

Application No: 2009/0327	Application Type: Full
Proposal: Erection of Canopy/Awning to Front	Location: Casa Tapas 93-95 Bacup Road Rawtenstall
Report of: Planning Unit Manager	Status: For Publication
Report to: Development Control Committee	Date: 7 September 2009
Applicant: Mr D Chauham	Determination Expiry Date: 14 September 2009
Agent: Pilgrim Associates	

REASON FOR REPORTING Tick Box

Outside Officer Scheme of Delegation

Member Call-In
 Name of Member: Cllr Tony Swain
 Reason for Call-In: The application is not detrimental to the conservation area. The merits of the case are many and outweigh various other issues.

More than 3 objections received
 Other (please state)

HUMAN RIGHTS

The relevant provisions of the Human Rights Act 1998 and the European Convention on Human Rights have been taken into account in the preparation of this report, particularly the implications arising from the following rights: -

Article 8
 The right to respect for private and family life, home and correspondence.

Article 1 of Protocol 1
 The right of peaceful enjoyment of possessions and protection of property.

APPLICATION DETAILS

1. Site

- 1.1 This application relates to a two storey stone and slate end terraced building with a wide frontage situated along Bacup Road. The stone in the front elevation is painted white with the doorway towards the centre. There is a deep fascia lit from above by spotlights. The building is currently used as a restaurant. The row provides a mixture of commercial uses, including a chip shop, and a florist. The footway fronting the building and the row is approximately 2.4 metres wide. There are bollards close to its edge. Parking is restricted outside the building. Ilex Mill, a Listed Building to the east, has been converted into flats.
- 1.2 The site lies within the Town Centre of Rawtenstall, and Rawtenstall Town Centre Conservation Area as designates in the Rossendale District Local Plan.

2. Relevant Planning History

2009-0041 This application sought consent for the same development as is currently being applied for and was refused for the following reasons:

- 1) The canopy in its extended position is excessively large and seriously detrimental to the character and appearance of the Rossendale Town Centre Conservation Area contrary to PPG15, policy EM1 of the Regional Spatial; Strategy for the North West and saved policies DC1 (criteria), HP2 and HP5 of the adopted Rossendale District Local Plan.
- 2) The use of the canopy as a smoking shelter creates noise and disturbance which is seriously detrimental to occupiers of adjacent residential property contrary to saved policy DC1 (criteria) of the adopted Rossendale District Local Plan.
- 3) The canopy is too low and too close to edge of the carriageway causing danger to pedestrians and vehicles using the highway. People congregating under the canopy may obstruct users of the footway. The development is contrary to saved policy DC1 (criteria) of the adopted Rossendale District Local Plan

3. The Current Proposal

- 3.1 This application is a re-submission of 2009/0041 in which retrospective permission was sought for the erection of a retractable awning. There are no amendments proposed to the size/siting/design of the awning, however, the applicant has provided additional supporting information in respect of the application.
- 3.2 The application seeks retrospective consent for a retractable canopy. It is mounted below the fascia and operated by an electric motor. According to the plans, the maximum projection is 2 metres and the clear height at the outer edge is

1.9 metres. When extended it would be 0.1 metres from the existing street sign. When not in use the canopy would be retracted.

3.3 The applicant states that the canopy is needed to allow diners shelter when being dropped off as they do not like to bring overcoats and get their hair wet. It would have little use as a smoking shelter. The canopy has historical precedent in the town in that shops traditionally had a canopy to protect shop window displays from the direct sunlight.

3.4 In response to the Conservation Officer's comments (below) the agent writes:

"The present arrangement, whilst far from traditional, exists and I cannot accept that a box designed to contain the rolled awning will exacerbate the visual effect of the double fascia / sign. The box is approx 150mm deep and is painted the same colour as the panel above. It is very difficult to see. The shops in that part of the town have signs of varying sizes and colours and in some cases these are double width. In short the proposal will have no affect on the visual street scene."

