberdeen AB10 6XD

Proposal: Erection of enclosure to external seating area of cafe

Case Officer: Linda Speers

## Customer Details

Name: Mr Steven Rose

Address: 11 St Swithin Street Aberdeen

## Comment Details

Commenter Type: Neighbour

Stance: Customer objects to the Planning Application

Comment Reasons:

Comment: For the attention of : Linda Speers

As the residence owner directly across from this property I would like to register my objection to this proposal.

I would echo the concerns of the Aberdeen Civic Society and the other residents of St Swithin Street , vis.:

"The corner treatment of retail premises with flats above and a wide footpath in front of the shops is very characteristic of the west end of Aberdeen. We do not think that it is right to close these areas in with a relatively high fence"

"the fence becomes a permanent feature which diminishes the generous spatial quality of the streetscape".

In addition, I would add :

As before, the applicant has disregarded the impact on local residents, and has not notified all affected parties;

The fad for outdoor cafes has already been met, and indeed exceeded, on St Swithin Street. This has meant that to attract custom, the existing cafes are moving downmarket and competing on price/providing take-aways, with the attendant litter/vermin issues;

St Swithin Street has now become a destination for outsiders to visit, solely for café visits.

Inevitably these arrive by car and place an additional burden on local parking facilities;

I do not recall receiving notification that the existing outdoor seating for the Hub Café has been approved. Given the number of objections the last application received, and the lack of feedback thereto, it would seem that the residents opinion has no weight in this matter, a most disappointing state of affairs.

regards

Steven Rose

# Comments for Planning Application 170175/DPP

## Application Summary

Application Number: 170175/DPP

Address: 12 St Swithin Street Aberdeen AB10 6XD

Proposal: Erection of enclosure to external seating area of cafe

Case Officer: Linda Speers

## Customer Details

Name: Ms Julia Strickland

Address: Aberdeen Civic Society c/o 1 Mackie Place Aberdeen

## Comment Details

Commenter Type: Amenity Body

Stance: Customer objects to the Planning Application

Comment Reasons:

Comment: Aberdeen Civic Society objects to this proposal. The corner treatment of retail premises with flats above and a wide footpath in front of the shops is very characteristic of the west end of Aberdeen. We do not think that it is right to close these areas in with a relatively high fence. While we support the flexible and informal use of the pavement for eating outside as weather permits, the fence becomes a permanent feature which diminishes the generous spatial quality of the streetscape.

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# Comments for Planning Application 170175/DPP

## Application Summary

Application Number: 170175/DPP

Address: 12 St Swithin Street Aberdeen AB10 6XD

Proposal: Erection of enclosure to external seating area of cafe

Case Officer: Linda Speers

## Customer Details

Name: Ms Katharine Blain

Address: 22B St Swithin Street Aberdeen

## Comment Details

Commenter Type: Member of Public

Stance: Customer objects to the Planning Application

Comment Reasons:

Comment: As per my comments to the first application my objections stand and are as follows :-

- 1) Outside cafes on the street are attracting seagulls and this is very unpleasant for the residents. Yet another outside seating area will make this problem worse with uneaten food acting as an attraction for seagull attacks.
- 2) The plethora of cafes on the street is causing terrible pressure on the parking availability for residents of St Swithin Street and this additional seating will make this issue even worse.
- 3) This is a residential street and was never meant to have these number of outside cafes. There is already increased littering of the street which eventually ends up in residents' gardens. This new application for additional seating will exacerbate this problem.
- 4) The planning permission states that the pavement walkway will not be impeded by this development. Not true, as has been proven from experience with Cognitos further down the street. Childrens' prams, bikes parked in an erratic fashion by people frequenting these type of establishments block the pavement and makes it extremely difficult for pedestrians especially for the elderly.
- 5) There will be inevitable 'scope creep' of this planning permission as has been proven by the owner of 'The Hub' who already has chairs outside the cafe despite not having formal planning permission.

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Marischal College Planning & Sustainable Development Business Hub 4, Ground Floor North Broad Street Aberdeen AB10 1AB Tel: 01224 523 470 Fax: 01224 636 181 Email: pi@aberdeencity.gov.uk

Applications cannot be validated until all the necessary documentation has been submitted and the required fee has been paid.

Thank you for completing this application form:

ONLINE REFERENCE      100039211-002

The online reference is the unique reference for your online form only. The Planning Authority will allocate an Application Number when your form is validated. Please quote this reference if you need to contact the planning Authority about this application.

## Applicant or Agent Details

Are you an applicant or an agent? \* (An agent is an architect, consultant or someone else acting on behalf of the applicant in connection with this application)

Applicant    Agent

## Applicant Details

Please enter Applicant details

Title:	<input type="text" value="Mr"/>	You must enter a Building Name or Number, or both: *	
Other Title:	<input type="text"/>	Building Name:	<input type="text"/>
First Name: *	<input type="text" value="Kevin"/>	Building Number:	<input type="text" value="53"/>
Last Name: *	<input type="text" value="Duguid"/>	Address 1 (Street): *	<input type="text" value="Albert Street"/>
Company/Organisation	<input type="text" value="Fitzgerald + Associates Ltd"/>	Address 2:	<input type="text"/>
Telephone Number: *	<input type="text" value="01224 633 375"/>	Town/City: *	<input type="text" value="Aberdeen"/>
Extension Number:	<input type="text"/>	Country: *	<input type="text" value="Scotland"/>
Mobile Number:	<input type="text"/>	Postcode: *	<input type="text" value="AB25 1XT"/>
Fax Number:	<input type="text"/>		
Email Address: *	<input type="text" value="info@fitzgeraldassociates.co.uk"/>		

## Site Address Details

Planning Authority:

Aberdeen City Council

Full postal address of the site (including postcode where available):

Address 1:

12 ST SWITHIN STREET

Address 2:

Address 3:

Address 4:

Address 5:

Town/City/Settlement:

ABERDEEN

Post Code:

AB10 6XD

Please identify/describe the location of the site or sites

Northing

805633

Easting

392499

## Description of Proposal

Please provide a description of your proposal to which your review relates. The description should be the same as given in the application form, or as amended with the agreement of the planning authority: \*  
(Max 500 characters)

Erection of enclosure and are of external seating for cafe.

## Type of Application

What type of application did you submit to the planning authority? \*

- Application for planning permission (including householder application but excluding application to work minerals).  
Application for planning permission in principle.
- Further application.
- Application for approval of matters specified in conditions.

What does your review relate to? \*

- Refusal Notice.
- Grant of permission with Conditions imposed.
- No decision reached within the prescribed period (two months after validation date or any agreed extension) – deemed refusal.

## Statement of reasons for seeking review

You must state in full, why you are seeking a review of the planning authority's decision (or failure to make a decision). Your statement must set out all matters you consider require to be taken into account in determining your review. If necessary this can be provided as a separate document in the 'Supporting Documents' section: \* (Max 500 characters)

Note: you are unlikely to have a further opportunity to add to your statement of appeal at a later date, so it is essential that you produce all of the information you want the decision-maker to take into account.

You should not however raise any new matter which was not before the planning authority at the time it decided your application (or at the time expiry of the period of determination), unless you can demonstrate that the new matter could not have been raised before that time or that it not being raised before that time is a consequence of exceptional circumstances.

Simply precedents set in St Swithin Street with respect to other business's being afforded street cafe enclosures.

Have you raised any matters which were not before the appointed officer at the time the Determination on your application was made? \*

Yes  No

If yes, you should explain in the box below, why you are raising the new matter, why it was not raised with the appointed officer before your application was determined and why you consider it should be considered in your review: \* (Max 500 characters)

Please provide a list of all supporting documents, materials and evidence which you wish to submit with your notice of review and intend to rely on in support of your review. You can attach these documents electronically later in the process: \* (Max 500 characters)

3720\_102a Plans + os-map location plan.

