

<b>Application No:</b> 2009/0370	<b>Application Type:</b> Full
<b>Proposal:</b> Change of Use From Retail to Restaurant/Café/Wine Bar with Two Flues To The Rear	<b>Location:</b> 23-27 Bacup Road
<b>Report of:</b> Planning Unit Manager	<b>Status:</b> For Publication
<b>Report to:</b> Development Control Committee	<b>Date:</b> 7 September 2009
<b>Applicant:</b> Mr Usman Ali	<b>Determination Expiry Date:</b> 23 September 2009
<b>Agent:</b> Mr David Hancock	

**REASON FOR REPORTING**

**Tick Box**

**Outside Officer Scheme of Delegation**

**Member Call-In**

Name of Member:  
Reason for Call-In:

**More than 3 objections received**

Not as yet, however, 94 objections and a petition was received objecting to the previously withdrawn application.

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**

- 1.1 This application relates to a two storey stone and slate property, currently vacant with an A1 – retail use class located in a prominent position fronting Bacup Road Rawtenstall. The building has a wide frontage with a recessed entrance to the centre and a single storey glazed extension to the side with its own access also fronting Bacup Road. There is an enclosed yard to the rear separated from the cobbled back street by a 2 metre palisade fencing. Surrounding uses are mainly retail/commercial.
- 1.2 The site lies within the Urban Boundary of Rossendale, the Town Centre of Rawtenstall, and Rawtenstall Town Centre Conservation Area as designated in the Rossendale District Local Plan.

### **2. Relevant Planning History**

The most recent planning history relevant to the current application are:

<b>1995/275</b>	Construction of Single Storey Link Development to Form Retail Shop	Approved
<b>2003/577</b>	Application for a Certificate of Lawfulness for an existing use - ( A1 retail)	Approved
<b>2009/0162</b>	Change of use from (A1) retail to Restaurant and Café (A3), and Wine Bar (A4) with two flues to rear.	Withdrawn

### **3. The Current Proposal**

- 3.1 This application is a re-submission of 2009/0162. The applicant has amended the design of the two flues which would now be squatter, or shorter and wider, although they would be sited in the same location as previously.
- 3.2 The applicant, therefore, seeks planning permission for the change of use of 23-27 Bacup Road to a restaurant/café/wine bar with two flues to the rear. The flues would measure 2.5 metres in height and 1.2 metres in width, reaching a height 0.8 metres above the eaves level. A new opening would be created in the rear elevation into the yard area where it is proposed to erect a canopy for use as a smoking shelter. As the use would not fall within one single Use Class it would be a mixed use and therefore the unit is considered to be sui generis.
- 3.3 Taken as a whole, the resulting unit would be open from 09.00 – 22.30, however, with respect of the individual uses within the unit opening hours are as follows:

Café: 09.00-14.30 Mondays to Sundays including Bank Holidays

Restaurant: 17.00-00.00 Monday to Saturday  
11.00-22.30 Sundays and Bank Holidays

Wine Bar: 17.00-00.00 Monday to Saturday  
11.00-22.30 Sundays and Bank Holidays

#### **4. Policy Context**

##### **National Planning Guidance**

PPS1 – Delivering Sustainable Development  
PPS6 – Planning for Town Centres  
PPG15 – Planning and the Historic Environment

##### **Development Plan Policies**

Regional Spatial Strategy for the North West

Policy DP 1 Spatial Principles  
Policy DP 2 Promote Sustainable Communities  
Policy DP 3 Promote Sustainable Economic Development  
Policy DP 4 Make the Best Use of Existing Resources and Infrastructure  
Policy DP 5 Manage Travel Demand; Reduce the Need to Travel, and Increase Accessibility  
Policy DP 6 Marry Opportunity and Need  
Policy DP 7 Promote Environmental Quality  
Policy EM1 Integrated Enhancement and Protection of the Region's Environmental Assets  
Policy RT4 Management of the Highway Network

##### **Rossendale District Local Plan (Adopted 1995) – Saved Policies**

DS1 – Urban Boundary  
DC1 - Development Control  
DC4 – Materials  
HP1 – Conservation Areas  
HP5 – Shop Fronts

##### **Other Material Planning Considerations**

RBC Interim Policy Statement: Hot Food Takeaways (June 2009)  
LCC Parking Standards

#### **5. CONSULTATIONS**

##### **LCC (Highways)**

Request a condition that access be maintained along the back of Bacup Road at all times. The Highways Authority clarify, however, that this does not prevent unloading being carried out from this location.

