

COMMITTEE DATE: 08/02/2017

APPLICATION No. **15/01198/MNR** APPLICATION DATE: 21/05/2015

ED: **RIVERSIDE**

APP: TYPE: Full Planning Permission

APPLICANT: Fish at 85

LOCATION: FISH AT 85, 85 PONTCANNA STREET, PONTCANNA,  
CARDIFF, CF11 9HS

PROPOSAL: RETROSPECTIVE CHANGE OF USE FROM CLASS A1  
RETAIL TO A USE COMPRISING CLASS A1 RETAIL/CLASS  
A3 RESTAURANT WITH ASSOCIATED EXTRACTION AND  
VENTILATION EQUIPMENT

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RECOMMENDATION: That planning permission be **GRANTED** subject to the following conditions :

1. Within two months of the date of this planning approval details of the fume extraction system shall be submitted for the written approval of the Local Planning Authority. Within two months of the scheme being approved in writing the approved details shall be implemented on site and thereafter maintained and retained whilst the premises is used for the cooking of food.  
Reason: To ensure the amenities of the adjoining neighbours area in accordance with policies KP5, EN13, R5 of the adopted Cardiff Local Development Plan (2006-2016).
2. Within two months of the date of this planning approval, details of a bin storage area shall be submitted for the written approval of the Local Planning Authority. Within two months of the scheme being approved in writing the approved details shall be implemented on site and shall thereafter be retained and maintained.  
Reason : To ensure the amenities of the adjoining neighbours in accordance with policies KP5, EN13, R5 of the adopted Cardiff Local Development Plan (2006-2016).
3. Members of the public shall be admitted to or allowed to remain on the premises only between the hours of 07:00 and 22:00 on any day  
Reason: To ensure the amenity of occupiers of other premises in the vicinity are protected area in accordance with policies KP5, EN13, R5 of the adopted Cardiff Local Development Plan (2006-2016).
4. The rating level of the noise emitted from fixed plant and equipment on the site shall not exceed -10db from the existing background noise level at the nearest noise sensitive premises, when measured and corrected in accordance with BS 4142: 2014 (or any British Standard amending or superseding that standard).

Reason: To ensure that the amenities of occupiers of other premises in the vicinity are protected in accordance with policies KP5, EN13, R5 of the adopted Cardiff Local Development Plan (2006-2016).

5. The premises shall only be used as an A1 retail unit or as a mixed use A3 (restaurant, cafe or coffee shop) / A1 (retail) and for no other purpose (including any other purpose in Use Class A3 of the schedule to the Town and Country Planning (Use Classes) Order 1987 or in any provision equivalent to that Class in any statutory instrument amending, revoking or re-enacting that Order).

Reason : Permission is granted only because of the characteristics peculiar to this proposal. Other uses within Use Class A3 could prejudice the amenities of the area in accordance with policies KP5, EN13, R5 of the adopted Cardiff Local Development Plan (2006-2016).

6. Within six months of this approval the existing first floor kitchen shall cease its use and shall be relocated to the ground floor as shown on plan received on 24<sup>th</sup> January 2017.

Reason: To ensure the amenities of the adjoining neighbours are protected in accordance with policies KP5, EN13 of the adopted Cardiff Local Development Plan (2006-2016).

## 1. **DESCRIPTION OF PROPOSED DEVELOPMENT**

- 1.1 Retrospective planning permission is sought to retain a mixed use fish mongers / restaurant. Whilst the originally submitted application also included an element of wholesale sales of fish from the premises this has now been removed from the scheme ( this element of the business is now undertaken from Pontyclun), and the applicant is now proposing to relocate the kitchen from the first floor.
- 1.2 The kitchen is currently located on the first floor of the premises with deliveries undertaken to the front (Pontcanna Street) and waste collected from the rear (Mortimer Road).
- 1.3 The business has been operating for a number of years

## 2. **DESCRIPTION OF SITE**

- 2.1 The application site is a mid-terrace commercial property within a block of other commercial properties. The commercial element of the terrace are located on the ground floor, some of which contain flats above. The commercial block is surrounded by residential properties. The application site benefits from rear lane access
- 2.2 The site is located within the Cathedral Road Local Centre and within the Cathedral Road Conservation Area.

