

Ward: Prestwich - Holyrood

Item 08

Applicant: Mr Lewis MacLeod

Location: 82 Bury Old Road, Whitefield, Manchester, M45 6TQ

Proposal: Variation of condition no. 1 (opening hours) of prior approval 67061 to amend the opening hours from 07.00 to 16.00 (Mon-Fri) and 09.00 to 16.00 (Sat-Sun) to 08.00 to 23.00 (Mon-Fri) and 09.00 to 23.00 (Sat-Sun)

Application Ref: 69337/Prior Approval Retail to A3 **Target Date:** 19/04/2023

Recommendation: Approve with Conditions

Description

The application relates to a mid-terraced property located on the north-west side of Bury Old Road, between the junctions of Kenilworth Avenue and Walker Avenue, in use as a Cafe. Commercial properties extend to either side of the application site. To the south-west of the application site, on the opposite side of Bury Old Road, is the Coach and Horses Public House with a Petrol Filling Station run by Esso positioned to the south-west of the site. Residential properties located on Walker Avenue and Kenilworth Avenue exist to the north of the application site, and are orientated at 90 degrees to the rear of the terrace.

The application site is allocated within the Unitary Development Plan as being within a Local Shopping Centre.

Prior Approval Application 67061 under Part 3, Schedule 2, Class C granted Prior Approval for the change of use of a former shop to a cafe/ restaurant, for a flue at the rear, and an outside seating area to the side of the property. That application had opening hours of 07.00 to 16.00 on Mondays to Fridays and 09.00 to 16.00 on Saturdays and Sundays.

This application seeks to vary the above opening times of the property to: 08.00 to 23.00 (Mon-Fri) and 09.00 to 23.00 (Sat-Sun).

The application has been with the LPA for some time due to the flue shown on the plans accompanying the application, not being built in accordance with the plans. Therefore, procedurally the Council could therefore not determine the application. During the course of the application, the applicant has extended the flue in height to extend above eaves level, to accord with the details approved by application 67061. The application is therefore now able to be determined by the Council.

Relevant Planning History

67061 - Prior approval for proposed change of use from existing shop into a cafe/restaurant with flue at rear - Prior Approval Required and Granted, 01/10/2021

36742 - Single storey rear extension. Approved with Conditions, 06/10/2000

Publicity

Adjoining neighbours have been formally consulted. 4 representations have been received. 1 letter of support received from a neighbouring business, and 3 letters of objection received from nearby residents.

The letter of support advises the applicants business has not only had a positive impact on the local footfall, but also seems to have been accepted as central part of the local community throughout the day and weekend, becoming a hub for many groups and friends and stating any extension to the opening hours must be a great benefit to the community both in a business sense and to the general public.

The 3 objections received to the proposals raise the following concerns:

- Concerned about the opening hours, specifically noise, impacting on their residential amenity - states already experience noise and some anti-social behaviour, but due to current opening hours, it does not overly impact on amenity.
- No parking provision exists for the cafe, existing customers therefore park along Walker Avenue, residents advise this causes problems to residents and prevents some of them from going out due to not being able to park when they return. Asserting extended opening hours would make things worse.
- Concerned of the added noise and added traffic the proposal would cause.
- Already experienced increase in added parking along the avenue since the business opened, and fearful that by extending the hours this would be even worse.
- Concerned that due to the property having an alcohol licence customers would be likely to leave their cars overnight on Walker Avenue advising this would be detrimental to their amenity.
- Wishes the Council to note that this is a residential avenue with a great number of young families.

Statutory/Non-Statutory Consultations

Traffic Section - No objections.

Environmental Health - Pollution Control - No objections, subject to the use of the outside seating area not being past 9pm.

Environmental Health - Contaminated Land - No comments or observations received.

Waste Management - No comments or observations received.

Pre-start Conditions - Not relevant.

Unitary Development Plan and Policies

S1/4	Local Shopping Centres
S2/6	Food and Drink
EN7/2	Noise Pollution
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.

ASSESSMENT

Principle of Development

The application site is set with a Local Shopping Centre located on Bury Old Road, Whitefield, as defined on the Proposals Map associated with the Unitary Development Plan (UDP).

UDP Policy S1/4 - Local Shopping Centres states that the Council will seek to maintain and enhance local shopping centres and will encourage a range of shopping facilities to serve purely local needs.