## RBC (Conservation Officer)

The proposed twin flues would not be as tall as the previous proposal but are also more squat and solid. However, the general environment along the rear of the premises is commercial, where there is a mixed character and there are a number of fixtures and fittings attached to elevations and outbuildings. The flues would be largely hidden from the back street and should not impact on longer distance views. The flues are proposed in galvanised steel, which result in a more conspicuous finish when compared to a matt low profile colour to their exterior. The colour of the flues would be painted should therefore be agreed by condition.

Little detail has been submitted with regards to the smoking shelter. Its position should allow for a hidden and acceptable scheme, which should be the subject to further approval of details.

Overall, getting the building into use outweighs the concern over the limited change to the appearance of the rear of the property. The development will not harm the character of the Conservation Area, subject to further approval of a painting scheme for the flues and the detail of the smoking shelter.

## RBC Environmental Health

No objection, however, request condition regarding detailed submission of extraction for fumes, vapours and odours prior to commencement of development.

## **6. REPRESENTATIONS**

18 letters were sent to neighbours on 04/08/2009 and two site notices and a press notice was published to accord with the General Development Procedure Order.

Owing to an amended application description the neighbours were re-notified by way of letter on the 18/08/2009, two site notices were posted on 20/08/2009 as shown on the site plan and photographs and a press notice was published on 21/08/09.

Two letters of support have been received from the original consultation, providing the following information:

- Competition in the area is not a bad thing
- The applicant is a well respected person in the Valley for the way he treats people. He would make an excellent job of running a restaurant.
- The development would add to the vitality of the Town Centre

To date, no additional responses have been received resulting from the re-consultation procedure.

## **7. ASSESSMENT**

The main considerations of this application are: 1) Principle; 2) Heritage Interest 3) Visual Amenity; 4) Neighbour Amenity; 5) Highway Safety.

**7.1 Principle**

- 7.2 The site is located within the Urban Boundary where the Council seek to locate most new development.
- 7.3 The proposed scheme would bring currently vacant properties back into active use and generate employment, whilst providing a balance between daytime and night time uses, all of which would promote the vitality and viability of the town centre. Consideration must be given, however, to the effect that an overconcentration of a particular use or uses could have on the vitality and viability of the Town Centre.
- 7.4 The Council's Interim Policy Statement – Hot Food Takeaways contains sections relevant to applications for café and restaurant developments.
- 7.5 In accordance with the Interim Policy, when considering whether applications for restaurant/café uses would result in an overconcentration of such uses to the detriment of the vitality and viability of a town centre, regard should be had to: The number of similar uses in the immediate area, and their proximity to each other; the type and characteristics of other uses, the importance of the location for local shopping and the number that would remain to serve the local community; the potential benefits of the proposal for the wider community and; any known unresolved amenity, traffic or safety issues arising from existing uses in the area.
- 7.6 With regards to these criteria, it is considered that whilst there are a number of A3, A4 & A5 uses within the area, very few of these offer an active frontage because of their opening hours during the day. Furthermore, the site is on a secondary frontage, where PPS6 states that there exists a greater opportunity for flexibility and diversity of uses, and there are a number of retail uses on the row. The recently opened Lidl also adds to the retail element in this area. Particular weight in this instance must be given to the fact that the site is currently vacant, and has been for some time. It is considered that the potential benefits to the Conservation Area of permitting this scheme, which would bring the site back into active use are materially greater than any perceived harm that may be caused by the proposed use. Taking into consideration the above it is considered that the application would not be detrimental to the vitality and viability of the Town Centre.
- 7.7 Proposals in the Conservation Area must preserve and enhance its character and appearance, which should be measured against the criteria of Saved Policy HP1 where proposals are assessed against the following:
- a) Townscape feature and roofscape
  - b) Views within and out of the Conservation Area
  - c) The effect upon the character of the Conservation Area
  - d) Any trees of importance to the character of the area
  - e) Compliance with policy DC.4
- 7.8 Bringing the buildings back into active use throughout the day and evening will have a positive effect on the character of the Conservation Area. There are no external alterations to the front, other than proposed advertisements which would require separate advertisement consent, therefore, views along Bacup Road would

not be materially affected. The proposed flues are considered acceptable subject to conditions relating to colour/materials.

7.9 The application is considered acceptable in principle.

#### 7.10 Neighbour Amenity

7.11 The surrounding uses are predominantly commercial. There is a specifically designed smoking area within the yard to the rear that is considered to be an appropriate location. There have been no objections from Environmental Health who consider the proposed opening hours reasonable for a town centre location. The proposed development does not propose any building/engineering works which would incur a loss of light, privacy or outlook. As such, the scheme is considered acceptable in terms of neighbour amenity.

