

Application No:	2008/0341	Application Type:	Full Application
Proposal:	Change of Use from Phone Shop (Class A1) with Living Accommodation over; to Hot Food Takeaway (Class A5) with Restaurant (Class A3) including ancillary Storage with Living Accommodation over.	Location:	8 Bury Road Rawtenstall BB4 8AA
Report of:	Executive Director of Business	Status:	For Publication
Report to:	Development Control Committee	Date:	1 st September 2008
Applicant:	Mr. Miah	Determination Expiry Date:	1 st October 2008
Agent:	N/A		

REASON FOR REPORTING

Tick Box

Outside Officer Scheme of Delegation

Member Call-In

Name of Member:
Reason for Call-In:

Cllr Swain
The use would be detrimental to the Conservation Area due to the increase in litter and it would attract anti-social behaviour to the detriment of neighbour amenity.

More than 3 objections received

Other (please state)

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.

APPLICATION DETAILS

1. SITE AND SURROUNDING AREA

1.1 The Site

- 1.1.1 The application site lies to the south-east of Bury Road, Rawtenstall facing on to the Queen's Square gyratory and is occupied by a 3 storey, mid-terraced building constructed in stone and slate. The ground floor of the shop is vacant but was last used as a mobile phone shop (Class A1) with ancillary accommodation on the two floors above.
- 1.1.2 The unit stands in a row of 5 similar properties with Class A1 shops at ground floor level to the south-west of which stand another row of 5 units with Class A1 shops at ground floor level.
- 1.1.3 Planning permission has recently been granted by the Development Control Committee for the change of use of the ground floor of No. 12 Bury Road from a D2 assembly and leisure use to a Class A3 restaurant.

1.2 Relevant Planning History

None.

2. THE PROPOSAL

- 2.1 The applicant seeks consent for the change of use of the ground floor of the unit from a Class A1 shop with ancillary accommodation over, to a Class A5 Hot Food Takeaway including a Class A3 restaurant with ancillary accommodation over. There would be seating for 12 people in the restaurant which would be served by a hatchway as would the takeaway. The access to the upper floors would be through the main restaurant.
- 2.2 The proposal would not include any external alterations to the building itself although the scheme does propose the erection of a extraction flue to the rear of the property constructed in galvanized steel. The opening hours proposed by the applicant would be 18:30 – 22:30 Monday to Friday, 18:30 – 23:00 Saturdays and 18:30 to 22:00 Sundays.
- 2.3 The proposed service area would be the rear yard of the property where bin storage is provided and can be accessed from a rear service road. No customer litter bin has been proposed by the applicant.

3. POLICY CONTEXT

3.1 National Planning Policy

PPS1 – Delivering Sustainable Development
PPG4 – Industrial, Commercial Development and Small Firms
PPS 6 – Planning for Town Centres
PPG13 – Transport

PPG15 – Planning and the Historic Environment
PPS 23 – Planning and Pollution Control
PPG24 – Planning and Noise

3.2 Regional Planning Policy

Regional Spatial Strategy for the North-west

3.3 Saved Policies of the Joint Lancashire Structure Plan

Policy 1 – General Policy
Policy 2 – Main Development Locations
Policy 7 – Parking
Policy 20 – Lancashire’s Landscapes
Policy 21 – Lancashire’s Natural and Manmade Heritage

3.4 Saved Policies of the Rossendale District Local Plan.

DS1 – Urban Boundary
DC1 – Development Criteria
DC4 – Materials
HP1 – Conservation Areas

3.5 Other Material Planning Policy Considerations.

LCC – Parking Standards SPD

4. **INTERNAL CONSULTATIONS**

4.1 Environmental Health – no objection as the flue can be adequately controlled by condition.

6. **EXTERNAL CONSULTATIONS**

6.1 Lancashire County Council – Highways – comments awaited and once received will be reported via the Late Items Report.

7. **REPRESENTATIONS**

7.1 A press notice was published on 15/08/2008. Two site notices posted on 15/08/2008 as shown on the site plan. 6 neighbours were notified by letter on 06/08/2008 to accord with the General Development Procedure Order. The site notice has been posted to go above and beyond the regulatory requirement to ensure a high level of Community engagement to accord with PPS1.

7.2 A 26-signature has been received objecting to the proposal on the following grounds:

- There is already an Italian Restaurant opening on the corner of Queen Street (No. 12 Bury Road).