### 3. **SITE HISTORY**

- 3.1 88/02233/W – Installation of flue- approved (in conjunction with the coffee use)
- 3.2 27640- Café & shop – withdrawn (1966) as it would appear that the building was already in use for that purpose.

### 4. **POLICY FRAMEWORK**

- 4.1 Planning Policy Wales Edition 9 (2016)
- 4.2 Technical Advice Note (TAN): 4 (Retailing and Town Centres), 23 (Economic Development)
- 4.2 The Cardiff Local Development Plan 2006-2026 provides the local planning policy framework. Relevant policies include:
  - KP5: Good Quality and Sustainable Design
  - R5: (Local Centres)
  
  - EN13 Air, Noise, Light Pollution and Land contamination
- 4.2 Supplementary Planning Guidance: Access, Circulation and Parking (January, 2010)
  - Supplementary Planning Guidance: Waste and Collection and Storage Facilities (2016)

### 5. **INTERNAL CONSULTEE RESPONSES**

- 5.1 The Operational Manager, Transportation raises no objections.
- 5.2 Pollution Control: As the proposal has now removed the retail whole sale element and the applicant is willing to relocate the kitchen to the ground floor the Council's Pollution Control now removes it objection but request conditions in relation to opening hours and for details of a suitable fume extraction.

### 6. **EXTERNAL CONSULTEE RESPONSES**

- 6.1 Nil

### 7. **REPRESENTATIONS**

- 7.1 Local members have been notified of the application and no comments have been received.
- 7.2 The application was advertised by site notice. Adjoining neighbours were notified. Representations have been received from Coach House R/O 1 Mortimer Road, CIBO Restaurant at 83 & the owner of 81 Pontcanna Street, 1 Mortimer Road, 73 Plasturton Gardens, 35 Severn Grove all object on the

following grounds:

- The noise and smell from the extraction system is unacceptable
- The smell of fish is unacceptable in this location;
- The storage and collection of waste has resulted in vermin and raw fish on the rear lane and road.
- The applicant has been washing his vans clean of raw fish on the public road;
- The parking of vans has caused traffic disruption within the area.
- No.83 had a similar planning application for a 1<sup>st</sup> floor kitchen refused on residential amenity grounds
- Early morning deliveries/operation harm the amenities of the surrounding residential properties.

7.3 A 51 signature petition has also been received which raises objection to the wholesale retail element of the application. Not all those who have signed the petition are directly affected by the proposal and therefore the lead petitioner is unable to address the Committee.

## 8. **ANALYSIS**

8.1 The key issues are considered to be Land Use, impact upon the adjoining neighbours, deliveries, waste.

### 8.2 **Land Use**

The site is located within the Cathedral Road Local Centre. Policy R5 of the adopted Local Development Plan supports applications for A1 (shops) or those that support the shopping role of the centre. The policy does state, inter alia, that Local Centres are generally more residential in nature than District Centres and do not have the scale or variety of retail and non-retail uses but the policy also states that at ground floor level, only professional and financial (A2) offices with a shop front will be acceptable, provided they do not cause unacceptable harm to the vitality, and viability of the centre. In relation to A3 uses more emphasis will be placed on closing times, and the type of premises.

The proposal relates to the retention of a mixed use which involves the produce of fish. The selling of fish to the public i.e. a fish mongers, is acceptable as it would be an A1 use that accords with policy. It should also be noted that a previous A1 use operated from the premises. The use of the premises as a restaurant A3 use is also considered acceptable, given that there are other restaurants within the Local Centre and given the mix of uses within the Local Centre, this proposal is considered to not, therefore, undermine the shopping role. The removal of the wholesale distribution of fish from the operation and relocation of the kitchen is welcomed by officers.

### 8.3 **Impact Upon the Adjoining Neighbours**

The adjoining properties at Pontcanna Street are commercial on the ground floor with residential above. To the rear is Mortimer Road which is outside the Local Centre and is residential in nature.