## Application Details

Please provide details of the application and decision.

What is the application reference number? \*

170175

What date was the application submitted to the planning authority? \*

23/02/2017

What date was the decision issued by the planning authority? \*

09/05/2017

## Review Procedure

The Local Review Body will decide on the procedure to be used to determine your review and may at any time during the review process require that further information or representations be made to enable them to determine the review. Further information may be required by one or a combination of procedures, such as: written submissions; the holding of one or more hearing sessions and/or inspecting the land which is the subject of the review case.

Can this review continue to a conclusion, in your opinion, based on a review of the relevant information provided by yourself and other parties only, without any further procedures? For example, written submission, hearing session, site inspection. \*

Yes  No

In the event that the Local Review Body appointed to consider your application decides to inspect the site, in your opinion:

Can the site be clearly seen from a road or public land? \*

Yes  No

Is it possible for the site to be accessed safely and without barriers to entry? \*

Yes  No

## Checklist – Application for Notice of Review

Please complete the following checklist to make sure you have provided all the necessary information in support of your appeal. Failure to submit all this information may result in your appeal being deemed invalid.

Have you provided the name and address of the applicant?. \*

Yes  No

Have you provided the date and reference number of the application which is the subject of this review? \*

Yes  No

If you are the agent, acting on behalf of the applicant, have you provided details of your name and address and indicated whether any notice or correspondence required in connection with the review should be sent to you or the applicant? \*

Yes  No  N/A

Have you provided a statement setting out your reasons for requiring a review and by what procedure (or combination of procedures) you wish the review to be conducted? \*

Yes  No

Note: You must state, in full, why you are seeking a review on your application. Your statement must set out all matters you consider require to be taken into account in determining your review. You may not have a further opportunity to add to your statement of review at a later date. It is therefore essential that you submit with your notice of review, all necessary information and evidence that you rely on and wish the Local Review Body to consider as part of your review.

Please attach a copy of all documents, material and evidence which you intend to rely on (e.g. plans and Drawings) which are now the subject of this review \*

Yes  No

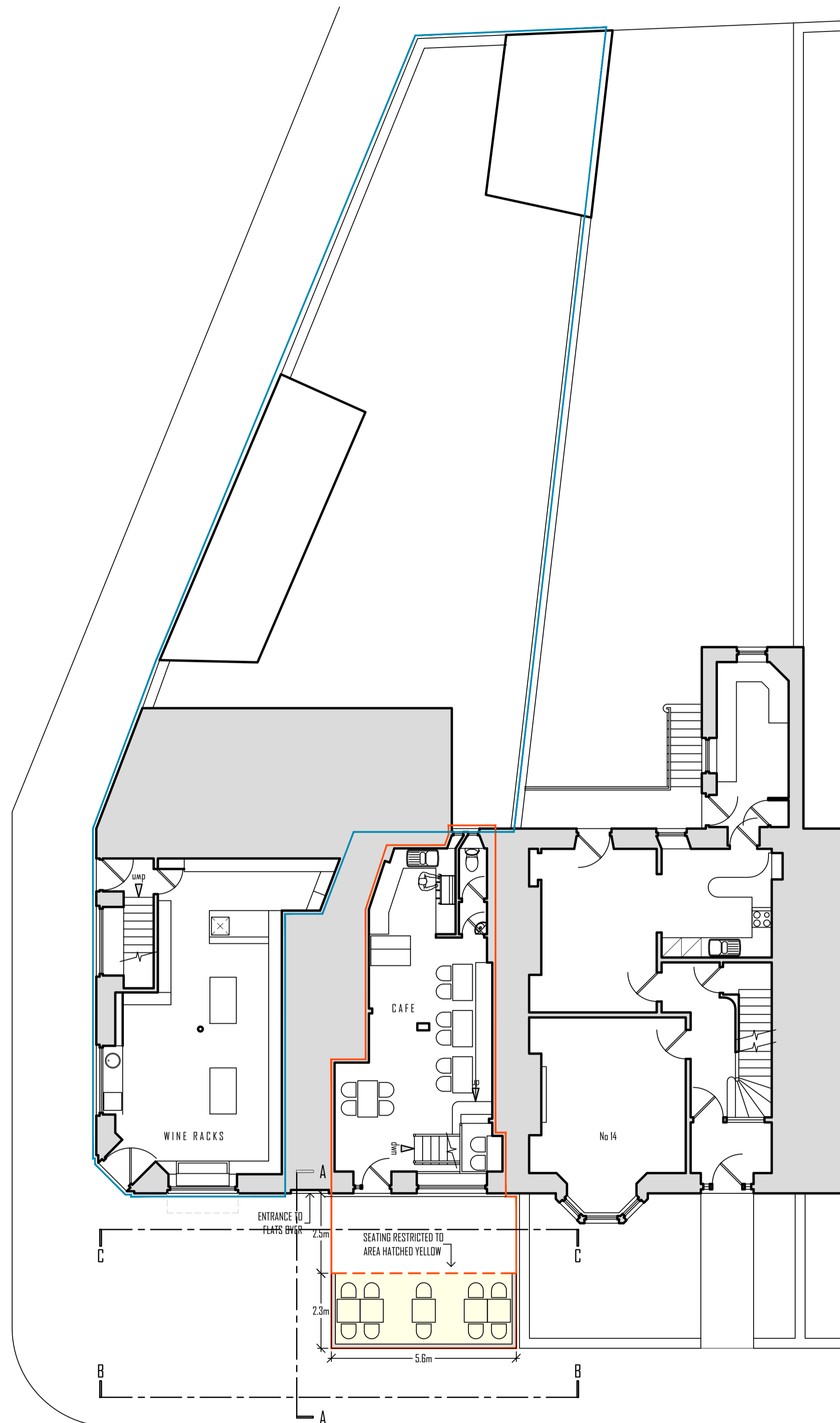
Note: Where the review relates to a further application e.g. renewal of planning permission or modification, variation or removal of a planning condition or where it relates to an application for approval of matters specified in conditions, it is advisable to provide the application reference number, approved plans and decision notice (if any) from the earlier consent.