- There will not adequate parking in the area
- It will cause major traffic problems
- Rubbish in backyard
- Young people hanging around will create problems
- Increase in noise

8. REPORT

- 8.1 The main issues for consideration are the principle of the development, the impact on the character and appearance of the Rawtenstall Town Centre Conservation Area, visual and residential amenity and highway safety.
- 8.2 The proposed restaurant and Hot Food Takeaway is a retail use which is classed as a town centre use by PPS6. The site lies within the Urban Boundary and the use is appropriate to a Town Centre and is therefore considered acceptable in principle. There are no retail policies which seek to maintain the retail balance within shop frontages to outweigh this finding.
- 8.3 The development does not propose any external alterations to the shop front which faces on to Queen's Square and is the more visible of the two elevations. To the rear of the property, an extraction flue is proposed which would be visible and dominant in this elevation. However, this rear elevation is set within the context of the rear of a number of commercial properties which have a much lower level of visual amenity, cannot be seen far outside of the site and which contribute little to the Rawtenstall Town Centre Conservation Area. As such, the proposed development is considered to preserve and enhance the character of the Conservation Area and would not harm the visual amenity of the surrounding area.
- 8.4 The proposed use would open between the hours of 18:30 and 22:30 on weekdays and up to 23:00 on Friday and Saturday. This is considered crucial when assessing the impact of the development on residential amenity. As the proposed development would close by 22:30 it would not be open for the trade passing after pub closing time which can often lead to anti-social behaviour. In addition, owing to the closing times of 22:30 and 23:00 respectively, it would be less likely to cause noise and disturbance whilst operating. There would be a flue to remove smells. As such, the proposed development is considered not to adversely affect the residential amenities of nearby residential properties and thus would be considered acceptable subject to a condition restricting opening hours and operations to those proposed.
- 8.5 In terms of highway concerns, a response is awaited from the Highway authority. However, whilst there would be no on-street parking outside the proposed development, there would be parking available to the rear of the property for collections and deliveries by staff which would also enable the servicing of the site. There is parking available in the Town Centre within walking distance of the site for customers. The proposal is considered acceptable in terms of highway safety.
- 8.6 In response to the points raised by objectors not already covered by the report, refuse bins are indicated on the plans and a litter bin can be provided, secured

via a condition. It has not been demonstrated that there would be anti-social behavior caused as a result of this proposal, however, the site lies on a main road where there would be natural surveillance outside the shop. The application site forms part of a terrace of units with natural surveillance from residential properties to rear of the site which would assist in maintaining levels of security. As such, there are considered to be no material considerations to outweigh the recommendation for approval.

9. CONCLUSION

- 9.1 The application is considered acceptable in principle, would not be contrary to the imperative to preserve and enhance the character of the Conservation Area, would not harm the visual or residential amenity of the surrounding area and would not be detrimental to highway safety. As such, the application is considered acceptable.

10. RECOMMENDATION

- 10.1 That the Committee be Minded to Approve the application and delegate authority to determine the application to the Executive Director of Business subject to the receipt by 5th September 2008 of no further objections raising any new material considerations, or in the case of new matters arising, delegate authority to the determine the application to the Executive Director of Business in conjunction with the Chair and opposition spokespersons.

11. REASONS FOR APPROVAL

1. The application is considered acceptable in principle, would not be contrary to the imperative to preserve and enhance the character of the Conservation Area, would not harm the visual or residential amenity of the surrounding area and would not be detrimental to highway safety. As such, the application is considered acceptable pursuant to Saved Policies Policy 1 – General Policy & Policy 2 – Main Development Locations of the adopted Joint Lancashire Structure Plan and saved policies DS1 – Urban Boundary, DC1 – Development Criteria, DC4 – Materials and HP1 – Conservation Areas of the adopted Rossendale District Local Plan.

12. CONDITIONS

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

Reason: Required by Section 51 of the Planning and Compulsory Purchase 2004 Act.

2. The development shall be carried out in accordance with the plans dated 06th AUGUST 2008 unless subsequently amended and approved in writing by the Local Planning Authority.

Reason: To ensure the development complies with the approved plans and for the avoidance of doubt.

3. Prior to the commencement of development on site, the applicant shall submit to the planning authority for their approval, a scheme detailing the proposed extractor ducting, flue, cowl, filters, anti-vibration mountings and acoustic levels. The development shall be carried out in accordance with the approved scheme and thereafter maintained for as long as the use hereby approved remains in existence.

Reason: In the interests of residential amenity pursuant to Saved Policy DC1 – Development Criteria of the Rossendale District Local Plan.

