Ward: Ramsbottom Item 07

Applicant: Daniel Thwaites

Location: Eagle And Child, 3 Whalley Road, Shuttleworth, Ramsbottom, Bury, BL0 0DL

Proposal: Retrospective application for the retention of external bar, toilet block/log store and

pergola

Application Ref: 71359/Full **Target Date**: 13/01/2025

Recommendation: Approve with Conditions

Description

This application is retrospective and relates to a detached stone built, two storey public house/restaurant on the corner of Whalley Road and Peel Brow. The property has parking for 11 cars with access onto Peel Brow on the south side and there is a large beer garden on the north side. Immediately to the west, and set down from the site are houses that front onto Cheshire Court. Across Whalley Road to the east are terraced houses and a treed embankment with private parking in front.

The application specifically relates to the external bar projecting off the rear of the main building and facing into the beer garden area, a toilet block and a timber pergola structure at the rear. These structures have been in situ for over two years and are proposed for retention.

The external bar/servery has replaced a previously smaller bar area and positioned directly to the rear of the pub. The bar structure measures 6.29 metres by 2.4 metres and has a floor area of 18 sq. m. The structure has a mono pitch, corrugated sheet roof and a maximum height of 3.0 metres. The structure is faced partly in stone and partly in timber cladding. It serves primarily customers within the beer garden which has the effect of reducing numbers of customers passing through the restaurant. It is noted that the pizza oven has proved successful in generating revenue, in particular during better weather.

The covered pergola is situated over the patio area on the north side of the bar area. The pergola measures 4.5m by 2.8m and has a height of 2.7m. It is constructed of timber with a polycarbonate roof.

The toilet block is in the southeast corner of the beer garden and was built essentially to serve the customers using the beer garden. It provides one ladies, one gents and one disabled toilet. It measures 5.7m by 2.4m with a mono-pitched roof to a maximum height of 2.5m. It is faced in timber cladding with a corrugated roof to match the bar area. There is a small log store attached to the building.

The most prominent structure within the beer garden is the tented 'tipi', used as a function facility, that was included in a previous retrospective application and refused planning permission in October 2024. For information, the tipi has a footprint of 86sqm and a maximum height at central point of 10m and seats up to 72 people. The previous refusal centred on the impact of the use of the tipi on neighbours with regard to noise and disturbance and associated traffic/parking issues. It should be noted that this current application does not include the existing unauthorised tipi which is subject to enforcement action following the previous refusal of planning permission for its retention.

For information, the public house is licensed to serve alcohol between the following hours:

9am - midnight Monday - Thurs, (opening 08.00 - 00.30)

9am - 01.00 Friday - Saturday (opening 08.00 - 01.30)

9am - midnight Sundays (opening 08.00 - 00.30)

The external garden area of the public house measures approximately 584sqm and is licensed to be used for the consumption of alcohol until 11pm daily. The pub has operated a 10pm limit on the beer garden on its own volition in recent months.

Relevant Planning History

47962 - Increase in height to part of existing terrace and erection of roof over - Approve with Conditions 25/05/2007

51699 - A - creation of car park extension with associated landscaping

B - Decking area - Split Decision (Approve A and Refuse B) 21/10/2009

52053 - Decked area at side - Approve with Conditions 14/01/2010

60601 - Change of use of first floor to bed and breakfast creating 5 bedrooms with juliet balcony to 2 bedrooms and single storey extension to rear - Approve with Conditions 23/11/2016

71062 - Retrospective application for the retention of external bar, tipi, toilet block and pergola and the laying of paving and associated works - Refused 07/10/2024

12/0111 - Creation of beer garden - 16/05/2012

22/0211 - Installation of outdoor bar and tipi - 18/07/2022

24/0147 - Tipi structure - 12/08/2024

Publicity

34 surrounding neighbours were notified by letter dated 28/11/2024.

Objections received from 22 properties on Cheshire Court, Whalley Road, Peel Brow and Manchester road - summarised as follows.