Paragraph 81 of the NPPF (2021) states:

"Planning policies and decisions should help create the conditions in which businesses can invest, expand and adapt. Significant weight should be placed on the need to support economic growth and productivity, taking into account both local business needs and wider opportunities for development"

The extension proposed to the opening hours would help the business to expand, and adapt to customer demands, in line with the requirements of the Framework. The business already adds vibrancy to this part of the local shopping centre and therefore the proposal to extend the opening hours of the business is acceptable in principle.

Amenity of nearby residents

UDP Policy S2/6 - Food and Drink states that in assessing uses such as this regard us to be had as to, amongst other things, the amenity of nearby residents by reason of noise, smell, litter and opening hours.

Houses exist to the rear of the property and flats exist directly above the application site and in flats above shops on either side of the property. An objection has been received from a neighbouring flat as well as residents to the rear. No objections have been received from the occupier of the flat located directly above the application property.

Noise/ Opening Hours

The application site is located opposite the Coach and Horses Public House which is open from 11am - 11pm, Sunday to Thursday, and 11am to midnight Fridays and Saturdays. Given the property is located opposite this Public House, the two uses would be located in close proximity to each other. However, extending the use of the ground floor would cause some noise and disturbance to occupiers of adjoining flats and it is therefore recommended that the opening hours of the business be limited to 9pm, which is when most people are still awake. It is therefore recommended that the condition be varied to 07.00 to 21.00 on Mondays to Saturdays and remains at 09.00 to 16.00 on Saturdays and Sundays.

In terms of the outdoor seating area within the rear yard area, the gable of no. 1 Walker Avenue, see Photos 5 and 6, is located approximately 9.5m from the boundary of the application site. At the time of Officers site visits the yard area, which is very small - see Photo no. 4 - did not appear to be in use, however, the Prior Approval application granted included use of the rear yard area and therefore this is considered to be the fallback position. The increased use of the rear yard area as an outside seating area up to 23.00 hours would lead to conditions detrimental to the amenity of occupiers of this dwelling, and also other nearby neighbours. The Council's Environmental Health Officers have therefore advised that the use of the outdoor seating area should be restricted to 19.00 hours/ 7pm. This timeframe could be secured by planning condition, and such a condition is duly recommended.

The impact on the amenity of cars being parked along Walker Close affecting the amenity of residents is not a material consideration, therefore, whilst the residents objections are noted, it is considered that there would be no justifiable reasons to prevent the use of the building from having longer opening hours, particularly if the outside seating area, is not used by customers before 10am or after 7pm in the evening. For these reasons, it is therefore recommended the hours of use condition be varied and an additional condition is added to limit the use of the rear yard area from 10am - 7pm (10:00 hours - 19:00 hours). The proposal thus accords with UDP Policy S2/6 - Food and Drink.

Odour

At the time Officers visited the application site, some odour from the extraction flue at the rear of the property was experienced. It was clear that the flue had not been erected in accordance with the details approved under application 67061. Therefore during the course of this application, the applicant has extended the flue above the eaves of the property. Officers are therefore satisfied that odour from the property, including any extended opening hours, as proposed, would not harm the amenity of nearby residents. As such the above would comply with UDP Policy S2/6 - Food and Drink.

Bin Storage

The details approved by application 67061 are still considered to be acceptable. The proposal therefore complies with UDP Policy S2/6 - Food and Drink.

Highway Safety

The Highway Authority has considered the proposal and has raised no objections; therefore the proposed extension of the opening hours would not have a detrimental impact on the highway network as it is considered that the small scale of the proposal would not lead to a significant increase in traffic. As such the proposed extension to the opening hours complies with UDP Policy HT2/4 - Car Parking and New Development.

Conclusion

Overall, whilst Officers have some concerns over the impact of the cafe being open until 11pm, it is recommended that the opening hours of the business be restricted to:

07:00 - 21:00 hours Monday to Saturday, and,
09.00 to 16.00 on Sundays and public holidays

It is therefore recommended the application to vary the hours of use condition be approved in line with the above.

It is also recommended that an additional planning condition be imposed restricting the use of the outside seating area to:

10:00 hours - 19:00 hours Monday to Saturday, and,
10:00 hours - 16:00 hours Sundays and public holidays.