#### 7.12 Highway Safety

7.13 The site is located within the Town Centre within close proximity to public car parks. Parking is restricted along that stretch of Bacup Road. Accordingly it is considered that the proposal would not result in on street parking in the area that would be detrimental to pedestrian/highway safety. There has been no objection from the Highways Authority, however, they do request a condition restricting unloading to the rear from blocking the highway. The scheme is considered acceptable in terms of Highway Safety.

### 8. CONCLUSION

The application is considered acceptable in principle and would not harm the vitality and viability of the Conservation Area or the character and appearance of the Conservation Area.

### 9. RECOMMENDATION

Approve subject to conditions.

### 10. SUMMARY REASON FOR APPROVAL

The application is considered acceptable in principle and would not detract from the vitality and viability of the Town Centre or the character and appearance of the Conservation Area, and would not unduly affect neighbour amenity or highway safety. The scheme is considered to accord with PPS1, PPS6, PPG15, Policies DP1-DP7 and EM1 of the Regional Spatial Strategy for the North West of England, and Saved Policies DC1 and HP1 of the Rossendale District Local Plan.

### 11. CONDITIONS/REASONS

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 29<sup>th</sup> July 2009 and amended plans dated 12 August 2009 unless otherwise required by the conditions below or 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 full details of the proposed extractor ducting, flues, cowl, filters, anti-vibration mountings, the colour the outside of the flues would be painted and acoustic levels providing full details of how fumes, vapours and odours shall be extracted and discharged from the premises. 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. The uses hereby permitted shall not open outside of the following hours:

Café: 09.00-14.30 Mondays to Sundays including Bank Holidays

Restaurant: 17.00-00.00 Monday to Saturday  
11.00-22.30 Sundays and Bank Holidays

Wine Bar: 17.00-00.00 Monday to Saturday  
11.00-22.30 Sundays and Bank Holidays

Reason: In the interests of neighbour amenity in accordance with Saved Policy DC1 of the Rossendale District Local Plan and the Council's Interim Policy Statement: Hot Food Takeaways SPD.

<b>Contact Officer</b>	
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Position	Planning Officer
Service / Team	Development Control
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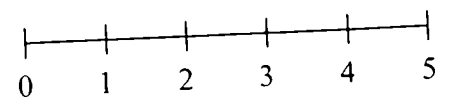
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2009/13170  
UNAPPROVED PLANS