- These premises operate as a hotel and pub and have only 11 parking spaces (with no option to extend their parking facilities), therefore at busy times/ events customers and staff park on surrounding roads including Peel Brow and Cheshire Court.
- The on-street parking is dangerous, blocking the junction from Cheshire Court onto Peel Brow. Also some cars block residents driveways.
- There is a health and safety issue, in the event of an emergency, fire engines / ambulances would not be able to drive down Cheshire Court (this has happened).
- Losing the tipi would not solve problems. The external bar is still a noise nuisance, with loud music and patrons becoming louder as the day / evening progresses.
- The beer garden is directly behind several houses on Cheshire Court and residents have also experienced rubbish being thrown from the beer garden into private gardens.
- Having been refused retrospective planning permission before I fail to understand why a further application is being submitted. The issues and problems faced by residents in the area of the Eagle and Child remain very much the same. Patrons of the pub are parking on Cheshire Court as there is very little space in the pubs car park, some eight spaces I think. This creates its own issues with residents having difficulty getting in and out of their drives due to inconsiderate parking. The other issue are lorries or large vans trying to get through restricted spaces left by cars parked either side.
- The pub is not suited to operate outside of the main building for these reasons.
- Just because the houses were built after the pub, doesn't mean they have to 'put up' with noise.
- Just because the beer garden has been operating for 3 years, it should not mean that activities could continue unchecked.
- It is incumbent on the pub to fix issues relating to the beer garden or cease operations in the garden.

Representations in favour of the proposal, from 39 individual properties have been received and are summarised:

- In support of the proposal to improve facilities in the beer garden. It is a good local venue and community hub.
- The premises are well managed with no loud music.
- The outdoor area closes at 10pm.
- The business is important to the local economy.
- External toilets would prevent more anti-social behaviour on the roads outside.
- The disabled toilet is useful.
- The pub should not be punished because of parking problems which occur all over Ramsbottom. Public transport should be improved.
- We have never witnessed any anti social behaviour when using the outdoor area or when we have attended events in the existing outdoor areas.
- We have held our own events the management team were very clear on the 10pm curfew and stopping of music at this time.
- Empathy with the neighbours and people that live nearby regarding the parking situation but hope mediation and common sense can prevail in finding a suitable resolution for all parties. Whilst not punishing the proprietors for creating and delivering such a successful and well received space.
- Offers valuable employment opportunities to many members of the Ramsbottom community.
- Parking can be an issue in the height of the Summer but if a parking permit system can be introduced for the top of Peel Brow/Whalley Road and joining estate this should resolve the parking issues.

All those making representations have been notified of the Planning Control Committee.

Statutory/Non-Statutory Consultations

Traffic Section - No objection

Environmental Health - Would not want recorded or live music at a volume in the beer garden / tippee that would cause a nuisance to the local residents.

Greater Manchester Police- No response received.

Licensing Department - Information on licence supplied.

Pre-start Conditions - N/A

Development Plan and Policies

NPPF National Planning Policy Framework

PFE Places for Everyone

EN1/2 Townscape and Built Design

EN7/2 Noise Pollution S2/6 Food and Drink

SPD11 Parking Standards in Bury

SPD16 Design and Layout of New Development in Bury

EC4/1 Small Businesses

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), the adopted Places for Everyone Joint Development Plan Document (PfE) and the saved policies within 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 and PfE Policies 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 Background - Section 6 of the NPPF relates to the economy. Paragraph 85 states that 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.

Section 8 of the NPPF promotes healthy and safe communities and indicates that in order to provide the facilities and services that a community needs, planning policies and decisions should, amongst other points, guard against the unnecessary loss of valued facilities and services, and ensure that established facilities are able to develop and modernise, and are retained for the benefit of the community.

Section 15 of the NPPF deals with conserving and enhancing the natural environment. Paragraph 180 states that planning policies and decisions should contribute to and enhance the environment by, inter alia, preventing new and existing development from contributing to, being put at unacceptable risk from, or being adversely affected by, unacceptable levels of noise and other forms of pollution.

Places for Everyone Joint Development Plan Policy JP-P1 promotes the development of sustainable places. Amongst other points, all development should respect and acknowledge the character and identity of the locality in terms of its design, siting, size, scale and materials. Development should be visually stimulating, legible, inclusive, safe, durable, comfortable and inviting.

Unitary Development Plan Policy EC4 relates to small and growing businesses and states that the Council will ensure that the needs of small and growing businesses are met by looking favourably on proposals for such developments, where these do not conflict with other policies of the Plan.

UDP Policy EN1/2 Townscape and Built Design states that the Council will give favourable consideration to proposals which do not have an unacceptable adverse effect on the particular character and townscape of the Borough's towns, villages and other settlements. Factors to consider when assessing proposals will include, amongst other points, the external appearance and design of the proposal, the choice and use of materials and the relationship of the proposal to the surrounding area.