## Declare – Notice of Review

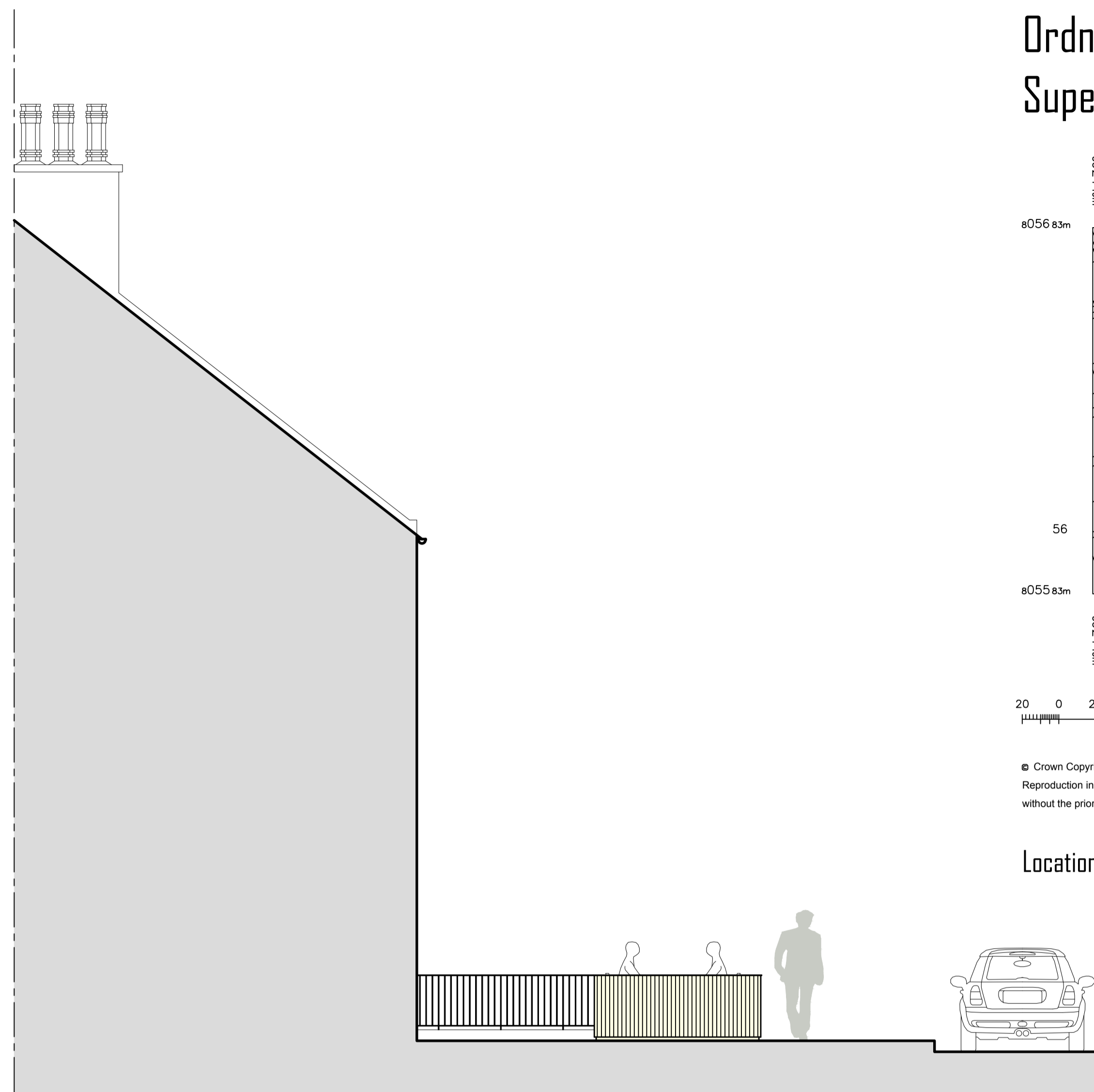
I/We the applicant/agent certify that this is an application for review on the grounds stated.