### **Pontcanna Street**

- 8.4 Concern has been raised in relation to the noise and smell from the fume extraction flue system and the general smell of fish. In terms of the flue; officers believe that the existing system is not appropriate for this site and needs replacing. The agent and applicant are aware of this but have not provided the necessary details. However, to address this concerns a condition has been imposed, (condition 1) which will require the submission and agreement of modified details and implementation. It is considered that an acceptable fume extraction system would reduce the odour and noise to a level which could be considered consistent with the commercial nature of the centre, and should overcome the complaints received from neighbours to the Council's Pollution Control Section.
- 8.5 The general odour of fish is not a matter that can be controlled by the planning system. However, other powers do exist through Statutory Nuisance Legislation. The Council's Food Hygiene Section have made a number of visits to this site (some of which have been unannounced) and are satisfied that the odour is not a matter that requires attention.
- 8.6 The objection from the adjoining business and from Pollution Control, in relation to the first kitchen, is noted. However, as the applicant is willing to relocate the kitchen in a manner that would be acceptable to the Council's Pollution Control section and would be in line with the previous decision of the adjoining business it is considered by officers that the proposal will not harm the amenities of the adjoining properties. To ensure compliance, condition 6 has been imposed.

It should also be noted that the hours of operation, in terms of closing, match those of the adjoining restaurant at CIBO 83 Pontcanna Street.

### **Mortimer Road**

- 8.7 Officers note the siting of the residential properties at Mortimer Road and the access of the rear lane and the bin storage facility. It is apparent from the evidence submitted that the management and storage of waste had an effect upon the residential amenities of the adjoining houses. However, following the intervention of the Council's Food Health and Hygiene section, it would appear that the concerns have been overcome. However, to ensure the bin storage would not undermine the amenities that can reasonably be expected a condition has been imposed. In forming this view officers have had regard to residential amenity and position of windows and gardens of adjoining residential properties.

### **8.8 Transportation**

Concern has been raised by objectors that the operation of the premises results in excess parking for delivery vehicles or that they are delivering at unsociable hours.

- 8.9 The site is located within a Local Centre, where there is a reasonable expectation of commercial traffic, delivering to the commercial premises. The

adjoining units do not have any limitations on their delivery times therefore given that the use now before the Council is for an A1/A3 operation imposing delivery hours is considered to be unreasonable. Any obstruction of the public highway is a matter controlled by the Police but it is considered that as the wholesale element of the operation no longer operates from these premises the issues of parking should be improved. It is also noted that the Council's Transportation section raise no objection to this scheme.

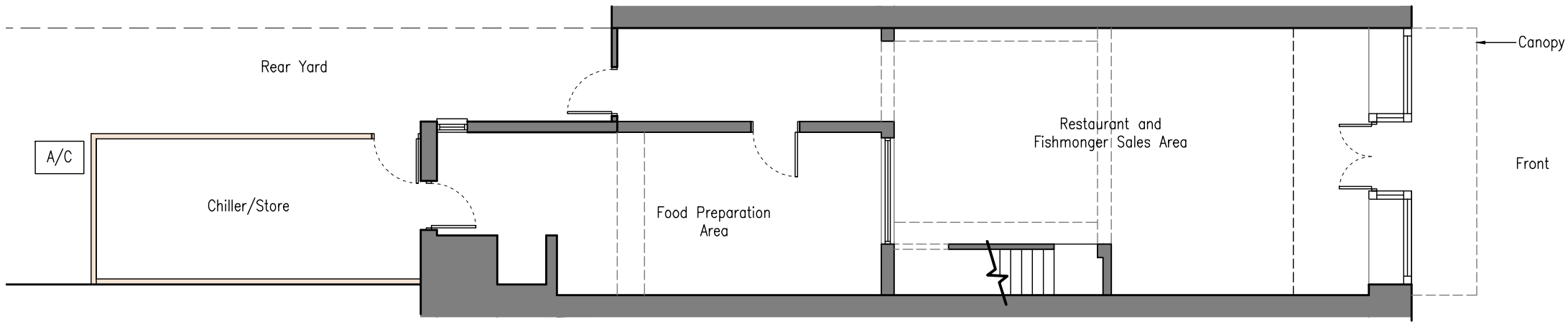
#### 8.10 **Waste**

As mentioned above concern has been raised over the storage and collection of waste. The disposal of raw fish is a controlled material that has to be stored and disposed of in a prescribed manner. The enforcement of these regulations is by the Council's Food Health and Hygiene Section, who have visited the site and have made a number of recommendations to the owner, which included that the waste is stored within a cold storage unit and is collected by a specialised collector. These points have been undertaken by the owner to the satisfaction of the Council's Food Health and Hygiene Section. The only viable access point for the collection of waste is via the rear lane, which is in close proximity to the adjoining resident properties, but it is considered, on balance, acceptable.