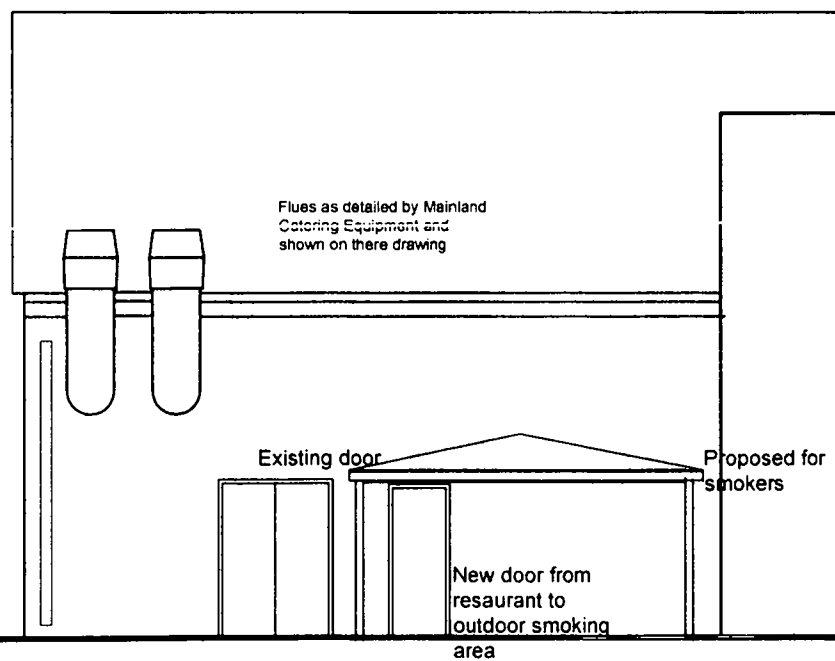


Proposed Elevation

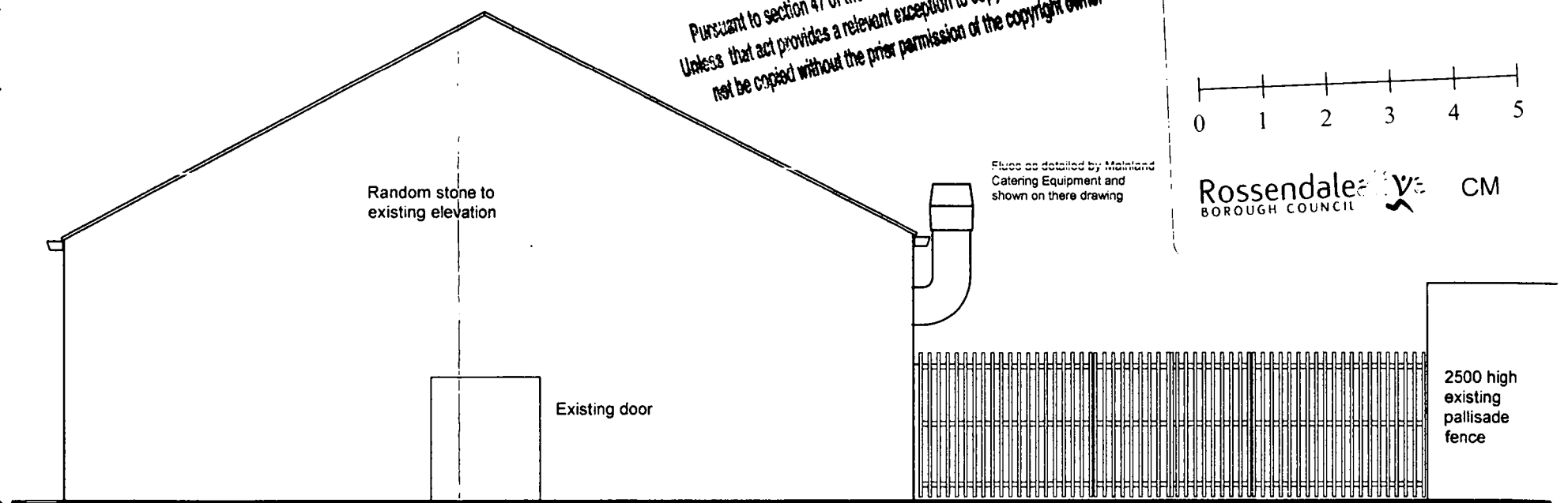
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Yard Elevation

