

**Ward:** Bury East

**Item** 01

**Applicant:** Mr Lee Hadfield

**Location:** 188 Rochdale Old Road, Bury, BL9 7SB

**Proposal:** Retrospective application for change of use from retail (Use Class E) to part retail (Use Class E) and hot food takeaway (Sui Generis) with elevational changes and erection of extraction flue

**Application Ref:** 66686/Full

**Target Date:** 04/05/2021

**Recommendation:** Approve with Conditions

### **Description**

The application relates to an end terraced property located on Rochdale Old Road. The site is not located within an identified shopping, or neighbourhood centre and is bounded by residential properties on all sides. A barber shop is also located to the west of the site at No. 186 separated from the site by Cuckoo Lane. The site fronts directly onto Rochdale Old Road and the last lawful use appears to be retail. The unit also has a self contained flat at first floor which is existing.

Planning permission is sought for a retrospective change of use from retail (Use Class Ea) to part retail (Use Class E) and hot food takeaway (Sui Generis) with elevational changes including a roller shutter door to the front elevation, render to the rear and part of the frontage, a painted gable and the introduction of an extraction flue to the rear. The hours proposed are:

Monday-Thursday 14:00 - 22:30

Friday - Sunday 14:00 - 23:00

### **Relevant Planning History**

35062 - Retention of internally illuminated wall mounted advertisement display

35346 - Retention of internally illuminated wall mounted advertisement display unit (resubmission)

### **Publicity**

Letters sent 17/03/2021 to 16 neighbouring properties. 6 objections received from 202 Rochdale Old Road, 200 Rochdale Old Road, 198 Rochdale Old Road, 3 Cuckoo Lane, Councillor Holt, Councillor Smith in relation to:

- Parking on double yellows outside - customers, staff and deliveries
- Parking in the side roads in an inconsiderate manner, frequently blocking access for residents.
- People eating in their cars.
- Litter - no provision of industrial bins
- Rats.
- Smell.
- Flue unsightly.
- Suspicious activity going on from behind the shop
- Anti-social behaviour
- The lack of consultation with residents prior to this premises opening shows a total lack of respect for residents and the area.
- Block access for bin wagons
- This business has obviously been allowed to open without proper planning permissions in place leading to the question of what hygiene or safety inspections have been carried

out.

- The close proximity of a primary school, we believe undermines Bury Council's policy of promoting healthy eating for children and families.

Respondents have been notified of the Planning Committee meeting.

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

**Environmental Health - Pollution Control** - proposed condition in relation to the installation of an activated carbon discarb filter.

**Traffic Section** - do not wish to restrict the grant of planning permission.

**Pre-start Conditions** - Not relevant

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

S2/6	Food and Drink
EN1/2	Townscape and Built Design
EN1/8	Shop Fronts
HT2/4	Car Parking and New Development
NPPF	National Planning Policy Framework

### **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.

### **Principle**

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.

Paragraph 86 of the National Planning Policy Framework (2021) 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 86 (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 as suitable mix of uses (including housing) and reflects their distinctive characters. Whilst the proposal is sited outside of a town centre, it is sited within a unit that has previously been used for retail use which equally plays a part within the local community and as such a similar approach is required.

In this instance, it is considered that the fall back position of what could be implemented under permitted development rights is a material planning consideration. The lawful use of the unit is Class E(a) - Display of retail sale of goods, other than hot food. Class E covers Commercial, Business and Service uses and as such the existing unit could change to the following uses under permitted development:

- E(b) Sale of food and drink for consumption (mostly) on the premises

- E(c) Provision of:
  - E(c)(i) Financial services,
  - E(c)(ii) Professional services (other than health or medical services), or
  - E(c)(iii) Other appropriate services in a commercial, business or service locality
- E(d) Indoor sport, recreation or fitness (not involving motorised vehicles or firearms or use as a swimming pool or skating rink,)
- E(e) Provision of medical or health services (except the use of premises attached to the residence of the consultant or practitioner)
- E(f) Creche, day nursery or day centre (not including a residential use)
- E(g) Uses which can be carried out in a residential area without detriment to its amenity:
  - E(g)(i) Offices to carry out any operational or administrative functions,
  - E(g)(ii) Research and development of products or processes
  - E(g)(iii) Industrial processes

The E(b) use for the sale of food and drink for consumption (mostly) on the premises would be similar in that they both may need ventilation/ducting, commercial bins etc and there does not appear to be any restrictions on the opening times of the existing retail use and as such this E(b) use could potentially be opened at similar times to those proposed for the takeaway use. The main difference in this instance is whether the food is consumed on, or off the premises.

It is considered that the change of use to a takeaway 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 existing commercial unit at the ground floor. The row in which the commercial unit is located does not have a particular retail character and therefore it is considered there would not be an over concentration of takeaway uses within the row and the proposal would comply with Policy S2/6 - Food and Drink and is therefore acceptable in principle provided it complies with other considerations set out within S2/6 and other UDP Policies identified.

