

Application Number:	2022/0608	Application Type:	Full
Proposal:	Change of use from Motorcycle showroom and retail at first floor to ground floor cafe and retail to upper floor	Location:	801 Burnley Road Crawshawbooth Rossendale
Report of:	Head of Planning and Building Control	Status:	Delegated Report
Report to:	Development Control Committee	Date:	16/01/2024
Applicant:	Wing Lui	Determination Expiry Date:	19/01/2024
Agent:	Omar Sharif		

Contact Officer:	Claire Bradley	Telephone:	01706 238636
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REASON FOR REPORTING	
Outside Officer Scheme of Delegation	No
Member Call-In Name of Member: Reason for Call-In:	No
3 or more objections received	No
Other (please state):	Significant public support and recommended for approval contrary to Highways advice

HUMAN RIGHTS

The relevant provisions of the Human Rights Act 1998 and the European Convention on Human Rights have been taken into account in the preparation of this report, particularly the implications arising from the following rights:

Article 8

The right to respect for private and family life, home and correspondence.

Article 1 of Protocol 1

The right of peaceful enjoyment of possessions and protection of property.

1. RECOMMENDATION

Approval with conditions

APPLICATION DETAILS

2. SITE

This application relates to a 2-storey building situated on the corner of Burnley Road (A682) and Goodshaw Avenue. The premises were used for many years for the display and sale of motorbikes at ground floor with retail sales of parts at first floor, although it has been vacant for over 8 years.

The building is of stone/slate construction and has a shopfront/fascia sign that extends the length of the front elevation and part way down the northern gable. It has a floor area of 223sqm, the ground floor 25sqm larger than the first-floor by reason of the 1-storey addition occupying half of the rear yard.

The rest of the properties in the terrace are in residential use, as too are the properties to the other side of Goodshaw Avenue and beyond the private road running to the rear of the terrace. To the opposite side of the main road is the former Jester public house, now converted to a funeral directors.

Double yellow lines extend to the front and side of the terrace that the application building forms part of and also to the front and side of the terrace to the opposite side of Goodshaw Avenue.

The longstanding vacancy of the building has resulted in its appearance deteriorating significantly.

The application building and those in the vicinity are located within the Urban Boundary.

3. RELEVANT PLANNING APPLICATION HISTORY

2005/0649A: Proposed advertisements - Approved

2016/0474: Change of use from motorcycle store to convenience store (A1) – Refused

2019/0354: Full: Conversion from motorcycle showroom to Class A3 restaurant and A4 drinking establishment with first-floor flat, including external flue and 2 storey extension to the rear - Withdrawn

4. PROPOSAL

This proposal is for the conversion of the existing building to a café on the ground floor and a retail store on the first floor.

The proposed floor plan shows the layout of the café which will include tables, easy chairs, children's play area and a service counter, with food preparation area, toilets and an ancillary offices. The elevation plans show the shop front reinstated.

The existing layout at first floor level remains unchanged.

The proposed café will operate every day of the week with maximum opening hours of 7:30am to 9:00pm, although the core of hours will be between 8:00am and 6:00pm.

5. POLICY CONTEXT

National Planning Policy Framework (NPPF)

Section 2	Achieving sustainable development
Section 4	Decision-making
Section 6	Building a strong, competitive economy
Section 7	Ensuring the vitality of town centres
Section 9	Promoting sustainable transport
Section 12	Achieving well-designed places

Development Plan Policies

Rossendale Local Plan 2019 to 2036

Strategic Policy SS: Spatial Strategy
 Strategic Policy SD1: Presumption in Favour of Sustainable Development
 Strategic Policy SD2: Urban Boundary and Green Belt
 Strategic Policy R1: Retail and Other Town Centre Uses
 Strategic Policy ENV1: High Quality Development in the Borough
 Policy TR4: Parking (including Appendix 1: Parking Standards)

Other Material Considerations

National Planning Practice Guidance
 National Design Guide

6. CONSULTATION RESPONSES

Consultee	Summary of Comments
Environmental Health	<p>In relation to the application for cafe at ground floor and retail at 1st floor we recommend that the acoustic treatment as detailed in the conclusion of the AB Acoustics report dated Oct 2019 is carried out to minimise noise transmission to the adjoining property.</p> <p>We also recommend that a scheme for the control of cooking odours and fan noise from the premises shall be submitted to and agreed in writing by the Local Planning Authority.</p> <p>Before the use hereby approved is commenced, the agreed scheme shall be implemented and thereafter retained.</p> <p>Also that the standard daytime hours of working condition is attached</p>
LCC Highways	Object to the development on highway safety grounds

7. REPRESENTATIONS

To accord with the General Development Procedure Order, consultations were posted out on 06/04/2023 and a site notice was posted on 19/04/2023.