Recommendation: Approve with Conditions

Conditions/ Reasons

1. The cafe/ restaurant use hereby permitted shall not be open to customers outside the following times:

07:00 - 21:00 hours Monday to Saturday, and,
09.00 to 16.00 on Sundays and public holidays

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.

2. Fumes, vapours and odours shall be extracted and discharged from the premises in accordance with the scheme submitted to the Local Planning Authority on 09/09/2021.

Reason. In the interests of amenity pursuant to Policy S2/6 – Food and Drink of the Bury Unitary Development Plan.

3. The revised bin storage facilities located clear of the unadopted rear access

indicated on the approved plans shall be implemented to the satisfaction of the Local Planning Authority prior to the use hereby approved commencing and shall thereafter be maintained.

Reason. To ensure adequate provision for the storage and disposal of refuse.

4. The outside seating area hereby approved shall not be used other than between:

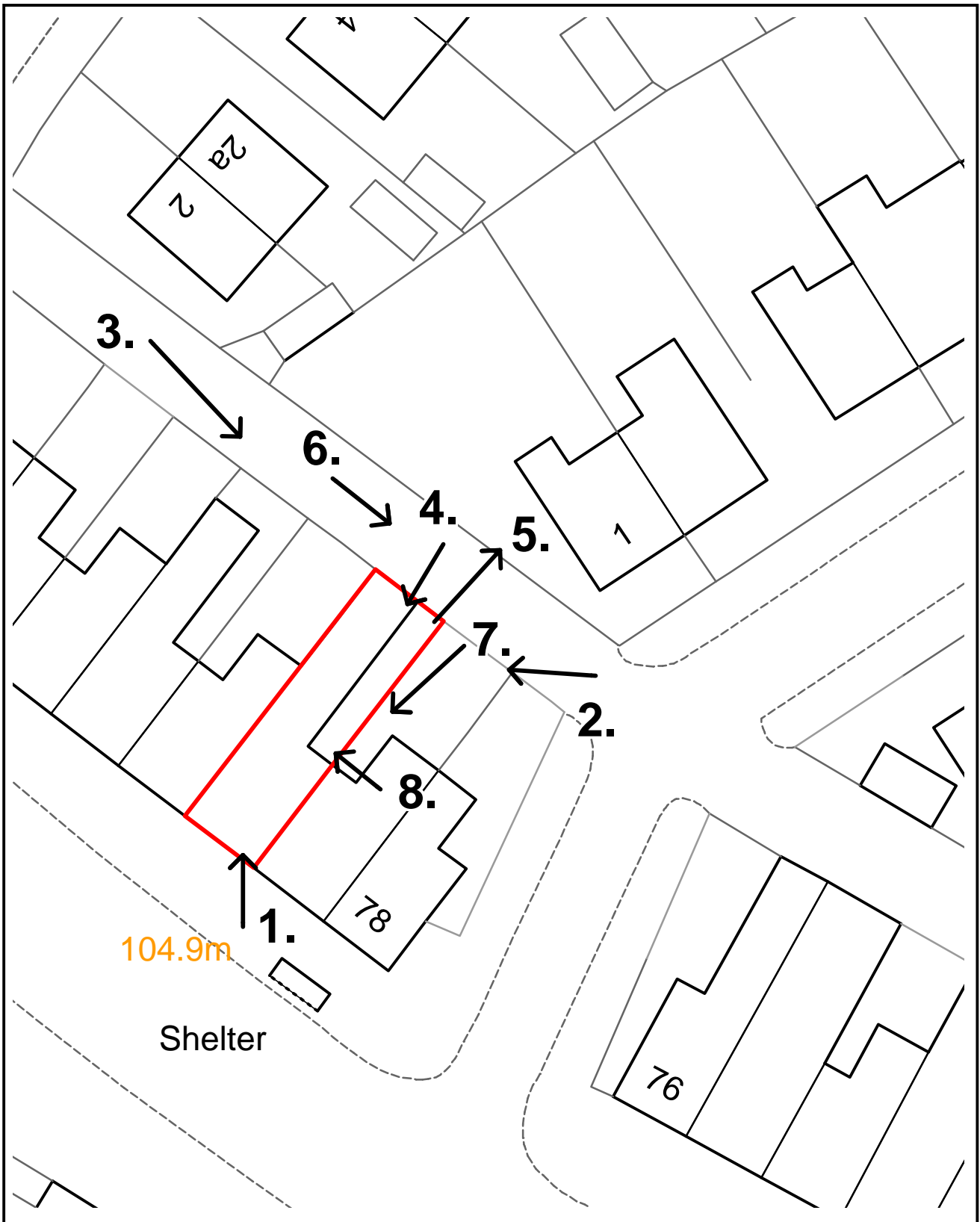
10:00 hours - 19:00 hours Monday to Saturday, and,

10:00 hours - 16:00 hours Sundays and Public Holidays.