### **Design, Layout and Appearance**

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. EN1/8 - Shop Fronts further seeks to ensure that proposes for new and altered shop front properly respect the architectural elements of the building and the character of the surrounding street scene.

The proposal would maintain a frontage onto Rochdale Old Road with door, and window replicating that of the existing shop frontage. An area for advertisement would be retained centrally above the door and window for signage. A new roller shutter has also been introduced that would replicate the design of the roller shutter already installed at the adjacent barber shop. The use of cream render and painting would be appropriate and again is similar in appearance to the barber shop. The appearance is not wholly solid and thus avoids the appearance of a dead frontage during hours when the business would be closed.

The proposed flue would be located entirely to the rear of the unit but would be visible from Cuckoo Lane and Back Rochdale Old Road. The current flue is silver, and projects slightly above the eaves of the existing property. Due to the colour of the flue, it is considered to be prominent in the street scene however it is considered that painting the flue black would help to alleviate this prominence and help the flue to tie in with the existing rain water goods and windows. This can be dealt with via condition.

### **Residential Amenity**

Environmental Health have visited the site following complaints and have raised concerns in relation to smells and odours currently being emitted from the unit. As such, further information has been requested by Environmental Health in relation to the installation of a carbon filtration system. This information has now been supplied, and reviewed by Environmental Health and they are satisfied with this new scheme for the installation of an

activated carbon discarb filter. This has been conditioned accordingly.

The proposed flue would face towards the gable, rather than principle elevation of No. 1 Cuckoo Lane. The flue would be located approximately centrally within the rear elevation of the existing premises between windows associated with the upstairs flat. The proposed flue would not obscure these windows and the extracting duct would be sited above these windows.

There are no details about how or indeed if the party walls have been insulated with respect to noise and sound transference. A such a planning condition is proposed to deal with this concern.

### **Hours**

The historic use of the premises would not have been subject to any planning controls in relation to the hours of operation. The application is proposing

- Monday-Thursday 14:00 - 22:30
- Friday - Sunday 14:00 - 23:00

The premises is a corner plot with a street to the side Gorse bank and fronts on to a busy highway, Rochdale Road. The proposed hours are not out of the ordinary in consideration of the location and the fact that there is a dwelling adjoining the property on one side, with others in the vicinity.

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

### **Parking**

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

From the comments received from neighbours it appears that the proposed use has intensified the need for parking within the vicinity of the site. There are currently parking restrictions through double yellow lines to the front, and side of the unit at the junction with Cuckoo Lane. The previous shop/off licence would appear to have attracted people on foot however the introduction of a takeaway has introduced a requirement for parking associated with the use. Again however, the fall back position of what could be implemented under permitted development rights is a material planning consideration that needs to be addressed.

The uses set out within Use Class E set out above, could potentially generate a similar of greater need for parking than the proposed takeaway use. Given the size of the unit it would not be unimaginable for uses E(b), E(c), E(e) or E(g) to be introduced utilising PD rights. A hot food takeaway is a use where customers, or delivery drivers, tend to park for short periods of time in order to pick up food, rather than requiring parking all day for members of staff, clients and customers. Given that there are already parking restrictions in place around the site, outside of adding a loading restriction that could also impinge on the unit's ability to receive deliveries, it is considered that the proposed use at this site is acceptable in terms of parking.

### **Bin storage and servicing**

There would be a dedicated bin store area to the rear of the site which would be accessed via Back Rochdale Old 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.

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

The site is located approximately 150 metres from a school. There is however no policy within the UDP preventing the locations of a takeaways within the proximity of a school.

