

Application No: 2008/654	Application Type: Full
Proposal: Change of use of existing ground floor shop (248) with apartment above (248a) to A5 Hot Food takeaway and A3 Restaurant/Café on ground floor, with ancillary storage above	Location: 248/248a Newchurch Road, Stacksteads
Report of: Planning Unit Manager	Status: For Publication
Report to: Development Control Committee	Date: 3 November 2008
Applicant: Mr Khan	Determination Expiry Date: 19 November 2008
Agent: Hartley Planning & Development Associates	

REASON FOR REPORTING **Tick Box**

Outside Officer Scheme of Delegation

Member Call-In

Name of Member:

More than 3 objections received ✓

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. THE SITE

- 1.1 This application site is occupied by a two storey (front) and three storey (at rear) stone and slate end terraced property adjacent to Newchurch Road, Stacksteads. The row is characterised by a mix of commercial and residential properties. The neighbouring property is a vacant shop. Residential properties are located opposite. There is on street parking to the front. A public car park is located approximately 70 metres to the east. A bin storage compound is located to the side of the terraced row, separated by pedestrian access to the rear of properties on the row.

2. RELEVANT PLANNING HISTORY

2006/706 - Renovation of Spring Terrace including the provision of sensor lights, metal staircase, change of use of part of the site to form residential amenity areas, new road surfacing & provision of bin store areas - Approved.

3. THE PROPOSAL

- 3.1 The proposal seeks consent to the change the use of the ground floor from Class A1 – shop use to a Hot Food Take-away and café/restaurant falling within Class A3 and A5 usage. The first floor of the building would be used as a storage area for the proposed use on the ground. No external changes are proposed to the front elevation. There would be a 6 metre high flue to the rear elevation projecting above the ridge of the building by 0.8 metres. The flue would project outwards from the rear elevation by 0.7 metres and would be installed to legislative requirements. The scheme proposes to reopen an existing opening to the rear elevation to enable bins to be stored internally. The opening would be enclosed by metal doors.
- 3.2 The proposed opening hours would be Monday to Sunday 08:00am to 00:30. The proposed parking arrangements are stated as being on-street and to the rear of the property.

4. POLICY CONTEXT

National Planning Policy

PPS1 – Delivering Sustainable Development

PPS 6 – Planning for Town Centres

PPG24 – Planning and Noise

Regional Planning Policy

Regional Spatial Strategy for the North-west

Saved Policies of the Rossendale District Local Plan.

DS1 – Urban Boundary
DC1 – Development Criteria
DC4 – Materials

Other Material Planning Policy Considerations.

LCC – Parking Standards SPD

5. CONSULTATION RESPONSES

LCC (Highways)

No highways comments.

RBC Environmental Health

Comments Awaited – response will be reported via the Late Items Report.

6. REPRESENTATIONS

- 6.1 One site notice was posted on 15/10/2008 as shown on the site plan. 13 neighbours were notified by letter on 02/10/2008 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.
- 6.2 6 individual letters and a petition with approximately 100 signatures have been received objecting to the proposal, on the following grounds:
- Parking
 - Litter
 - Noise
 - Already enough of such establishments in the area
 - Loss of character to the area

7. ASSESSMENT

- 7.1 The main considerations of the application are the principle of the development in this location, the impact on visual and residential amenity and highway safety.
- 7.2 The application site lies within the Urban Boundary, where the principle of development is acceptable. There are no policies saved from the Rossendale District Local Plan relating to retail/shopping which would afford protection to

shopping frontages such as this from a perceived over-provision of Class A3-Class A5 uses (restaurants, pubs and hot food takeaways). As the unit forms part of an existing frontage and is on a main road served by frequent bus services, there are no arguments in principle relating to sustainability or a town centre use outside of the town centre. As such, the proposed development would be acceptable in principle.

