

**Ward:** Bury East - Redvales

Item 09

**Applicant:** Mr Aamar Khan

**Location:** 115 Radcliffe Road, Bury, BL9 9LD

**Proposal:** Change of use from cafe (Class E (b)) to hot food takeaway (Sui Generis) with installation of flue/extractor system at rear

**Application Ref:** 66472/Full

**Target Date:** 22/03/2021

**Recommendation:** Approve with Conditions

### **Description**

The application relates to a single storey unit on Radcliffe Road. The unit is set back from the footpath to the front, and is located within a row of commercial premises allocated under UDP Policy S1/5 as a Neighbourhood Centres and Local Shops. Residential premises are located to the south and east of the site. The site faces towards Providence Baptist Church to the north. The unit currently has a cafe (Use Class Eb) use.

Planning permission is sought for a change of use to a hot food takeaway (Use Class Sui Generis). Fumes extraction is also proposed, with the ductwork to project approximately 1100mm above the roof of the premises broadly centrally to the unit protruding from the roof. No other external alterations are proposed. The hours proposed are Sunday to Friday 11:00 - 23:00, and 11:00 - 01:00 Saturday.

### **Relevant Planning History**

None

### **Publicity**

Neighbour letters sent 01/02/2021. Objections received from 3 Rydal Close, 5 Rydal Close, 109 Radcliffe Road, 113 Radcliffe Road and 117 Radcliffe Road in relation to:

- Rats behind the property and in residential gardens will potentially be worse given takeaway being established.
- Noise levels and fumes from extractor.
- Would be an eyesore
- Noise/air pollution.
- Takeaways in this area attract groups which could lead to further disruption.
- Loss of property value.
- At least 7 takeaways within 1 km of this property. Do we need another?
- Late night kitchen noise.
- Commercial bins will be used and possibly overflow.
- Increase of litter.
- Quality of life will be impacted.
- 10 - 12 takeaway food outlets in addition to other food/drink/alcohol sales premises in operation within half a mile of this property and within a mile or so of the town centre outlets.
- Previously made complaints about rats and these records should be accessible by planners.
- Far too many takeaways. Not healthy.
- Traffic and customer noise in the evenings.
- Won't be able to use gardens, open windows, hang washing out due to extractor.
- Noise and foot traffic outside the front of the shop along with vehicles pulling up right in front of the shop would greatly heighten and cause dangers for other road users and

- pedestrians along with the school children crossing.
- We feel this will attract anti social behaviour, litter and noise at unsociable hours and would permanently disrupt the lives of those living close by.
- A fan will eliminate smells from the takeaway into the surrounding environment.
- Possibility of vandalism.
- Detrimental to neighbouring business.

Representations of support received from the applicant, and No. 161 Radcliffe Road in relation to:

- The property will be installed with modern extractor system. This makes absolute minimal noise and has facilities which will eliminate any food smells which it extracts.
- The property will be well managed and kept to all health and safety regulations, therefore eliminating any rodents.
- Previous rodent reports was as a result of one of the neighbouring properties leaving the rear yard over grown and unmaintained for many years. This has been since cleaned up and no further rodent problems have occurred.
- Property has ample parking at the front and will have CCTV cameras and extra litter bins to reduce any anti social behaviour and reduce rubbish.
- Premises has been used as a sandwich shop and has changed ownership several times in the last few years. This has mainly been due to no demand in the area.
- Few takeaways in the Redvale areas many have to go outside to find a decent place to eat.
- Takeaway would create jobs and increase footfall and compliment the existing businesses on the parade in these difficult times.
- Takeaway usage would mean current premises would be renovated and upgraded.
- Need to get empty units occupied and help small businesses.

Following amendments to the scheme in relation to the location of the flue further neighbour letters sent 23/02/2021. Further objections received from:  
5 Rydal Close, 113 Radcliffe Road in relation to:

- Proposed changes to the flue/extractor system this has done nothing but brought the noise and smell closer to one of the bedroom windows of No. 113 which if anything has made matters worse and being higher up will only make matters worse for my neighbours.
- Although the applicant states that the flu will be relatively quiet and will remove odour, I should point out that this will only reduce odours via filters and that the odours will remain as will some noise, as anyone who lives near to a takeaway can attest.
- No. 5 Rydal Close will be in the direct line of fire from this flu and only three to four metres away.
- Even with the best flue currently manufactured it would only assist with all windows and doors closed on the premises at all times. This will not be the case, as staff will be by necessity travelling in and out of the property for various reasons. i.e. deliveries, customers, rubbish disposal.
- I have not had sight of any proposed opening hours for the proposed business.
- Although the proposer states that bins will be placed outside the premises you only have to look outside any other takeaway to see that few take responsibility for those bins and the streets are often blighted by litter. I would imagine that this is probably rectified to a degree at the cost to the local authority.
- The proposer states that the property will be covered by CCTV. Firstly these system's are often a requirement with new business to satisfy insurers and serve to protect the business itself and in no way put in to prevent litter nor anti-social behaviour, which I doubt they do. Additionally they differ massively in quality and will only be viewed in the event that staff are requiring it or crime is committed, again to the benefit of the premises itself.
- Increase in traffic on an already busy road.
- One of the comments appears to be from the proposer himself, which I believe should be invalid as it is clearly biased.

