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## APPLICATION DETAILS

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<b>Application No:</b>	24/0307/VAR
<b>Location:</b>	Land at Grey Towers Farm, Nunthorpe, Middlesbrough
<b>Proposal:</b>	Variation of Condition 1 (Approved Plans) on application 20/0028/VAR to include the installation of PV Panels to roof, extraction flue, EV charging points and removal of chimney (part retrospective)
<b>Applicant:</b>	Mitchells and Butlers Leisure Retail Ltd
<b>Agent:</b>	John Wyatt, JW Planning Limited
<b>Ward:</b>	Nunthorpe
<b>Recommendation:</b>	Approve with conditions

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## SUMMARY

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The application site is the new Miller and Carter restaurant/bar located west of the Poole roundabout. Residential properties are located to the north, south and west of the site.

This application seeks to vary the approved plans to gain consent retrospectively for the erection of solar panels on the roof, the removal of a chimney originally located on the side elevation of the approved plans and the erection of a flue. Permission is also sought for electric vehicle charging points in the car park with associated works.

Following a consultation exercise objections were received from two residents, the Parish Council and a Ward Councillor. The objections relate to the appearance of the proposed flue and the impact on residents from odours.

The proposed changes to the approved development do not have a detrimental impact on the design quality of the building or its surrounding car park and landscaped setting. The changes do not result significant harm to the visual amenity of the area or harm the character and appearance of the conservation area. Nor do they result in harm to the amenities of nearby residential properties.

The development is considered to be acceptable, in accordance with the requirements of policies DC1, CS4 and CS5.

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## SITE AND SURROUNDINGS AND PROPOSED WORKS

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The site is located to the west of the Poole roundabout in Nunthorpe. To the north and south of the site are existing residential dwellings, and to the west is Grey Towers Farm House. The land to the south and west of the site is within the Nunthorpe Conservation Area.

Permission has been granted for the erection of public house/restaurant and associated external areas, boundary treatment/landscaping and car parking/access. The works on site are now complete and the use has commenced.

This application seeks to vary the approved plans to gain consent retrospectively for the erection of solar panels on the roof, the removal of a chimney originally located on the side elevation of the approved plans and the erection of a flue. Permission is also sought for electric vehicle charging points in the car park with associated works.

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## PLANNING HISTORY

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20/0028/VAR – Variation of condition 2 (Approved Plans) on application 17/0129/VAR to include extension of internal floor area under approved canopy at front, 2no. additional windows on side elevation and reduction of floor area at rear.  
Approved with Conditions 16th March 2020

17/0129/VAR

Variation of condition no 2 on previously approved planning application M/FP/0210/14/P including changes to the elevations and layout.  
Approve with Conditions 17th July 2017

M/FP/0822/14/P

Deletion of previous condition 11 (opening hours only between 11am to 11pm Monday - Sunday, bank holidays/public holidays) and replacement with 'The use hereby approved shall not be open to customers outside of the hours of 11am to 00:30am Monday to Sunday, bank holidays/public holidays'.

Approve with Conditions 21st October 2014

M/FP/0821/14/P

Deletion of previous condition 10 (deliveries only between 8am to 7pm Mon - Sat, 9.30am to 06.30pm, Sunday and not bank holidays/public holidays) and replacement with 'No deliveries shall be taken or despatched from the premises outside the hours of 8:00am to 7:00pm Monday to Saturday and 10.00am to 6:30pm on Sundays, Bank Holidays or public holidays.'

Approve with Conditions 21st October 2014

M/FP/0210/14/P

Erection of public house/restaurant with ancillary residential use at first floor and associated external areas, boundary treatment/landscaping and car parking/access

Approve with Conditions 27th May 2014

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## PLANNING POLICY

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In accordance with Section 38(6) of the Planning and Compulsory Purchase Act 2004, Local Planning Authorities must determine applications for planning permission in accordance with

the Development Plan for the area, unless material considerations indicate otherwise. Section 143 of the Localism Act requires the Local Planning Authority to take local finance considerations into account. Section 70(2) of the Town and Country Planning Act 1990 (as amended) requires Local Planning Authorities, in dealing with an application for planning permission, to have regard to:

- The provisions of the Development Plan, so far as material to the application
- Any local finance considerations, so far as material to the application, and
- Any other material considerations.