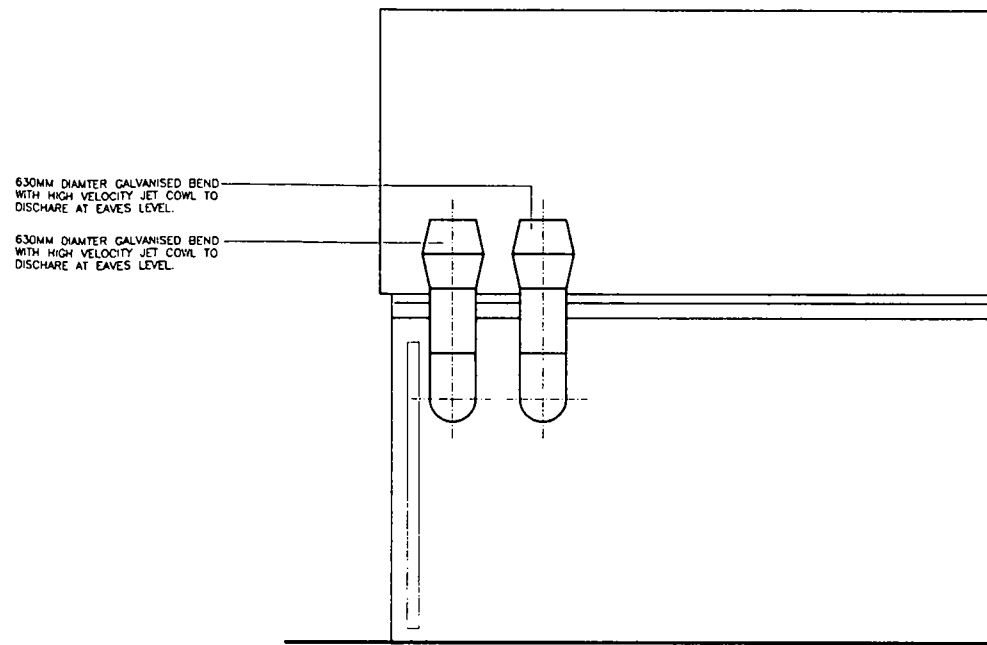


Rear Elevation

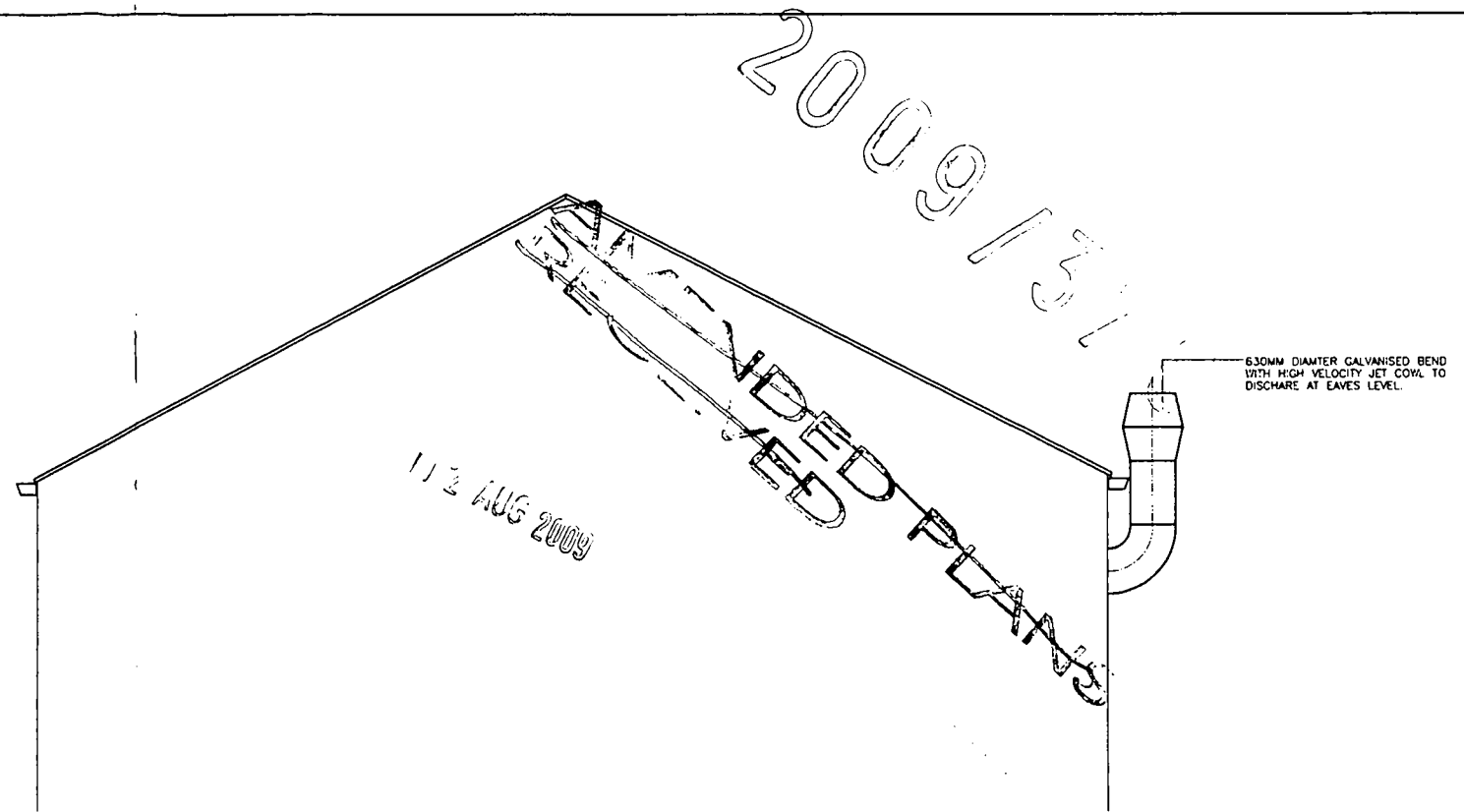
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Job  
**23 - 27 Bacup Road, Rawtenstall**