- have also seen a comment from another public user which although neutral does support the application and they are fully entitled to their input in this process. I am somewhat surprised that this address has received a letter relating to this application as it is some distance away from it.
- There are a large number of takeaways less than half of a mile distant and I would add that if the proposal is for a pizza takeaway as I have been led to believe then there are over forty in the Bury area alone, most of which will deliver.
- Although there is information to suggest that a recent rodent issue has been resolved, I firmly believe that it will once again become a nuisance with the introduction of food waste being deposited at the rear of the premises.
- I doubt very much that any of the people involved in this decision would approve it if it were right on their own doorstep, devalued their property and undermined their quality of life.
- Use of the rear garden has been a blessing to us for many years and particularly throughout the pandemic, it would be incredibly sad to have that use restricted.

### **Statutory/Non-Statutory Consultations**

**Traffic Section** - Do not wish to restrict the granting of planning permission.

**Environmental Health - Commercial Section** - No response.

**Environmental Health - Pollution Control** - request for conditions that requires a scheme for treating, diluting and dispersing fumes and odours and to ensure that the installation does not exceeding NR25 in the bedrooms of the nearest residential property, with the windows of that residential property being open in the normal manner for ventilation purposes.

**Waste Management** - No response

**Pre-start Conditions** - Agreed by agent.

### **Unitary Development Plan and Policies**

S2/6 Food and Drink  
 S1/5 Neighbourhood Centres and Local Shops  
 EN1/2 Townscape and Built Design  
 HT2/4 Car Parking and New Development

### **Issues and Analysis**

The following report includes analysis of the merits of the application against the relevant policies of both the National Planning Policy Framework (NPPF) and the adopted Bury Unitary Development Plan (UDP) together with other relevant material planning considerations. The policies of the UDP that have been used to assess this application are considered to be in accordance with the NPPF and as such are material planning considerations. For simplicity, just the UDP Policy will be referred to in the report, unless there is a particular matter to highlight arising from the NPPF where it would otherwise be specifically mentioned.

### **Policy**

Policy S2/6 - Food and Drink and states that in considering proposals, regard be given to the following factors:

- the amenity of nearby residents by reason of noise, smell, litter and opening hours;
- whether or not the proposal would result in an over concentration of these types of uses;
- parking and servicing provision and traffic generation;
- provision for the storage and disposal of refuse and customer litter;
- environmental impact of any ventilation flues and/or ducting.

Policy S1/5 - Neighbourhood Centres and Local Shops seeks to retain retailing, as the

predominant use in small neighbourhood centres and in new or existing local shops, to cater primarily for the day to day needs of residents and businesses

Policy EN1/2 - Townscape and Built Design seeks to ensure that any proposals would not have an adverse impact on the particular character and townscape of an area.

Policy HT2/4 - Car Parking and New Development requires all applications for development to make adequate provision for their car parking and servicing requirements.

### **Principle**

The application site relates to a row of commercial properties as identified under UDP Policy S1/5 referenced above. The site is currently used for cafe use which is considered to comprise of the sale of food and drink for consumption (mostly) on the premises. The proposal seeks a change of use to a hot food takeaway, which is considered to comprise of the sale of hot food where consumption is mostly undertaken off the premises.

Paragraph 85 of the National Planning Policy Framework (2019) states that planning policies and decisions should support the role that town centres play at the heart of local communities, by taking a positive approach to their growth management and adaptation. Paragraph 85 (a) further states that planning policies should promote the long term vitality and viability of town centres by allowing them to grow and diversify in a way that can respond to rapid changes in the retail and leisure industries, allows a suitable mix of uses and reflects their distinctive characters. Whilst the proposal is sited outside of a town centre, it is sited within a local centre which equally plays a part within the local community and as such a similar approach is required.

Both the existing, and proposed uses are relatively similar in nature that include the preparation and sale of food. The needs of these uses therefore are similar in that they both may need ventilation/ducting, commercial bins etc and there do not appear to be any restrictions on the opening times of the existing cafe use. The main difference in this instance is whether the food is consumed on, or off the premises. It is understood that the premises are currently vacant and as such at present the unit is generating no activity. It is considered that the change of use to a take away will generate activity within the existing frontage. Furthermore it will make a positive contribution to help support the long term vitality and viability of the neighbourhood centre.

The proposal site is located within a short row of 4 units that comprise of a cafe (the site), salon, betting shop and an office. A public house is also sited adjacent to the row, separated by the junction to Whitefield Road. The row does not have a particular retail character and the unit is already utilised for a non-retail use. As such, it is considered there would not be an over concentration of take away uses within the row and the proposal would comply with Policy S2/6 - Food and Drink.

### **Residential amenity**

The row is commercial in character and fronts onto a busy road between Bury, and Radcliffe. It is therefore considered that there is already background activity in and around the area. There are other uses in the locality which are open late in the evening (White Boar public house) and as such the addition of one other premises with evening opening hours is considered not to have a significant impact on amenity in the area.

The proposed flue/ventilation system for the proposal would be largely integral with an element of ducting proposed for the projects above the roof of the property. This ducting would be located approximately 13 metres from the rear gardens of the properties on Rydal Close, approximately 26 metres from the first floor bedroom windows of these properties and approximately 23 metres from the ground floor elevations of the single storey extensions of these properties. In terms of additional height of the flue, given the distances to the rear properties it is considered an additional 1.1 metres above the existing flat roof would not be unduly overbearing or prominent.

The proposed ducting would be located adjacent to the side, rather than principal elevation of No 113 Radcliffe Road. This property has a number of windows at ground floor and first floor that face the site however it is unclear if these relate to habitable rooms.