69 signatures on a letter of support and 2 objections have been received for the application.

The objections relate to:

- the impact from the opening hours on residential amenity,
- parking,
- smells from bins in the rear yard,
- food odours
- not in keeping with the area
- effect on neighbouring property
- traffic issues
- unsociable opening hours
- incompatible with the local context

8. ASSESSMENT

The main considerations in this case are as follows:

- 1) Principle;
- 2) Visual Amenity;
- 3) Neighbour Amenity;
- 4) Access, Parking and Highway Safety

Principle

Policy R1 relates to retail and other town centre uses, and sets the retail hierarchy for the Borough. Where Class E uses are proposed outside the identified centres, a sequential test is required.

The sequential test submitted with the application confirms that there are no other more suitable or available properties in the Crawshawbooth local centre and is considered acceptable in this case – officers have no reason to disagree with the findings.

The principal of the change of use of the ground floor to Class E is acceptable.

Visual amenity

Policy ENV1 of the Rossendale Local Plan also adds:

“All proposals for new development in the Borough will be expected to take account of the character and appearance of the local area, including the following criteria:

a) Siting, layout, massing, scale, design, materials, lighting, building to plot ratio and landscaping;

b) Safeguarding and enhancing the built and historic environment”

Due to longstanding vacancy the application site is in a poor condition. The proposed plans shows the shop front reinstated and both the first and second floors brought back into use, with the ground floor operating as a café and the first floor for retail.

The renovations and bringing back into use of this property that has been vacant for many years will provide a significant visual benefit to the property, the surrounding properties and to the surrounding area.

In terms of visual amenity the development is acceptable and in accordance with Policy ENV1 and the Rossendale Local Plan.

Neighbour Amenity

Policy ENV1 states that:

All proposals for new development in the Borough will be expected to take account of the character and appearance of the local area, including, as appropriate, each of the following criteria:

c) Being sympathetic to surrounding land uses and occupiers, and avoiding demonstrable harm to the amenities of the local area;

The proposed development retains the retail use at first floor, and is proposing a café use at ground floor. The proposed opening hours are 7:30am to 9:00pm, although the core hours will likely be between 8:00am and 6:00pm.

The building currently has the potential to operate as a motor cycle showroom and retail use between the hours of 8am to 6pm Monday to Friday and 9 am to 5.30pm Saturday and Sunday, which is its lawful use.

The submitted noise assessment concludes as follows:

Conclusions and Recommendations

The external noise level was measured at the proposed site and to the rear of the premises the lowest noise level was recorded at LA eq = 37.9 dBA with the lowest background level being 32.3 dBA.

At the front (Burnley Road) the lowest La eq = 59.4 dBA and the background 47.8 dBA These levels were used to determine the acoustic mitigation measures for the external noise.

Recommendations

- *If possible the extract fan is fitted internally within the kitchen*
- *If it is mounted externally then any duct work should be lagged with suitable sound barrier material.*
- *Flexible connectors are used at all joints*
- *If the fan is external then it will need to be acoustically treated.*
- *That the kitchen extract system is fitted with a 2D podded silencer*

Internally the lay out is as detailed on the attached drawings

- *The party wall between the neighbouring residential property and 801 must be treated as detailed*
- *The Ground Floor ceiling must be treated as detailed*

- *The First Floor must be treated as detailed*
- *The party wall between the retail area and the residential accommodation on the First Floor must be constructed as detailed.*
- *The ceiling to the retail area must be treated as detailed.*

In terms of odour suppression, no details have been submitted.

Subject to the inclusion of conditions, requiring the recommendations of the noise assessment to be implemented, conditions restricting opening hours and construction hours, and conditions in relation to the submission of odour suppression equipment, the proposed development will not impact on the amenity of the occupiers of surrounding properties in a significantly greater manner than the existing lawful use of the premises could, and is in accordance with Policy ENV1 of the Rossendale Plan.

Access Parking and Highway Safety

The proposed development does not include any on-site parking. LCC Highways have objected to the development as follows:

Parking

Based upon Rossendale Borough Councils parking standards a ratio of 1 space per 5sqm of floor area would be applied and this equates to 20 spaces.