- 7.3 The scheme does not propose any external alterations to the shop front. However, the scheme does propose a flue to the rear of the property to extract fumes and odours. Owing to its size, siting and design the flue would not be an unduly prominent feature to the area. Metal doors are proposed to the rear elevation to access the bin storage area. Due to their size and lack of prominence in the street scene the doors are considered acceptable. The application is considered to be acceptable in terms of visual amenity.
- 7.4 The proposal would operate between 08:30 and 00:30 Monday to Sunday. A response is awaited from Environmental Health with regards to these hours, however, taking into account the residential properties in close vicinity to the application site these hours are considered excessive. The scheme would not incur a loss of light, privacy or outlook as with the exception of the flue, there are no other external alterations that would project from the elevations of the property. As such, subject to appropriate conditions restricting the hours of opening and controlling fume extraction and the provision of a litter bin, the application is considered acceptable in terms of residential amenity.
- 7.5 The scheme does not propose to create any additional parking, however, there is on-street parking in front of the unit and a public car park approximately 70 metres away adjacent to Branch Street. LCC Highways raised no objection to the scheme.
- 7.6 In relation to the points raised by the objection letters, not already covered by the preceding discussion, the number of restaurants/cafes/takeaways is not covered by existing planning policy. The scheme would not materially alter the character of the area.

8. CONCLUSION

- 8.1 The proposed development would be acceptable in principle and would not harm visual or residential amenity and would not be detrimental to highway safety.

9. RECOMMENDATION

- 9.1 That the Committee approve the application subject to condition.

10. REASONS FOR APPROVAL

1. The proposed development would be acceptable in principle and would be acceptable in relation to visual amenity and residential amenity and would not be detrimental to highway safety. As such the proposed development is

considered acceptable pursuant to Saved Policies DS 1 Urban Boundary and DC1 – Development Criteria of the Rossendale District Local Plan.

11. 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 24 September 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, details of a litter bin to be provided outside of the shop shall be submitted to the Local Planning Authority for their approval. 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.

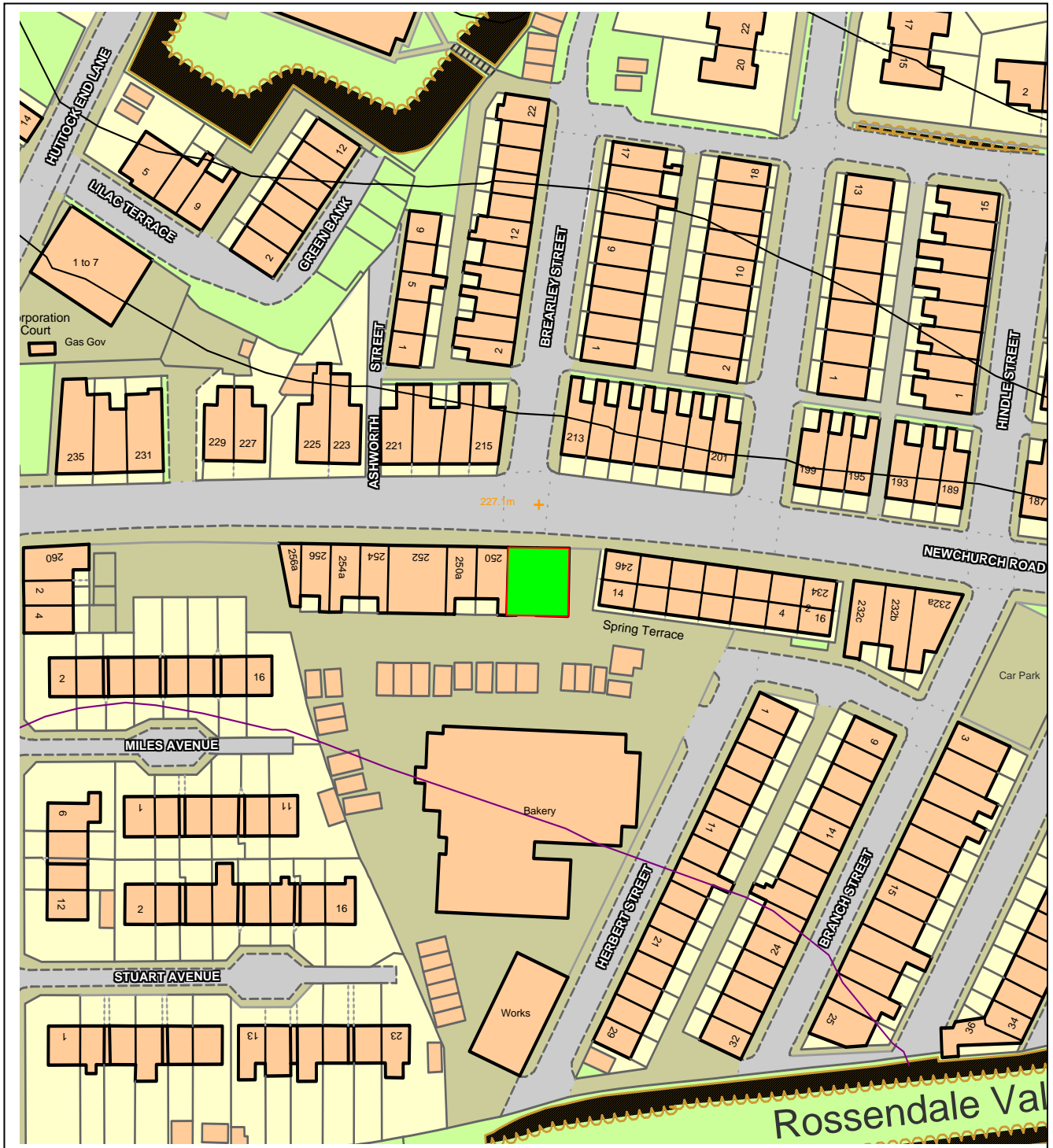
Reason: To prevent litter in the interest of visual amenity pursuant to Saved Policy DC1 – Development Criteria of the Rossendale District Local Plan.