Client  
**Mr Ali**

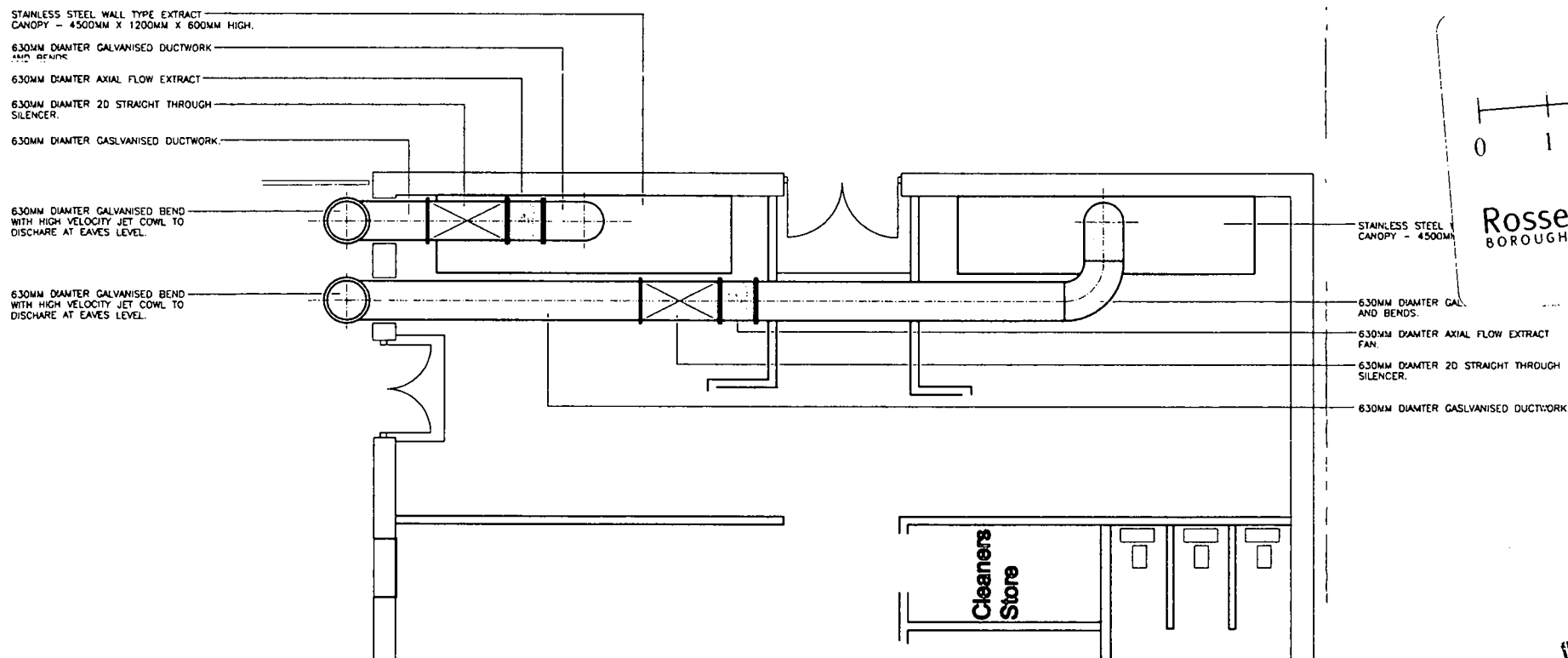
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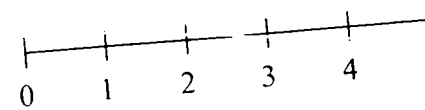
Yard Elevation



Rear Elevation (fence omitted for clarity)