Declaration Name: Mr Kevin Duguid

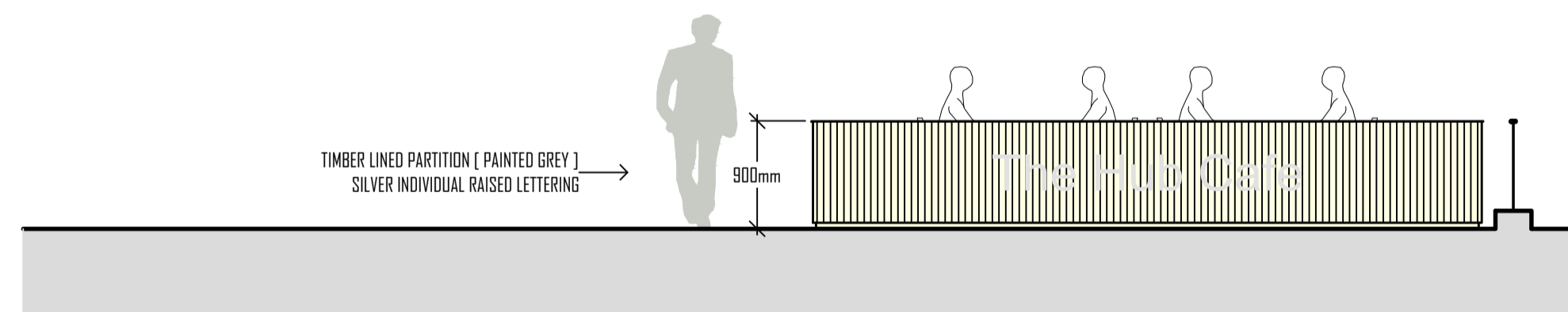
Declaration Date: 03/07/2017



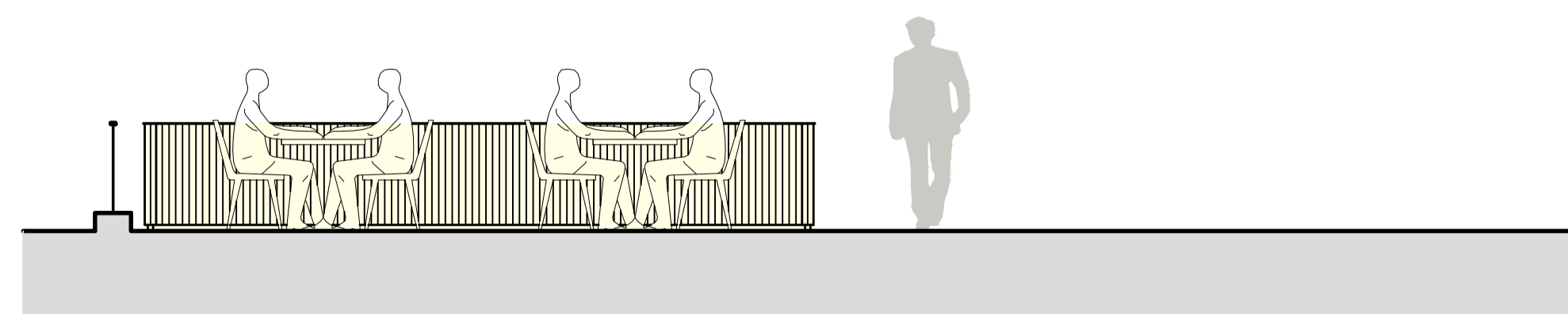
PROPOSED GROUND FLOOR PLAN



PAVEMENT CAFE SCREEN NORTH ELEVATION-02 [ SECTION AA ] 1:50

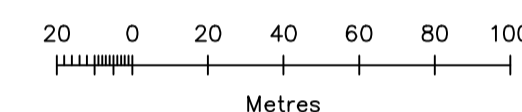
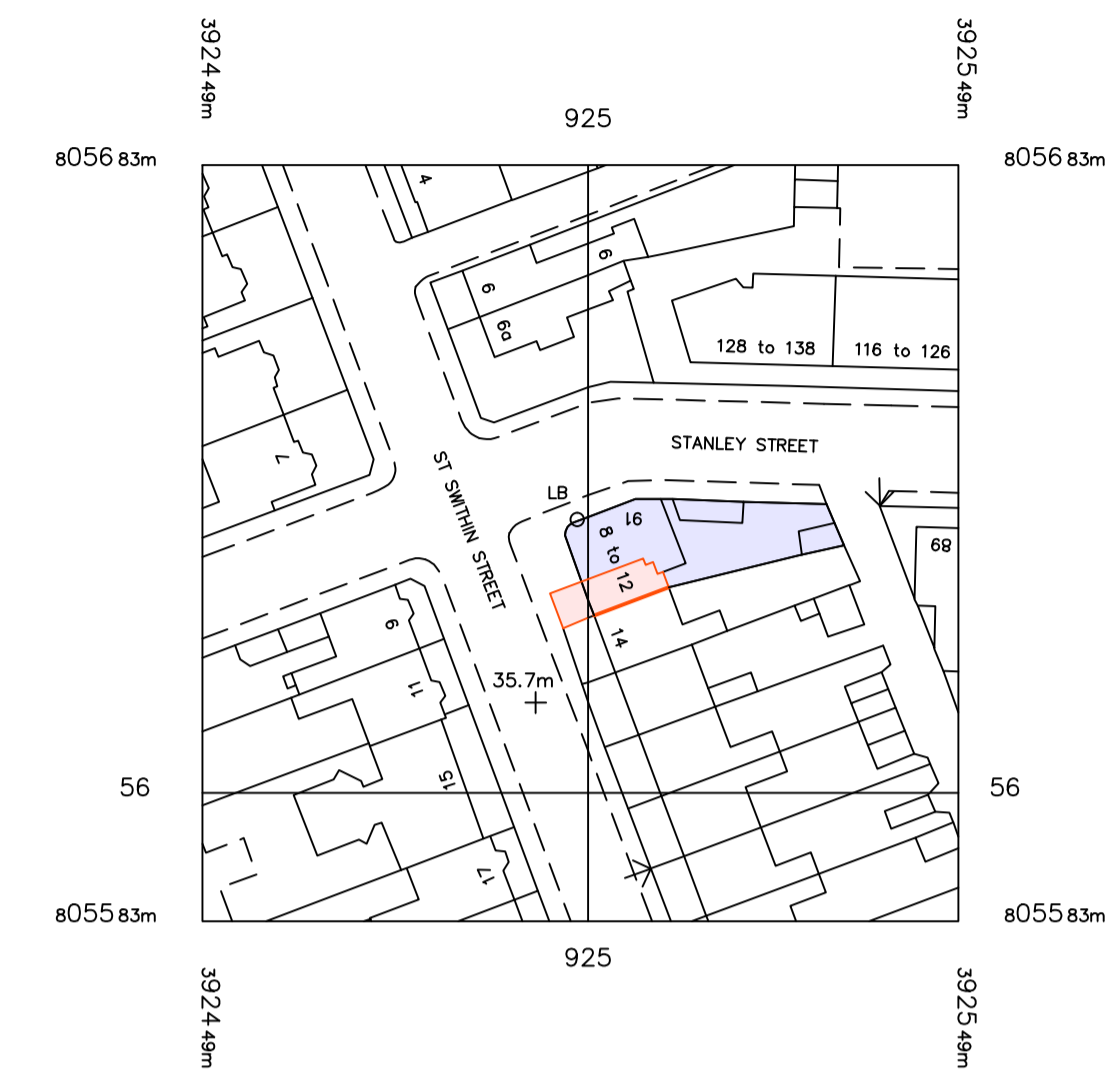


PAVEMENT CAFE SCREEN SECTION BB 1:50



PAVEMENT CAFE SCREEN SECTION CC 1:50

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Location Plan [ scale 1 : 1000 ]

FITZGERALD ASSOCIATE

ARCHITECTURAL + INTERIOR DESIGNERS  
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+44 (0)1224 633375  
info@fitzgeraldassociates.co.uk

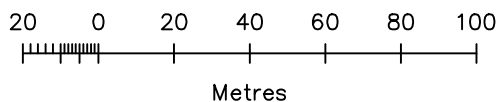
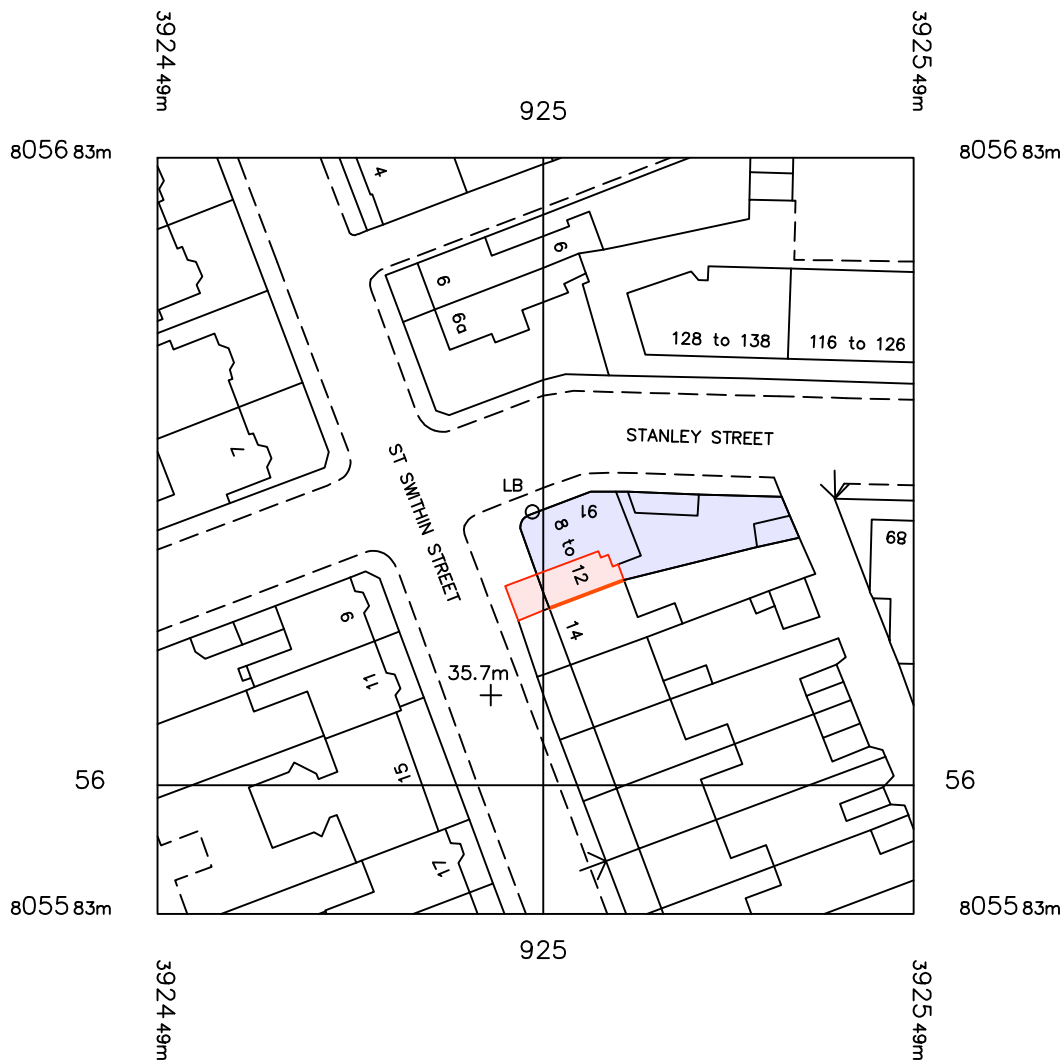


Client :	Mr. Tariq Mahmood	
Project :	Pavement Cafe - The Hub 12 St Swithin St Aberdeen AB10 6XD	
Description :	Planning Details Proposed Plans	
Drawn By :	Scale :	Date :
Kern Duquid	A1 - 1-100	Jan 2017
Project No :	Drawing No :	Rev :
3720	102	A

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Location Plan [ scale 1 : 1000 ] 

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Marischal College Planning & Sustainable Development Business Hub 4, Ground Floor North Broad Street Aberdeen AB10 1AB Tel: 01224 523 470 Fax: 01224 636 181 Email: pi@aberdeencity.gov.uk

Applications cannot be validated until all the necessary documentation has been submitted and the required fee has been paid.

Thank you for completing this application form:

ONLINE REFERENCE 100039211-001

The online reference is the unique reference for your online form only. The Planning Authority will allocate an Application Number when your form is validated. Please quote this reference if you need to contact the planning Authority about this application.

## Type of Application

What is this application for? Please select one of the following: \*

- Application for planning permission (including changes of use and surface mineral working).
- Application for planning permission in principle.
- Further application, (including renewal of planning permission, modification, variation or removal of a planning condition etc)
- Application for Approval of Matters specified in conditions.