4. Any construction works associated with the development hereby approved shall not take place except between the hours of 8:00 am and 7:00 pm Monday to Friday and 8:00 am and 1:00 pm on Saturdays. No construction works shall take place on Sundays, Good Friday, Christmas Day or Bank Holidays.

Reason: To safeguard the amenities of nearby residential properties, in accordance with PPG24 – Noise and the criteria of Policy DC1 of the adopted Rossendale District Local Plan.

5. Prior to the commencement of development on site, the applicant shall submit to the Local Planning Authority for their approval, details of a litter bin to be provided outside of the shop. The litter bin as approved by the Local Planning Authority shall be provided prior to the unit first operating as the use hereby approved and thereafter maintained for as long as the use remains in existence.

Reason: To prevent litter in the interest of visual amenity pursuant to Saved Policy DC1 – Development Criteria of the Rossendale District Local Plan.

6. The premises shall premises shall not be open for trading except between the hours of 18:30 and 22:30 Sunday to Thursday and between 18:30 and 23:00 Fridays and Saturdays. No operations whatsoever shall take place within the premises within one hour of the closing time stated above.

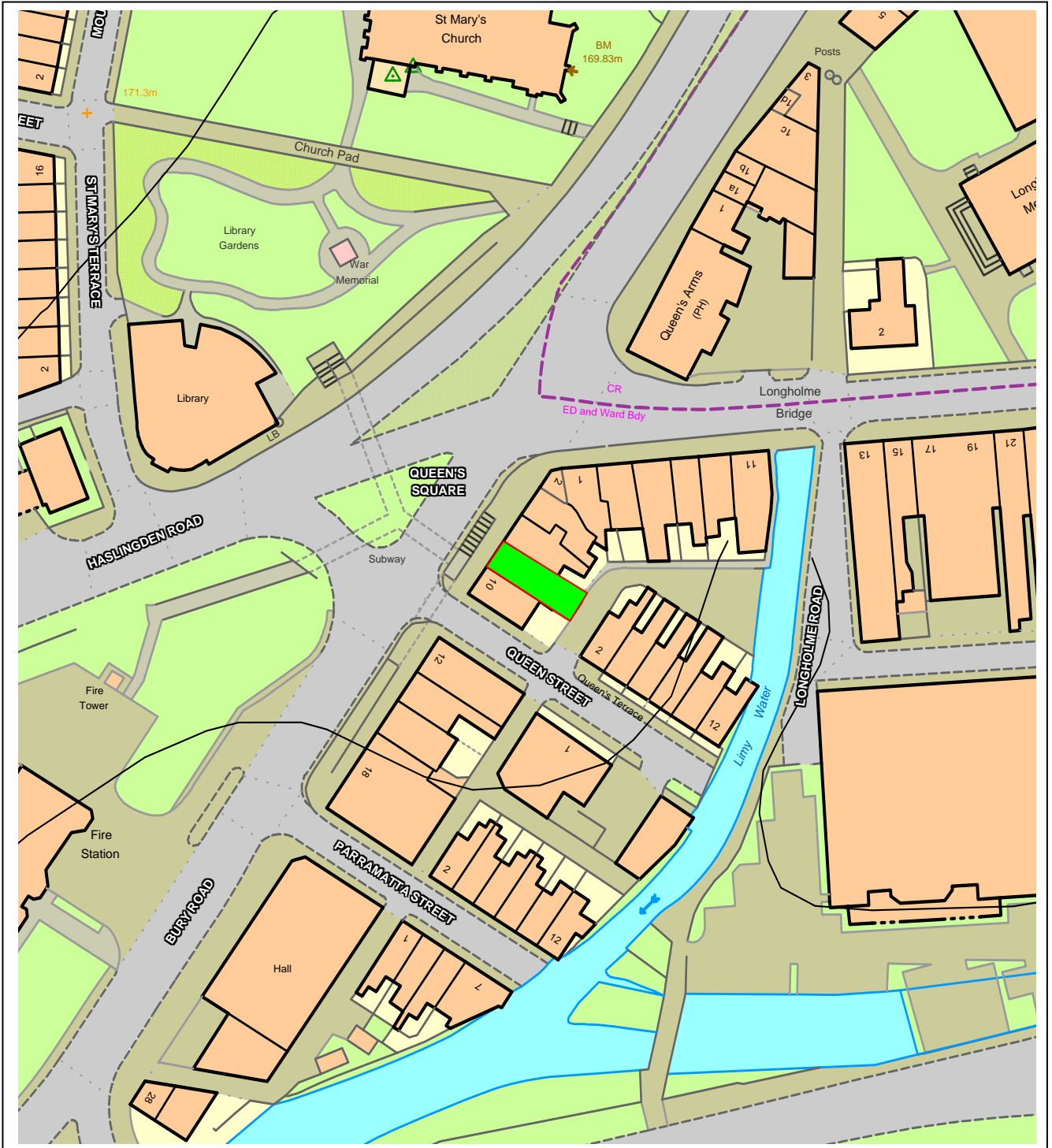
Reason: To prevent noise and disturbance to nearby residential properties in the interests of residential amenity pursuant to saved policy DC1 - Development Criteria of the adopted Rossendale District Local Plan.