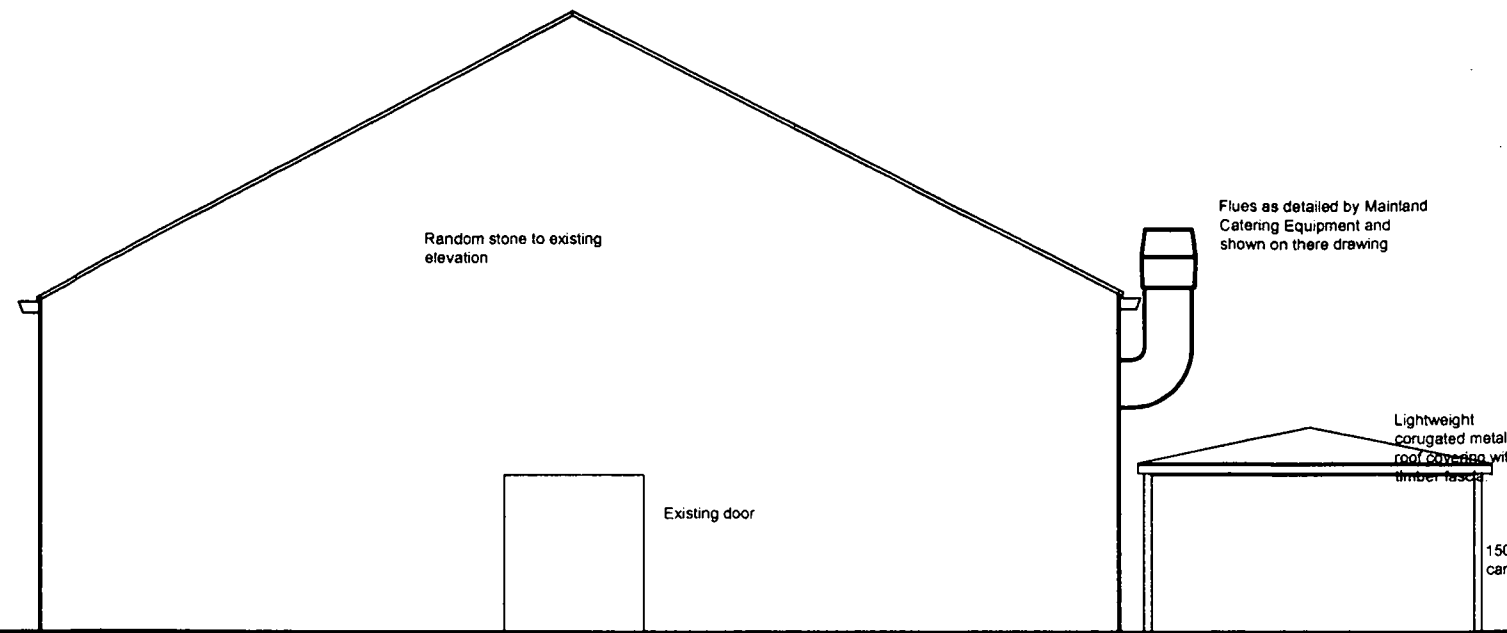
Plan View



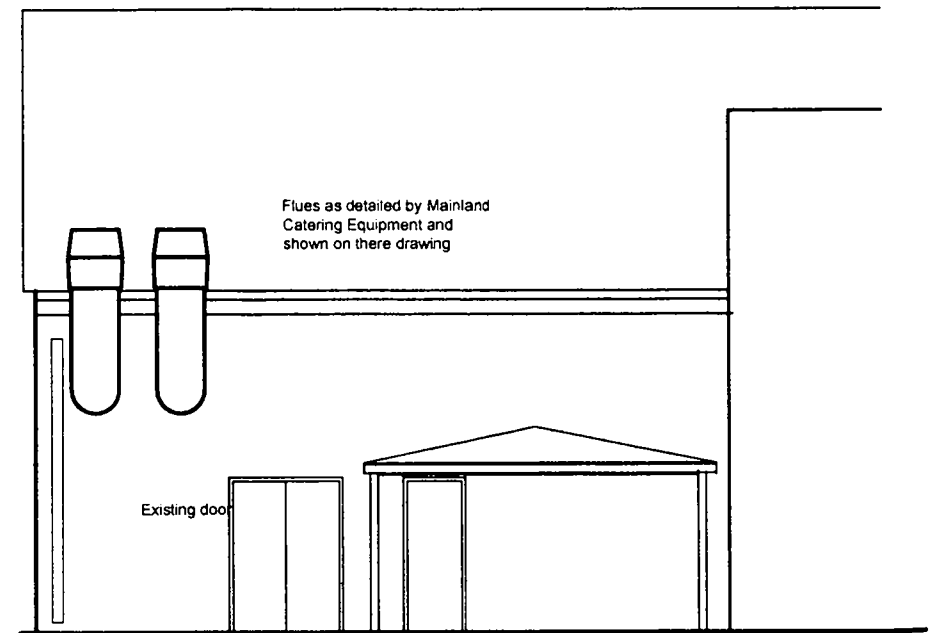
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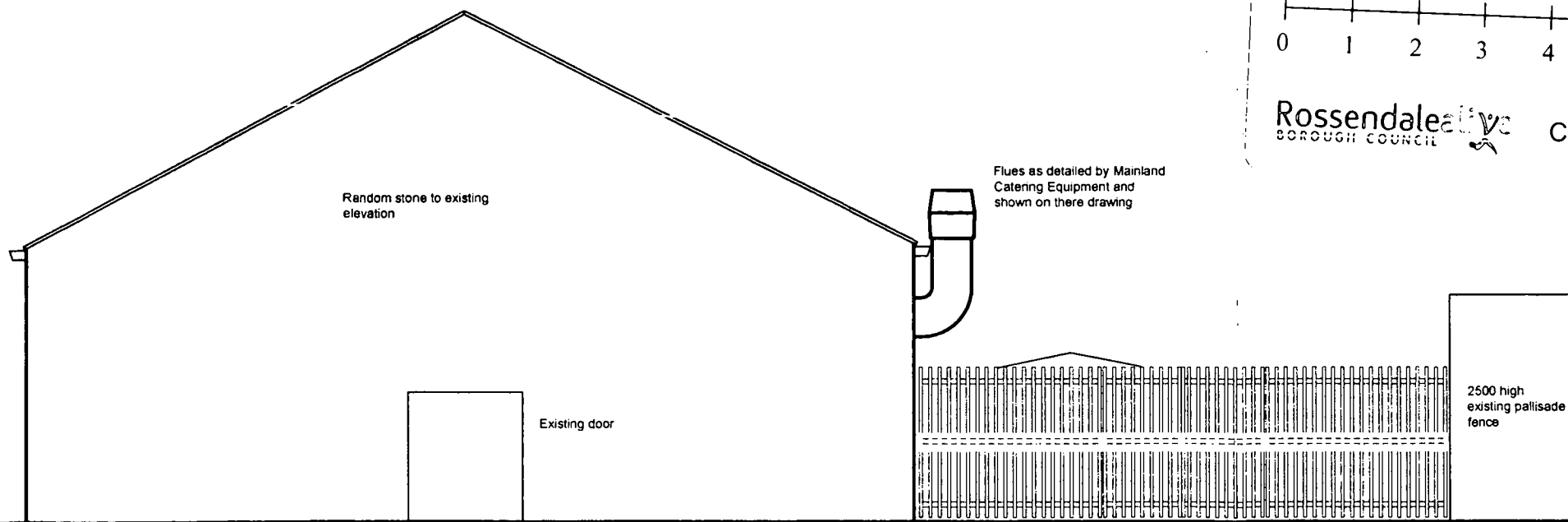
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Rear Elevation (fence omitted for clarity)



