

# Report to Planning Committee

**08 December 2021**

<b>Application Reference</b>	DC/21/65801
<b>Application Received</b>	16 June 2021.
<b>Application Description</b>	Proposed part change of use at rear of convenience store from storage area to hot food takeaway with new cold room and extraction flue to rear.
<b>Application Address</b>	74 - 76 Cape Hill Smethwick B66 4PB
<b>Applicant</b>	Mr Asghar Khanoie
<b>Ward</b>	Soho & Victoria
<b>Contact Officer</b>	Mr Andrew Dean <a href="mailto:andrew_dean@sandwell.gov.uk">andrew_dean@sandwell.gov.uk</a>

## 1 Recommendations

1.1 That planning permission is granted subject to:


- (i) Submission and approval of extraction and filtration equipment.
- (ii) External doors/ windows to food preparation area to remain closed.
- (iii) Noise details of any fixed plant.
- (iv) Opening hours restricted to 12:00 to 23:00 Monday to Fridays and 12:00 to 00:00 Saturday and Sundays.
- (v) Bin Storage details.



## 2 Reasons for Recommendations

- 2.1 The proposal is compliant with the Council's Hot Food Takeaway Supplementary Planning Document and has been supported by consultee comments. It is considered any adverse impact on neighbouring residential properties can be mitigated by way of relevant planning conditions.

- 3 How does this deliver objectives of the Corporate Plan?

	A strong and inclusive economy
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## 4 Context

- 4.1 This application is being reported to your Planning Committee because the agent is an employee of Sandwell MBC.
- 4.2 To assist members with site context, a link to Google Maps is provided below:

[74 - 76 Cape Hill, Smethwick](#)

## 5 Key Considerations

- 5.1 The site is designated as a town centre within the local development plan.
- 5.2 The material planning considerations which are relevant to this application are:-

Government policy (NPPF)  
Noise and disturbance from the scheme  
Disturbance from smells  
Highway Safety, Parking and Servicing



## 6. The Application Site

- 6.1 The application relates to a retail premises located on the southern side of Cape Hill, Smethwick within Cape Hill town centre. To the rear of the site is a gated narrow access road used to serve the rear of the commercial properties as well as the rear of residential dwellings located on Florence Road.

## 7. Planning History

- 7.1 The site has been subject to numerous planning applications with the most recent application approving a single storey rear extension to provide cafe use to the rear of existing shop premises.
- 7.2 Relevant planning applications are as follows:

DC/11568	Erection of a single storey building for the storage of furniture.	Grant Permission. 02.07.1980
DC/13/56266	Proposed conversion of first floor into 4 No. self-contained flats.	Grant Permission subject to conditions 11.10.2013
DC/13/56589	Proposed external alterations and erection of 2nd floor to provide with conditions additional 2 No. flats – (revised application - DC/13/56266).	Grant Permission subject to conditions 04.03.2014
DC/17/60274	Proposed extension and change of use of existing storage unit to sheesha/smoking shelter including new wc's, staff room and fencing.	Refusal 15.06.2017
DC/17/61043	Proposed extension and change of use of existing storage unit to	Refusal 02.11.2017.



	sheesha/smoking shelter including new wc's, staff room and fencing (Revised application DC/17/60274).	
DC/20/64341	Proposed single storey rear extension to provide café use to the rear of existing shop premises.	Grant permission subject to conditions. 10.08.2020

## 8. Application Details

- 8.1 The applicant is proposing to change the use of a section of the existing convenience store from a storage area to hot food takeaway with new cold room and extraction flue to rear. The proposed takeaway would be located at the rear of the convenience store and have a floor area of 24.5m<sup>2</sup>. The agent has confirmed the takeaway would be for grilled food. The opening hours proposed are 12:00 to 23:00 Monday to Fridays and 12:00 to 00:00 Saturday and Sundays.
- 8.2 The applicant has submitted an additional statement to confirm how the business would operate. Collection points for customers are located via the side access corridor (used to connect the cafe at the rear of the premises to Cape Hill) and internally via the convenience store over a counter. The corridor collection point will be used for the collection of orders by external bodies for delivery and by cafe staff when they require hot food. The collection area in the convenience store will be used by walk in customers who can order and collect food while shopping.

## 9. Publicity

- 9.1 The application has been publicised by neighbour notification letter, without response.





## 10. Consultee responses

### 10.1 Planning Policy

No objections. There are no policy issues with the proposed development, as the addition of this hot food takeaway would not take Cape Hill over the 7% threshold of Hot Food Takeaways for a centre with over 40 units and would not result in a cluster of hot food takeaways (3 or more together).