UDP Policy EN7/2 Noise pollution. In seeking to limit noise pollution, the Council will not permit development which could lead to an unacceptable noise nuisance to nearby occupiers.

UDP Policy EC4/1- Small Businesses. Proposals for small businesses will be acceptable when the scale of development is appropriate to, and the use is environmentally compatible with, the surrounding area in which it is to be located, and where they do not conflict with other policies and proposals of the Plan.

UDP Policy S2/6 - Food and Drink. The Council in considering all proposals which involve restaurants, hot food takeaways, cafes, snack bars, wine bars and public houses, together with any other uses contained within Class A3, will have regard to the following factors:

- a) the amenity of nearby residents by reason of noise, smell, litter and opening hours;
- b) whether or not the proposal would result in an over concentration of Class A3 uses, which could adversely change the nature or character of a centre as a whole;
- c) parking and servicing provision associated with the proposed development and its effects in terms of road safety, traffic generation and movement;
- d) provision for the storage and disposal of refuse and customer litter;
- e) the environmental impact of any ventilation flues and/or ducting.

PfE Policy JP-C8 - Transport Requirements of New Development and UDP Policy HT2/4 - Car Parking and New Development. The Council will require all applications for development to make adequate provision for their car parking and servicing requirements in accordance with the Council's car parking standards.

Noise background - Although this application does not include the 'tipi' function room, it is still useful to refer to legislation regarding noise levels before considering the proposal. National guidance within British Standard 8233:2014+A1:2019 - Guidance on Sound Insulation and Noise Reduction for Buildings states that recommended internal noise levels for living rooms and bedrooms are 35dB and 30dB respectively.

The guidance goes on to recommend noise levels for gardens: It is desirable that the external noise level does not exceed 50 dB with an upper guideline value of 55 dB which would be acceptable in noisier environments. However, it is also recognised that these guideline values are not achievable in all circumstances where development might be desirable. In higher noise areas, such as city centres or urban areas adjoining the strategic transport network, a compromise between elevated noise levels and other factors might be warranted.

It is noted that the site, although adjacent to a busy throughroute north of Bury, has residential properties immediately adjacent to the site on the west side and across Peel Brow to the south.

In terms of noise, it is not considered that the bar area at the rear of the building would generate significant additional noise over and above that already experienced and lawful in planning terms within the beer garden on days when it is in operation. The pub management have indicated that they do try to manage noise on and around the premises although if there are persistent noise issues, these could be dealt with via Environmental Health legislation.

Use - The use of the beer garden is ancillary to the public house and as such permitted under planning legislation. The proposed development involves the retention of the external bar, toilet block and timber pergola all of which would relate to the functioning of the beer garden. As such, in terms of use, the principle of the development is acceptable.

Permitted development - It should be noted that the beer garden is permitted under current planning legislation and planning permission is not expressly required for the minor works such as hard landscaping but they are illustrated on the submitted plans for clarity.

Economy - Like most of the retail sector nationally, the pub/restaurant sector is under great pressure to survive in a competitive market. In past years approval has been given to extend and introduce bed and breakfast accommodation at the pub. The supporting statement submitted with the application states that the developments subject to this application have allowed the business to further adapt and modernise and provide a high quality environment for its customers. It adds that the development is an essential part of the pub / restaurant and supports the viability of the business going forward.

The existing public house is evidently a popular local destination both for social functions, drinking and eating. The external bar, including a pizza oven, toilets and pergola are proposed for retention as they are seen to improve the existing facilities for customers within the beer garden. As such the proposal is seen as commercially beneficial and in particular help significantly during Covid when the structures, along with the tipi, were first erected. In terms of economy, the proposal would improve the day to day operations relating specifically to the beer garden and contribute to improving the economic viability of the pub. Therefore the critical factor to consider is, whether the economic and commercial benefits outweigh other disbenefits, in this case those relating to visual amenity, residential amenity and parking.

The supporting statement submitted with the application recognises that it is important to strike the right balance between the need to protect the pub / restaurant (as required by planning policy) and protect the amenity of adjacent residential occupiers.

Visual amenity - The supporting statement submitted with the application suggests improvements to the garden have been carefully designed to complement and enhance the appearance of the site.