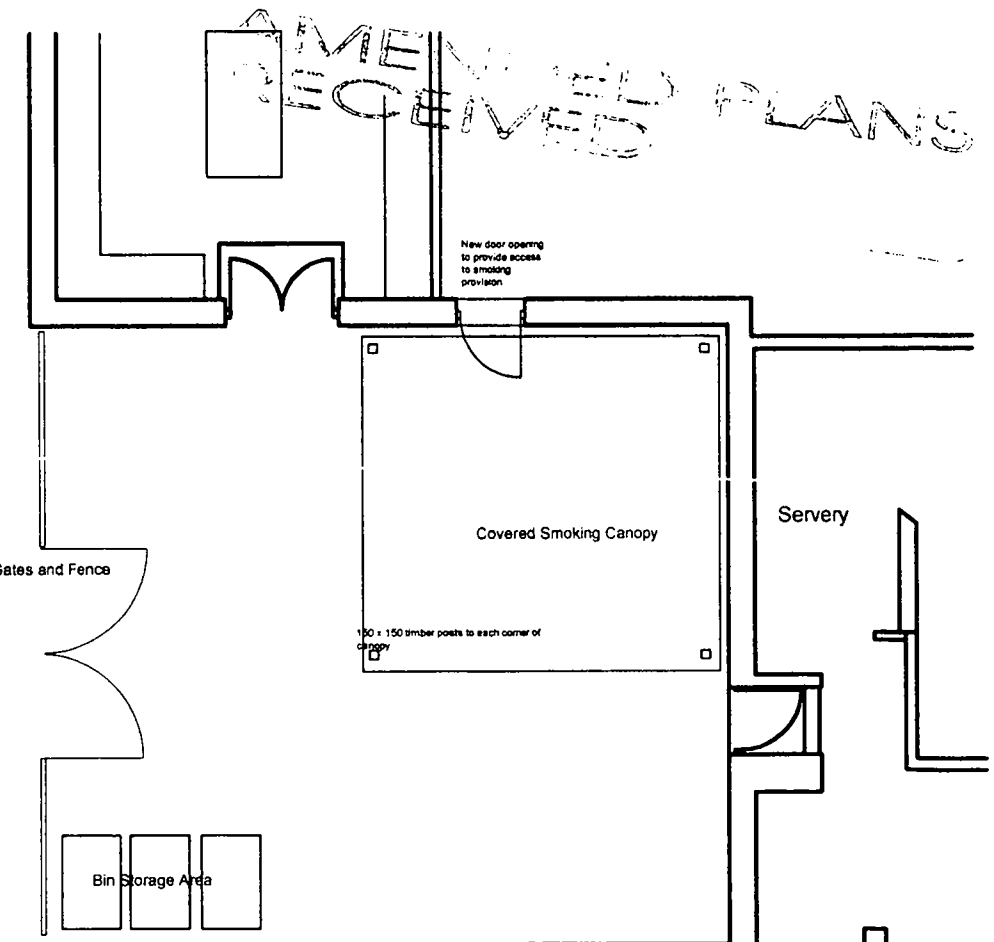
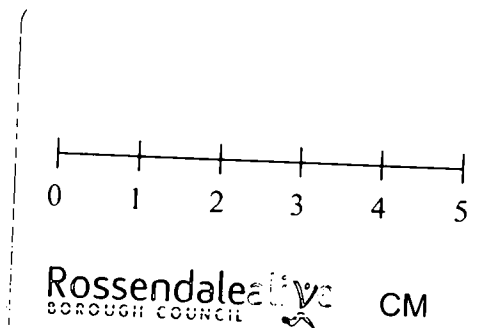
Yard Elevation



Rear Elevation (with fence)

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2009



Title  
 Proposed Smoking Arrangement and bin storage Job  
 Proposed Alterations to 23/27 Bacup Road, Rawtenstall  
 Client  
 Mr Ali  
 Dwg No 106/10A Scale 1:100  
 David Hancock ICIOB  
 55 Almond Crescent Rawtenstall  
 BB4 6EB

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