#### Middlesbrough Local Plan

The following documents comprise the *Middlesbrough Local Plan*, which is the Development Plan for Middlesbrough:

- Housing Local Plan (2014)
- Core Strategy DPD (2008, policies which have not been superseded/deleted only)
- Regeneration DPD (2009, policies which have not been superseded/deleted only)
- Tees Valley Joint Minerals and Waste Core Strategy DPD (2011)
- Tees Valley Joint Minerals and Waste Policies & Sites DPD (2011)
- Middlesbrough Local Plan (1999, Saved Policies only) and
- Marton West Neighbourhood Plan (2016, applicable in Marton West Ward only).
- Stainton and Thornton Neighbourhood Plan (2022)

#### National Planning Policy Framework

National planning guidance, which is a material planning consideration, is largely detailed within the *National Planning Policy Framework* (NPPF). At the heart of the NPPF is a presumption in favour of sustainable development (paragraph 11). The NPPF defines the role of planning in achieving economically, socially and environmentally sustainable development although recognises that they are not criteria against which every application can or should be judged and highlights the need for local circumstances to be taken into account to reflect the character, needs and opportunities of each area.

For decision making, the NPPF advises that local planning authorities should approach decisions on proposed development in a positive and creative way, working pro-actively with applicants to secure developments that will improve the economic, social and environmental conditions of the area and that at every level should seek to approve applications for sustainable development (paragraph 38). The NPPF gives further overarching guidance in relation to:

- The delivery of housing,
- Supporting economic growth,
- Ensuring the vitality of town centres,
- Promoting healthy and safe communities,
- Promoting sustainable transport,
- Supporting the expansion of electronic communications networks,
- Making effective use of land,
- Achieving well designed buildings and places,
- Protecting the essential characteristics of Green Belt land
- Dealing with climate change and flooding, and supporting the transition to a low carbon future,
- Conserving and enhancing the natural and historic environment, and

- Facilitating the sustainable use of minerals.

The planning policies and key areas of guidance that are relevant to the consideration of the application are:

DC1 - General Development, CS5 - Design, CS4 - Sustainable Development

The detailed policy context and guidance for each policy is viewable within the relevant Local Plan documents, which can be accessed at the following web address.  
<https://www.middlesbrough.gov.uk/planning-and-housing/planning/planning-policy>

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## CONSULTATION AND PUBLICITY RESPONSES

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Following a consultation exercise objections were received from two residents. The comments are summarised below:

- A large stainless steel chimney stack extends above the gutter level of the roof and is visible from the road, pathways and from my house;
- Stainless steel chimney is not in keeping with the building or the surrounding homes;
- Odour issues, extracts odours up to 90% but this could be less depending on age and maintenance;
- The chimney is not shown on the submitted documents;
- I am not allowed to put a satellite dish to the front of my house;
- Drawings state chimney stack omitted. This is misleading;
- Residents weren't consulted; and,
- Details of the vent system and chimney were only added to the plans later, residents should have known about it earlier and before it was erected.

The comments were received from:

- 28 Cotcliffe Way
- 30 Cotcliffe Way

### Nunthorpe Parish Council

Nunthorpe Parish Council object to this variation regarding Chimney removal as can see no reference or diagram indicating a chimney on original and variation applications, that is now proposed to remove. The only reference to the chimney is in the application variation title itself.

On visiting the site, a stainless steel chimney/vent is in place, visible to some of the properties on Cotcliffe Way, opposite.

Although looking at the floor plans this appears to be in the area of the kitchen. The vent is not in keeping with the overall design of the premises and impacts on neighbouring properties.

### Ward Councillor Morgan McClintock

I wish to register an objection to planning application 24/0307/VAR – Land at Grey Towers Farm, Nunthorpe.

My concern is that I can find no mention of a steel vent, which has already appeared on the Miller and Carter building, in the documentation or the elevations attached to this application.

This is very disappointing because the vent looks totally out of place in an otherwise acceptable construction. This has been brought to my attention by some residents who object to having to look at this vent. They are also concerned whether they can be assured that its purpose will adequately deal with odours if the ventilation system is not precisely identified in the plans - as implied by the absence of the vent from the published elevations.

On a related point, I am surprised by the eccentric list of neighbours consulted about the application. Whereas some of those who directly face the building have been omitted, households which are nowhere near the site have been included. I would be grateful for additional circulation to all residents facing the new building.

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## PLANNING CONSIDERATION AND ASSESSMENT

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1. During the application process revised details were received which included the proposed flue, the revised details were supported by additional information relating to the extraction system. As a result of the additional information the description was amended and further consultations sent out (including consultations to residents who were not originally consulted). The revised details are the subject of this report.