Without the tipi, the structures within the beer garden are not readily viewed from the public arena and views towards Ramsbottom across the site from Whalley Road are not impacted. The external bar, toilet block and pergola are relatively modest in scale and would be acceptable in terms of visual amenity. As such the proposal complies with UDP Policies EN1/1 Visual amenity and EN1/2 Townscape and Built Design.

Residential amenity - The nearest residential properties are immediately to the west, on Cheshire Court and rear gardens backing onto the beer garden. It is the residents of these properties that would be most impacted by development on this site.

The noise report from the previously refused application indicated relatively high noise levels from the tipi that would have a detrimental impact on residential amenity and this was the basis for one of the reasons for refusal.

Without the tipi, noise and disturbance from the beer garden is significantly reduced as a consequence of the reduced number of pre-booked functions, of up to 72 people, taking place on site. The beer garden essentially returning to its main function catering for small groups and individuals seeking refreshment outdoors when the weather allows. Following on from this, without the pre-booked functions in the tipi, there would be fewer customers parking up on surrounding roads.

Whilst the assessment of the situation without the tipi is significantly better than with it in situ, it is accepted that the situation with regard to the pub and beer garden is not ideal, being so close to residential gardens and with limited parking. However the beer garden is established and indeed, permitted development under current planning legislation.

Beer gardens are common in residential areas and for the most part, appear to co-exist quite comfortably with residential neighbours. This is due, in most part, to the pub managing the activities and operations within their outdoor areas with sensitive regard to their neighbours. Although music can be played in beer gardens under licencing legislation, it is unusual for music to be played within beer gardens situated in residential areas beyond a low, more ambient level.

The applicant states that it is relevant to note that The Eagle and Child pre-dates the residential development to the west which was granted planning permission in the full knowledge of the pub site and further, the area in question is a lawful beer garden where a

certain level of noise is acceptable.

Although the pub pre-dates the houses on Cheshire Court, this factor should not in any way prejudice any assessment of the development on the impact on residential amenity in light of policy. The external bar, pergola and toilets as proposed do not pre-date the neighbouring houses.

With regard to the impact of traffic on residential amenity, it is apparent that the existing car park, with 11 spaces, as with many public houses in the area, is very limited. Even without the tipi function space, customers do park on nearby roads and it is clear that this can have a detrimental impact on local residents, in particular along Cheshire Court as set out in objections received. However the issue is, does the proposed development worsen the situation. Given that the beer garden is already in operation and attracting customers when the weather permits, the external bar, pergola and toilet block would not necessarily lead to a significant increase in numbers of customers/vehicles and is considered to comply with UDP Policies S2/6 and HT2/4.

Access and Parking - As already noted, the public house has been a popular venue for drinking and dining for both locals and those from further afield. This fact, in addition to the use of the pub for bed and breakfast accommodation (5 rooms), has obvious implications for traffic generation and parking.

On-site parking is limited to a car park containing 11 spaces and as a consequence, on busy days, customers also park on surrounding roads, in particular Peel Brow and Cheshire Court. As a result of the parking limitations residents have clearly experienced problems with on street parking from customers, in particular on the more minor road, Cheshire Court which is also a cul-de-sac which adds to the problems. Further problems can occur as a result of cars parking close to the junction of Whalley Road and Peel Brow. On a more general level, parked cars in this area would lead to restricted visibility at this junction, which provides the only right turn into Ramsbottom and as such, is used frequently.

Clearly, there are parking issues as experienced by local residents, however the additional bar area, pergola and toilet block, as modest additions to the existing facilities at the public house, would not significantly increase traffic generation above and beyond the existing numbers of vehicles. The critical factor to consider in the case of this application as opposed to the previously refused application, is that this proposal does not include the additional 'tipi' function space that would generate an additional and significant amount of traffic in the form of separate groups attending pre-booked parties and weddings.

Although the owner/brewery needs to consider carefully how to improve the existing parking situation on and around the site, this proposal would not significantly worsen the problem as it stands.

The Traffic Section have no objection to the proposals for the reasons indicated above.

It is therefore considered the proposed development would not be detrimental to highway safety and as such would be comply with UDP Policies H2/4 and S2/6 and Places for Everyone Policies JP-C5 and JP-C6.

Carbon and Energy - An energy and carbon statement was submitted and states that the proposed development does not fall into any of the above categories set out in the PfE validation checklist and therefore a Carbon and Energy Statement is not be required.