Supplementary Planning Document 6 (SPD 6) provides guidance on what can be considered to be habitable or principal windows, in relation to householder extensions and as such, would be a reasonable guide in this case to assess the impact on windows of the neighbouring property.

A principal window is a window to a habitable room on a main aspect to that property. This would normally be located on the front or rear elevation of the property, or the larger window to the main aspect where more than one window relates to the room. A habitable room is defined as a room in which a resident would normally expect to have reasonable levels of privacy for relaxation. This normally would be a living room, dining room or bedroom. A kitchen, utility, workroom, or bathroom are not defined as habitable rooms. Less weight will be afforded to habitable room windows located on side elevations. Given that the 3 first floor windows of No. 113 that would face towards the proposed ducting are located on a side elevation and as such appear to be non-habitable rooms, and a 4th first floor window located within the side elevation is high level with a principal window located on the rear aspect, the location of the flue is considered to be acceptable and the principal windows of the neighbouring property would be retained free from obstruction.

Conditions have been requested by environmental health in relation to the proposed ventilation system that requires a scheme for treating, diluting and dispersing fumes and odours effectively and to ensure that the installation does not exceed noise rating NR25 in the bedrooms of the nearest residential property, with the windows of that residential property being open in the normal manner for ventilation purposes there would be no undue impact upon amenity.

The application is therefore considered to comply with Policy S2/6 - Food and Drink in this respect.

### **Visual amenity**

The proposed ducting would project above the flat roof of the existing property, but would be largely screened from Radcliffe Road due to the existing parapet walling to the front elevation. It is considered that the views of the proposed ducting would be limited and as such would not detrimentally impact on the character of the street scene.

The front elevation of the property would be retained as existing, with a window, doorway and area for signage. There would be no other physical alterations to the building which would affect the visual amenity of the area.

In this instance therefore the application is considered to comply with Policy EN1/2 - Townscape and Built Design.

### **Parking**

A hot food takeaway is a use where customers tend to park for short periods of time in order to pick up food. There are a number of side streets in the locality where there is short stay parking and no objections have been raised from the Traffic Section in relation to the proposal. As such, in this locality and given the existing situation, the proposal is considered to be acceptable and complies with Policy S2/6 - Food and Drink and Policy HT2/4 - Car Parking and New Development.

### **Bin storage and servicing**

There would be a dedicated bin store area to the rear of the site which would be accessed via Whitefield Road for waste collection. The application is therefore considered to comply with Policy S2/6 - Food and Drink in this respect.

### **Response to neighbours**

Environmental Health have been consulted and have raised no objections to the proposal

subject to conditions that have been attached.

Matters in relation to rats and anti-social behaviour are dealt with by legislation outside of the planning process.

Impact on property values is a non-material planning consideration not relevant to the decision.

The impact of the proposal in terms of residential amenity, use and traffic have been set out above.

Whilst neighbouring properties are written to, to notify them of planning applications anyone is allowed to submit representations on an application and these representations can not be discounted and must be considered.

### **Statement in accordance with Article 35(2) Town and Country Planning (Development Management Procedure) (England) (Amendment) Order 2015**

The Local Planning Authority worked positively and proactively with the applicant to identify various solutions during the application process to ensure that the proposal comprised sustainable development and would improve the economic, social and environmental conditions of the area and would accord with the development plan. These were incorporated into the scheme and/or have been secured by planning condition. The Local Planning Authority has therefore implemented the requirement in Paragraph 38 of the National Planning Policy Framework.

**Recommendation:** Approve with Conditions

#### **Conditions/ Reasons**

1. The development must be begun not later than three years beginning with the date of this permission.  
Reason. Required to be imposed by Section 91 Town & Country Planning Act 1990.
2. This decision relates to drawings numbered SHT 1 of 2 and SHT 2 of 2 Rev A and the development shall not be carried out except in accordance with the drawings hereby approved.  
Reason. For the avoidance of doubt and to ensure a satisfactory standard of design pursuant to the policies of the Bury Unitary Development Plan listed.
3. The use hereby permitted shall not be open to customers outside the following times: Sunday to Friday 11:00 - 23:00, and 11:00 - 01:00 Saturday..  
Reason. To safeguard the amenities of the occupiers of nearby residential accommodation pursuant to Policy S2/6 – Food and Drink of the Bury Unitary Development Plan.
4. No development shall commence unless and until a scheme for treating, diluting and dispersing fumes and odours has been submitted to and approved in writing by the Local Planning Authority. The scheme submitted shall include a written statement from a suitably qualified person who is a member of the Heating and Ventilation Contractors Association (HVCA) or an equivalent professional body, stating that the fume treatment to be installed complies with or exceeds the 'Minimum Requirements For Odour Control' provided by the Guidance on the Control of Odour and Noise from Commercial Kitchen Exhaust Systems :DEFRA 2005 (or if applicable such superseding guidance as shall prevail at the time of commencement of the development).

The scheme to be submitted shall also include the relevant manufacturer and installer instructions for any associated equipment with details of maintenance

requirements.

The scheme as approved shall be implemented, available for use and maintained in accordance with the approved scheme whilst it shall serve the development.

Reason. To protect the residential amenities of nearby residential property from impact upon from fumes and odour pursuant to UDP Policy S2/6 - Food and Drink.