6. The premises shall premises shall not be open for trading except between the hours of 11:00 – 22:30 Sunday to Thursday and between 11:00 and 23:00 Fridays and Saturdays. No operations whatsoever shall take place within the premises within one hour of the closing time stated above.

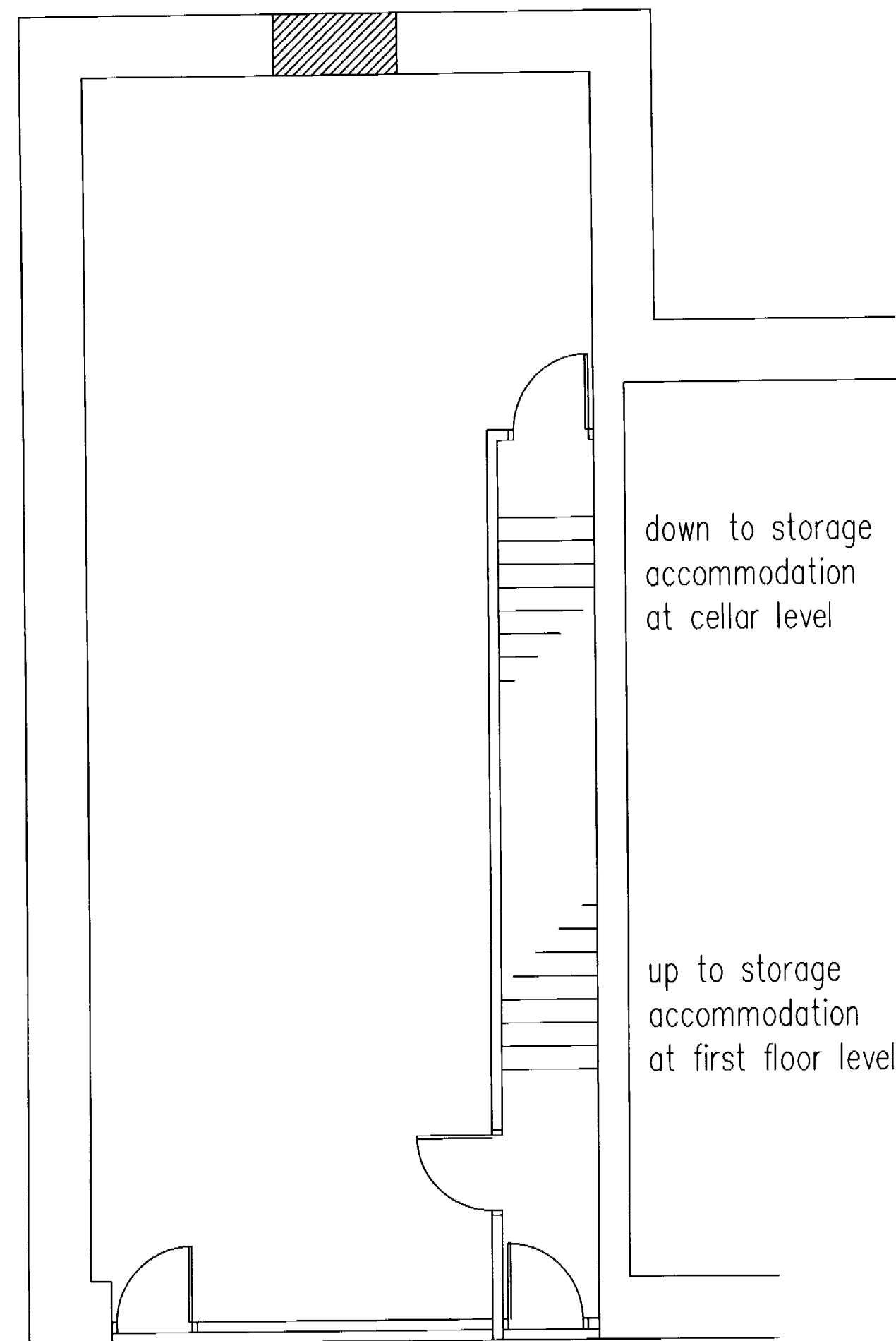
Reason: To prevent noise and disturbance to nearby residential properties in the interests of residential amenity pursuant to saved policy DC1 - Development Criteria of the adopted Rossendale District Local Plan.