It is not possible for the structures to incorporate any renewable energy generation (such as solar PV), since they do not have the load-bearing capacity. The inclusion of any renewable

energy generation would also be totally disproportionate to the development.

Given the nature and scale of development, the requirements of PfE Policy JP-S2 are not be applicable.

Digital connectivity - A short statement submitted states that the site served by Wi-Fi and customers are able to access the internet for free via their devices on site.

Public comments - Where relevant, the issues raised by the public are addressed in the above report.

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

The proposal complies with the development plan and would improve the economic, social and environmental conditions of the area. It therefore comprises sustainable development and the Local Planning Authority worked proactively and positively to issue the decision without delay. The Local Planning Authority has therefore implemented the requirement in Paragraph 38 of the National Planning Policy Framework.

Recommendation: Approve with Conditions

Conditions/ Reasons

- This decision relates to drawings numbered 1546.01A, 02A, 03, 04A, 05/A, 06, 07A and 08B 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 and Places for Everyone Joint Development Plan listed.
- The external bar hereby permitted shall not be open to customers outside the following times: 0800 to 2200 hours daily.
 Reason. To safeguard the amenities of the occupiers of nearby residential accommodation pursuant to UDP Policies S2/6 Food and Drink and EN7/2 Noise Pollution.

For further information on the application please contact **Tom Beirne** on **0161 253 5361**