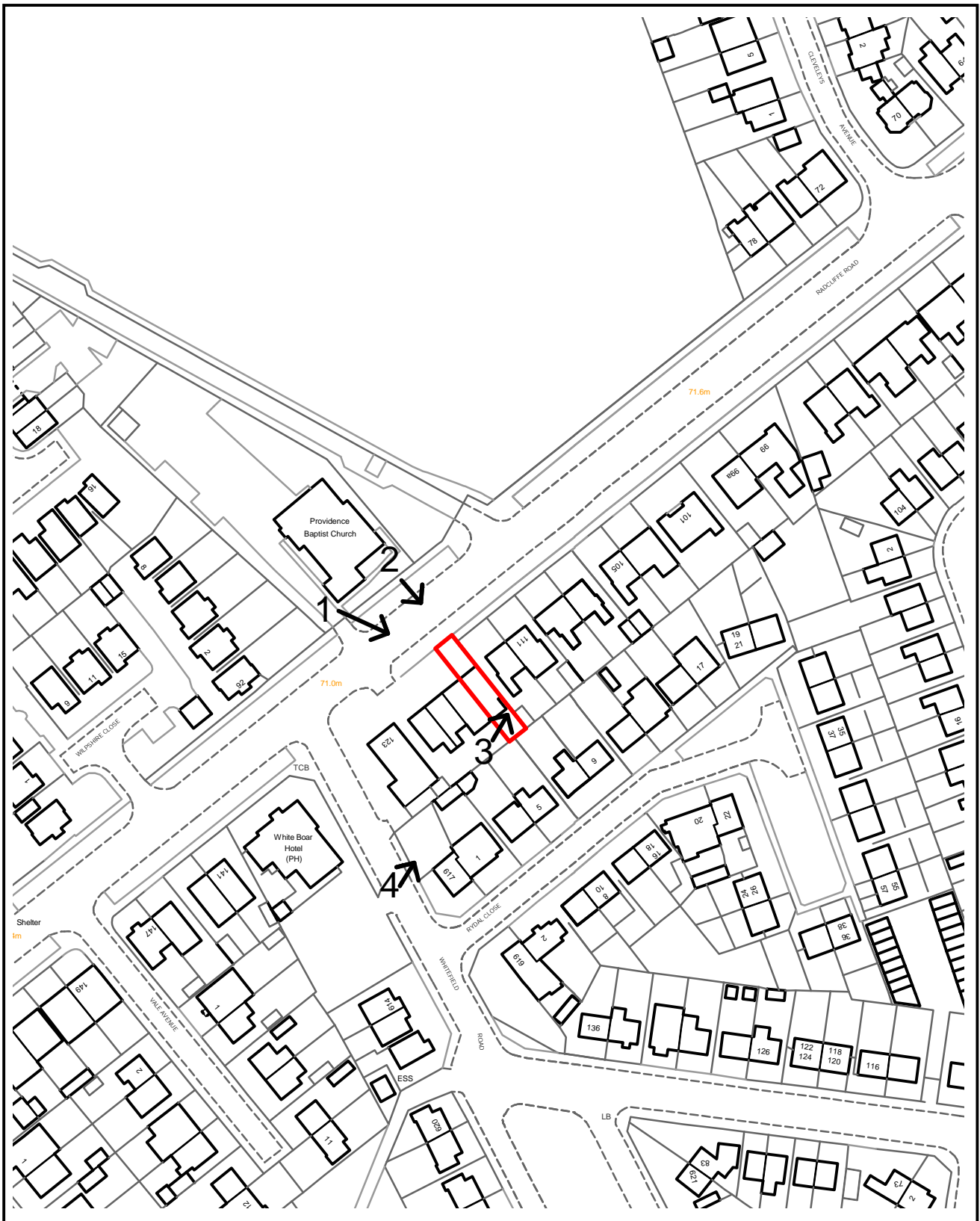
5. The installation shall be so designed such that the maximum noise emitted does not exceed NR25 (Noise Rating) in the bedrooms of the nearest residential property, with the windows of that residential property being open in the normal manner for ventilation purposes.

The scheme as approved shall be fully implemented and all equipment installed shall be used and maintained in accordance with the manufacturers and installers instructions.

Reason. To protect the residential amenities of nearby residential property from impact upon from fumes and odour pursuant to UDP Policy S2/6 - Food and Drink.

For further information on the application please contact **Helen Pressley** on **0161 253 5277**

# Viewpoints



## PLANNING APPLICATION LOCATION PLAN

APP. NO 66472

ADDRESS: 115 Radcliffe Road  
Bury

Planning, Environmental and Regulatory Services

(C) Crown Copyright and database right (2015). Ordnance Survey 100023063.



**Bury**  
COUNCIL



66472

Photo 1



Photo 2



Photo 3



Photo 4



This drawing is the property of IPS Architects and copyright is reserved by them.  
 This drawing is not to be copied or disclosed by or to any unauthorized person without the prior written consent of IPS Architects.