**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.

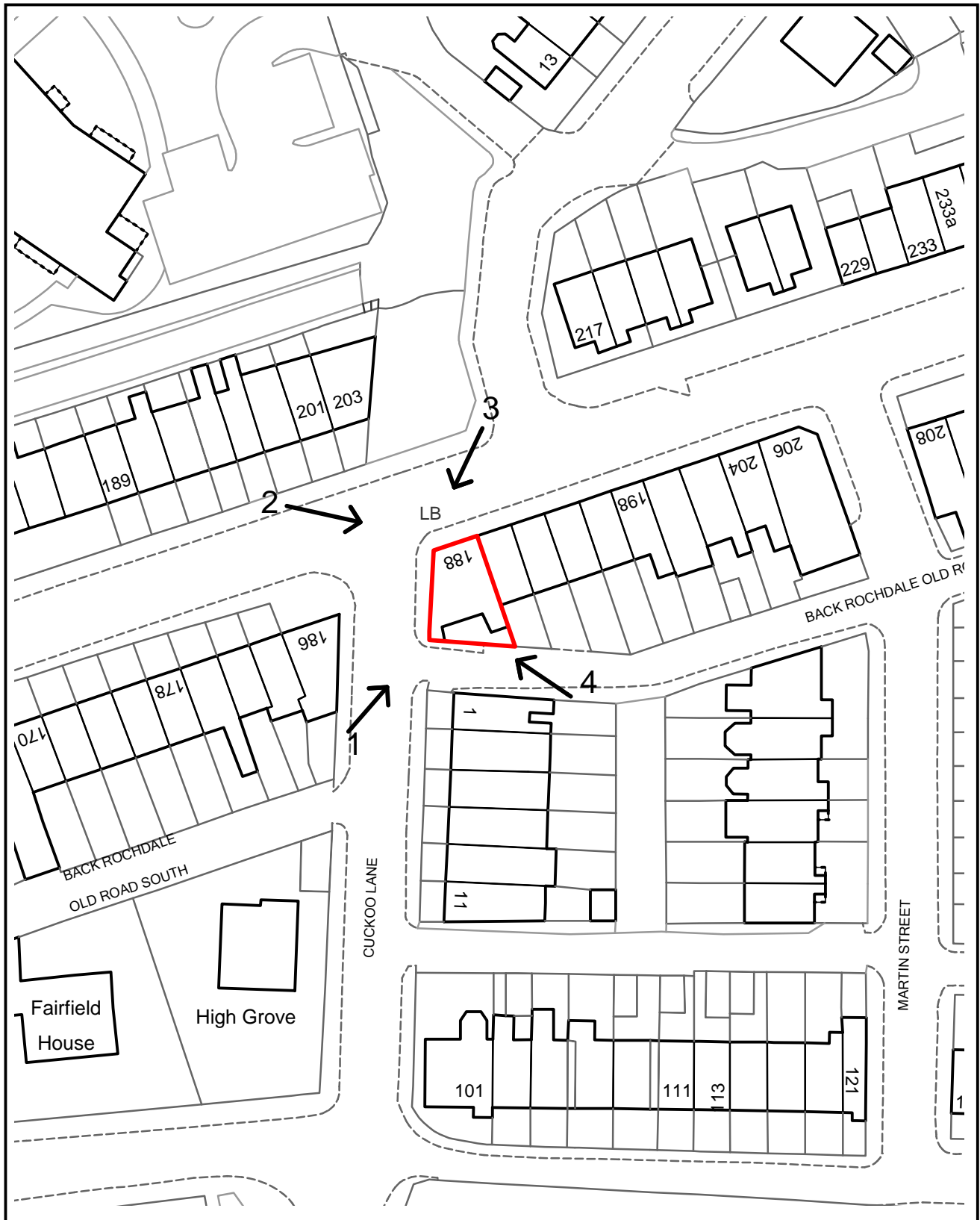
**Recommendation:** Approve with Conditions

**Conditions/ Reasons**

1. This decision relates to drawings numbered Location Plan, 21-903 (01)001 PL0 and 21-903 (02)001 PL0 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.
2. The use hereby permitted shall not be open to customers outside the following times: Monday-Thursday 14:00 - 22:30  
Friday - Sunday 14:00 - 23:00  
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.
3. The mechanical extraction system shall be maintained in accordance with the document titled "Design and Specifications of Extraction Ventilation System" submitted as supporting document to the application. In addition the mechanical extraction system shall incorporate an activated carbon discarb filter, which shall be installed within 2 months of the date of the decision and maintained to the manufacturers specifications  
Reason. In the interests of amenity pursuant to S2/6 – Food and Drink of the Bury Unitary Development Plan.
4. The extraction flue hereby approved shall be coloured black within 2 months of the date of decision and thereafter maintained.  
Reason. In the interests of visual amenity pursuant to Policy EN1/2 - Townscape and Built Design of Bury Unitary Development Plan.
5. The sound insulation of the party walls, ceiling / floors shall be improved in accordance with a scheme to be submitted within 28 days of this decision. Following approval of the scheme by the Local Planning Authority, all proposed measures shall be implemented within 3 months following approval of the scheme and it shall remian in situ whilst it serves the use hereby approved.  
Reason. To reduce nuisance from noise to the occupiers of the adjoining dwelling pursuant to the NPPF and UDP Policies EN7/2 Noise Pollution and 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 66686**

**ADDRESS: 188 Rochdale Old Road  
Bury**

**Planning, Environmental and Regulatory Services**

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



No Window

66686

Photo 1



Photo 2





Photo 3



Photo 4



H. M. LAND REGISTRY

NATIONAL GRID PLAN SD8211 SECTION D

LANCASHIRE

Scale 1/1250

COUNTY OF GREATER MANCHESTER  
BURY DISTRICT

BURY COUNTY BOROUGH

WOODGATE HILL ROAD

BROADWAY

ROCHDALE OLD ROAD

CUCKOO LANE

FOURTH AVENUE

MARTIN STREET

BATTERSBY STREET

Made and printed by the Director  
General of the Ordnance Survey,  
Cheshington, Surrey. 1965 for HMLR  
© Crown Copyright 1965