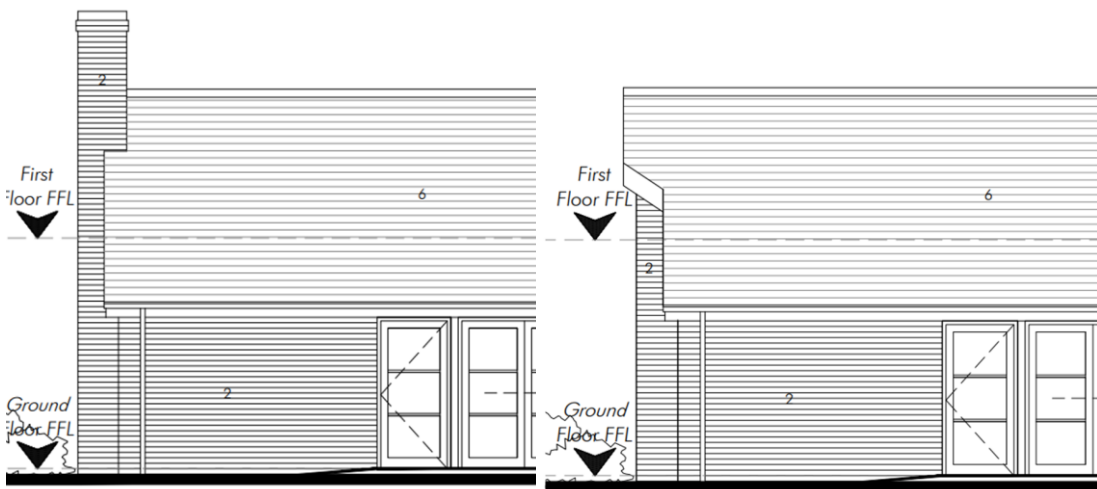
### Design and Appearance

#### Solar Panels

2. The solar panels have been erected on a number of roof slopes primarily to the rear and sides of the building. The panels that are located on the flat roof are not visible due to the design of the roof as it sits below adjacent roof slopes. The solar panels are almost flush with the roof slopes. Whilst the solar panels are visible on the roof slopes, those that sit on slopes that have black tiles are not as visible as those that sit on slopes with red tiles.
3. The solar panels are not considered to be dominating in their appearance and blend in well with the design of the building which consists of red and black tiles, red bricks, black cladding, some cream render, black fenestration and black fence panelling between red pillars. The black solar panels sitting on red tiles, whilst more visible, are consistent with the red and black character of the building.

#### Removal of Chimney

4. Some comments relate to the fact that the application seeks consent for the removal of a chimney, with some comments stating there was no chimney on the approved plans. The approved development included a chimney on the east elevation. The images below clearly show the chimney that was approved and the images of the building as it has been built without the chimney stack.



Approved Elevations

Proposed Elevations

- The loss of the chimney is not considered to result in a significant change to the appearance of the building and does not result in any notable reduction in the design quality of the development.

#### Flue

- The original consent in 2014 included details of the design intent for the ventilation system which set out the principles for the ventilation system including a flue projecting 1m above the roof line which complied with relevant DEFRA guidelines and risk assessments for odour. The information submitted was considered to be acceptable for the development when assessed in relation to the proposed use and the separation distances to residential properties. The statement of design for the kitchen ventilation system has been available to view online since the submission of the original application in 2014 and has been detailed on all decision notices for applications on this site.
- The current application has provided final details of the extraction system and the flue. The flue projects approximately 1.75m above the ridge line of the roof it protrudes from and 0.55m above the eaves line of the of the roof on the two-storey

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part of the building which it is positioned immediately adjacent to. The flue sits 3.4m lower than the ridge line of the two-storey element of the building.

8. As a result of its position immediately adjacent to the two-storey element of the building, and the varying roof heights and styles of the building. The flue is seen amongst the various roof heights, against the backdrop of the building and roof slopes, and against the backdrop of the large trees located to the rear of the site. The flue has been painted black which enables it to blend in with the roof and trees significantly reducing its visibility when viewed around the building particularly when viewed from Cotcliffe Way. As a result of its position and colour the flue is not considered to be a dominating feature and does not detract from the high quality appearance of the building.