There is no off-street parking at the site and relies upon the surrounding highways for parking. The previous application determined that during the peak evening period that there were 8 available car parking spaces on the surrounding highways. Although the potential demand is lower than the previous application, which was 40 spaces including the function room at first floor, it is still considered insufficient to accommodate the potential demand and is likely to lead to inappropriate parking which would be detrimental to highway safety.

Servicing

There are no details provided for service and delivery vehicles.

Conclusion

Lancashire County Council acting as the Highway Authority would raise an objection regarding the proposed development and are of the opinion that the proposed development will have a significant impact on highway safety, capacity or amenity in the immediate vicinity of the site.

Following receipt of these comments, the applicant commissioned a response to the comments of the Highway Authority.

This submitted information states as follows:

As demonstrated by the location and internal layout the café is targeting a local demographic and it is expected that this would typically mean that customers would arrive by means other than the private car.

Access for servicing and deliveries will be from the rear of the building, so will take place from Goodshaw Avenue, not from Burnley Road. Similarly refuse collection will also be from Goodshaw Avenue.

The proposals do not include any parking provision. However, the proposed site is in a sustainable location in close proximity to the main centre of Crawshawbooth. There are bus stops close to the site and the bus route extends into the centre.

The application site is in a sustainable location based upon access to the footway network and public transport links. Pedestrian access will be from Goodshaw Avenue as opposed to Burnley Road, and there is scope for secure cycle storage the type and location of which can be agreed with the LPA.

The application proposals at 801 Burnley Road are based on a business model to attract the local community and as such it is envisaged that parking requirements would not be high but in any event the use would be no greater than any recommencement of the extant use. In addition there are double yellow lines on Burnley Road and Goodshaw Avenue outside the site which would preclude any parking.

This is a building that has been vacant for 7 years and its derelict condition is of no benefit to the local area or local economy. It has a longstanding commercial use that has not attracted any highway safety issues and it can only be expected that its future use would be commercial and as such would generate some level of highway related activity.

However, despite the submission of this additional information, LCC Highways have maintained their objection and are of the opinion that the proposed development will have a significant impact on highway safety, capacity or amenity in the immediate vicinity of the site.

Planning Balance

It is considered appropriate and necessary in this case to weigh the benefits of the development against the harm caused by the development.

Benefits of the Development

The development would bring a long-term vacant building back into use operating as a café for the local community. There have been 69 signatures on a letter from residents in the surrounding area supporting the application.

The proposed development will improve the property to the benefit of the visual amenity of the property and the immediate area.

The proposal will create a number of jobs for employees of the café and the retail business.

The property is in a sustainable location adjacent to a bus route.

When considered together, the benefits above are significant. As such, significant weight is afforded to those benefits in the planning balance.

Harm Caused by the Development

The proposed development has the potential to create neighbour amenity issues, however, these can be adequately overcome by the imposition of planning conditions

on any approval. As such, neighbour amenity issues are considered to be neutral in the planning balance.

The main identified harm relates to highway safety. LCC Highways have raised an objection and consider that the proposed development will have a significant impact on highway safety, capacity or amenity in the immediate vicinity of the site.

The NPPF states at paragraph 111 that “*Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.*”

Whilst LCC Highways have indicated they consider the proposal will have a significant impact, when compared to the potential traffic generation and parking demand associated with the existing lawful use of the building, officers do not consider that it has been demonstrated that the impact on highway safety would be unacceptable or severe. This is because the application site is within a 30 mph zone and the main road adjacent to the site (A682) has double-yellow lines on the side on which the application site is located to restrict parking in the vicinity of the site. The double yellow lines extend from No 811 Burnley Road to the junction with Church Street towards Crawshawbooth, which prevent on-street parking to a degree. In addition, the existing lawful use of the site includes retail and a showroom – it is considered that these uses could generate a similar amount of traffic and parking demand if appropriate businesses were to use the premises. As such, officers consider that the highway safety impact due to on-street parking demand would be mitigated to a degree.



View Northwards to application site



View southwards and beyond site

Nevertheless, significant weight is afforded to the identified harm.

Conclusion

This is a very finely balanced recommendation, and officers bring the application before Members given the level of public support which has been received for the proposals.

Whilst the harm and the benefits are very finely balanced, it is considered that the public benefits of bringing the property back into use would slightly outweigh the identified harm, which would be mitigated to a degree as described above.

9. RECOMMENDATION

That planning permission be approved.

10. CONDITIONS

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

Reason: To accord with the requirements of Section 91 of the Town and Country Planning Act 1990.