### 10.2 Conservation Officer – No objections.

### 10.3 Public Health (Air Pollution and Noise)

No objections subject to conditions relating to the submission and approval of extraction and filtration detail, full noise details of any fixed plant including calculated noise levels at the nearest affected dwelling and the hours of operation being restricted to those proposed in the application.

### 10.4 West Midlands Police – No objections.

### 10.5 Highways – No objections.

### 10.6 Canal and River Trust – No comment.

## 11. National Planning Policy

11.1 National Planning Policy Framework promotes sustainable development but states that local circumstances should be taken into account to reflect the character, needs and opportunities for each area.

## 12. Local Planning Policy

12.1 The following policies of the council's Development Plan are relevant:



CEN4: Regeneration of Town Centres.

SAD CEN1 – Non-Retail Uses in Town Centres.

SAD DM9 – Hot Food Takeaways.

Hot Food Takeaway Supplementary Planning Document.

12.2 CEN4 and SADCEN1 seeks to resist non-retail units at ground floor level where they would prejudice the retail function of the core area.

Elsewhere in the centre non retail uses will be required to contribute to the vitality and viability of the centre. As the proposal is for the part change of use of a small section of an existing convenience store (which will remain), I do not consider the proposed change of use would prejudice the retail function of Cape Hill town centre or effect the vitality and viability of the centre.

12.4 SAD DM9 refers to all applications for hot food take-aways whether through new build or change of use, will be assessed on their individual merits. However, the following criteria will be taken into account:

- a) Centres/retail frontages where hot food take-aways are already present, the cumulative effect/impact of any proposal should be taken into account – The proposal is compliant with the councils Hot Food Takeaway SPD (see 12.5 below) in relation to the concentration of hot food takeaways within Cap Hill town centre.
- b) Proposed opening hours – this can be controlled by condition.
- c) Impact of noise, disturbance, smell and litter – this can be partially controlled by condition. Issues regarding litter are more difficult to control, however, the site falls within Cape Hill town centre where litter bins are already provided for use by the general public.
- d & e) Traffic generation; parking problems and highway safety – The Head of Highways has reviewed the application and raised no objections.



12.5 The Hot Food Takeaway SPD seeks to control the numbers and location of takeaways in Sandwell, to ensure active, varied and vibrant high streets and to protect public health. As indicated above, the proposal is compliant with the SPD in that it would not result in the over concentration of hot food takeaways within Cape Hill town centre exceeding the 7% threshold and would not result in a cluster of hot food takeaways (3 or more together).

### **13. Material Considerations**

13.1 National and local planning policy considerations have been referred to above in sections 11 and 12. With regards to the other material considerations, these are highlighted below:

#### **13.2 Noise and disturbance from the scheme**

The Pollution Control Team (noise) has reviewed the application and raised no concerns with regards to noise and disturbance of the proposed use. Conditions to mitigate against noise and disturbance such as hours of use and noise details of all fixed plant have been included within the recommendation.

#### **13.3 Disturbance from smells**

The Pollution Control Team (noise) has reviewed the application and raised no concerns with regards to disturbance from smells. Conditions for the submission and approval of the proposed extraction and filtration system have been included within the recommendation.

#### **13.4 Highway Safety, Parking and Servicing**

The Head of Highways has reviewed the application and raised no objections. The site is located within a town centre location with public car parks and on street car parking bays within proximity to the site.



## 14 Alternative Options

- 14.1 Refusal of the application is an option if there are material planning reasons for doing so. In my opinion the proposal accords with relevant development plan policy, supplementary guidance and those material considerations such as noise and odour can be controlled by conditions.

## 15 Implications

<b>Resources:</b>	When a planning application is refused the applicant has a right of appeal to the Planning Inspectorate, and they can make a claim for costs against the Council.
<b>Legal and Governance:</b>	This application is submitted under the Town and Country Planning Act 1990.
<b>Risk:</b>	None.
<b>Equality:</b>	There are no equality issues arising from this proposal and therefore an equality impact assessment has not been carried out.
<b>Health and Wellbeing:</b>	None.
<b>Social Value</b>	None.

## 16. Appendices

Site Plan

Context Plan

2017-02/ REV 01

2020-03/ REV 01

2020-02/ REV 03.

2020-01/ REV 03.