No. LA 123981

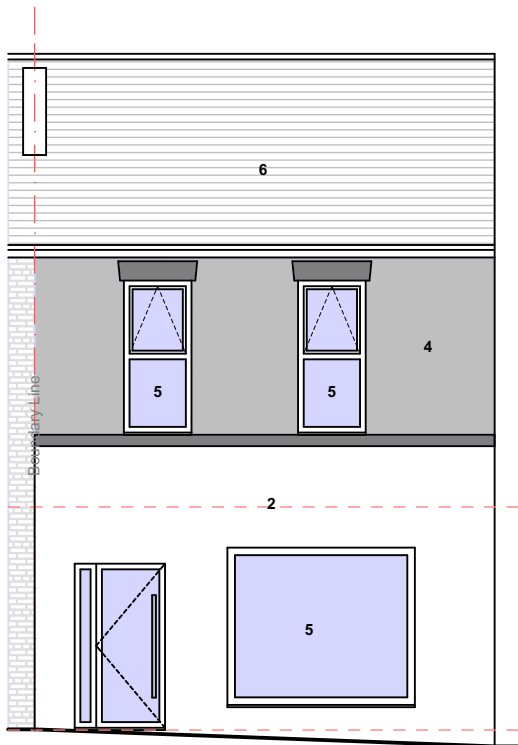
This is a copy of the title plan on 9 MAR 2021 at 13:14:45. This copy does not take account of any application made after that time even if still pending in HM Land Registry when this copy was issued.

This copy is not an 'Official Copy' of the title plan. An official copy of the title plan is admissible in evidence in a court to the same extent as the original. A person is entitled to be indemnified by the registrar if he or she suffers loss by reason of a mistake in an official copy. If you want to obtain an official copy, the HM Land Registry web site explains how to do this.

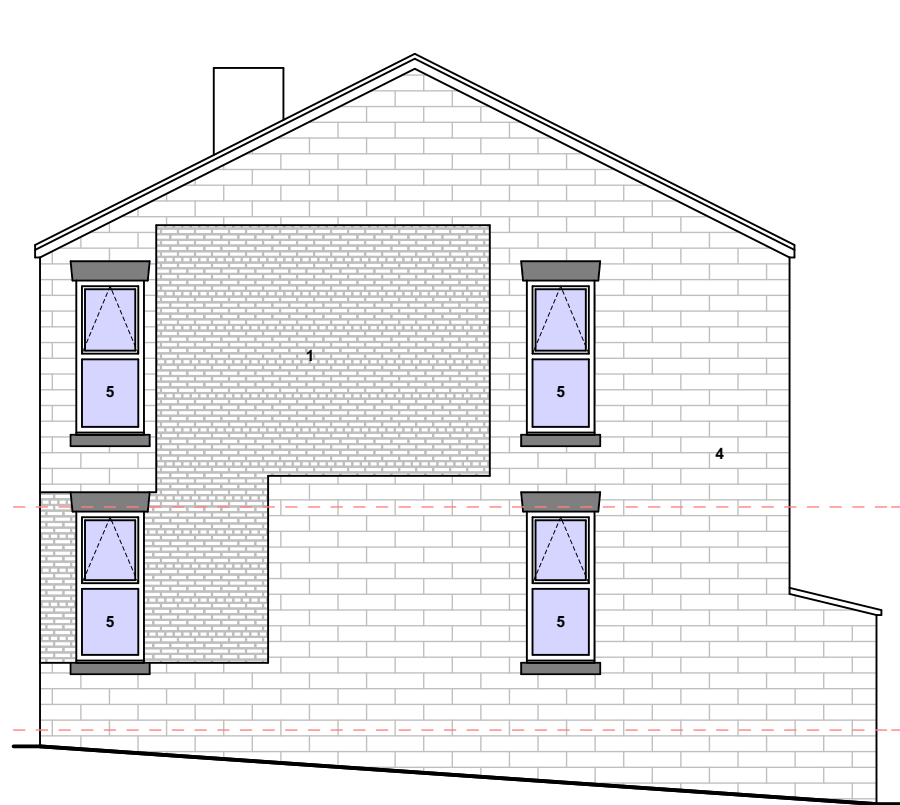
HM Land Registry endeavours to maintain high quality and scale accuracy of title plan images. The quality and accuracy of any print will depend on your printer, your computer and its print settings. This title plan shows the general position, not the exact line, of the boundaries. It may be subject to distortions in scale. Measurements scaled from this plan may not match measurements between the same points on the ground.

This title is dealt with by HM Land Registry, Fylde Office.

© Crown Copyright. Produced by HM Land Registry. Further reproduction in whole or in part is prohibited without the prior written permission of Ordnance Survey. Licence Number 100026316.