2. The development hereby permitted shall be carried out in accordance with the following drawings, unless otherwise required by the conditions below:

Application form signed and dated 02.12.2022
Location Plan received 03.12.2022
Existing and Proposed Plans received 12.06.2023
Noise Assessment received 12.06.2023
Planning and Sequential Test Assessment received 12.06.2023

Reason: To define the permission and in the interests of the proper development of the site.

3. Construction works shall not take place outside the following hours:
Monday to Friday 08:00 to 18:00
Saturday 08:00 to 13:00
Construction works shall not take place on Sundays or Bank or Public Holidays.
Access and egress for delivery vehicles shall be restricted to the working hours indicated above.

Reason: To ensure that site working only takes place during normal working hours in order to restrict the times during which any disturbance and nuisance may arise.

4. Prior to commencement of development a scheme of noise insulation in accordance with the recommendations of the noise assessment (AB Acoustics report dated Oct 2019) shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be implemented before the property is brought into use as approved.

Reason: In the interests of the amenity of the surrounding occupiers

5. Prior to commencement of development, full details of a scheme for the control of cooking odours and fan noise from the premises shall be submitted to and agreed

in writing by the Local Planning Authority. Before the use hereby approved is commenced, the agreed scheme shall be implemented and shall be thereafter retained.

Reason: In the interests of the amenity of the surrounding occupiers

6. The approved use shall only operate between the hours of 07:30 to 21:00 Monday to Sunday and Bank Holidays and at no other times.

Reason: In the interests of the amenity of the surrounding occupiers

7. No development shall take place, including any works of demolition or site clearance, until a Construction Management Plan (CMP) or Construction Method Statement (CMS) has been submitted to, and approved in writing by the local planning authority. The approved plan / statement shall provide:
 - 24 Hour emergency contact number.
 - Details of the parking of vehicles of site operatives and visitors.
 - Details of loading and unloading of plant and materials.
 - Measures to protect vulnerable road users (pedestrians and cyclists).
 - The erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate.
 - Measures to deal with dirt, debris, mud, or loose material deposited on the highway because of construction.
 - Measures to control the emission of dust and dirt during construction.
 - Details of a scheme for recycling/disposing of waste resulting from demolition and construction works.

The approved Construction Management Plan or Construction Method Statement shall be adhered to throughout the construction period for the development.

Reason: In the interests of the safe operation of the adopted highway during the construction phases.

8. Before any development commences, full details of the replacement shop fronts shall be submitted to and approved in writing by the Local Planning Authority. No materials shall be used on the elevations of the proposed development other than those referred to on the approved plans.

Reason: In the interests of visual amenity of the area and ensuring that the appearance of the development is acceptable.