4 Policy Context

National Planning Guidance

PPS1 – Delivering Sustainable Development

PPS6 – Planning for Town Centres

PPG15 – Planning and the Historic Environment

Development Plan Policies

Regional Spatial Strategy for the North West

Policy DP 1 Spatial Principles

Policy DP 2 Promote Sustainable Communities

Policy DP 3 Promote Sustainable Economic Development

Policy DP 4 Make the Best Use of Existing Resources and Infrastructure

Policy DP 5 Manage Travel Demand; Reduce the Need to Travel, and Increase Accessibility

Policy DP 6 Marry Opportunity and Need

Policy DP 7 Promote Environmental Quality

Policy EM1 Integrated Enhancement and Protection of the Region's Environmental Assets

Rossendale District Local Plan (Adopted 1995) – Saved Policies

DS1 – Urban Boundary

DC1 - Development Control

DC4 – Materials

HP1 – Conservation Areas

HP2 – Listed Buildings

HP5 – Shop Fronts

5. CONSULTATIONS

5.1 LCC (Highways)

In respect of the previously submitted application commented that:

The Highway Authority does not support the installation of canopies for smokers on the public footway where they could cause people to congregate and create an obstruction. A canopy would also need to be licensed with a minimum height of 2.1 metres and 300mm from the edge of the carriageway.

A Highways Officer has visited the site since the refusal of the last application and now comments: The canopy has been in situ for approximately 2 years with no apparent problems. When open it is quite close to the edge of the carriageway, normally a space of 350mm would be required. I would offer no objections to this application although any future replacement should provide the clearance between the canopy and the carriageway as described above.

5.2 RBC (Conservation Officer)

The frontage of this property is much altered and it has a strong horizontal emphasis, exacerbated by the over long and over large fascia. The frontage and fascia are out of scale with the neighbouring properties, which are much more in tune with the general character of the Conservation Area, and the stronger vertical lines of the buildings along both sides of Bacup Road. The awning is located at a low level at the bottom of the fascia. The positioning and detail reinforces the strong horizontal lines of the frontage and the fascia, thereby increasing the visual conflict between this property and its neighbours. Its impact will be made worse by the awning's low level position. The submitted Design and Access Statement makes reference to the traditional characteristics of awnings. There are no others in this part of the Conservation Area. Where traditional awnings exist they do not have the design characteristics, positioning and impact on the streetscene of the submitted proposal. Many are integral parts of a frontage and not an add-on to an already visually compromised elevation.

The proposal is harmful to the area's traditional character and does not protect or enhance the special character and appearance of the conservation area.

6. REPRESENTATIONS

To accord with the General Development Procedure Order the application was publicised by newspaper notice on the 24th July 2009, site notice posted on 06/08/2009 as indicated on the site plan and photograph and 8 letters to neighbours on 27/07/2009.

Two letters of objection and two letters of support have been received including a 417 name petition in support of the application.

The objections are summarised below:

- The canopy projects too far and it is too wide, hiding the adjoining shop from potential customers.
- A smaller canopy or quarter round canopy would be more in keeping and less obtrusive to pedestrians.
- It is the second awning that has been erected, the previous one having been vandalised.
- There is a safety issue as the awning pushes against a post supporting a parking sign.
- Pedestrians are intimidated from using the footway.
- Speakers have been fitted to the outside of the premises, playing music and causing nuisance in living accommodation late at night.
- Drinking outside the premises is illegal and causes more nuisance.

The petition does not give a reason for supporting the application, however, the singular letter of support states:

- The awning has a practical use, and if it did not extend its full length of the restaurants frontage it would be aesthetically poor in appearance.
- The awning is an asset to the Conservation Area.
- The original application sought permission for the use of the awning for people to smoke underneath. This is not now the case. Smokers now have to go into the side street adjacent side street to smoke. The owner has many weeks of CCTV footage to substantiate his claim that no smoking is allowed under the extended awning.
- The awning when extended fully stops some 180mm from a council sign post, which in turn is some 300mm from the kerbside. The writer disagrees, therefore, that it is too close to the edge of the carriageway and creates a danger to pedestrians and vehicles alike.
- A Highways Authority Officer has visited the site since the refusal and stated that it poses no threat to traffic using the highway.
- Casa Tapas is a top quality venue and gives the area a good name for family restaurants. In granting approval we would be sending out a message to all local businessmen who are critical for the financial recovery of the country that their efforts to improve their immediate environment don't go unnoticed.