EXISTING GA FRONT ELEVATION  
@1:100



EXISTING GA SIDE ELEVATION  
@1:100



EXISTING GA REAR ELEVATION  
@1:100

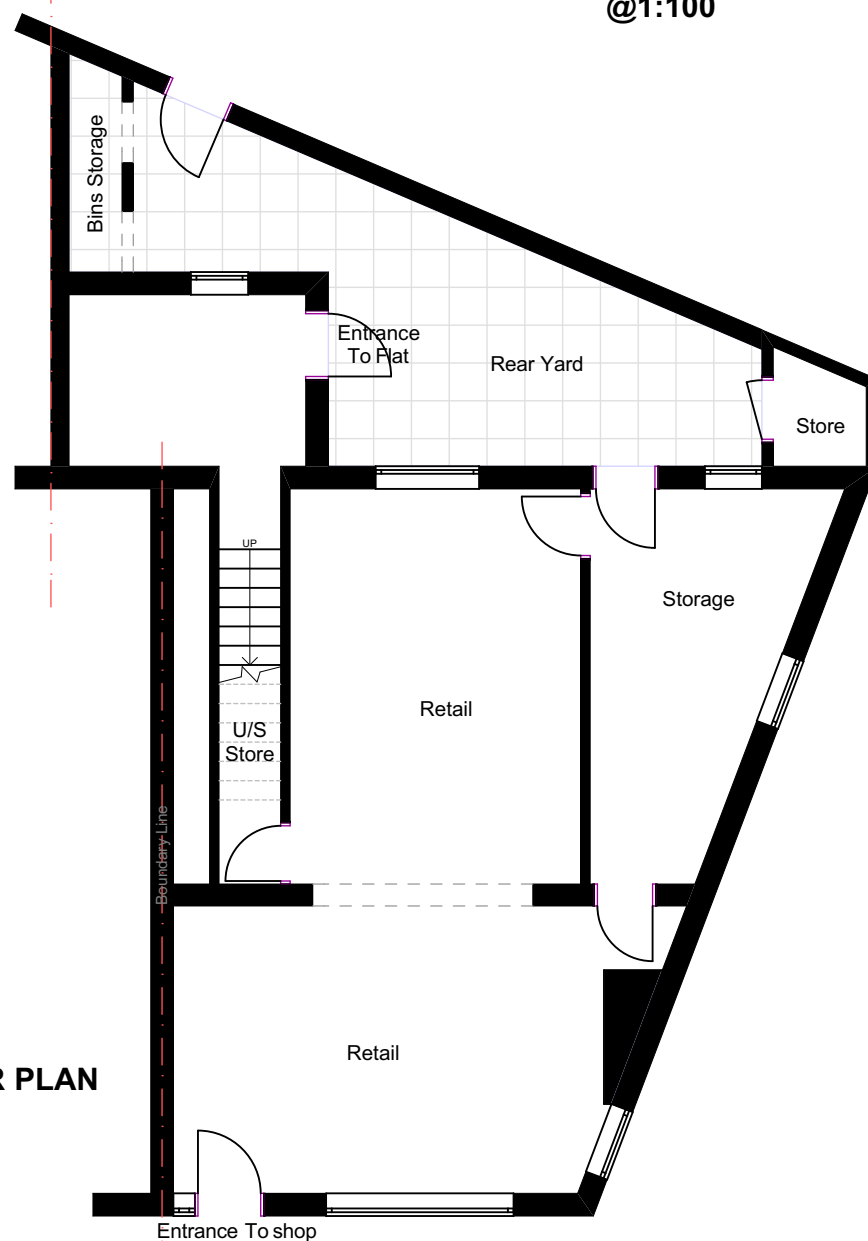
#### notes

This drawing is subject to a detailed building and site survey, therefore no guarantee of its accuracy can be given. This drawing has been draughted in accordance with the clients design requirements. All areas are approximate and are subject to a detailed building and site survey and further design development. All dimensions should be checked prior to commencement of construction on site. Measurements should not be taken off the drawing.

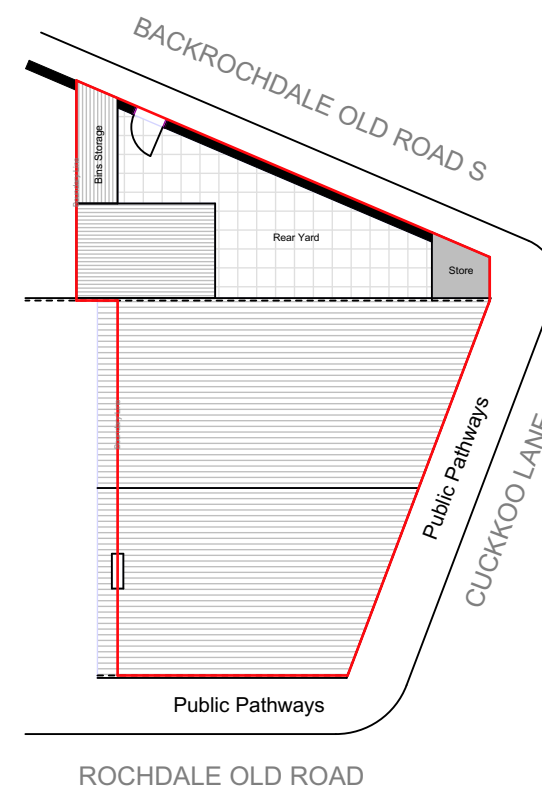
All dimensions shown are in millimetres (mm).