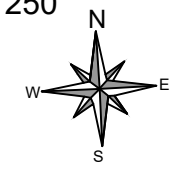
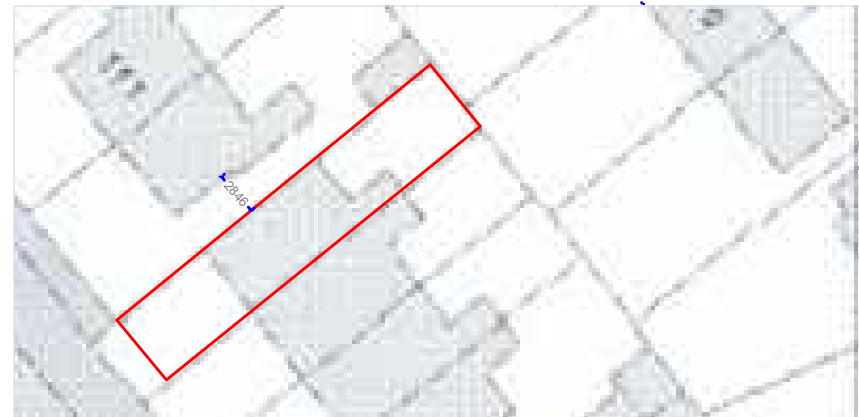
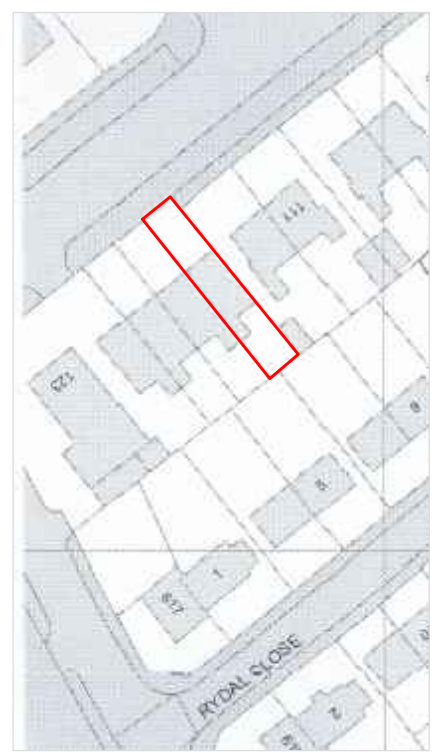
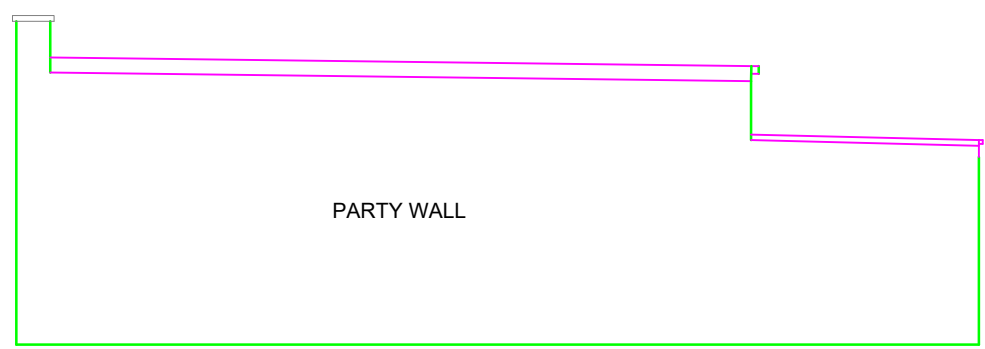
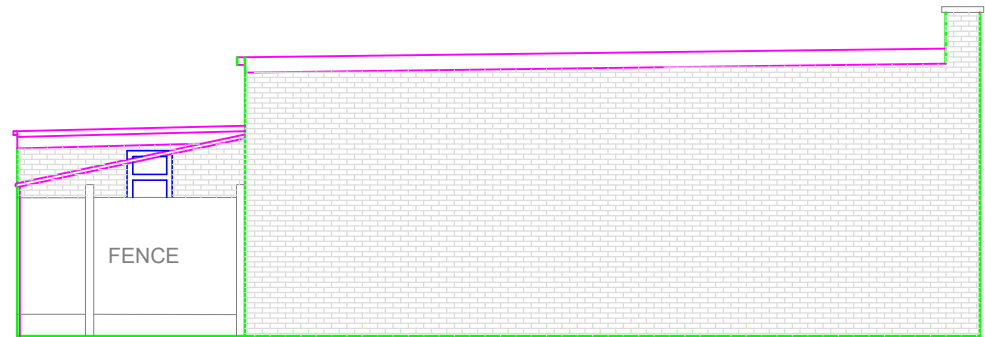
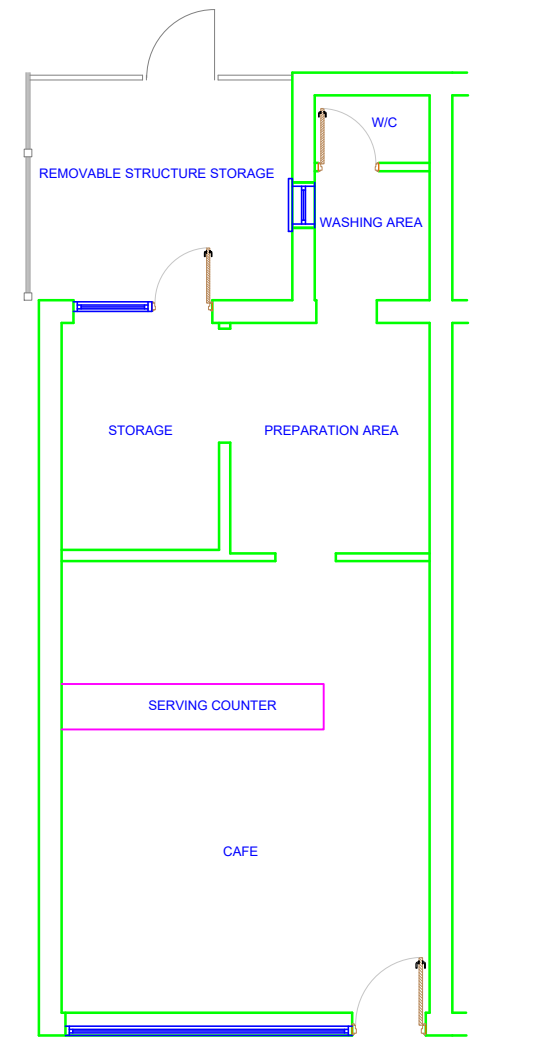
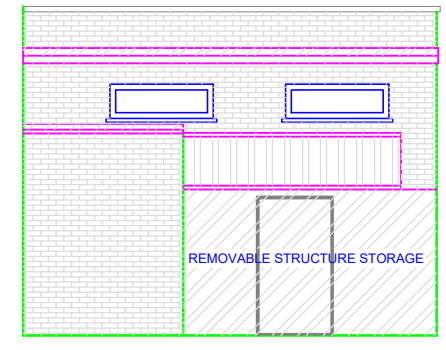
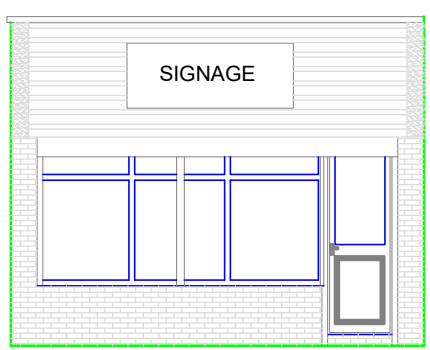
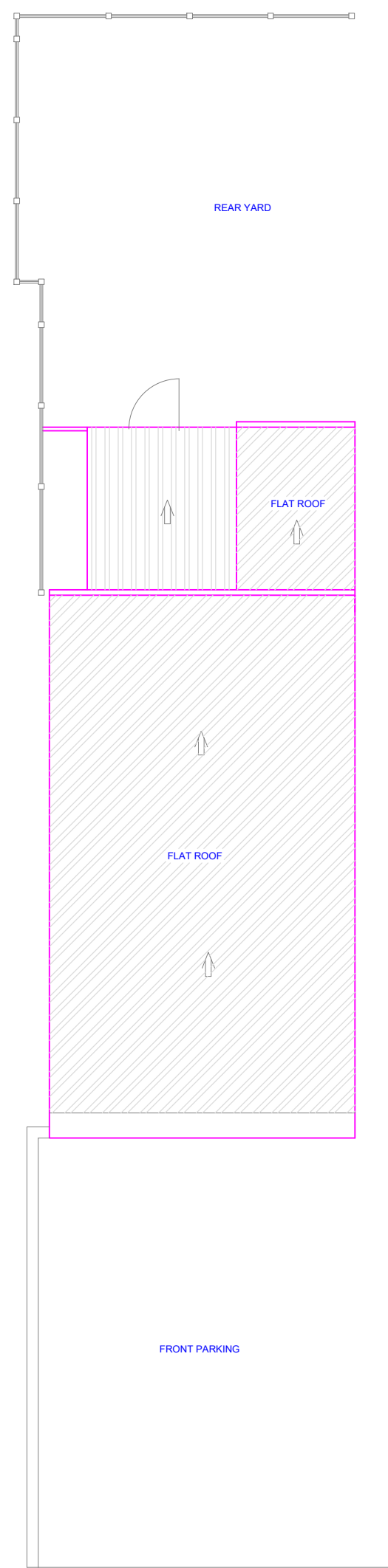
Do not scale from this drawing.