## Description of Proposal

Please describe the proposal including any change of use: \* (Max 500 characters)

Erection of Low Level Enclosure to External Seated Area of Cafe

Is this a temporary permission? \*  Yes  No

If a change of use is to be included in the proposal has it already taken place?  
(Answer 'No' if there is no change of use.) \*  Yes  No

Has the work already been started and/or completed? \*

No  Yes – Started  Yes - Completed

## Applicant or Agent Details

Are you an applicant or an agent? \* (An agent is an architect, consultant or someone else acting on behalf of the applicant in connection with this application)

Applicant  Agent

## Agent Details

Please enter Agent details

Company/Organisation:	Fitzgerald + Associates Ltd		
Ref. Number:		You must enter a Building Name or Number, or both: *	
First Name: *	Kevin	Building Name:	
Last Name: *	Duguid	Building Number:	53
Telephone Number: *	01224 633 375	Address 1 (Street): *	Albert Street
Extension Number:		Address 2:	
Mobile Number:		Town/City: *	Aberdeen
Fax Number:		Country: *	Scotland
		Postcode: *	AB25 1XT
Email Address: *	info@fitzgeraldassociates.co.uk		

Is the applicant an individual or an organisation/corporate entity? \*

Individual  Organisation/Corporate entity

## Applicant Details

Please enter Applicant details

Title:	Mrs	You must enter a Building Name or Number, or both: *	
Other Title:		Building Name:	c/o
First Name: *	Samina	Building Number:	53
Last Name: *	Tariq	Address 1 (Street): *	Albert Street
Company/Organisation		Address 2:	
Telephone Number: *		Town/City: *	Aberdeen
Extension Number:		Country: *	Scotland
Mobile Number:		Postcode: *	AB25 1XT
Fax Number:			
Email Address: *			

## Site Address Details

Planning Authority:

Aberdeen City Council

Full postal address of the site (including postcode where available):

Address 1:

12 ST SWITHIN STREET

Address 2:

Address 3:

Address 4:

Address 5:

Town/City/Settlement:

ABERDEEN

Post Code:

AB10 6XD

Please identify/describe the location of the site or sites

Northing

805633

Easting

392499

## Pre-Application Discussion

Have you discussed your proposal with the planning authority? \*

Yes  No

## Site Area

Please state the site area:

73.00

Please state the measurement type used:

Hectares (ha)  Square Metres (sq.m)

## Existing Use

Please describe the current or most recent use: \* (Max 500 characters)

Cafe

## Access and Parking

Are you proposing a new altered vehicle access to or from a public road? \*

Yes  No

If Yes please describe and show on your drawings the position of any existing. Altered or new access points, highlighting the changes you propose to make. You should also show existing footpaths and note if there will be any impact on these.

Are you proposing any change to public paths, public rights of way or affecting any public right of access? \*  Yes  No

If Yes please show on your drawings the position of any affected areas highlighting the changes you propose to make, including arrangements for continuing or alternative public access.

How many vehicle parking spaces (garaging and open parking) currently exist on the application Site?

How many vehicle parking spaces (garaging and open parking) do you propose on the site (i.e. the Total of existing and any new spaces or a reduced number of spaces)? \*

Please show on your drawings the position of existing and proposed parking spaces and identify if these are for the use of particular types of vehicles (e.g. parking for disabled people, coaches, HGV vehicles, cycles spaces).

**Water Supply and Drainage Arrangements**

Will your proposal require new or altered water supply or drainage arrangements? \*  Yes  No

Do your proposals make provision for sustainable drainage of surface water?? \*  Yes  No  
(e.g. SUDS arrangements) \*

Note:-

Please include details of SUDS arrangements on your plans

Selecting 'No' to the above question means that you could be in breach of Environmental legislation.

Are you proposing to connect to the public water supply network? \*

Yes

No, using a private water supply

No connection required

If No, using a private water supply, please show on plans the supply and all works needed to provide it (on or off site).

**Assessment of Flood Risk**

Is the site within an area of known risk of flooding? \*  Yes  No  Don't Know

If the site is within an area of known risk of flooding you may need to submit a Flood Risk Assessment before your application can be determined. You may wish to contact your Planning Authority or SEPA for advice on what information may be required.

Do you think your proposal may increase the flood risk elsewhere? \*  Yes  No  Don't Know

**Trees**

Are there any trees on or adjacent to the application site? \*  Yes  No

If Yes, please mark on your drawings any trees, known protected trees and their canopy spread close to the proposal site and indicate if any are to be cut back or felled.

**Waste Storage and Collection**

Do the plans incorporate areas to store and aid the collection of waste (including recycling)? \*  Yes  No

If Yes or No, please provide further details: \* (Max 500 characters)

n/a

## Residential Units Including Conversion

Does your proposal include new or additional houses and/or flats? \*

Yes  No

## All Types of Non Housing Development – Proposed New Floorspace

Does your proposal alter or create non-residential floorspace? \*

Yes  No

## Schedule 3 Development

Does the proposal involve a form of development listed in Schedule 3 of the Town and Country Planning (Development Management Procedure (Scotland) Regulations 2013) \*

Yes  No  Don't Know

If yes, your proposal will additionally have to be advertised in a newspaper circulating in the area of the development. Your planning authority will do this on your behalf but will charge you a fee. Please check the planning authority's website for advice on the additional fee and add this to your planning fee.

If you are unsure whether your proposal involves a form of development listed in Schedule 3, please check the Help Text and Guidance notes before contacting your planning authority.

## Planning Service Employee/Elected Member Interest

Is the applicant, or the applicant's spouse/partner, either a member of staff within the planning service or an elected member of the planning authority? \*

Yes  No

## Certificates and Notices

CERTIFICATE AND NOTICE UNDER REGULATION 15 – TOWN AND COUNTRY PLANNING (DEVELOPMENT MANAGEMENT PROCEDURE) (SCOTLAND) REGULATION 2013

One Certificate must be completed and submitted along with the application form. This is most usually Certificate A, Form 1, Certificate B, Certificate C or Certificate E.

Are you/the applicant the sole owner of ALL the land? \*

Yes  No

Is any of the land part of an agricultural holding? \*

Yes  No

## Certificate Required

The following Land Ownership Certificate is required to complete this section of the proposal:

Certificate A

# Land Ownership Certificate

Certificate and Notice under Regulation 15 of the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013

Certificate A

I hereby certify that –

(1) - No person other than myself/the applicant was an owner (Any person who, in respect of any part of the land, is the owner or is the lessee under a lease thereof of which not less than 7 years remain unexpired.) of any part of the land to which the application relates at the beginning of the period of 21 days ending with the date of the accompanying application.

(2) - None of the land to which the application relates constitutes or forms part of an agricultural holding

Signed: Kevin Duguid

On behalf of: Mrs Samina Tariq

Date: 09/02/2017

Please tick here to certify this Certificate. \*

## Checklist – Application for Planning Permission

Town and Country Planning (Scotland) Act 1997

The Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013

Please take a few moments to complete the following checklist in order to ensure that you have provided all the necessary information in support of your application. Failure to submit sufficient information with your application may result in your application being deemed invalid. The planning authority will not start processing your application until it is valid.

a) If this is a further application where there is a variation of conditions attached to a previous consent, have you provided a statement to that effect? \*

Yes  No  Not applicable to this application

b) If this is an application for planning permission or planning permission in principle where there is a crown interest in the land, have you provided a statement to that effect? \*

Yes  No  Not applicable to this application

c) If this is an application for planning permission, planning permission in principle or a further application and the application is for development belonging to the categories of national or major development (other than one under Section 42 of the planning Act), have you provided a Pre-Application Consultation Report? \*

Yes  No  Not applicable to this application

Town and Country Planning (Scotland) Act 1997

The Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013

d) If this is an application for planning permission and the application relates to development belonging to the categories of national or major developments and you do not benefit from exemption under Regulation 13 of The Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013, have you provided a Design and Access Statement? \*

Yes  No  Not applicable to this application

e) If this is an application for planning permission and relates to development belonging to the category of local developments (subject to regulation 13. (2) and (3) of the Development Management Procedure (Scotland) Regulations 2013) have you provided a Design Statement? \*

Yes  No  Not applicable to this application

f) If your application relates to installation of an antenna to be employed in an electronic communication network, have you provided an ICNIRP Declaration? \*

Yes  No  Not applicable to this application



g) If this is an application for planning permission, planning permission in principle, an application for approval of matters specified in conditions or an application for mineral development, have you provided any other plans or drawings as necessary:

- Site Layout Plan or Block plan.
- Elevations.
- Floor plans.
- Cross sections.
- Roof plan.
- Master Plan/Framework Plan.
- Landscape plan.
- Photographs and/or photomontages.
- Other.