#### Text Key

- Existing brickwork
- Existing render
- Existing uPVC door/window
- Existing block
- Existing timber door/window
- Existing slate roof tiles
- Proposed render
- Proposed anthracite grey uPVC door/window
- Proposed aluminum shutter



EXISTING GA GROUND FLOOR PLAN  
@1:100



EXISTING GA SITE PLAN  
@1:200

PL0 Planning Issue

01.03.21

revisions



NADA Architects Ltd  
169 Kingsway  
Burnage  
Manchester  
M19 2ND  
Mob: 07974 735527  
E: ahmed@nadaarchitects.com  
W: www.nadaarchitects.com

D - design PL - planning PT - pre-tender  
T - tender P - preliminary  
C - construction R - record

PLANNING

LEE HADFIELD

**CHANGE OF USE.**  
**188 ROCHDALE OLD ROAD,**  
**BURY, BL9 7SB**

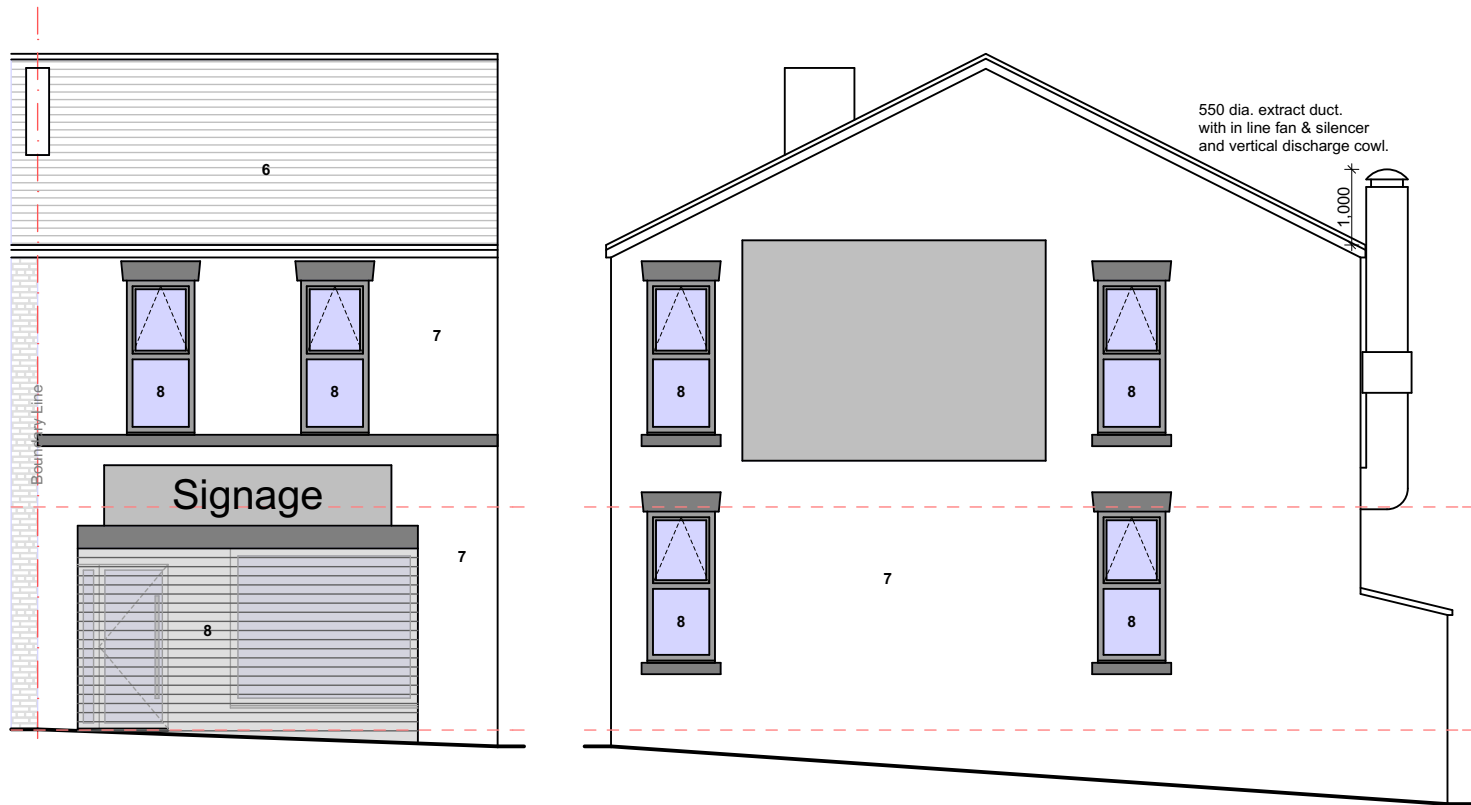
**EXISTING GA SITE PLAN & ELEVATIONS & FLOOR PLAN**

scale	date	drawn	checked
1:100 @ A3	01.03.21	MH	AC
1:200 @ A3			

job no	(category) dwg no	revision
--------	-------------------	----------

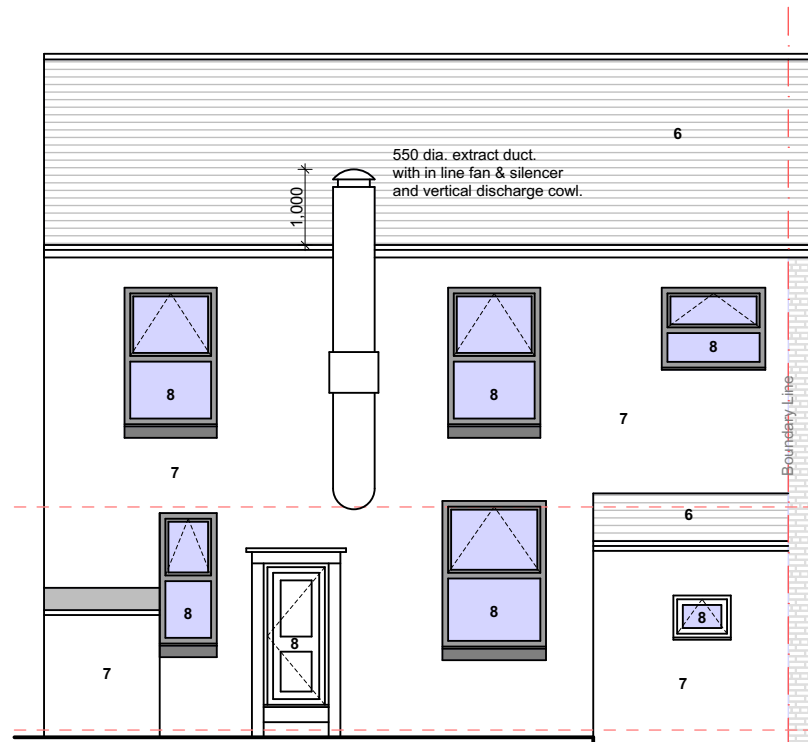
21-903 (01)001 PL0

Drawing measurements shall not be obtained by scaling. Verify all dims prior to construction. Immediately report any discrepancies on this drawing to Architect. This drawing shall be read in conjunction with associated specifications and related consultant's documents.