7. ASSESSMENT

The main considerations of this application are: 1) Principle, 2) Visual Amenity/Heritage Impact, 3) Neighbour Amenity, 4) Highway Safety.

7.1 Principle

- 7.1.1 The site is located within the Urban Boundary and the Town Centre Conservation Area. A canopy/awning is considered acceptable in principle subject to the specific details of the application, e.g. size/height/design, providing it preserves and enhances the character and appearance of the area.

7.1.2 **Visual Amenity/Heritage Impact**

In its retracted position the canopy is considered unobtrusive, however, the case officer considers that the canopy is not a traditional feature in the area, is overly large and obtrusive, and does not relate well to the neighbouring properties, exacerbated by the wide frontage of the building and the overly long fascia to which it relates. Therefore, taken in context the proposal is harmful to the areas traditional character and does not preserve or enhance the special character and appearance of the Conservation Area.

7.1.3 The application is considered unacceptable in principle.

7.2 **Neighbour Amenity**

7.2.1 The applicant has stated that the awning would have little use as a smoking shelter and the customers would use the side street to smoke. As the only access to the side street from the restaurant is through the front entrance it is considered that it is unlikely that customers would use the unsheltered side street to smoke and would opt for the shelter of the canopy. It is considered that it is not possible to enforce a condition that customers must not use the canopy as a smoking shelter. The use of the canopy as a smoking shelter would cause nuisance to neighbours. One objection does state that speakers have been installed to play music outside the restaurant. The case officer has not seen evidence of any external sound amplification, however, were the application to be approved a condition would be imposed to restrict any form of sound amplification outside of the restaurant. As it would not be possible to restrict the use of the canopy as a smoking shelter, it is considered that it would cause unacceptable detriment to neighbours in terms of noise. The scheme is considered unacceptable in terms of neighbour amenity.

7.3 **Access and Highway Safety**

7.3.1 The Highways Authority have removed their objection to the application as there has been no reported problems as a result of the canopy which has been in situ for a considerable period of time. The scheme is therefore considered acceptable in terms of highway safety.

7.4 **Objections**

7.4.1 The objections from the neighbours have been taken into account in the above sections of the report.

8. **Conclusion**

8.1 The proposed canopy is considered not to preserve or enhance the character and appearance of the Conservation Area and its likely use as a smoking area would cause harm by reason of noise to neighbours.

9. **Recommendation**

9.1 Refuse.

10 Reasons for Refusal

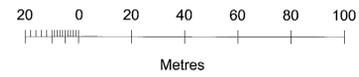
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2. It is not possible to control that the canopy would not be used as a smoking shelter. It is therefore, considered that the canopy would create a level of noise and disturbance by reason of its use which is seriously detrimental to occupiers of adjacent residential property contrary to Policy DP2 of the Regional Spatial Strategy for the North West and Saved Policy DC1 of the adopted Rossendale District Local Plan.

Contact Officer	
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All dimensions to be verified on site and the architect informed of any discrepancy.

Revision Date

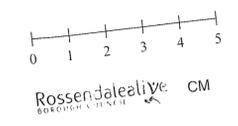
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2009/347
20 JUL 2009