Contact Officer	
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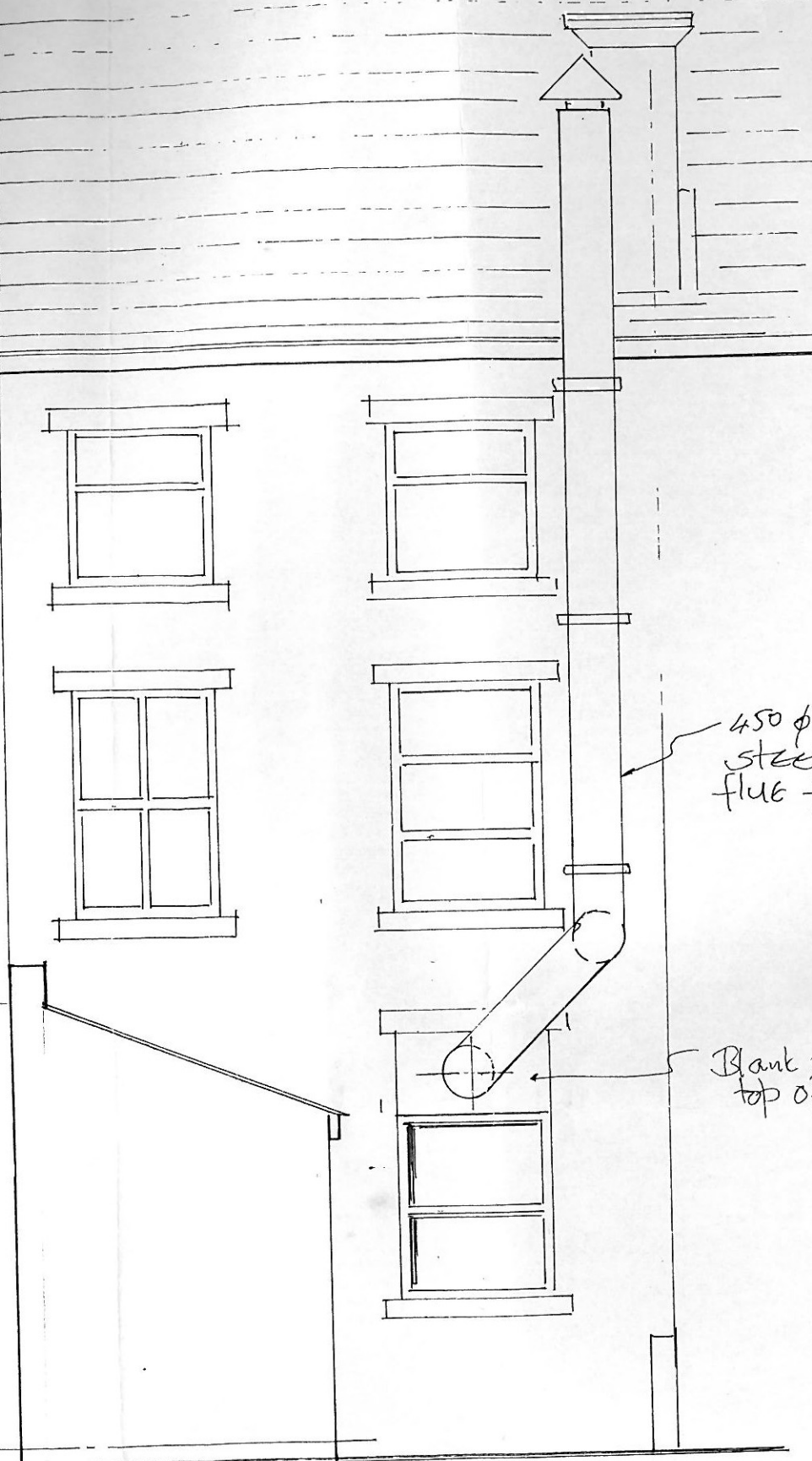
*LOCATION PLAN TO BE PROVIDED
ATTACH ALL APPENDICES AND LIST AS NECESSARY, FOR EXAMPLE*