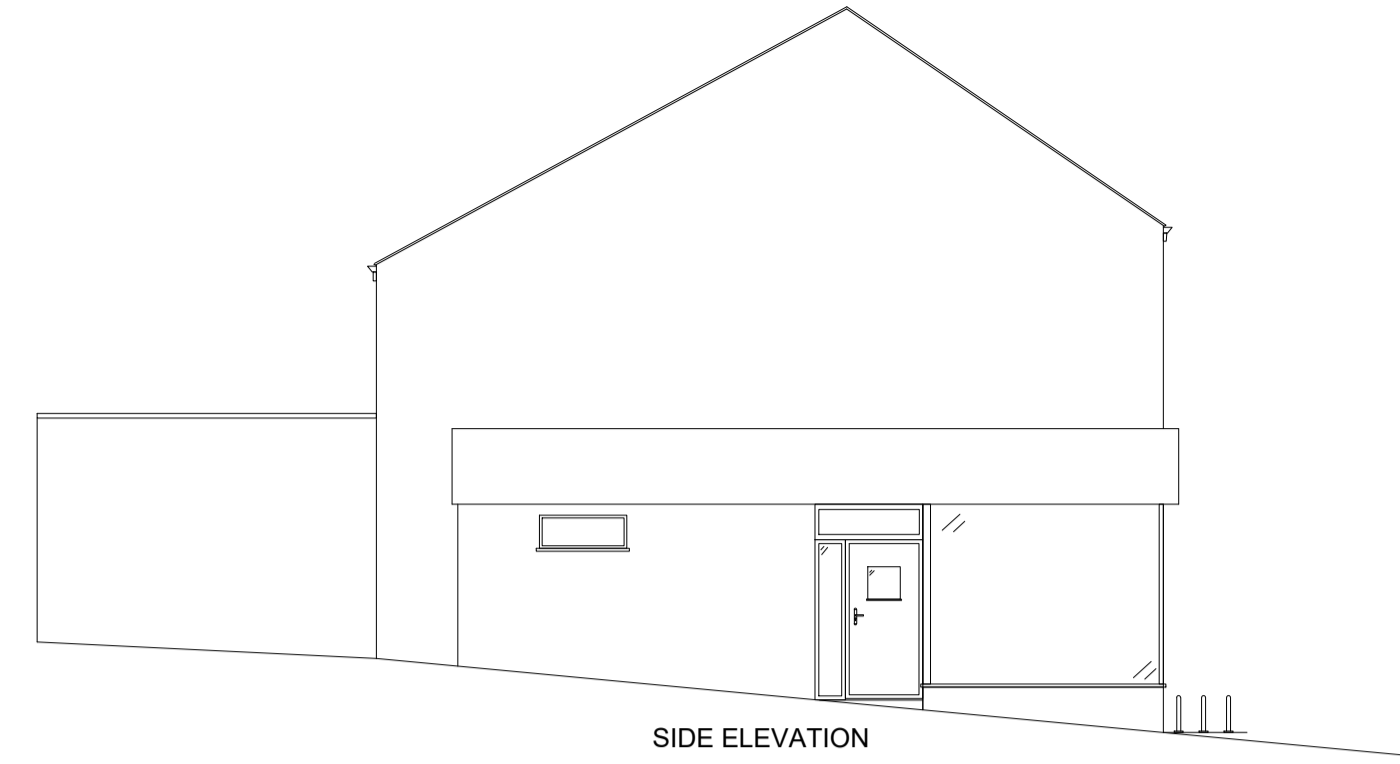
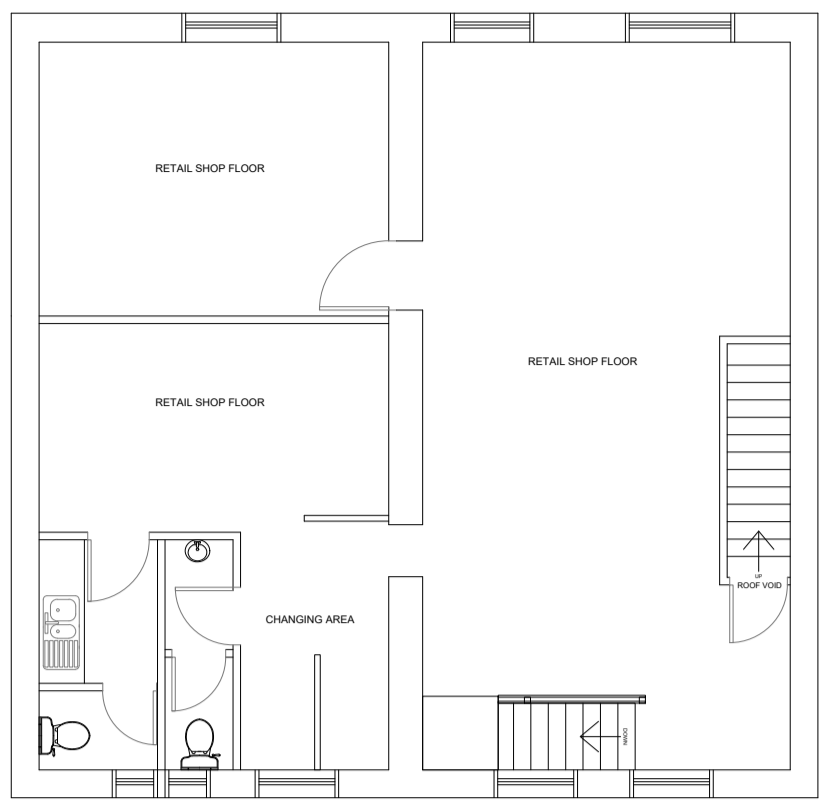
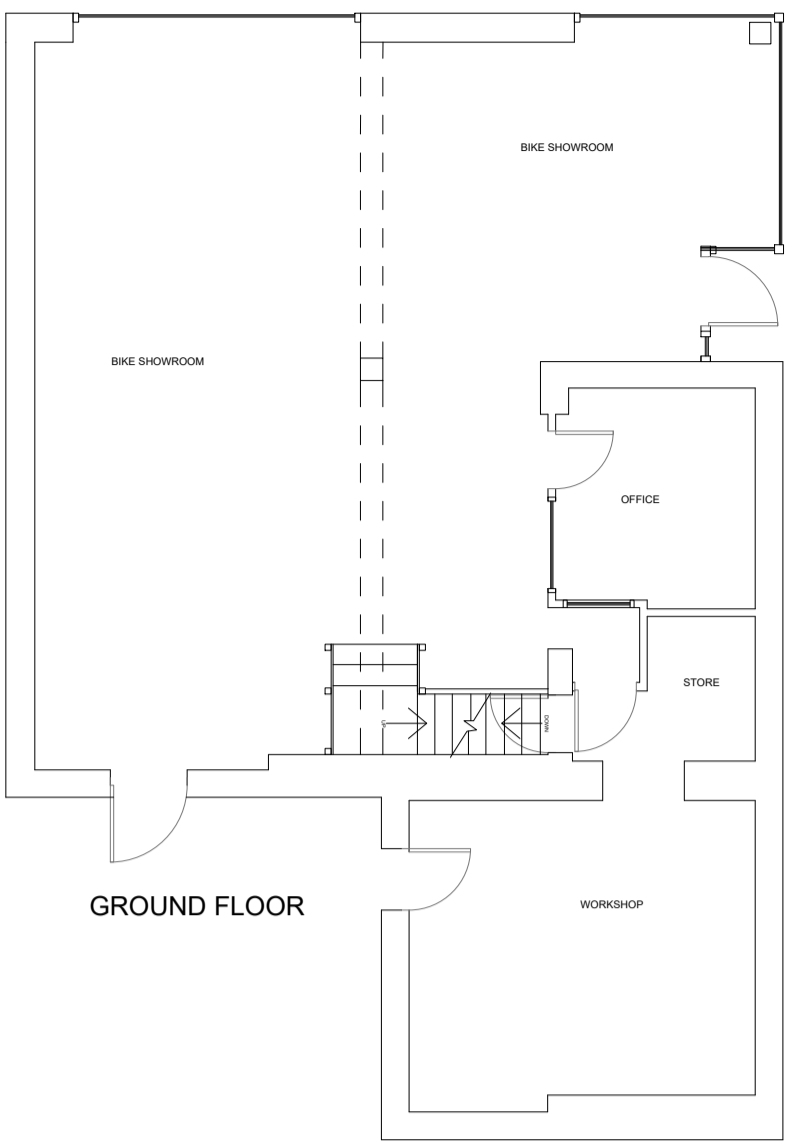
9. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking and/or re-enacting that Order) the premises shall only be used for the purposes specified in the application (Ground Floor Class E(b) and First Floor Class E(a)) and for no other purpose (including any other purpose in Class E) on the Schedule to the Town and Country Planning (Use Classes) Order 1987 or any provision equivalent to that Class in any Statutory Instrument revoking and/or re-enacting that Order).