Viewpoints



PLANNING APPLICATION LOCATION PLAN

APP NO. 71359





ADDRESS: Eagle and Child, 3 Whalley Road Ramsbottsm

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Photo 2





Photo 4



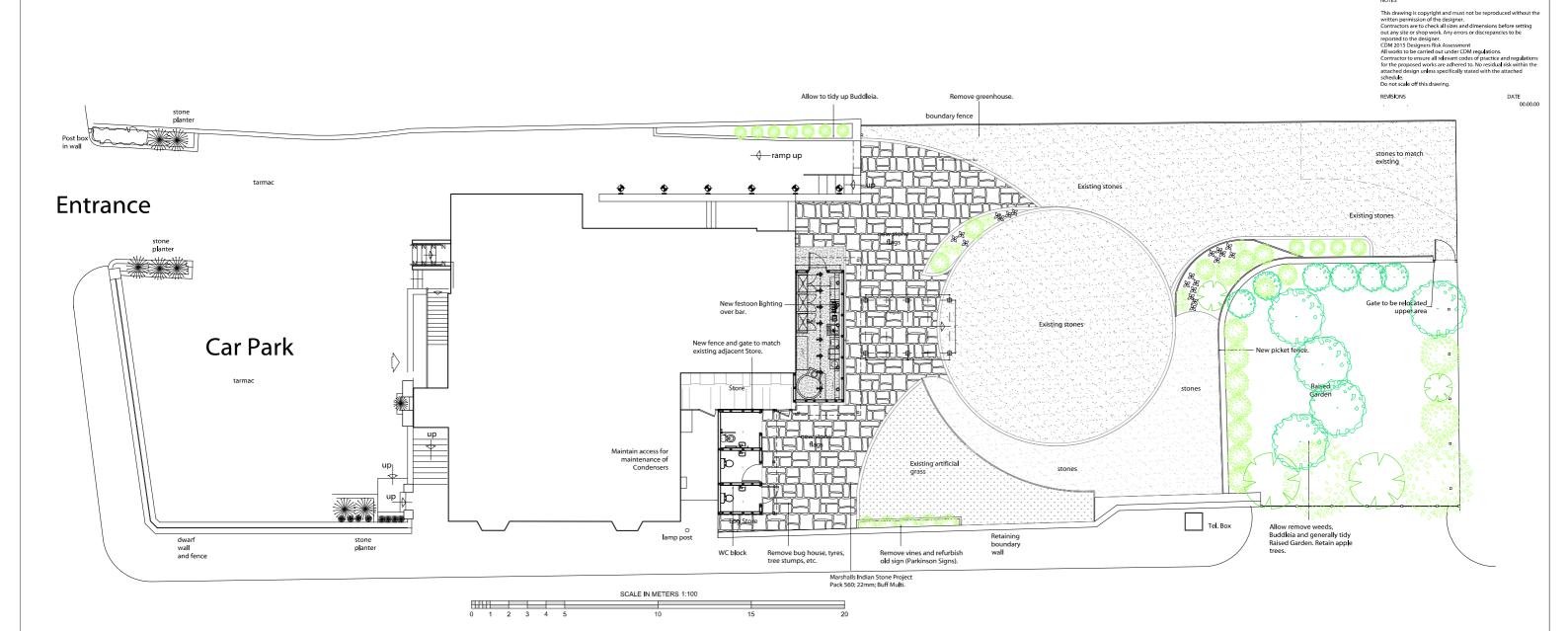


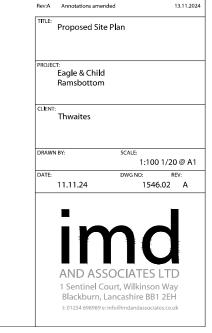
Photo 6

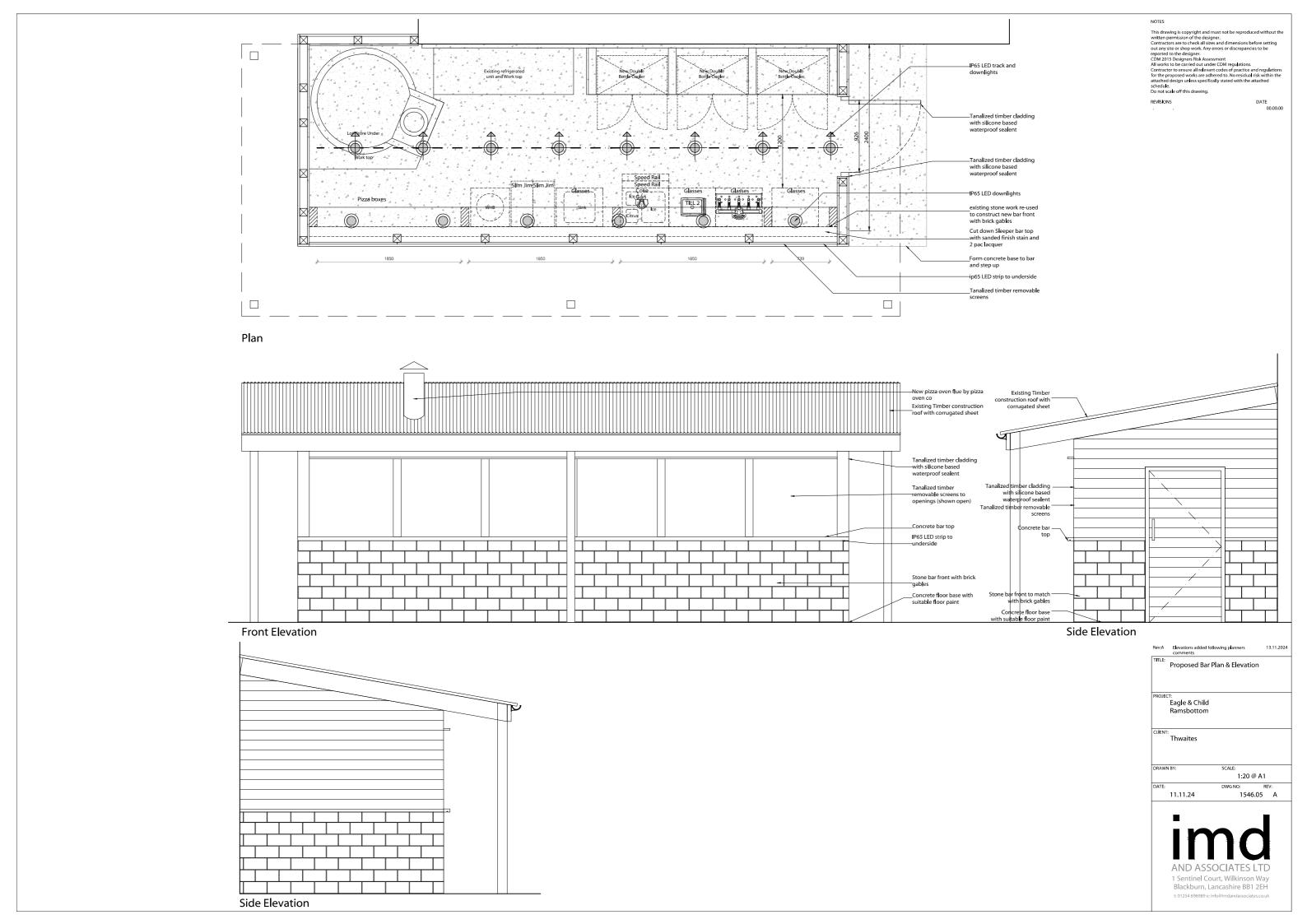


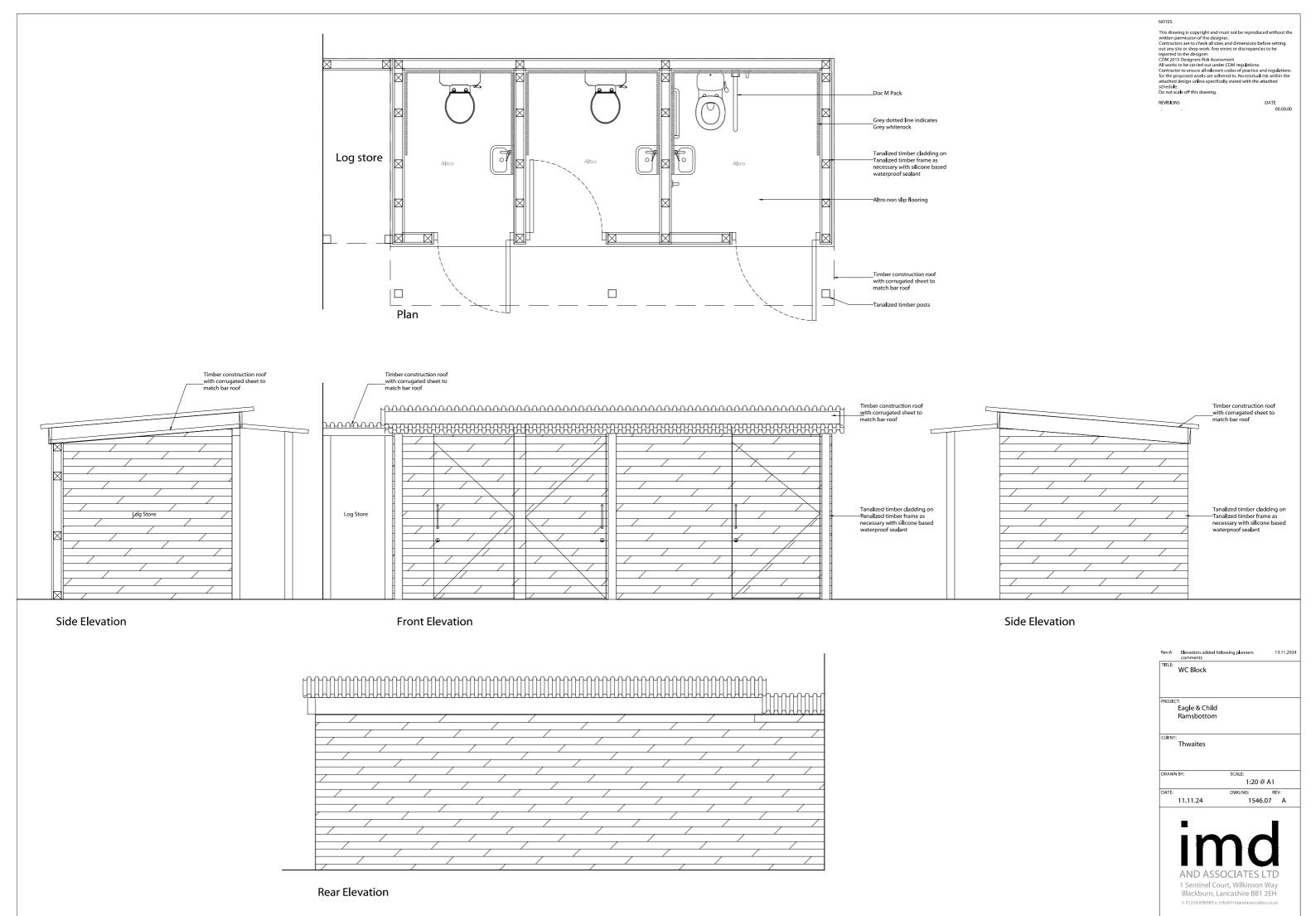


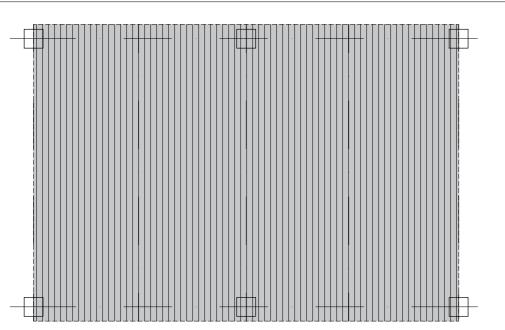




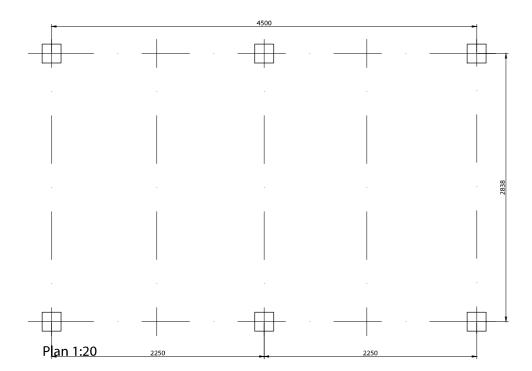