The storage of waste can be stored within the rear yard but to ensure the amenities of the adjoining neighbours are protected a condition has been imposed requiring details of waste storage to be submitted and approved by the Local Planning Authority.

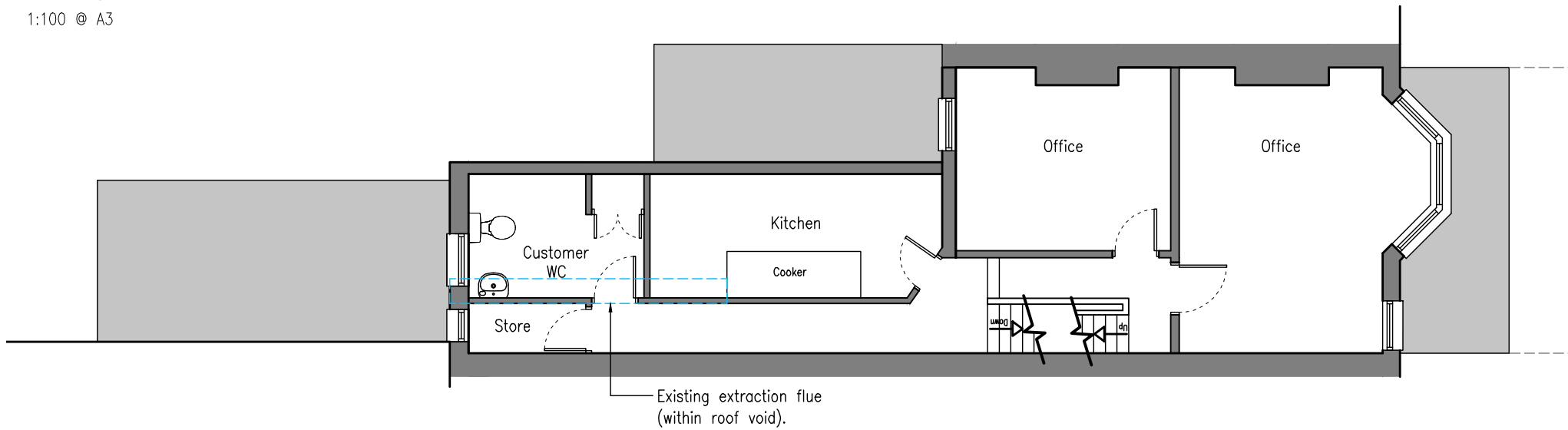
#### 9. **Conclusion**

Having regard to material matters raised and the policy context outlined above, the proposal is considered acceptable and planning permission is recommended for APPROVAL subject to conditions.