Contact Officer	
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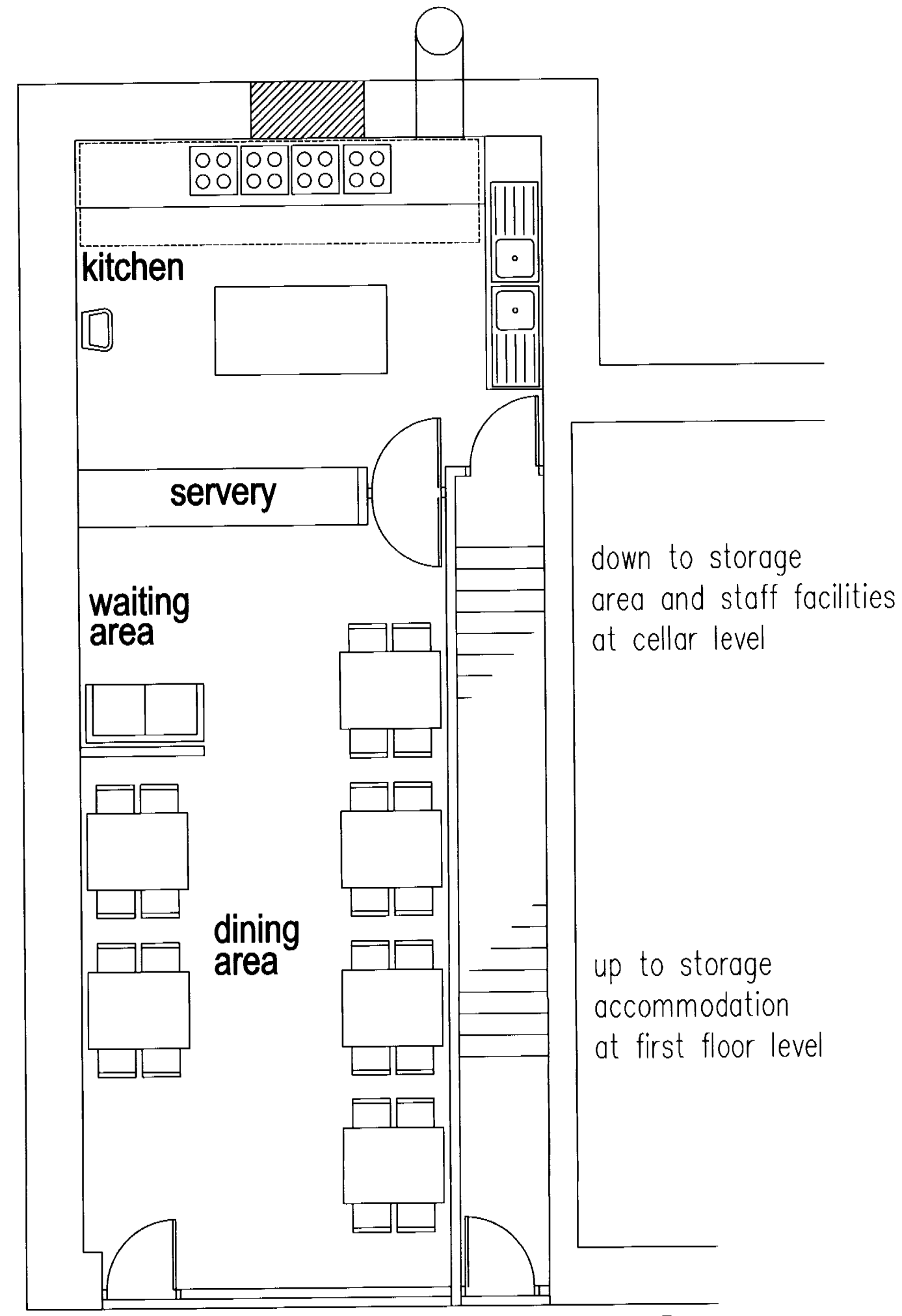
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