All dimensions are to be checked on site prior to construction, manufacture of any components and ordering of materials and equipment.

Any discrepancies are to be reported to the architects for clarification.

All materials and workmanship to be accordance with the current British Standards and codes of practice.

This drawing is to be read in conjunction with all relevant Architectural Structural Engineers, Mechanical Engineers, Electrical Engineers and Specialists drawings and specifications.

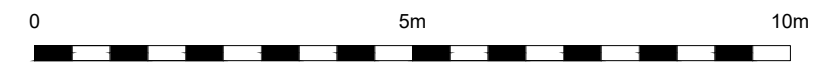


**I Planning Services**  
 6b Cook Street,  
 Bury, Lancashire,  
 BL9 0RP,  
 email: ipsuk@live.co.uk  
 0161 8717405

Existing Floor plans and Elevations  
 of 115 Radcliffe Road, Bury, BL9 9LD

Scale :1 : 100 on A3 All Dimensions in Meters  
 Ref: IPS/R/115/BL99LD Date : 04/12/2020

SHT 1 of 2 Existing



This drawing is the property of IPS Architects and copyright is reserved by them. This drawing is not to be copied or disclosed by or to any unauthorized person without the prior written consent of IPS Architects.

Do not scale from this drawing.

All dimensions are to be checked on site prior to construction, manufacture of any components and ordering of materials and equipment.

Any discrepancies are to be reported to the architects for clarification.

All materials and workmanship to be accordance with the current British Standards and codes of practice.

This drawing is to be read in conjunction with all relevant Architectural Structural Engineers, Mechanical Engineers, Electrical Engineers and Specialists drawings and specifications.

**Extraction system specifications,**

Canopy Hood details 3 metre Stainless Steel Canopy in 1 piece dimensions: 3000mm x 1100mm x 600 mm deep. The canopy will be manufactured from food grade stainless steel. The hood will be supplied with stainless steel baffle grease filters.