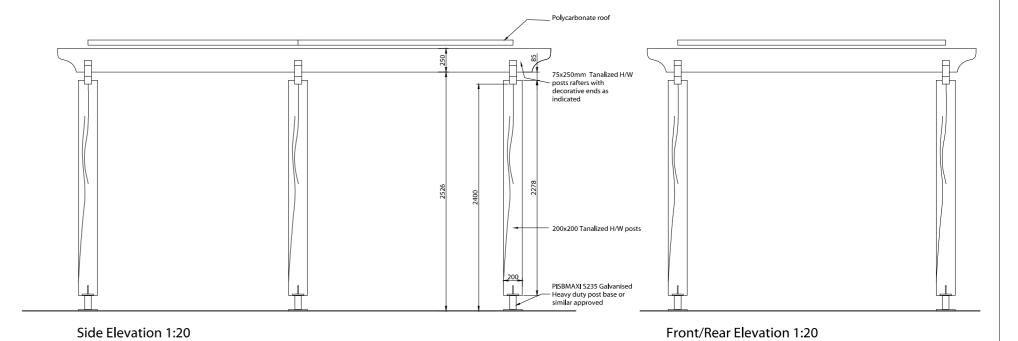






Roof Plan 1:20





Side Elevation 1:20

Rev/B
Rev/A

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CDM 2015 Designers Risk Assessment

All works to be carried out under CDM regulations.

Contractor to ensure all relevant codes of practice and regulations for the proposed works are adhered to. No residual risk within the attached design unless specifically stated with the attached schedule.