#### Electric Vehicle Charging Points

9. The two EV charging points are typical in design being approximately 2m high by 0.76 wide and a depth of 0.33m with a light grey finish, central control panel and a hoses located on either side of the unit. The EV charging points allow for two electric vehicles to be charged from each unit. The units are located in the car park set towards the rear of the car park along the southwest boundary against the backdrop of the high hedge and trees which separate the side from the bridleway.
10. The application site is on a higher ground level to the highway which provides access from the Poole Roundabout along Cotcliffe Way. The combination of the higher ground level and the position of the EV units at the rear of the site means that the units are not overly visible when travelling along Cotcliffe Way.

#### Conservation Area

11. The conservation area is located to the rear of the site running along the bridleway and encompasses Grey Towers Farm. The impact of the building on the character and appearance of the conservation area was assessed in detail as part of the original applications at the site. The proposed changes are not considered to significantly alter the appearance of the building or the design quality. They are generally located on the building and do not alter the landscaped setting around the building which provides a buffer to the conservation area. As a result they are not considered to result in a negative impact on the conservation area.

#### Design and Appearance Conclusion

12. For the reasons set out above it is the planning view that the proposed solar panels, flue, EV units and removal of the chimney previously approved, will not have a detrimental impact on the design and appearance of the development. They will not detract from the quality of the development or the visual amenity of area or the character and appearance of the conservation area. The development is considered to be in accordance with the requirements of policies CS4 and CS5.

### **Amenity**

13. Objections have been received from residents in relation to possible odours from the flue. As stated above the original consent considered in principle the details of the design intent for the ventilation system which complied with relevant DEFRA guidelines and risk assessments for odours. This application has provided final details of the extraction system and the flue which are in line with the principles previously approved and relevant guidance.

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14. The closest residential properties to the flue are located approximately 70m away. The objections were received from properties approximately 80m away. The extraction system, together with the significant separation distances to dwellings will reduce impact on the amenities of residents as a result of odours from the venue.
15. It is noted that residents have commented on the possibility that odours would increase if the extraction system is not maintained. This matter is controlled by Environmental Health through other legislation outside planning control. If this application is approved an informative would be placed on the permission to advise the applicant to maintain the extraction system in line with manufacturers guidelines.
16. The proposed development is considered to be in accordance with the requirements of policy DC1 in this regard.

### **Other Matters**

17. During the application process comments received raise the issue that a number of residents on Cotcliffe Way had not been consulted. This was due to an issue with the IT system which has now been rectified. A further consultation was carried out giving all residents 3 weeks to comment in line with statutory requirements.
18. Details of the flue were added to the application following comments raised by residents which referred to its erection on site. While it is regrettable that the applicant carried out the works on site before applying for permission, and it is appreciated that this can be frustrating for residents. Planning legislation does allow for applicants to seek consent retrospectively. This application seeks retrospective consent for the flue, the removal of the chimney stack and for the solar panels that have been erected. No comments have been received from residents in objection to the solar panels being erected without consent. The fact that the application seeks consent for works that are in part retrospective is not a reason to refuse the application.

### **Conclusion**

19. The proposed changes to the approved development do not have a detrimental impact on the design quality of the building or its surrounding car park and landscaped setting. The changes do not result significant harm to the visual amenity of the area or harm the character and appearance of the conservation area. Nor do they result in harm to the amenities of nearby residential properties.
20. The development is considered to be acceptable, in accordance with the requirements of policies DC1, CS4 and CS5.

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## **RECOMMENDATIONS AND CONDITIONS**

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1. Approved Plans  
The development hereby approved shall be carried out in complete accordance with the plans and specifications detailed below and shall relate to no other plans:
  - a) Location Plan – Planning, drawing no. 912 505;
  - b) Planning Drawing Proposed Site Plan, drawing no. MAB15 AP01 rev. H;



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- c) Planning Drawing Proposed Elevations, drawing no. MAB15 AP05 rev. B;
- d) Planning Drawing Proposed Elevations, drawing no. MAB15 AP06 rev. B;
- e) Planning Drawing Proposed Ground and First Floor Plans, drawing no. MAB15 AP02 rev. C;
- f) Planning Drawing Proposed Roof Plan, drawing no. MAB15 AP03 rev. C;
- g) Kitchen Extract, UV-0 Range, 500/1000, received 12th September 2024;
- h) ValkPVplanner Project Report, reference no. MAB-Nunthorpe dated 05-02-2024;
- i) GSE In-roof System Battening Plans for Landscape and Portrait Frames V3.0, received 20th August 2024;
- j) Generic Design VR13 Earthing Arrangement (200A Supply), drawing no. ULF-0001 Sheet 1 V1 rev. P3;
- k) Ingeteam Rapid 60 Installation and Operation Manual, reference no. 300000772 10/2023;
- l) Service/Delivery Noise Impact Assessment, report no. P17-239-R01v1;
- m) Landscape Maintenance Requirements, reference no. C01, rev. 1 dated 29-09-23;
- n) Proposed Landscape Plans – New Build, drawing no. Nunth rev. D;
- o) External Lighting – Layout, drawing no. P186-1041-B; and,
- p) Schedule of Proposed Materials, reference no. MAB15.