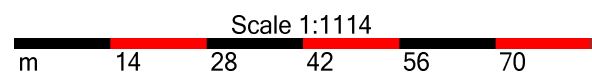


DC/21/65801

74 - 76 Cape Hill, Smethwick, B66 4PB



Legend	
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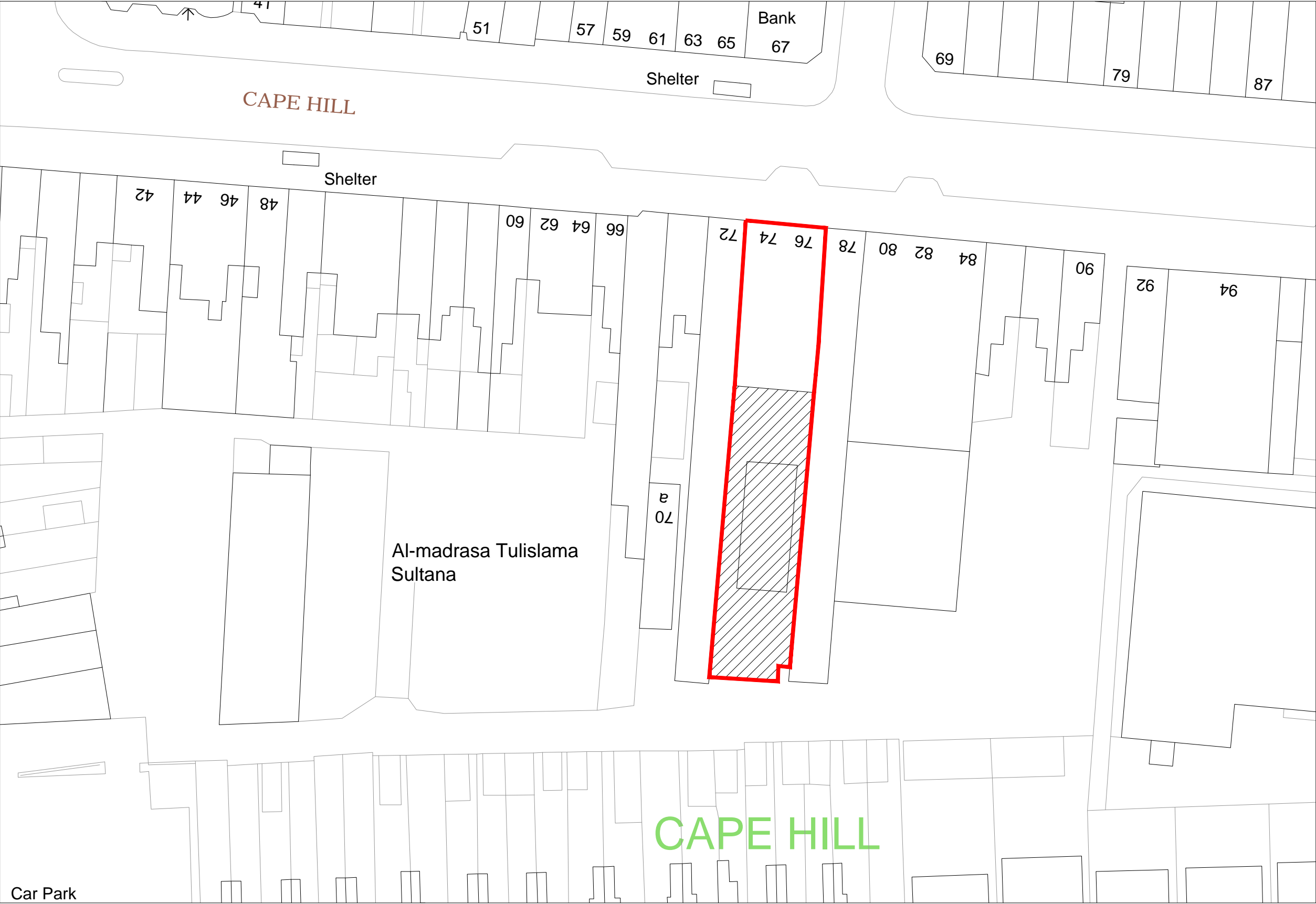
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Organisation	Not Set
Department	Not Set
Comments	Not Set
Date	23 November 2021
OS Licence No	





Site Plan

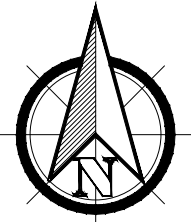


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**CLIENT:**  
Mr Asghar Khanoie

**JOB:**  
74-76 Cape Hill, Smethwick,  
West Midlands B66 4PB

**DRG TITLE:**  
Site Plan

DRG NO.	REV.	Paper
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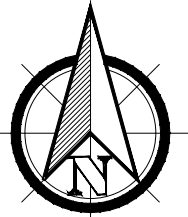