If Other, please specify: \* (Max 500 characters)

Provide copies of the following documents if applicable:

- |  |                              |   |
|--|------------------------------|---|
| A copy of an Environmental Statement. *  | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> N/A |
| A Design Statement or Design and Access Statement. *                                   | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> N/A |
| A Flood Risk Assessment. *   | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> N/A |
| A Drainage Impact Assessment (including proposals for Sustainable Drainage Systems). * | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> N/A |
| Drainage/SUDS layout. *  | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> N/A |
| A Transport Assessment or Travel Plan  | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> N/A |
| Contaminated Land Assessment. *  | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> N/A |
| Habitat Survey. *  | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> N/A |
| A Processing Agreement. *  | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> N/A |

Other Statements (please specify). (Max 500 characters)

## Declare – For Application to Planning Authority

I, the applicant/agent certify that this is an application to the planning authority as described in this form. The accompanying Plans/drawings and additional information are provided as a part of this application.

Declaration Name: Mr Kevin Duguid

Declaration Date: 09/02/2017

## Payment Details

Cheque: Wine Raks (Scotland) Ltd, 007596

Created: 23/02/2017 09:53

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## Supporting Statement - 12 St Swithin Street

Permission is sought for the erection of a timber enclosure to the front of the premises in order to facilitate an outdoor seating area for the café that operates out of 12 St Swithin Street.

The existing pavement level will be maintained with the enclosure 900mm high. The enclosure has been constructed with router MDF panels, stained dark grey, incorporating individual silver lettering of the café.

The enclosure measures 5.6m in length by 2.3m in depth, having a footprint of 13sqm. The deck sits at the back of the pedestrian footpath line and 2.5m in front of the café's front elevation.

The application site is situated within a Residential Area as zoned on the ALDP Proposals Map. The use of the premises as a café is already established. The enclosed area can only accommodate a small number of people and the hours of operation for the café do not extend beyond 9.00pm. The coffee shop nature of the property means that it is unlikely to result in significant levels of noise pollution from people using the outdoor seating area as might be expected from a similar area serving customers of a licensed premises. Furthermore, it is likely that the seating area would predominantly be used during daylight hours and in good weather so despite the opening hours, it may be that for several months of the year, the area is not used at all in the evenings. Therefore it is considered that the addition of the outdoor seating area does not have a significant detrimental impact on the existing residential amenity of the area.

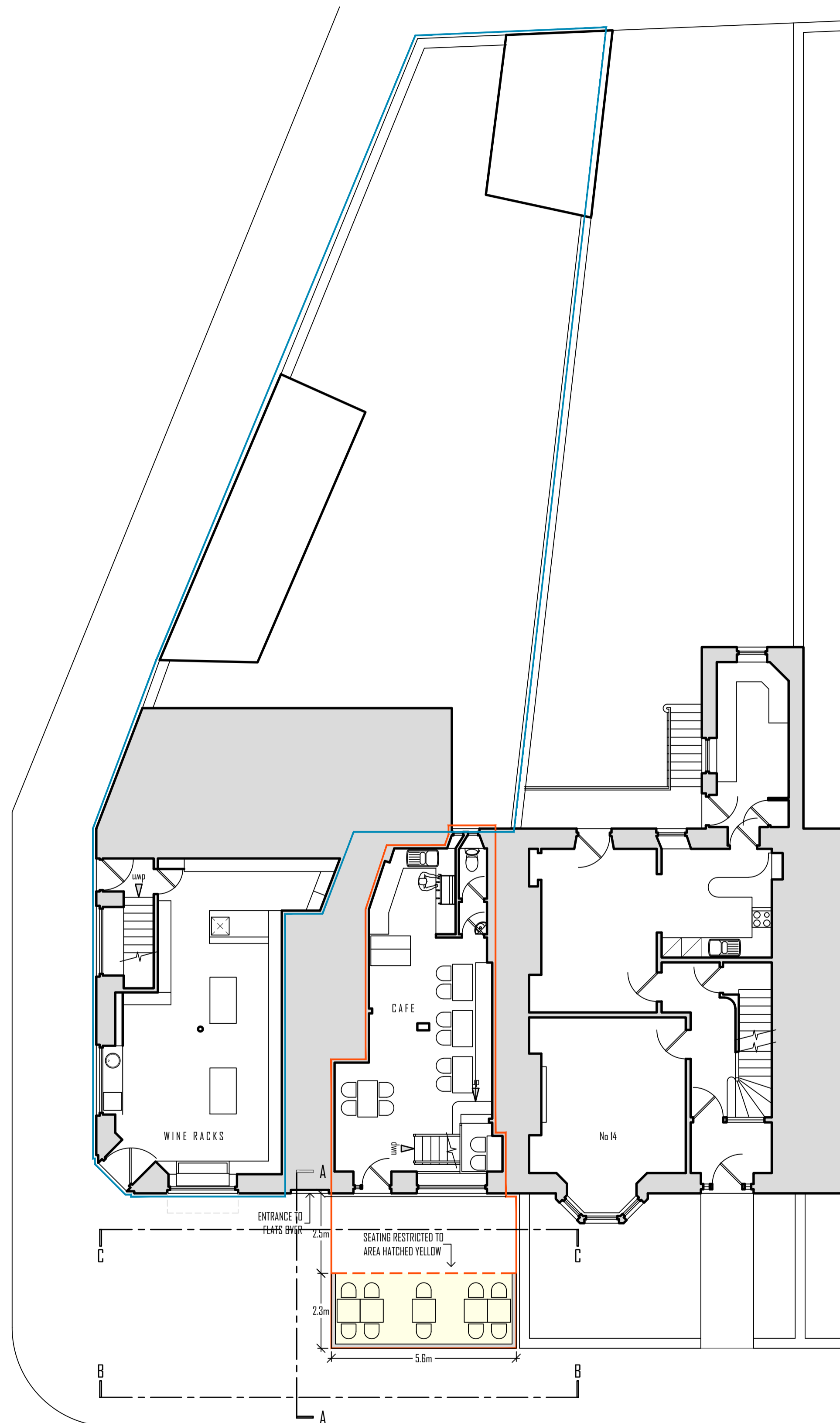
### Pedestrian safety

The paved area on which the enclosure sits does not overhang or interfere with the use of the adjacent public pedestrian footpath. It is therefore considered that the works do not have an impact on pedestrian safety.