Reason: For the avoidance of doubt and to ensure that the development is carried out as approved.

2. Fixed Plant and Machinery

Before any fixed plant and machinery, including refrigeration and air conditioning equipment, is used on the premises it shall be installed and maintained so as to minimise the transmission of airborne and structure-borne sound in accordance with the Noise Impact Assessment Report No. 22121.01v1, dated January 2014.

Reason: To ensure a satisfactory form of development

3. Deliveries

No deliveries shall be taken or despatched from the premises outside the hours of 8:00am to 7:00pm Monday to Saturday, 9:30am to 6:30pm Sundays nor at any time on Bank holidays or Public Holidays

Reason: In the interests of the amenity of the area.

4. Opening Hours

The use hereby approved shall not be open to customers outside the hours of 11:00am to 00:30am Monday to Sunday, Bank Holidays and Public Holidays

Reason: In the interests of the amenity of the area.

5. Replacement Tree Planting

If within a period of five years from the date of the planting of any tree that tree, or any tree planted in replacement for it, is removed, uprooted or destroyed or dies, or becomes, in the opinion of the local planning authority, seriously damaged or defective, another tree of the same species and size as that originally planted shall be planted at the same place, unless the local planning authority gives its written consent to any variation.

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Reason: In the interests of the general amenities of the area.

6. Hedges or Hedgerows

All hedges or hedgerows on the site unless indicated as being removed shall be retained and protected on land within each phase in accordance with details submitted to and approved in writing by the local planning authority for the duration of works on land within each phase unless otherwise agreeing in writing by the local planning authority. In the event that hedges or hedgerows become damaged or otherwise defective during such period the local planning authority shall be notified in writing as soon as reasonably practicable. Within one month a scheme of remedial action, including timetable for implementation shall be submitted to the local planning authority. The approved scheme shall be implemented in accordance with the approved timetable. Any trees or plants which within a period of 5 years from the date of planting, die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.

Reason: To ensure avoidance of damage to existing hedgerows and natural features during the construction phase, to enable the development to integrate into the landscape.

7. Noise Assessment

The development shall be carried out in full accordance with the details and specifications within the Servicing/Delivery Noise Impact Assessment report No. P17-239-R01v1 May 2017 including the erection of the acoustic fence to the rear yard which shall be constructed and maintained on site.

Reason: To ensure a satisfactory form of development and in the interests of the amenities of residents.

### Reason for Approval

This application is satisfactory in that the variations to the design of the building and associated works (including the removal of a chimney stack, erection of solar panels, a flue and electric vehicle charging points) accords with the principles of the National Planning Policy Framework (NPPF) and, where appropriate, the Council has worked with the applicant in a positive and proactive way in line with paragraphs 186-187 of the NPPF. In addition the public house accords with the local policy requirements (Policies DC1, CS4, and CS5 of the Council's Local Development Framework).

In particular the variations and associated works are designed so that their appearance is complementary to the surrounding residential area and so that it will not have a detrimental impact on the amenity of any adjoining or nearby residents. The variations and associated works will be consistent with the rural setting and will not prejudice the appearance of the area. The variations and associated works do not significantly affect any landscaping nor prevent adequate and safe access to the residential area.

The application is therefore considered to be an acceptable form of development, fully in accordance with the relevant policy guidance and there are no material considerations, which would indicate that the development should be refused.