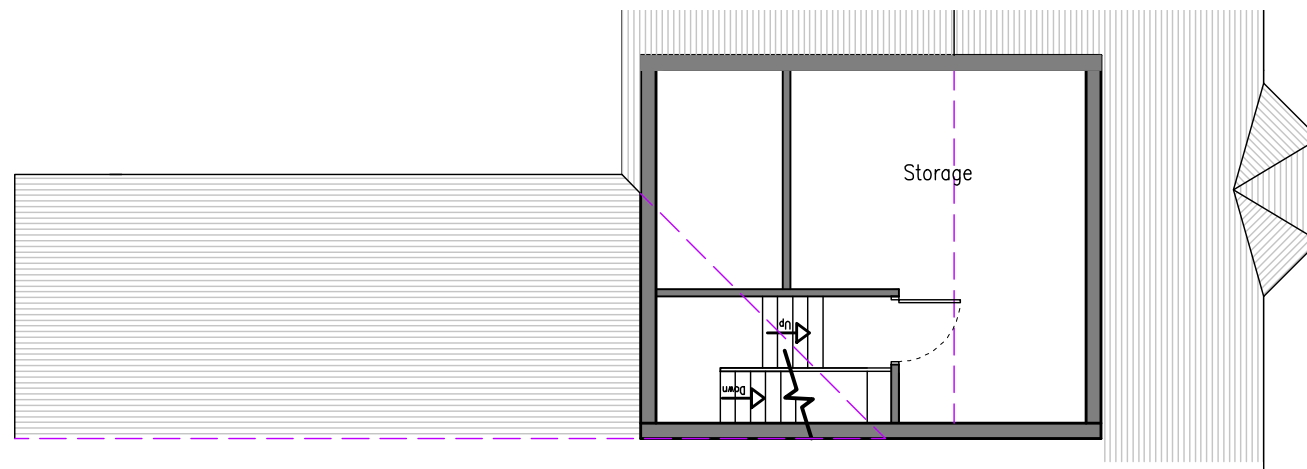
**Existing Ground Floor Plan**

1:100 @ A3



**Existing First Floor Plan**

1:100 @ A3



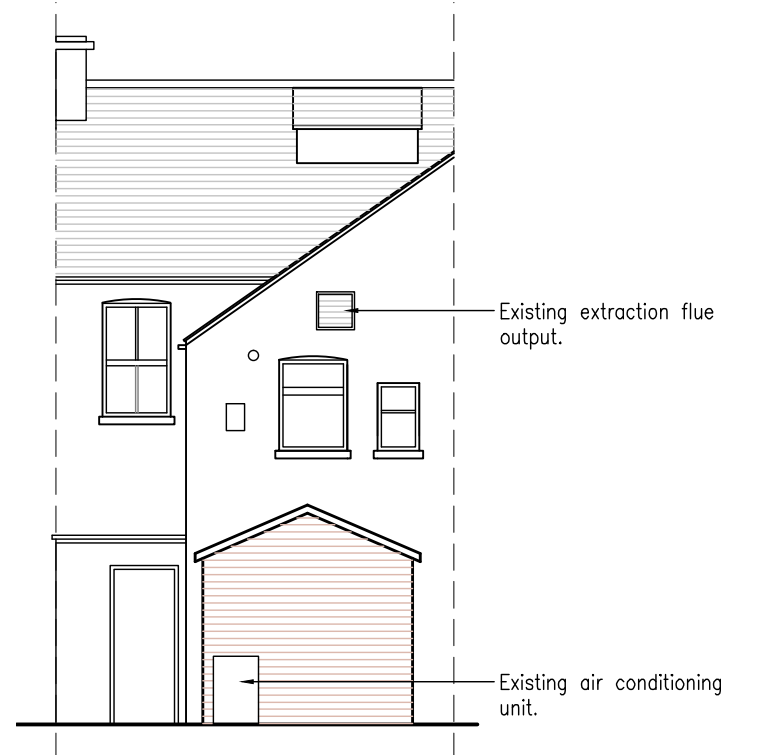
**Existing Loft Plan**

1:100 @ A3



**Site Location Plan**

1:2500 @ A3

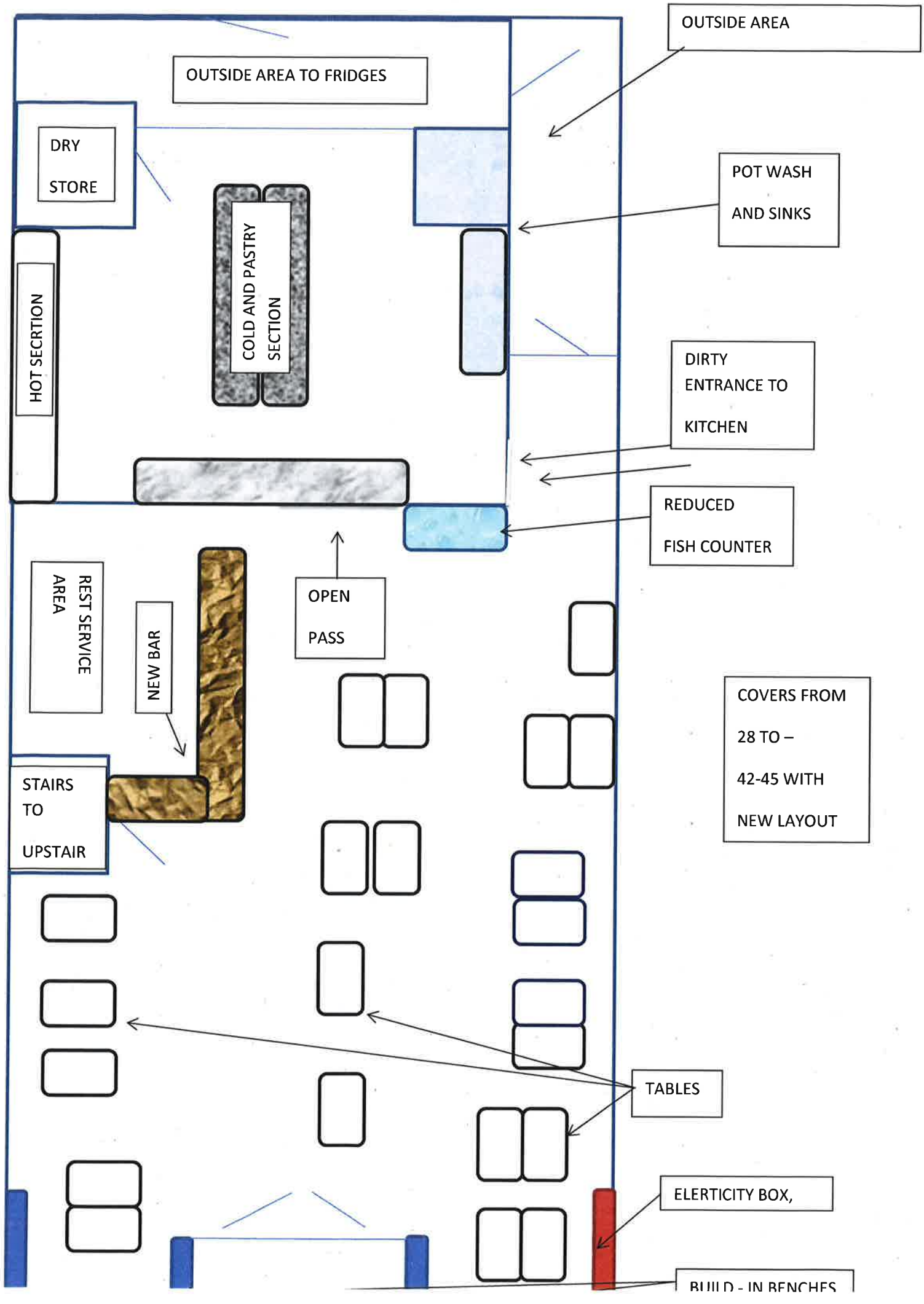


**Existing Rear Elevation**

1:100 @ A3

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<p>Client <b>Mr Kevin Coleman</b></p>	<p>Project <b>Fish at 85 85 Pontcanna Street, Cardiff CF11 9HS.</b></p>	<p>Drawing Title <b>Existing Floor Plans.</b></p>
<p>Drawing Status <b>PLANNING</b></p>	<p>Scale <b>1:100 @ A3</b></p>	<p>Date <b>10-03-15</b></p>
<p>HLN Architects Ltd 3rd Floor, 14 Cathedral Road, Cardiff, CF11 9LJ</p>	<p>Drawn By <b>TF</b></p>	<p>Checked <b>XXX</b></p>
<p>Tel:0845 375 3298 architecture@hingroup.co.uk www.hingroup.co.uk</p>	<p>Job No: <b>XXXX</b></p>	<p>Drawing No. <b>(20) 100</b></p>
<p><b>RIBA</b> Chartered Practice</p>	<p><b>CARDIFF</b> <input checked="" type="checkbox"/> <b>REDDITCH</b> <input type="checkbox"/> <b>LONDON</b> <input type="checkbox"/></p>	<p><b>HLN</b> ARCHITECTURE + ENGINEERING</p>



OUTSIDE AREA

OUTSIDE AREA TO FRIDGES

DRY STORE

POT WASH AND SINKS

HOT SECTION

COLD AND PASTRY SECTION

DIRTY ENTRANCE TO KITCHEN

REST SERVICE AREA

REDUCED FISH COUNTER

OPEN PASS

NEW BAR

COVERS FROM 28 TO - 42-45 WITH NEW LAYOUT

STAIRS TO UPSTAIR

TABLES

ELECTRICITY BOX,

BUILD-IN BENCHES