Location Plan



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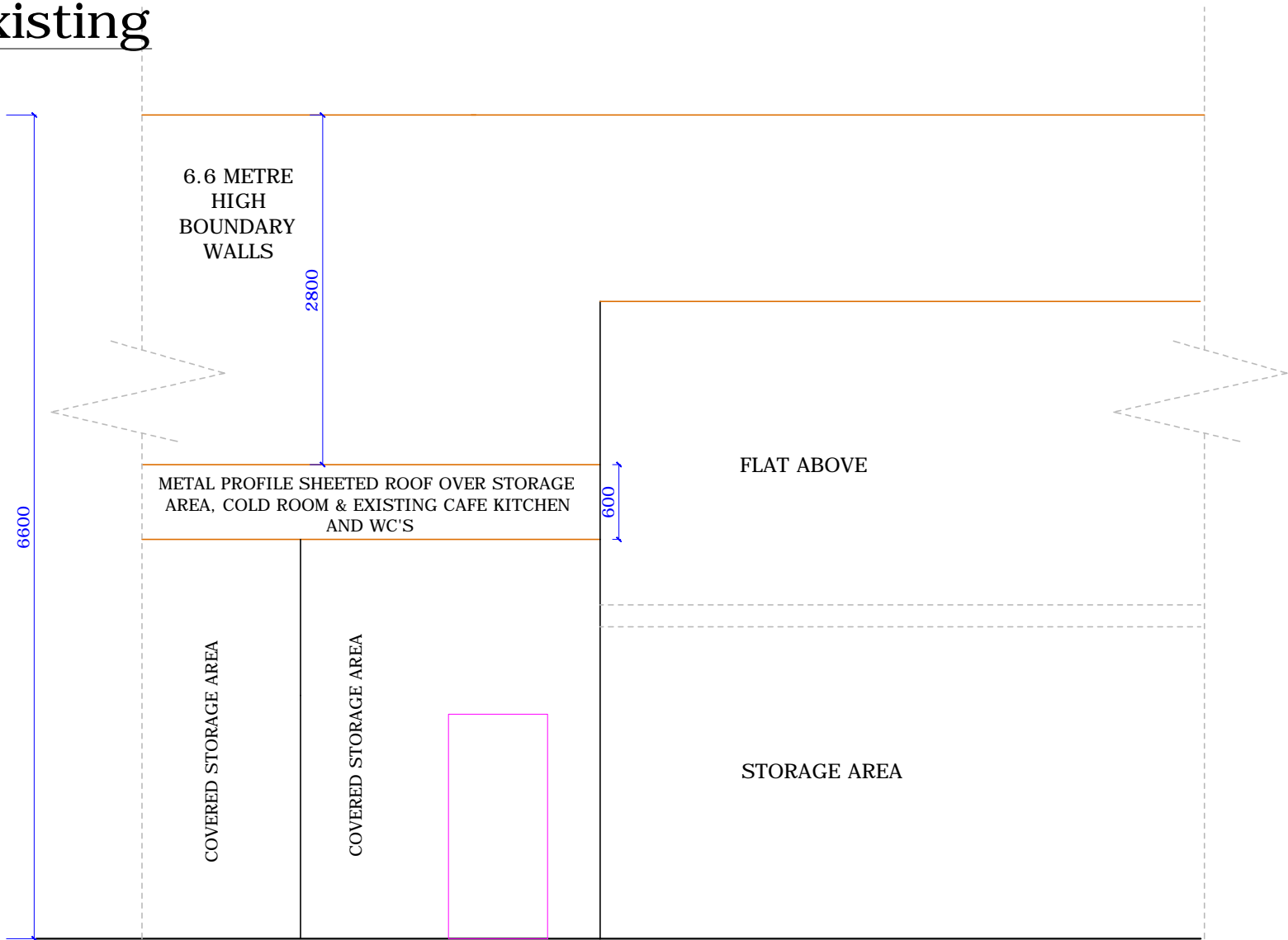