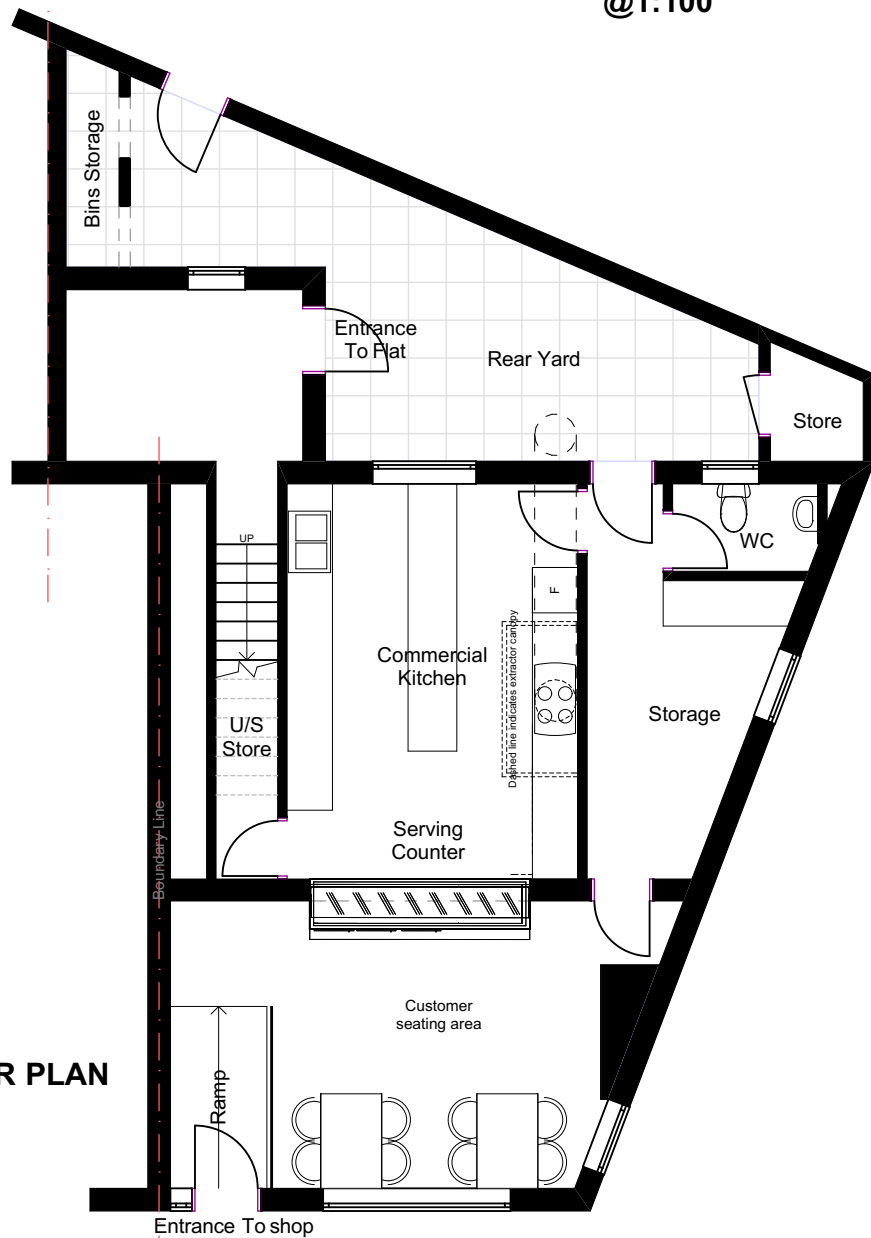


PROPOSED GA FRONT ELEVATION  
@1:100

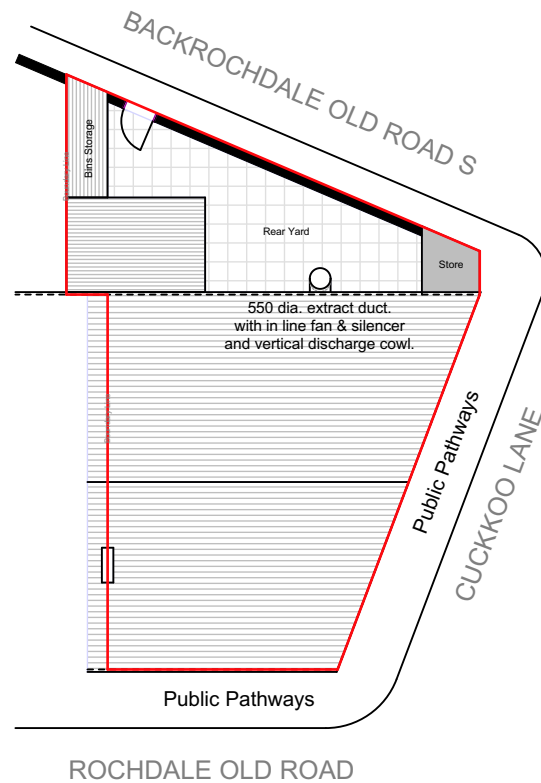
PROPOSED GA SIDE ELEVATION  
@1:100



PROPOSED GA REAR ELEVATION  
@1:100



PROPOSED GA GROUND FLOOR PLAN  
@1:100



PROPOSED GA SITE PLAN  
@1:200

#### notes

This drawing is subject to a detailed building and site survey, therefore no guarantee of its accuracy can be given. This drawing has been draughted in accordance with the clients design requirements. All areas are approximate and are subject to a detailed building and site survey and further design development. All dimensions should be checked prior to commencement of construction on site. Measurements should not be taken off the drawing.

All dimensions shown are in millimetres (mm).

#### Text Key

- Existing brickwork
- Existing render
- Existing uPVC door/window
- Existing block
- Existing timber door/window
- Existing slate roof tiles
- Proposed render
- Proposed anthracite grey uPVC door/window
- Proposed aluminum shutter



PL0 Planning Issue

01.03.21

revisions



NADA Architects Ltd  
169 Kingsway  
Burnage  
Manchester  
M19 2ND  
Mob: 07974 735527  
E: ahmed@nadaarchitects.com  
W: www.nadaarchitects.com

D - design PL - planning PT - pre-tender  
T - tender P - preliminary  
C - construction R - record

PLANNING

LEE HADFIELD

**CHANGE OF USE.**  
**188 ROCHDALE OLD ROAD,**  
**BURY, BL9 7SB**

**PROPOSED GA FLOOR PLANS**  
**ELEVATIONS & FLOOR PLAN**

scale	date	drawn	checked
1:100 @ A3	01.03.21	MH	AC
1:200 @ A3			

job no	(category) dwg no	revision
--------	-------------------	----------

21-903 (02)001 PL0

Drawing measurements shall not be obtained by scaling. Verify all dims prior to construction. Immediately report any discrepancies on this drawing to Architect. This drawing shall be read in conjunction with associated specifications and related consultant's documents.