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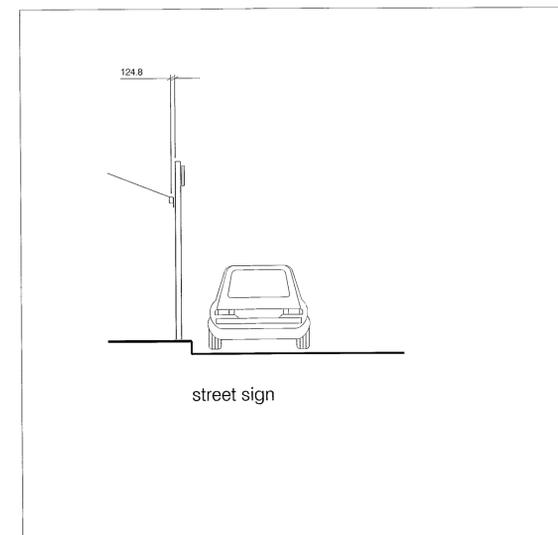
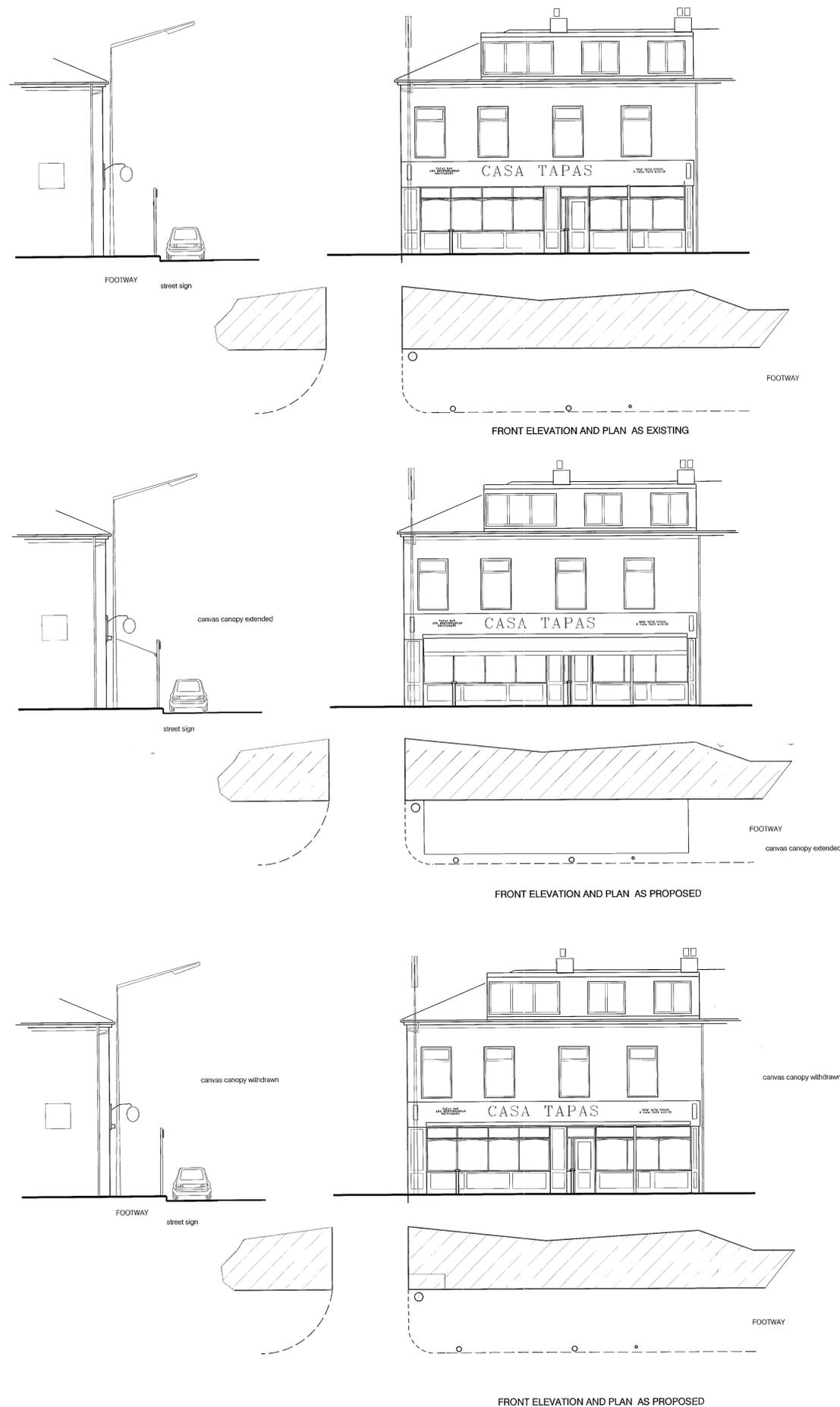
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PROPOSED AWNING / CANOPY AT
93-95 BACKUP ROAD
ROSSENDALE
BB4 7NW

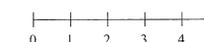
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All dimensions to be verified on site and the architect informed of any discrepancy.

Revision Date



SECTION SHOWING LOCATION OF NEW CANOPY AND STREET SIGN 1 : 50



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20 JUL 2009

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PROPOSED CANOPY / AWNING AT
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