Document Details	Appendix Number
Committee Report dated 1 st January 2007	Appendix A
Etc	

2008/0341



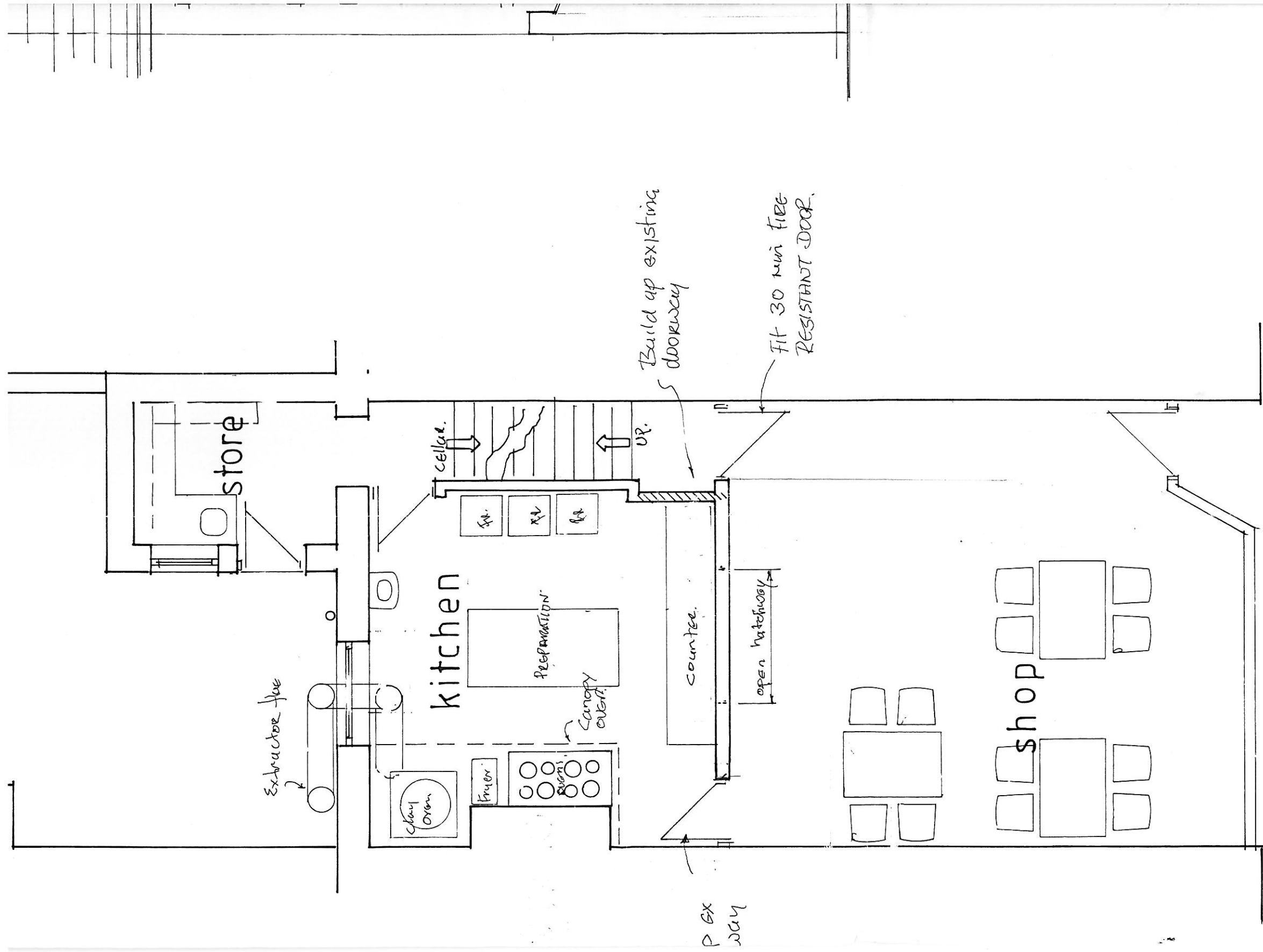
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450 ϕ Galvanised
steel extractor
flue fixed to wall

Blank panel in
top of window

REAR ELEVATION



PROPOSED GROUND FLOOR PLAN

scale 1:50