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## INFORMATIVES

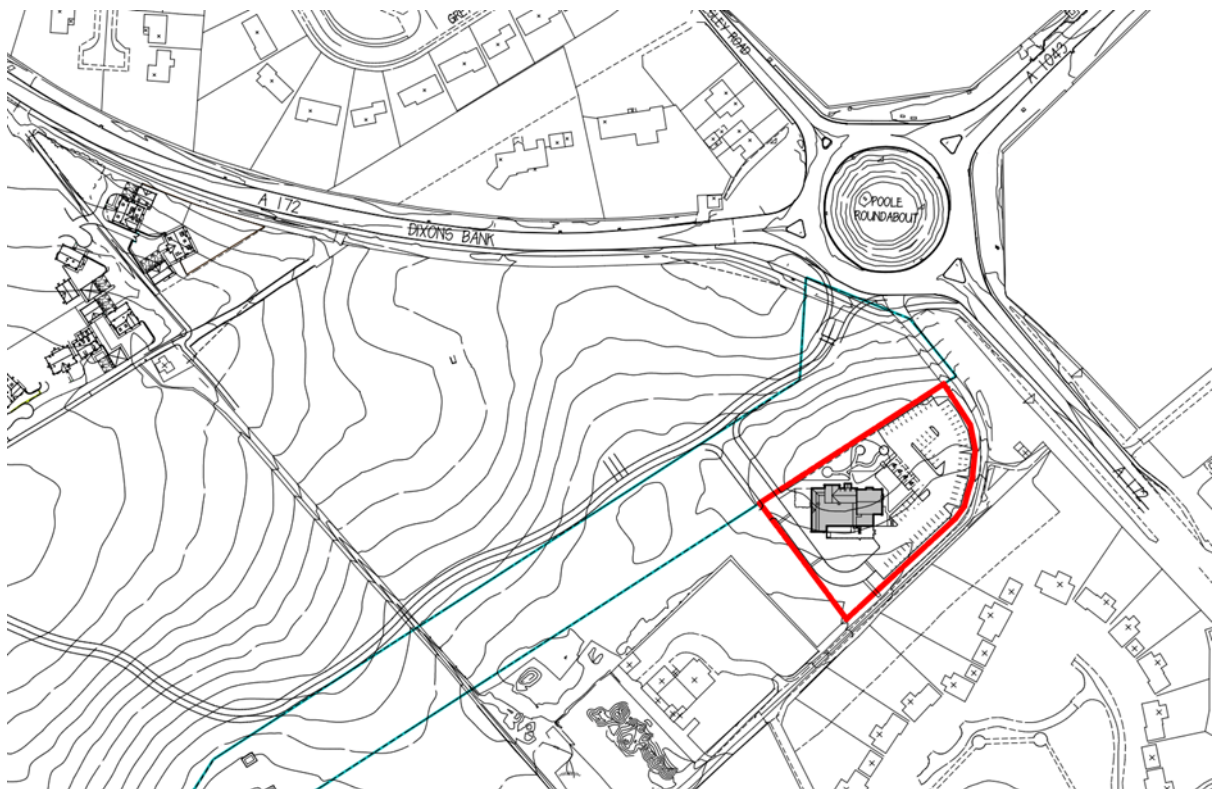
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- The extraction system, including the flue, should be maintained in accordance with the manufacturers guidelines.

Case Officer: Shelly Pearman

Committee Date: 10<sup>th</sup> October 2024

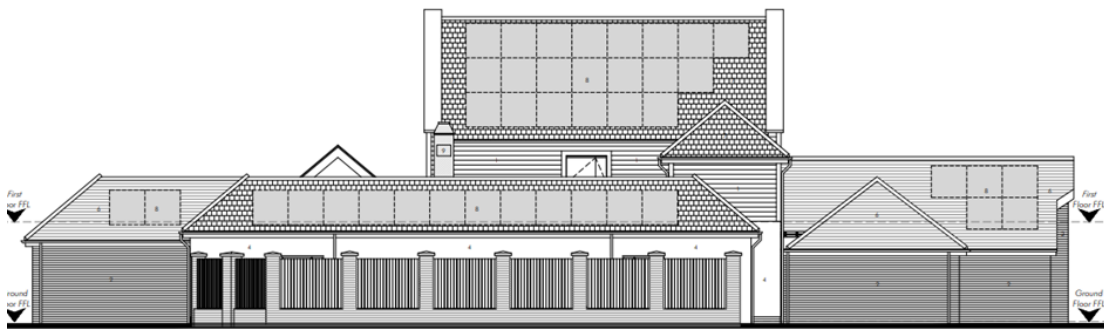
### Location Plan



Elevations



PROPOSED FRONT (NORTH) ELEVATION



PROPOSED FRONT (SOUTH) ELEVATION



PROPOSED FRONT (EAST) ELEVATION



PROPOSED FRONT (WEST) ELEVATION