Reason: The uses only are permitted and other uses, either within the same Use Class, or permitted by the Town and Country Planning (GPD) Order 2015 are not acceptable to the Local Planning Authority in this location because of the potential impact on residential amenity.

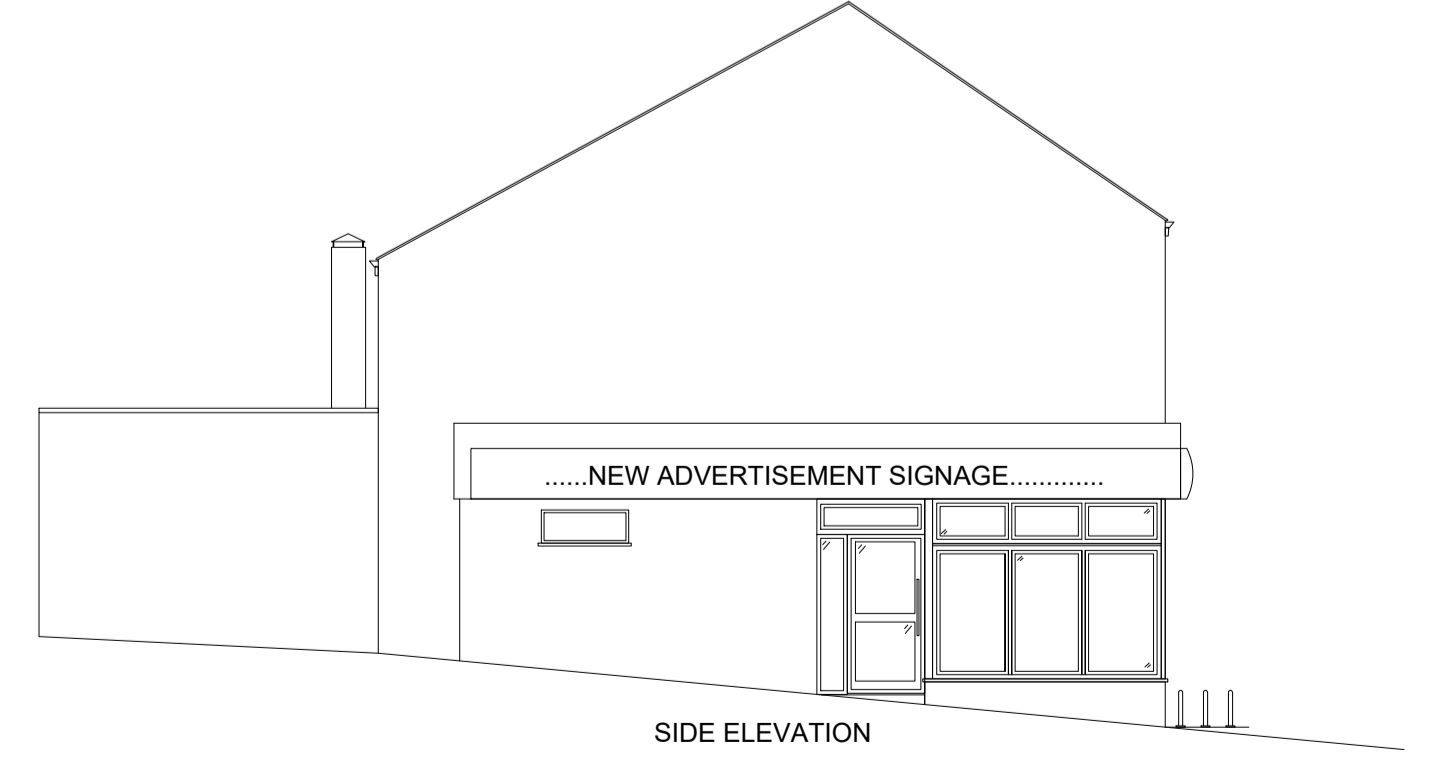
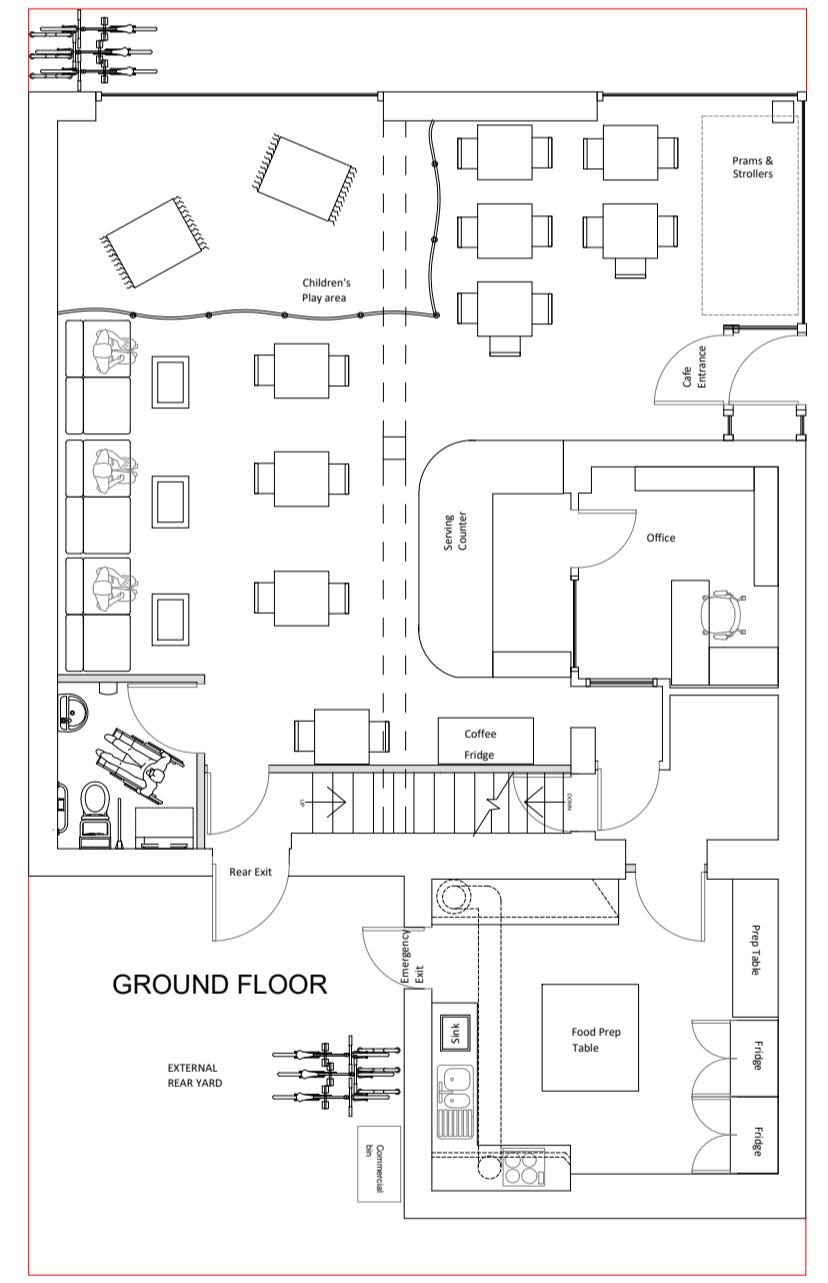
11. INFORMATIVES