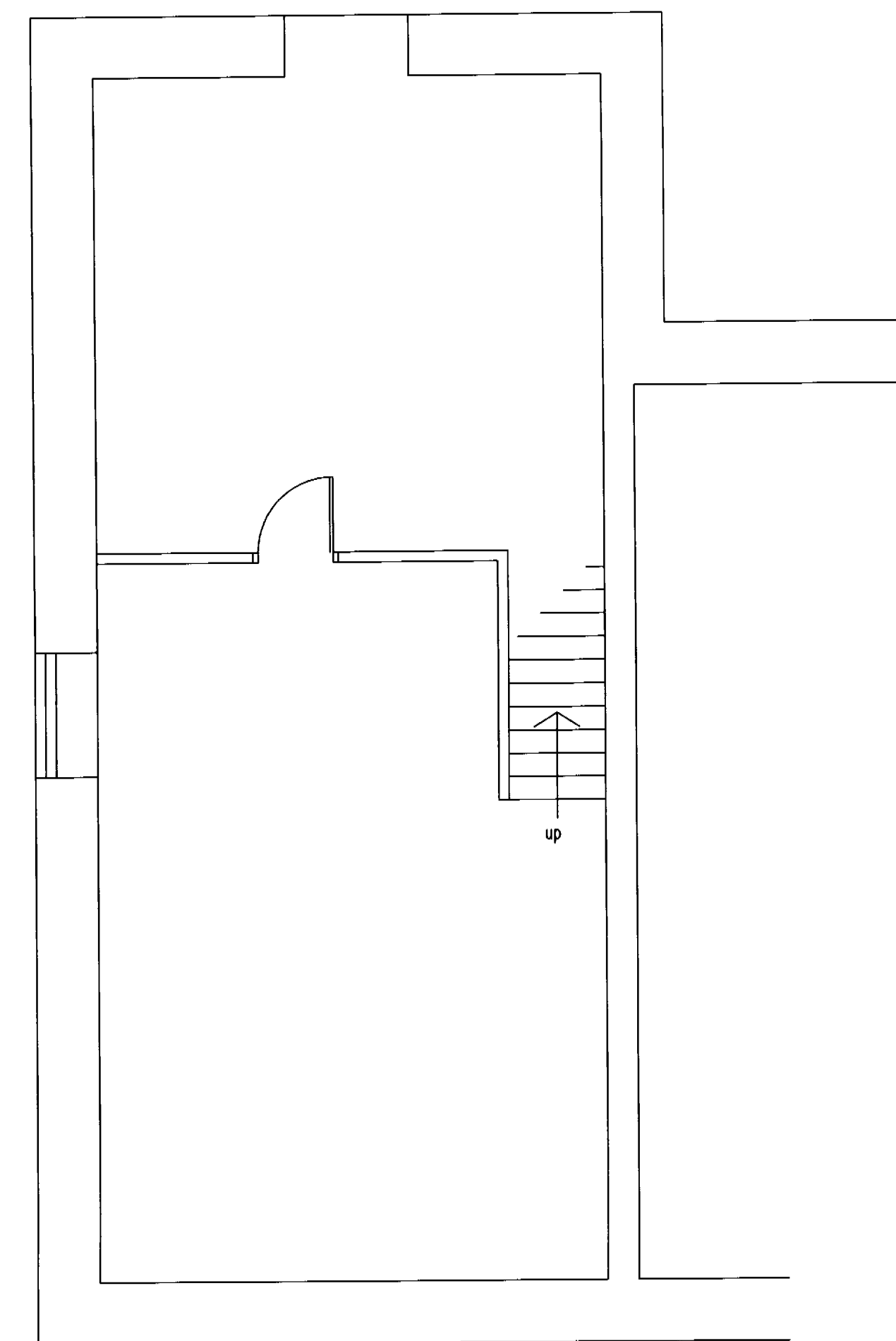
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existing ground floor plan