Reason: To limit the potential for noise generation during unsocial hours and to prevent nuisance arising in order to safeguard the amenity of the occupiers of surrounding residential properties in accordance with the requirements of Policies S2/6 - 'Food and Drink', and EN7/2 - 'Noise Pollution', of the Bury Unitary Development Plan and the National Planning Policy Framework.

For further information on the application please contact **Claire Booth** on **0161 253 5396**

Viewpoints - Item 08



PLANNING APPLICATION LOCATION PLAN

APP. NO 69337

ADDRESS: 82 Bury Old Road, Whitefield, Manchester

Planning, Environmental and Regulatory Services

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Item 08 - 69337

Photo 1 Front Elevation



Photo 2: View of rear from the East



Item 08 - 69337

Photo 3: Photo of Rear of property from the West



Photo 4: Rear Yard Area



Item 08 - 69337

Photo 5: Photo of neighbour directly to the rear



Photo 6: Rear of property in context with neighbour



Item 08 – 69337

Photo 7: Flue extended during course of application to accord with Prior Approval details



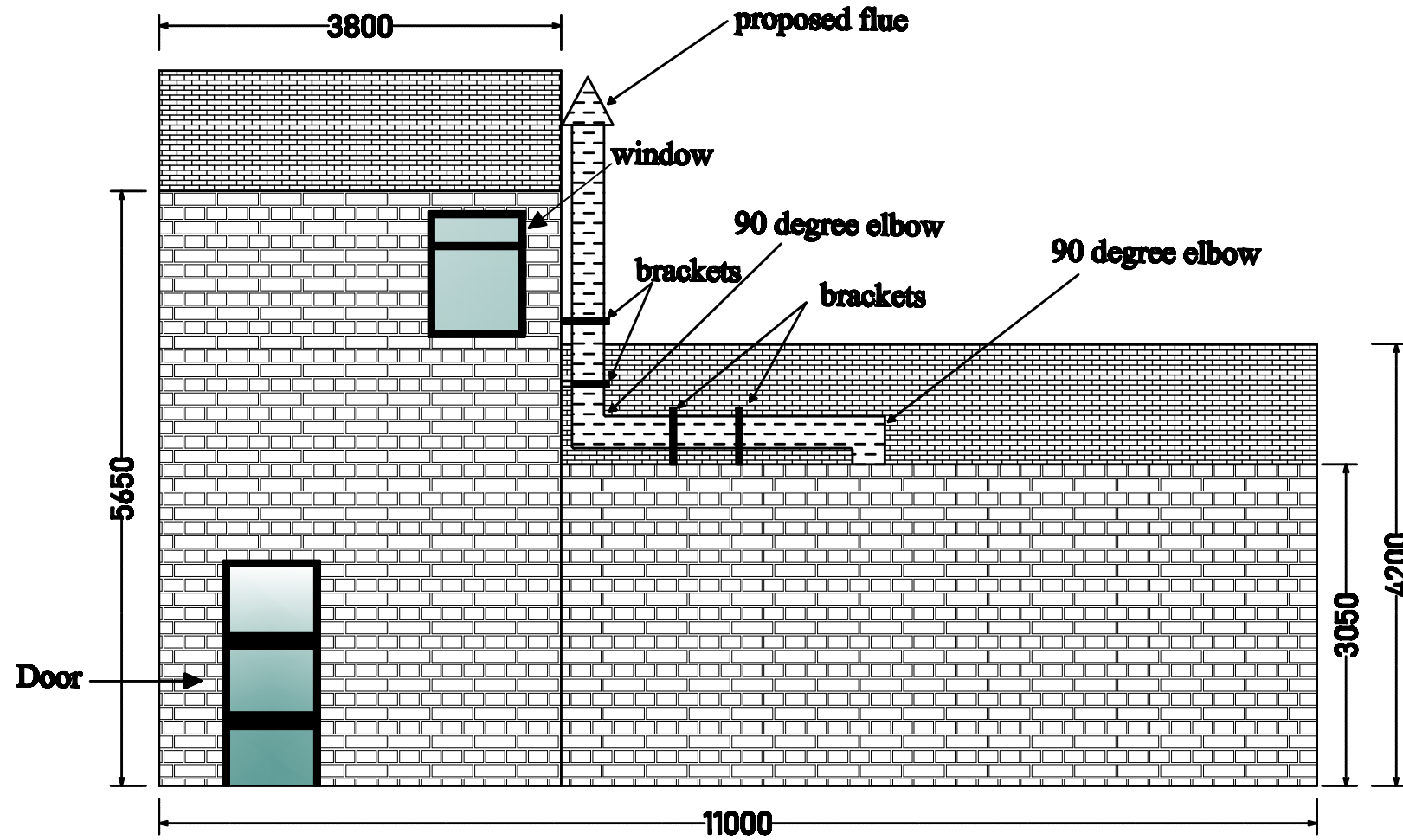
Photo 8: Extended Flue – Annotated



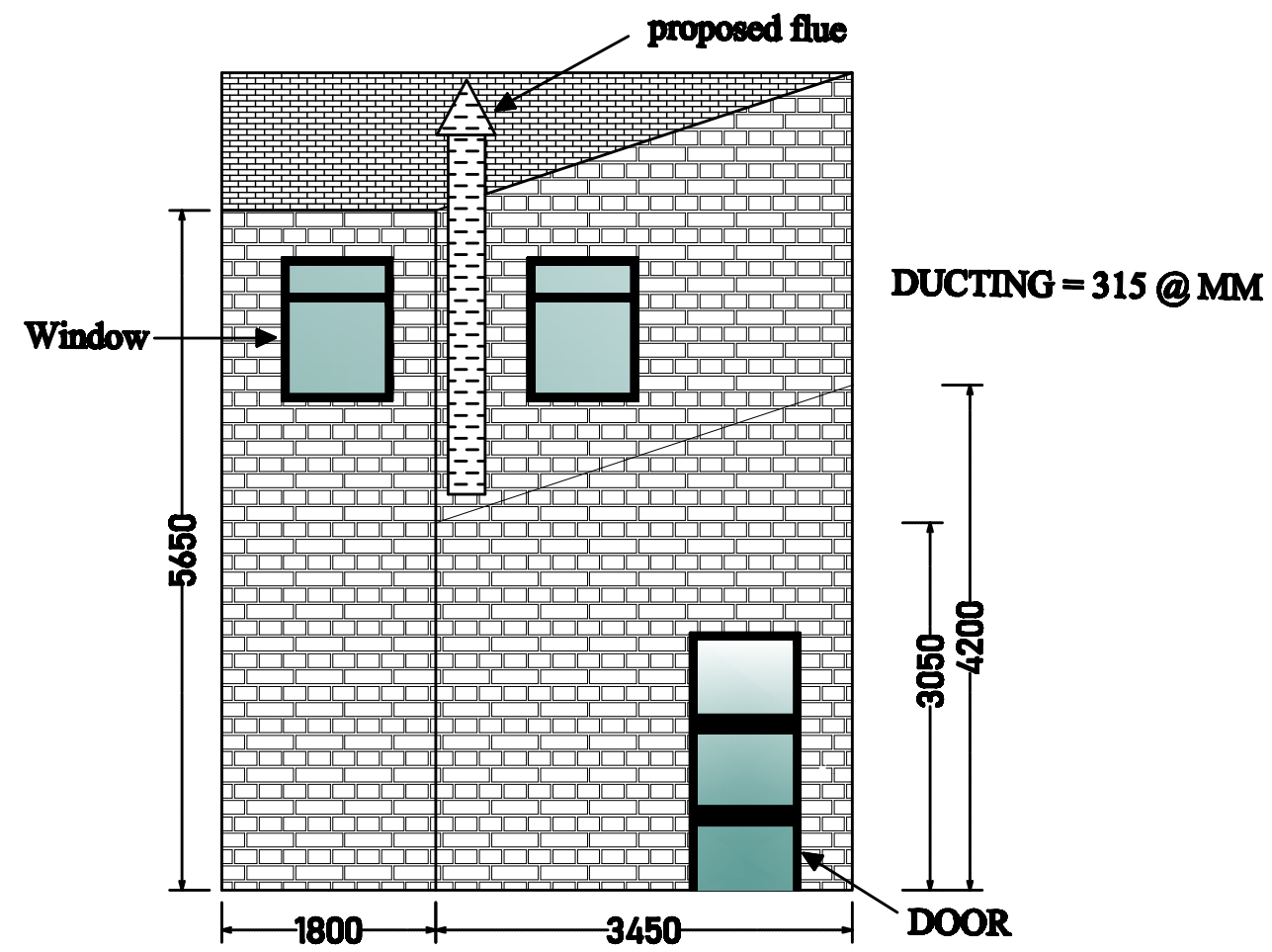
82 Bury Old Road, Whitefield, Manchester, M45 6TQ