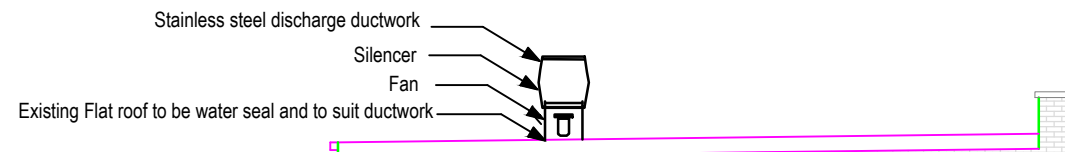
**Fan Specification**

Located within the ductwork is a TCBT 2/4-500 Contra Rotating Cased 630mm compact fan, 4 pole single phase, running transformer regulator. 1340rpm with a maximum noise of 72dba and will handle airflow rate in excess of 2.8m<sup>3</sup>/sec @ 500pa

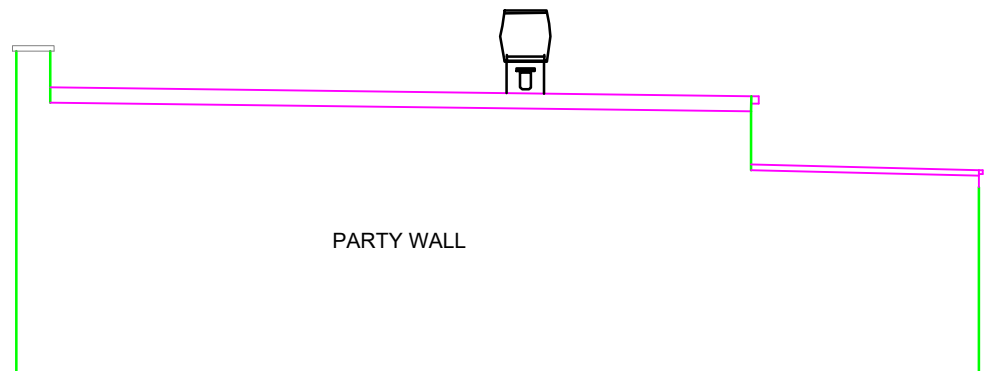
**Ductwork and Discharge efflux velocity for hood**

The ductwork size is approximately 500mm diameter Silencer Details

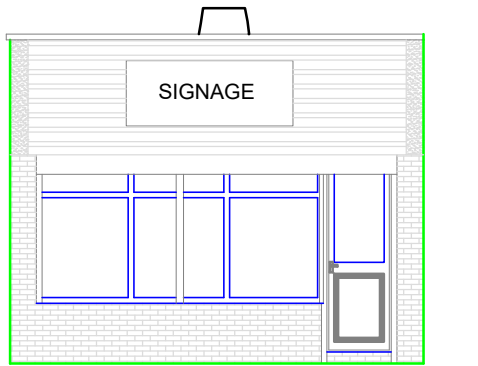
Before the fan and after the fan will be 1 off, 2D Silencers which reduces 32dba (minus 32dba) Maximum operating noise of fan is 72dba 72-32 = 40dba which is 10db less from the background levels to comply with BS



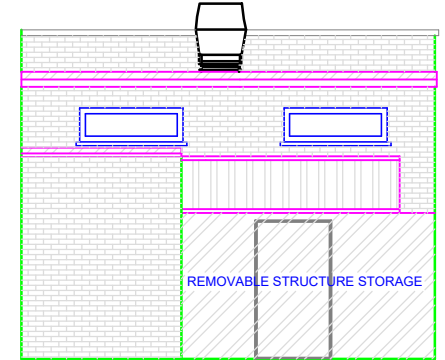
PROPOSED SIDE ELEVATION (NORTH EAST)



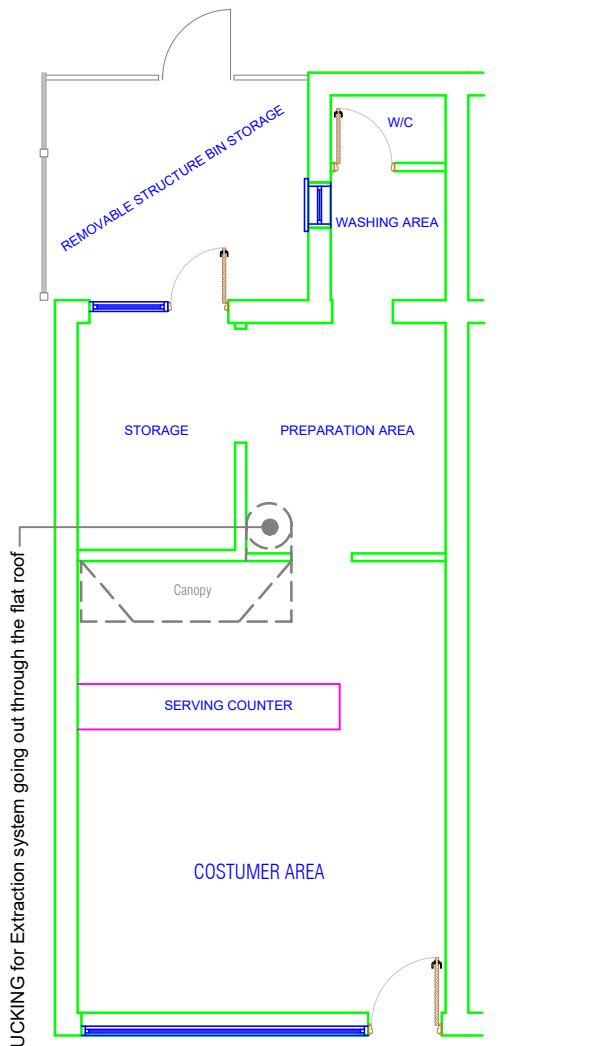
PROPOSED SIDE ELEVATION (SOUTH WEST)