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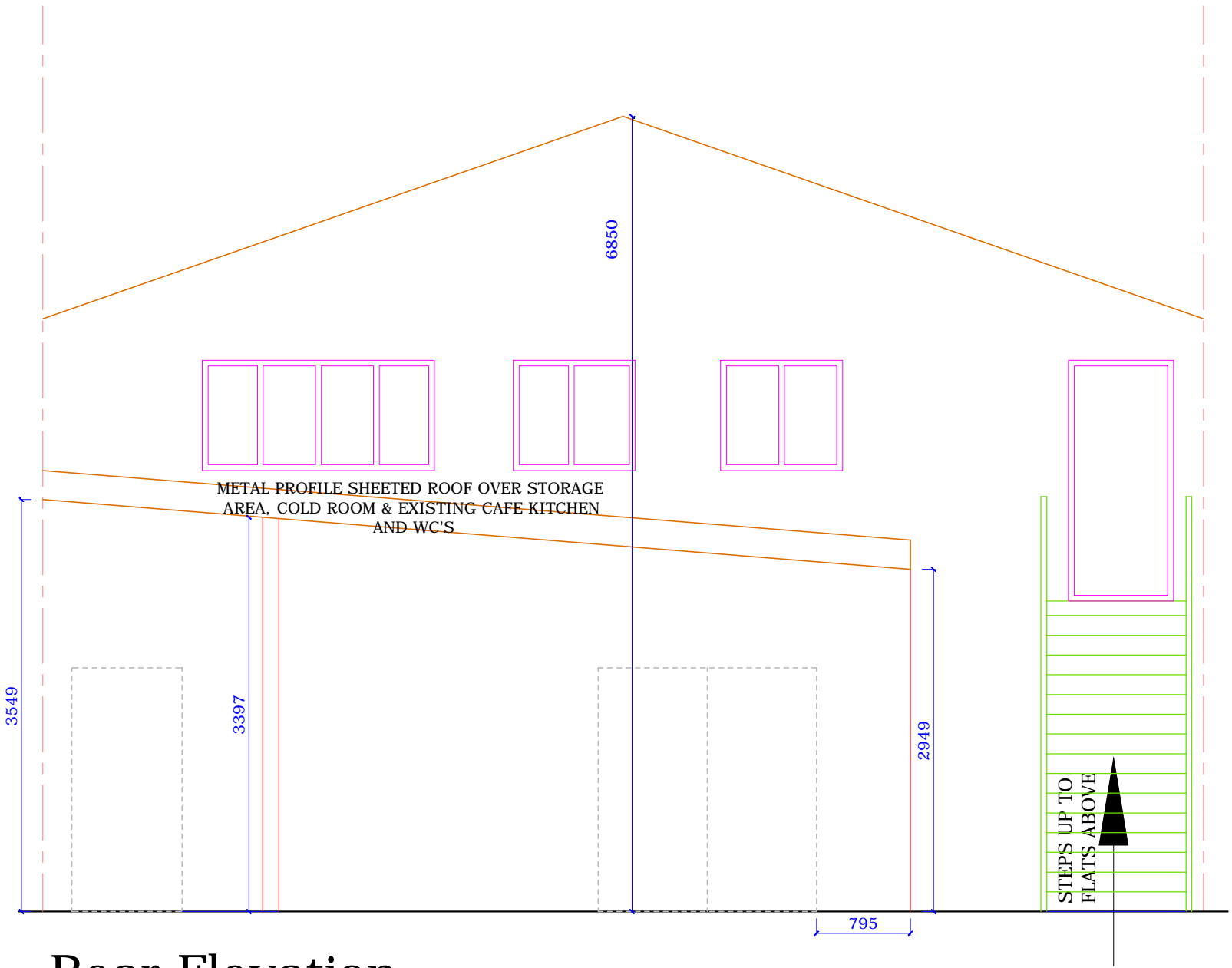
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Elevations