PROPOSED ELEVATION OF 82 BURY OLD ROAD, WHITEFIELD

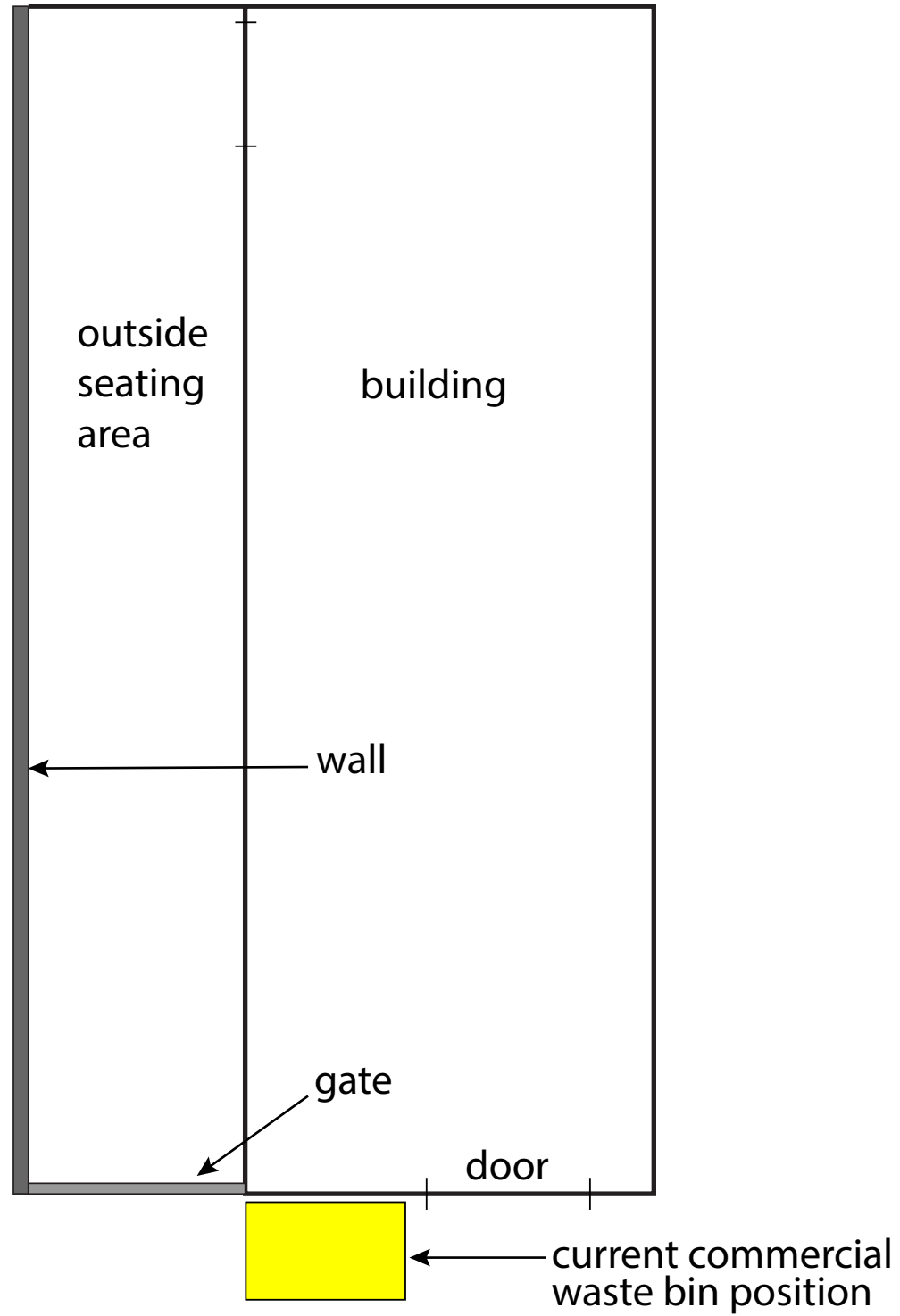


SIDE ELEVATION



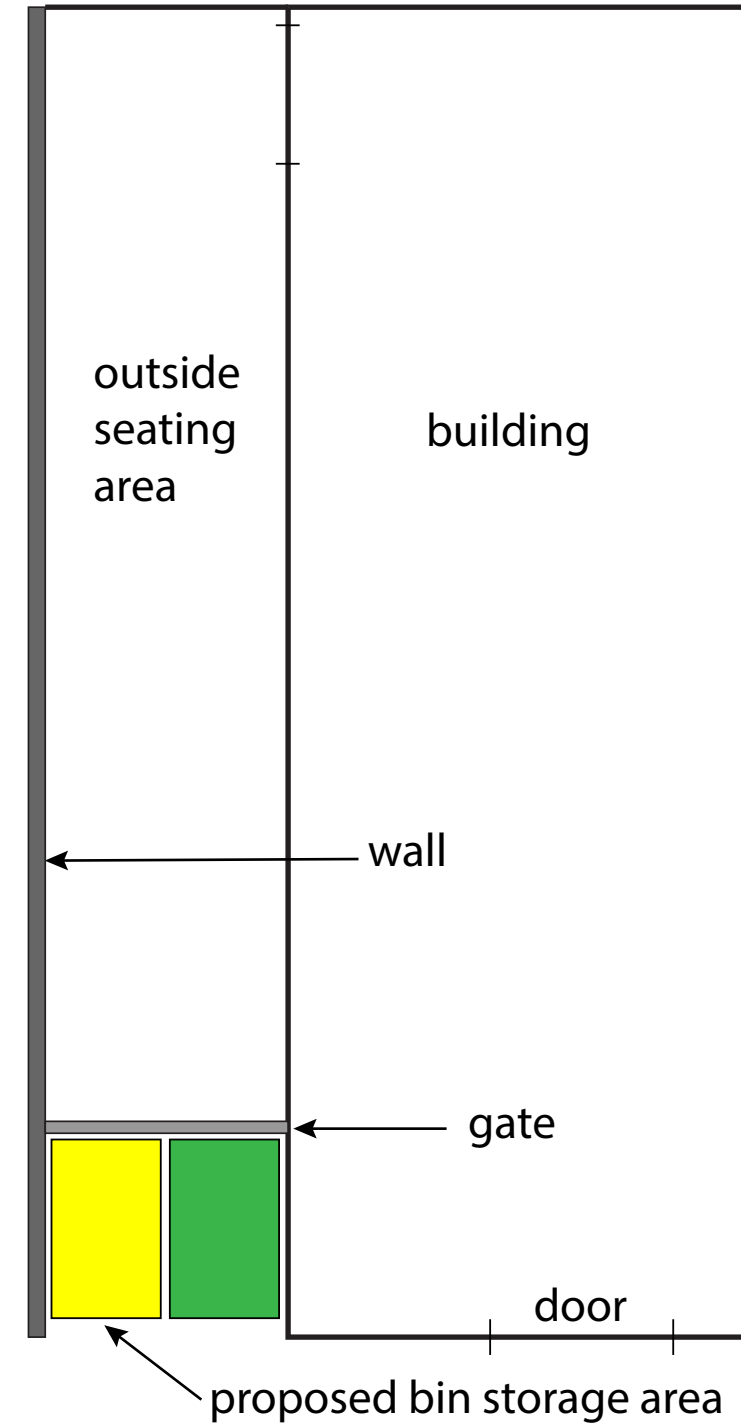
REAR ELEVATION

Plan View of 82 Bury Old Road Rear Access Showing Existing and Proposed Bin Storage



Access road

Existing



Access road

Proposed