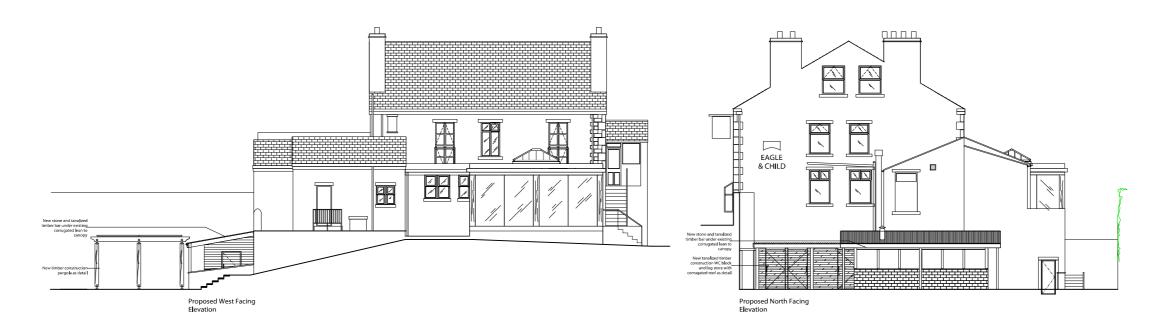
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CLIENT: Thwaites

RAWN BY: SCALE: 1:20 @ A1

DATE: DWG NO: REV. 11.11.24 1546.08







Rev:A Bar elevation amended and annotations added

TITLE: Proposed Elevations

PROJECT: Eagle & Child Ramsbottom

CUENT: Thwaites

DRAWN BY: SCALE: 1:100 @ A1

DATE: DWG NO: REV: 11.11.24 1546.04 A

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