Existing

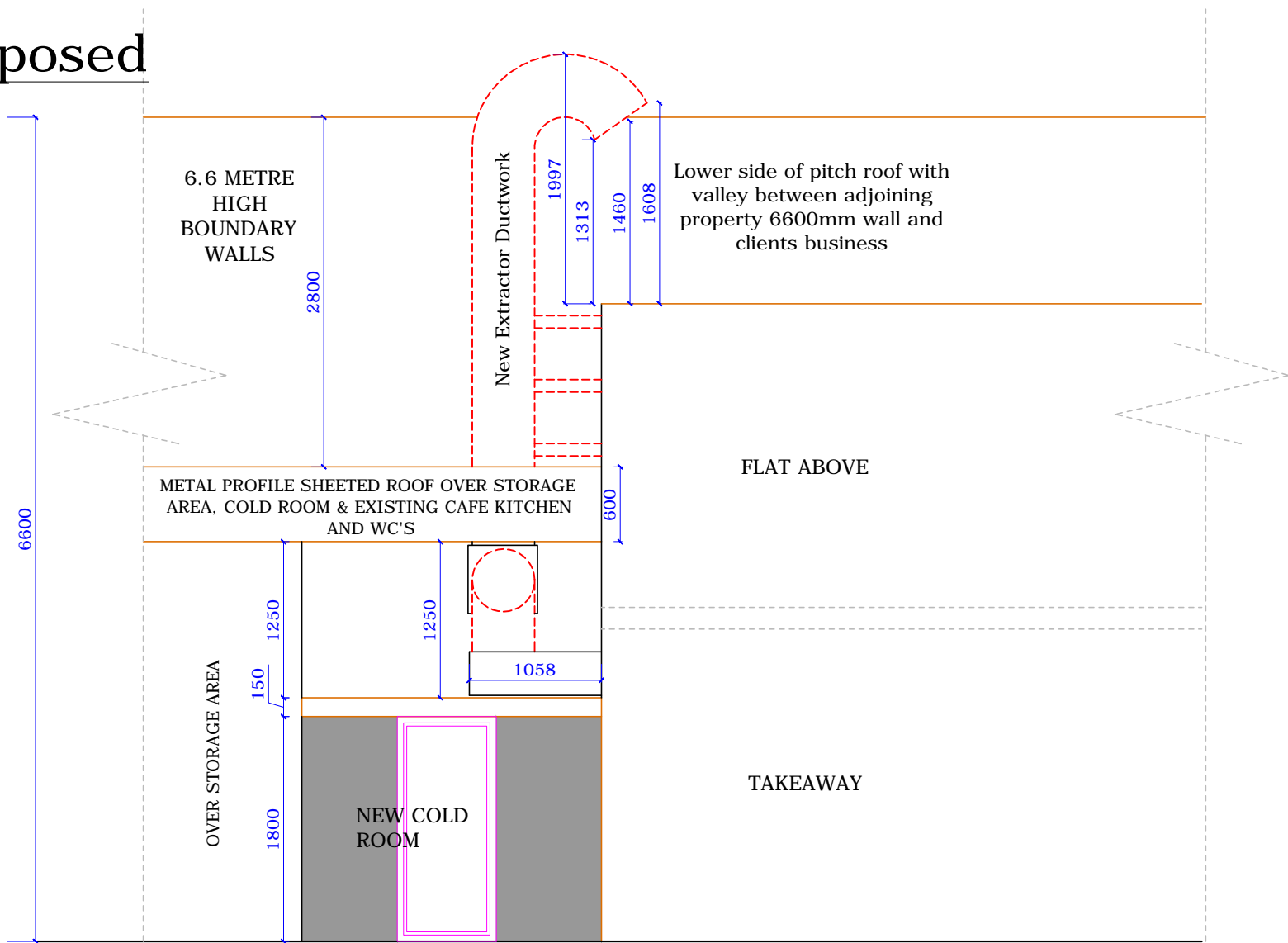


Side Elevation

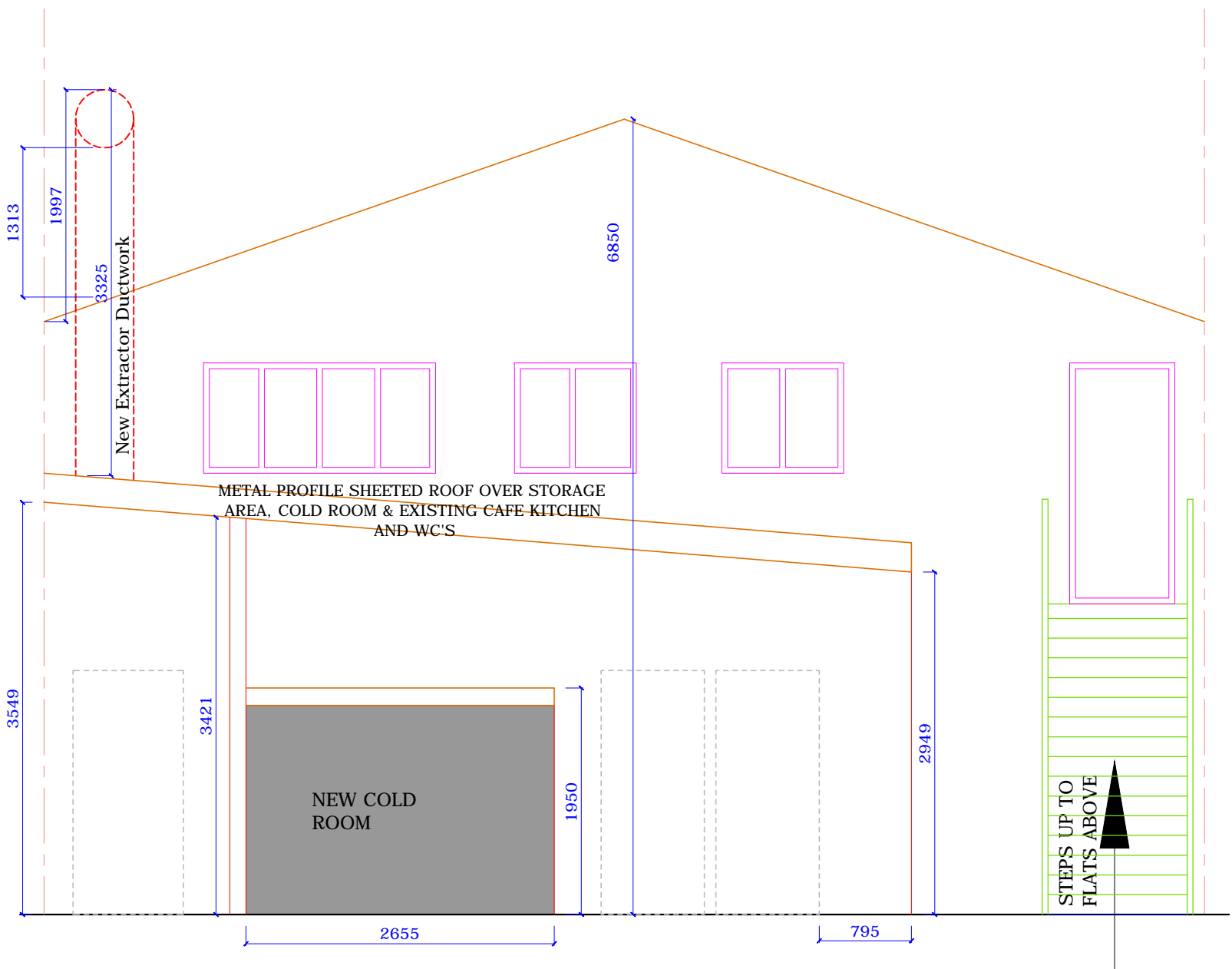


Rear Elevation

Proposed



Side Elevation



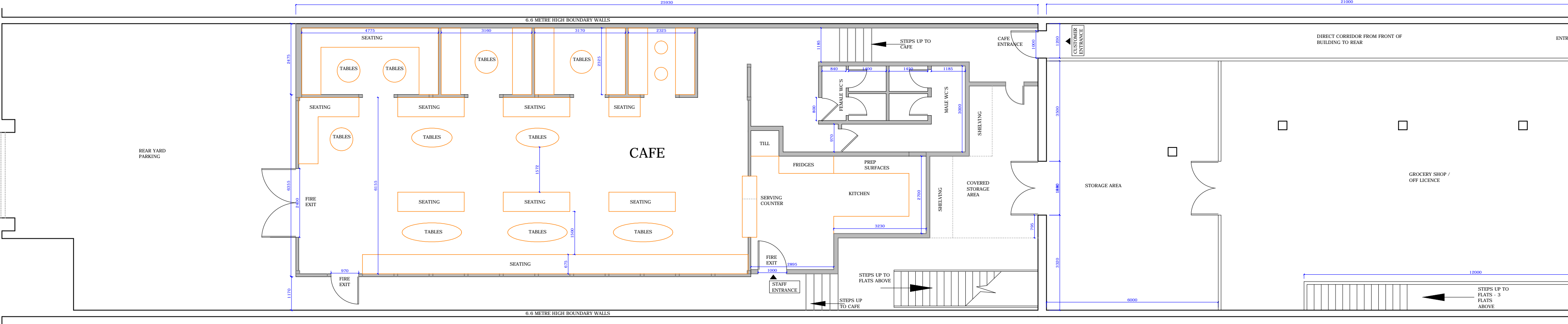
Rear Elevation

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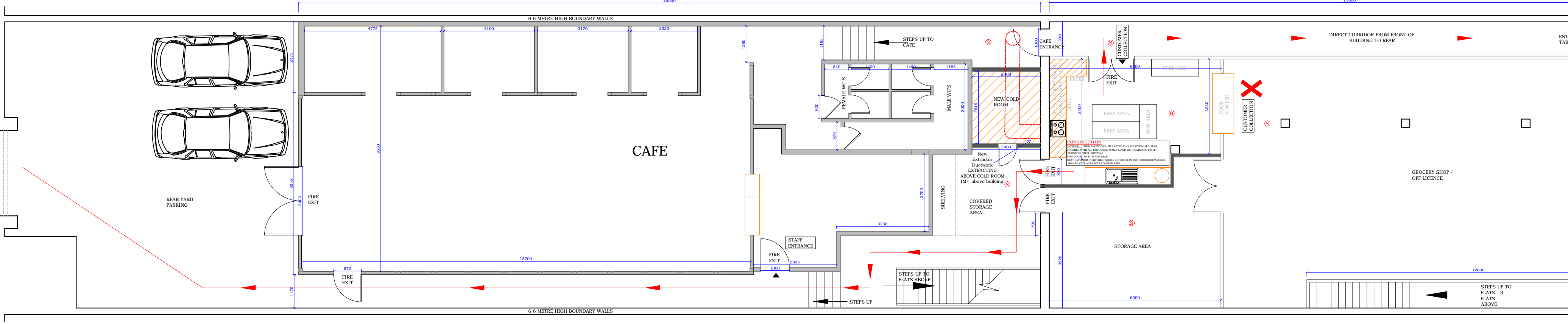
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CLIENT: Mr Asghar Khanoie		
JOB: 74-76 Cape Hill, Smethwick, West Midlands B66 4PB		
DRG TITLE: Exist & Proposed Elevation New Takeaway		
DRG NO. 2020-03/	REV. 01	Paper A2
DATE: Aug 2021 SCALE: 1:50		