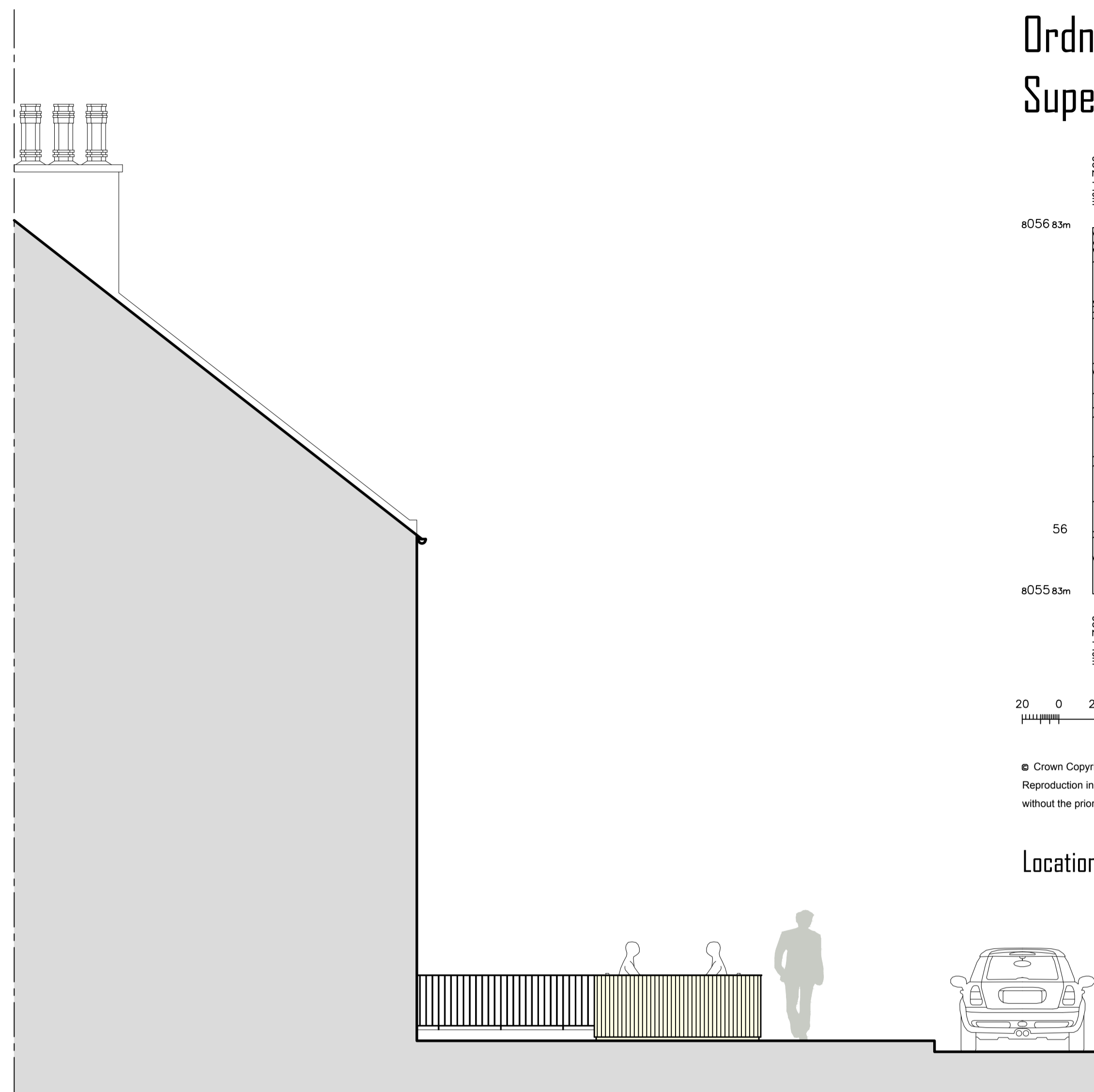
### Design and impact on the conservation area

The enclosure has been designed to be low level and discreet with respect to scale and siting. The enclosure area sits well within the previously empty space between the building's front elevation and the adjacent public footpath and it does not have a detrimental impact on the visual character of the conservation area, in accordance with SPP, SHEP and subsequently Policy D5 (Built Heritage) of the ALDP.

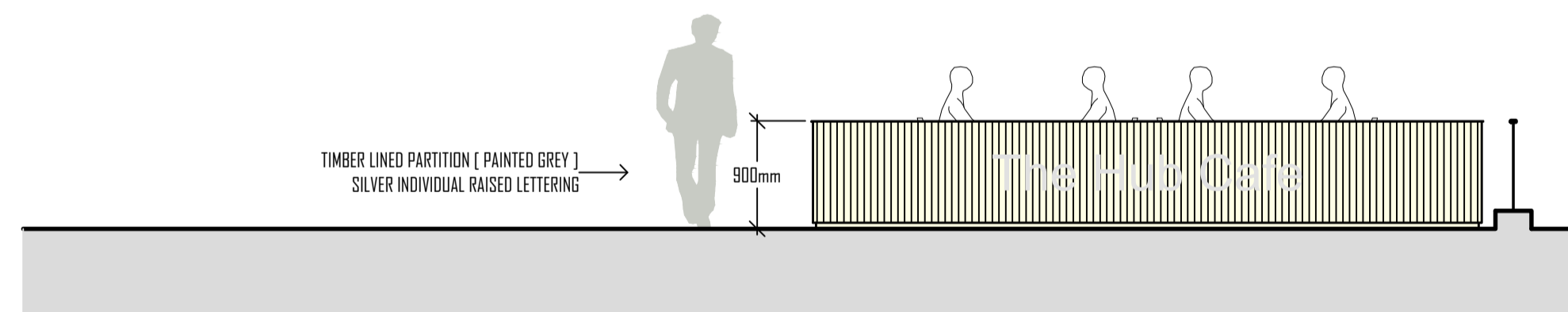
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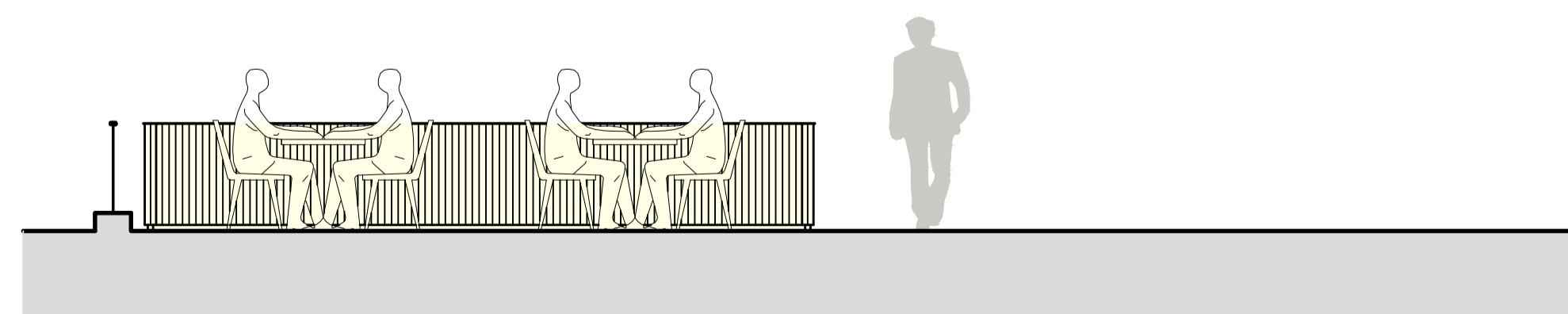
PROPOSED GROUND FLOOR PLAN