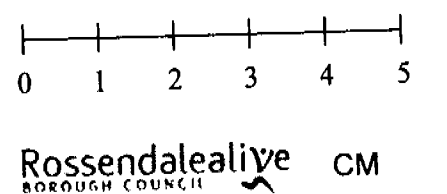
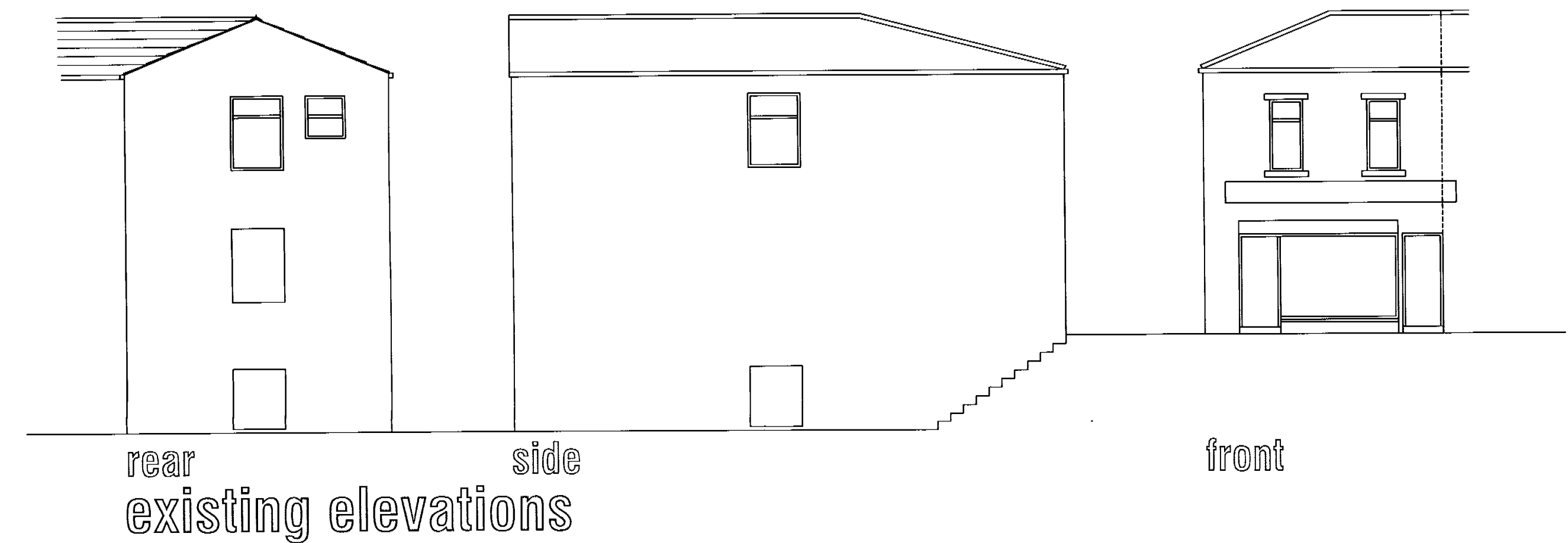
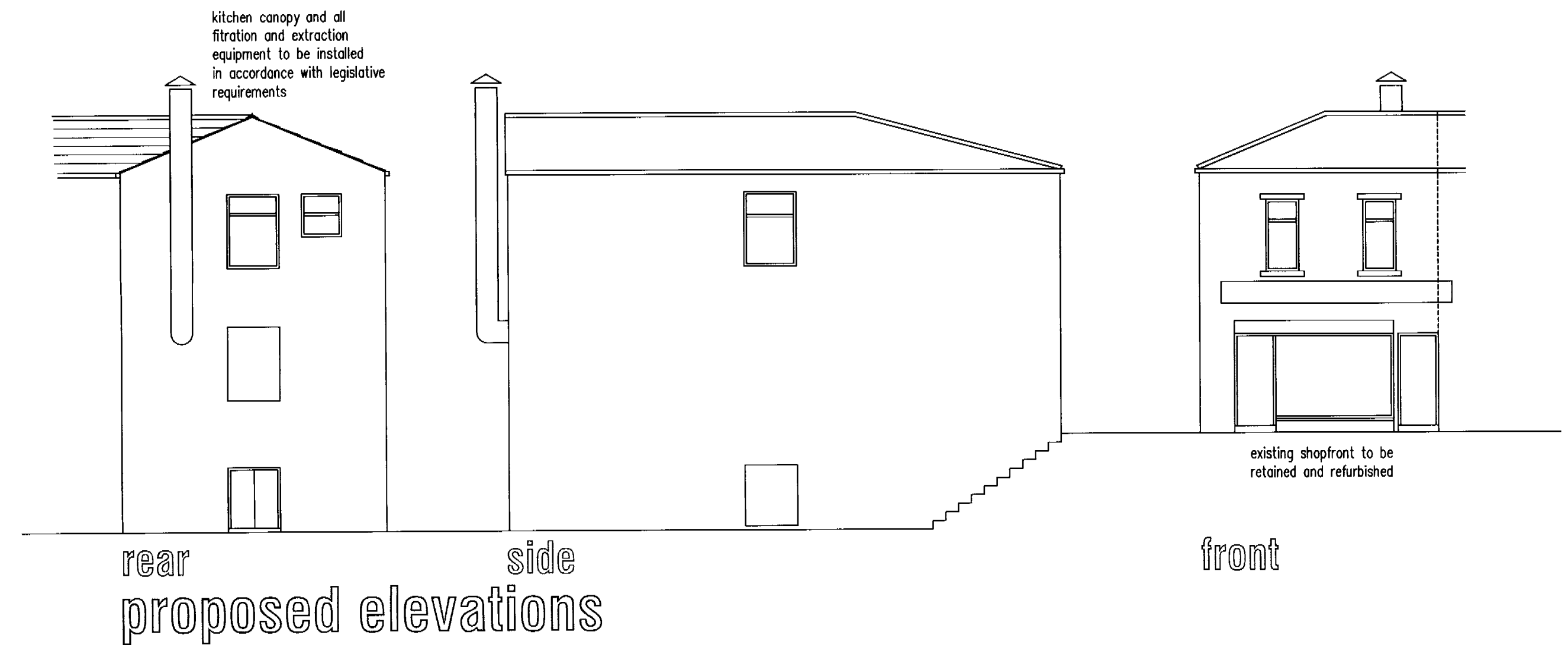
proposed ground floor plan



existing basement plan



proposed basement plan



proposed change of use of existing retail premises to cafe / takeaway with minor elevational changes at

248 Newchurch Road Stacksteads

scale 1:100 1:50 @ A1
0m 5m 10m
1:100 linear scale

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