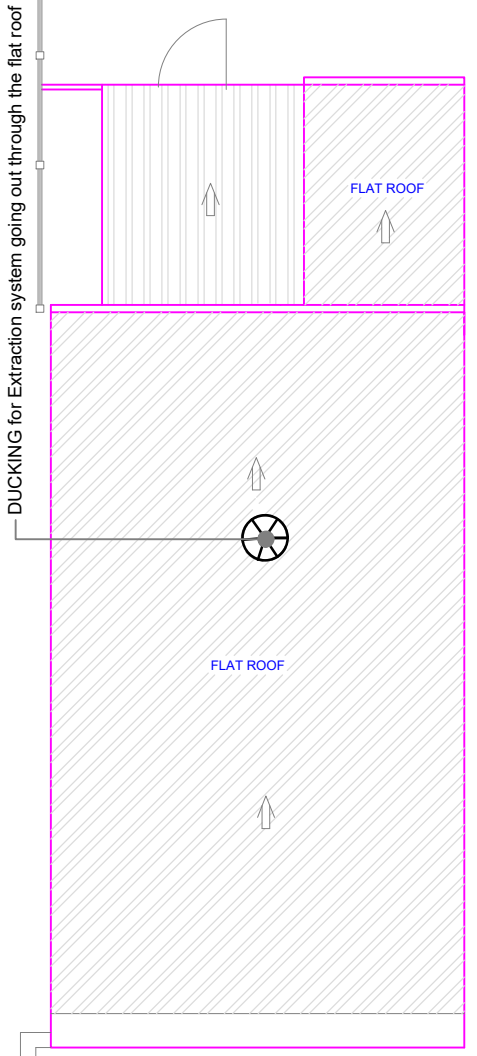
PROPOSED FRONT ELEVATION



PROPOSED REAR ELEVATION

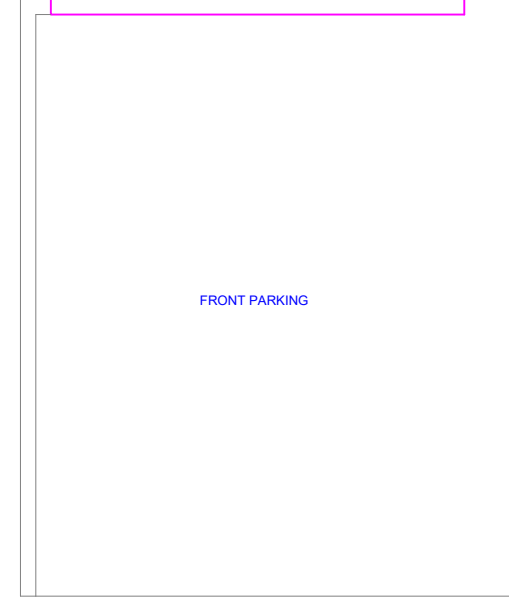


PROPOSED GROUND FLOOR PLAN

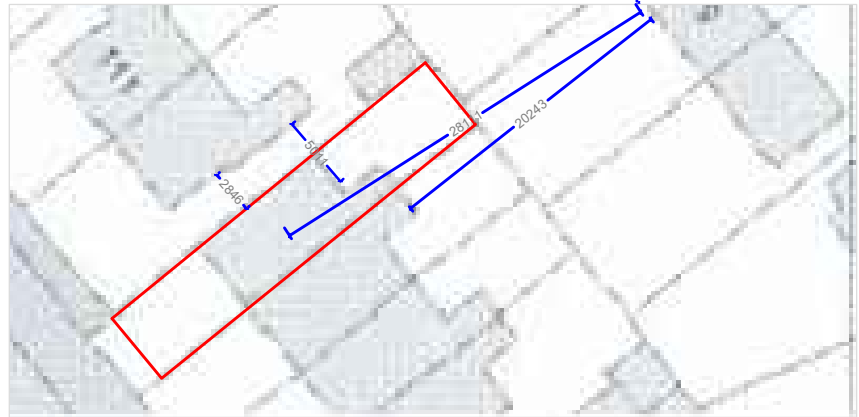


DUCKING for Extraction system going out through the flat roof

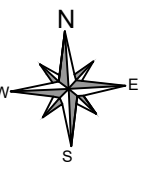
DUCKING for Extraction system going out through the flat roof



PROPOSED SITE PLAN



BLOCK PLAN @ Scale: 1:500



**IPS Planning Services**  
 6b Cook Street,  
 Bury, Lancashire,  
 BL9 0RP,  
 email: ipsuk@live.co.uk  
 0161 8717405

Proposal Floor plans and Elevations of 115 Radcliffe Road, Bury, BL9 9LD	
Scale : 1 : 100 on A3	All Dimensions in Meters
Ref: IPS/R/115/BL99LD	Date : 04/12/2020
REV: A Date: 16/02/21	Proposal
SHT 2 of 2	