PAVEMENT CAFE SCREEN NORTH ELEVATION-02 [ SECTION AA ] 1:50

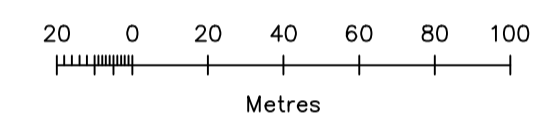
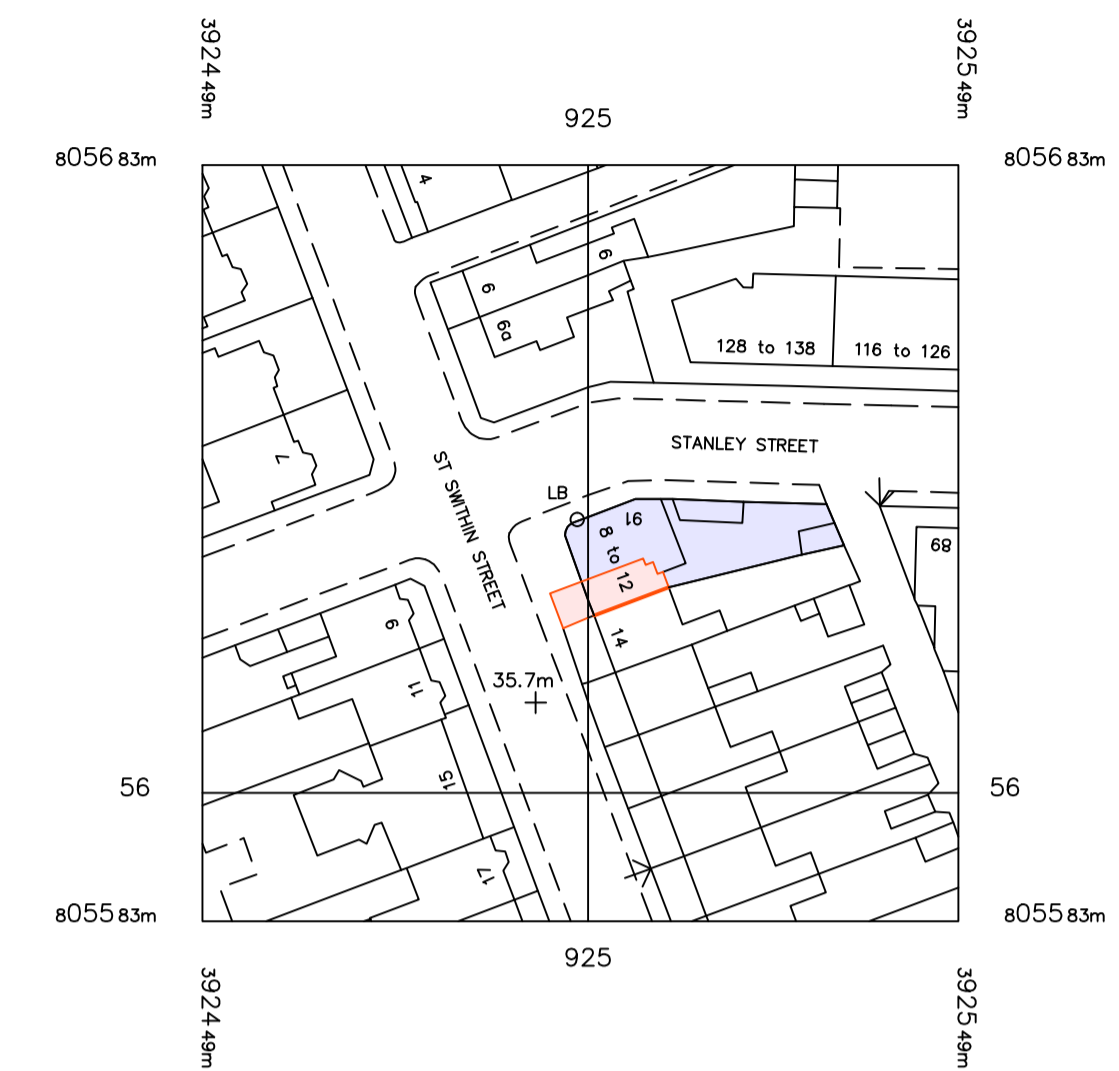


PAVEMENT CAFE SCREEN SECTION BB 1:50



PAVEMENT CAFE SCREEN SECTION CC 1:50

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Location Plan [ scale 1 : 1000 ]

FITZGERALD ASSOCIATE

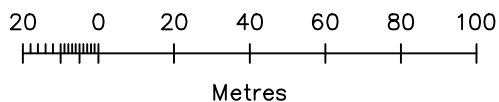
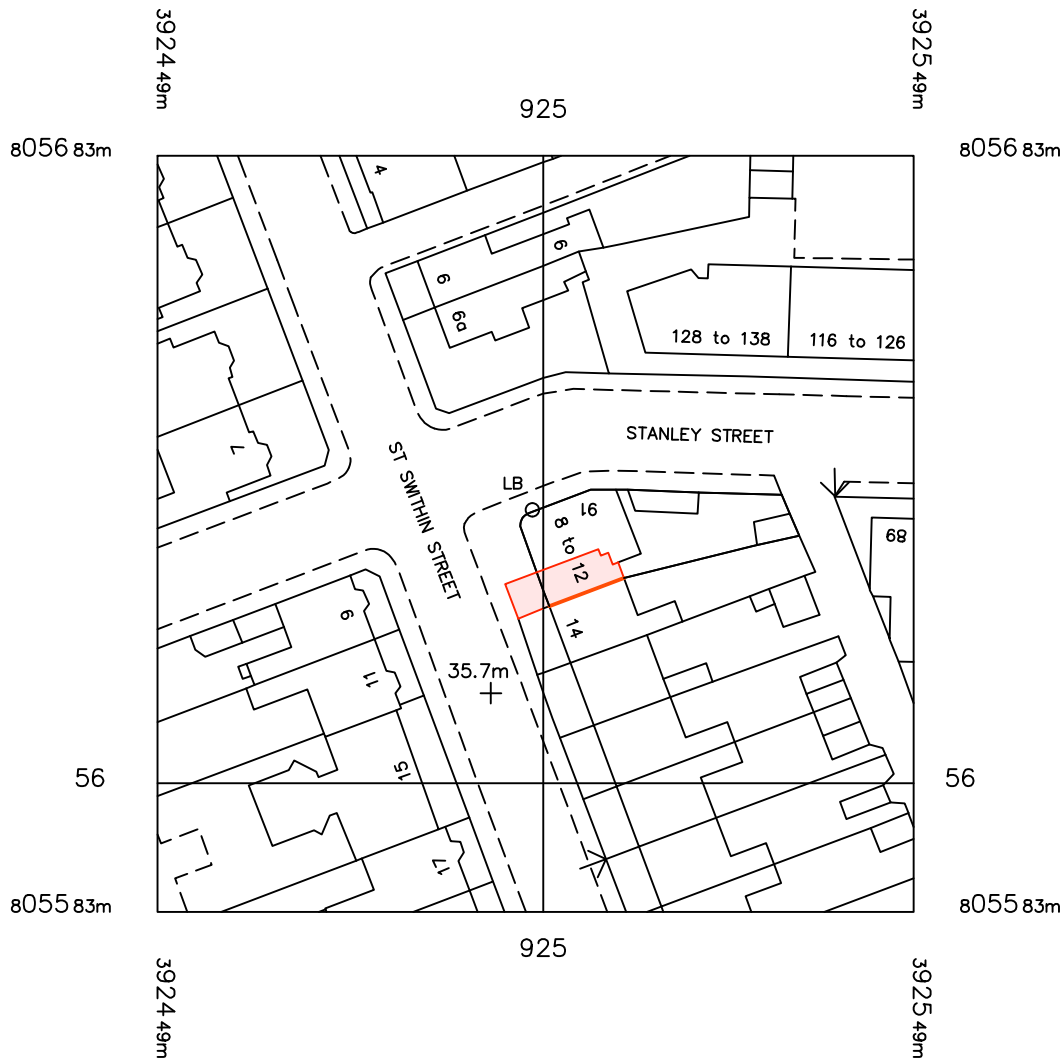
ARCHITECTURAL + INTERIOR DESIGNERS  
53 ALBERT STREET ABERDEEN AB25 1XT  
+44 (0)1224 633375  
info@fitzgeraldassociates.co.uk



Client :	Mr. Tariq Mahmood	
Project :	Pavement Cafe - The Hub 12 St Swithin St Aberdeen AB10 6XD	
Description :	Planning Details Proposed Plans	
Drawn By :	Scale :	Date :
<i>Kara Duquid</i>	A1 - 1-100	Jan 2017
Project No :	Drawing No :	Rev :
3720	102	A

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Location Plan [ scale 1 : 1000 ] 

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