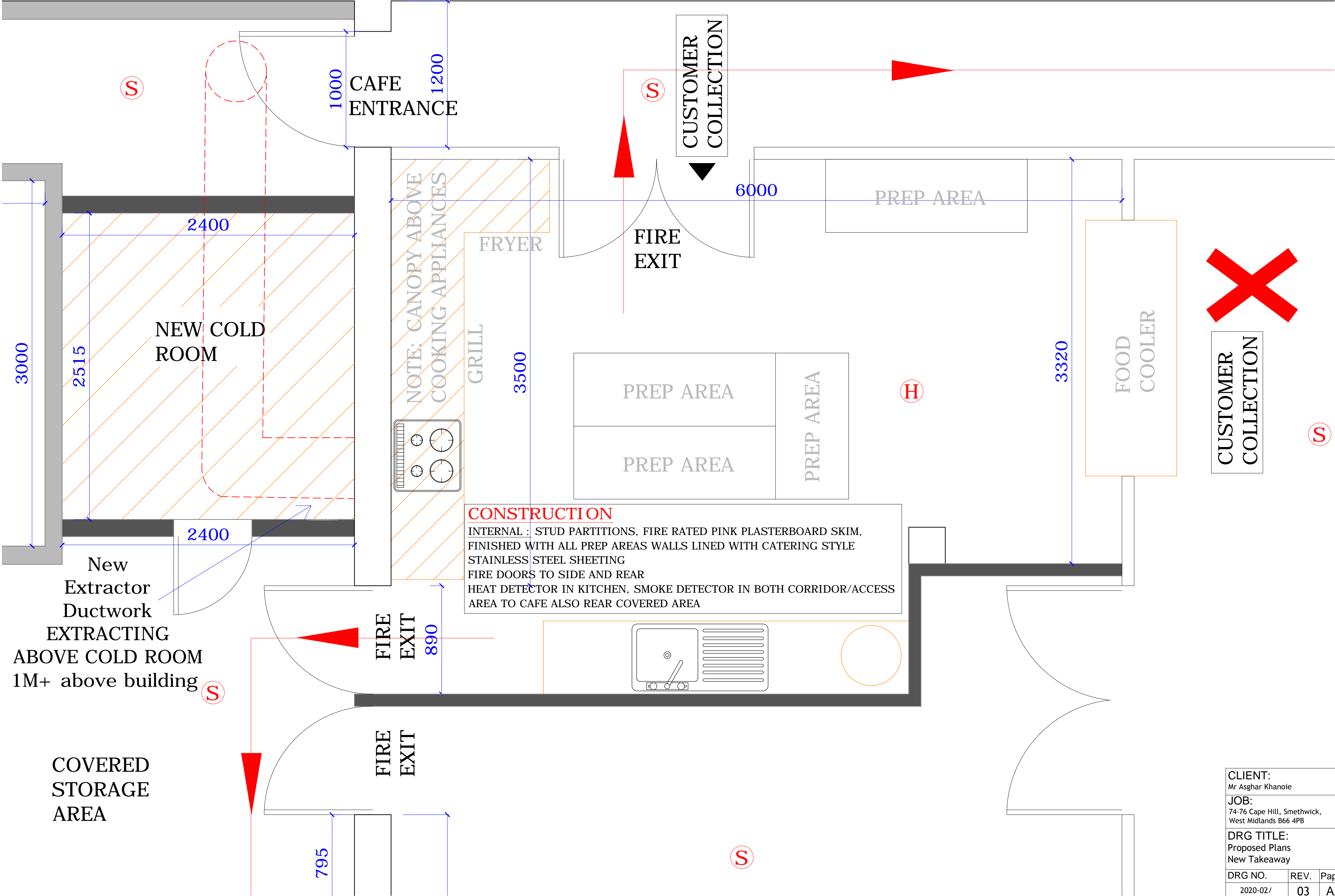
Existing



Proposed



CLIENT: Mr Asghar Khanoie		
JOB: 74-76 Cape Hill, Smethwick, West Midlands B66 4PB		
DRG TITLE: Existing & Proposed Plans New Takeaway		
DRG NO. 2020-01/	REV. 03	Paper A2
DATE: Aug' 2021		SCALE: 1:100



CLIENT: Mr Asghar Khanoie		
JOB: 74-76 Cape Hill, Smethwick, West Midlands B66 4PB		
DRG TITLE: Proposed Plans New Takeaway		
DRG NO. 2020-02/	REV. 03	Paper A2
DATE: Dec' 2020 SCALE: 1:20		