1. The proposal complies with the development plan and would improve the economic, social and environmental conditions of the area. It therefore comprises sustainable development and the Local Planning Authority worked proactively and positively to issue the decision without delay. The Local Planning Authority has therefore implemented the requirement in Paragraph 38 of the National Planning Policy Framework.

EXISTING PLANS



PROPOSED PLANS



NOTES:

DO NOT SCALE THIS DRAWING

The drawings may be subject to amendment whilst seeking approvals from the Local Authority. Work undertaken prior to consent is done so at clients risk. Any surveyed information incorporated within this drawing cannot be guaranteed as accurate unless confirmed by a fixed dimension.

Site boundaries taken from Ordnance Survey plans are not to be used for legal purposes.

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All Structural elements to be removed or newly installed require engineers calculations and approval from the building inspector prior to any commencement of works. Example of structural elements include New Floors, Roof construction, chimney removal and the removal of internal and external walls.

DISCLAIMER
This drawing has been compiled for the purpose of planning or building regulation approval only for statutory requirements.

It is the client's responsibility to ensure a competent contractor or professional trade's people are employed to carry out the building works. It is the responsibility of the employed person's carrying out the works to verify all dimensions. Materials on site are to be checked by relevant planning authorities and building control inspectors overseeing the works.

There is no liability accepted by the draughtsperson for any activities carried out on site for the proposed works.

CDM REGULATIONS 2015
The client must abide by the Construction Design and Management Regulations 2015. The client must appoint a contractor, if more than one contractor is to be involved, the client will need to appoint (in writing) a principal designer (to plan, manage and coordinate the planning and design work) and a principal contractor (to plan, manage and coordinate the construction and ensure there are arrangements in place for managing and organising the project).

Domestic clients
The domestic client is to appoint a principal designer and a principal contractor when there is more than one contractor, if not your duties will automatically transferred to the contractor or principal contractor.

The designer can take on the duties, provided there is a written agreement between you and the designer to do so.

The Health and Safety Executive is to be notified as soon as possible before construction work starts if the works:

- (a) Last longer than 30 working days and has more than 20 workers working simultaneously at any point in the project.
- Or;
- (b) Exceeds 500 person days.

REVISION:	DATE:	DESCRIPTION:	AMND BY:	CHKD BY:
AMENDMENTS				
STATUS:				
CLIENT: <p style="text-align: center;">Wing Lui</p>				
PROJECT: <p style="text-align: center;">M2 DESIGN & PLANNING LIMITED</p>				
PROJECT REF: <p style="text-align: center;">801 Burnley Road B394 8BW</p>				
TITLE: <p style="text-align: center;">Change of use from Sui Generes to form A3 Cafe</p>				
DRAWN BY: FH	CHECKED BY: OS	APPROVED BY:		
DATE: APR 22	SCALE: 1:100	SHEET SIZE: A1		
PROJECT REF: REFERENCE	DRAWING NO: 01	REVISION: 03		



GOODSHAW AVE
LEADING TO
GAMBLESIDE CLOSE
ALL SAINTS CLOSE
ULLSWATER WAY
THIRLMERE WAY

Rossendale Kawasaki





Rossendale Kawasaki

Rossendale Kawasaki

1st Floor
CLOTHING & ACCESSORIES



GODSMAN AVE
GODSMAN AVE
GODSMAN AVE

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