

Report to Planning applications committee
Date 5 December 2013
Report of Head of planning services
Subject 13/01681/F 476 Sprowston Road Norwich NR3 4DY

Item
5(3)

SUMMARY

Description:	Change of use from shop (Class A1) to café / takeaway (Class A3 and A5).
Reason for consideration at Committee:	Objection
Recommendation:	Approve
Ward:	Catton Grove
Contact Officer:	Mr John Dougan Planner 01603 212504
Valid Date:	12 October 2013
Applicant:	Mrs Maithily Balasingham
Agent:	Mr Mark Ashurst

INTRODUCTION

The Site

Location and Context

1. The wider area is residential with this part of Sprowston Road being in close proximity to the roundabout which links with the outer ring road. The local retail centre has a range of retail, commercial and other uses including a pub (The Brickmakers), bank, takeaways, retail shops and vacant hairdressers on either side of the road. The area does have restricted parking on each side of the road.
2. The site in question is on the west side of Sprowston Road within the main concentration of commercial activity, with there also being a newsagents and vacant hairdressers on the opposite side of the road. There is a residential property on the first floor above the shop, with an access way to the south elevation of the building.
3. The current boundary of the local retail centre comprises 12 units, 6 of which (50%) are classed as being A1, meaning that there is currently a deficit of 10% retail with the retail presence threshold (60%).
4. The existing unit comprises the shop floor area at ground floor level and a staff kitchenette and WC.
5. The applicant states that the vacant shop is currently being used by the applicant who runs the convenience shop at 484 Sprowston Road for the purposes of storage. They also state that use of the premises as a shop ended in July 2012.

Planning History

12/01500/F - Installation of external roller shutters on windows and associated advertising unit. (APPR - 29/11/2012)

04/00599/F - Sub- division of existing shop into two units. (APPR - 02/08/2004)

4/2003/0348 - Change of use to hot food takeaway.
(APPR - 06/06/2003)

4/1990/0271 - Erection of single storey extension at rear of shop. (APCON - 15/06/1990)

4/1997/0936 - Erection of two storey extensions at side and rear and single storey extension at rear. (REF - 26/02/1998)

4/1998/0369 - Erection of two storey extension at side and rear and single storey extension at rear. (APCON - 06/07/1998)

Equality and Diversity Issues

There are no significant equality or diversity issues.

The Proposal

6. A change of use of the site from A1 to A3 / A5. The unit would comprise of a server area to the rear with the majority of its floor space being devoted to the sit down café element.
7. There will be no external alterations except the addition of an extractor discharging to a location close to the refuge area. No detailed specification of the extractor and associated ducting has been submitted.
8. The application site includes the access way to the south elevation. The applicant has confirmed that the access way is available for the purposes of refuse storage bin storage or is solely for the use of the flat above.
9. No specific hours of operation are proposed.
10. The applicant has filled in certificate b of the application form, informing everyone who has freehold/leasehold interest in the land. The applicant was made aware of the importance to notify all parties with a freehold or leasehold interest in the land within the application red line.

Representations Received

11. Adjacent and neighbouring properties have been notified in writing. 10 letters of representation have been received citing the issues as summarised in the table below.
12. This type of planning application does not require the erection of a site notice
- 13.

Issues Raised	Response
Increased competition will have an adverse financial impact on other uses	See paragraph 17
There will be too many cafes and	See paragraphs 16-30

takeaways in the area	
Adverse impact on residential amenity (noise, smell and litter)	See paragraphs 31-42
The use would lead to increased crime on the area	See paragraph 43
The extractor fan will have an adverse impact on the amenity of my flat	See paragraphs 39-42
Adverse impact on highway safety and parking	See paragraphs 44-48
The proposed bin storage area is located on the access area which is solely reserved for the first floor flat.	See paragraphs 35-38
Not all owners have been correctly notified.	See paragraph 10
No planning site notice has been erected.	See paragraph 12
Will the alcohol license granted mean that the premises will be able to sell alcohol	Alcohol licensing and conditions are matters outside the scope of the planning process.

Consultation Responses

14. Local highway authority – no objection

15. Environmental protection – Details of mechanical extraction required including a maintenance schedule. Recommended opening hours 0900-2300 (Mon-Fri) and 0900 – midnight (Fri-Sun). Recommend restrictions on delivery times.

ASSESSMENT OF PLANNING CONSIDERATIONS

Relevant Planning Policies

National Planning Policy Framework:

- Statement 1 - Building a strong and effective economy

Relevant policies of the adopted Joint Core Strategy for Broadland, Norwich and South Norfolk 2011

- Policy 5 – The economy
- Policy 19 – The hierarchy of centres

Relevant saved policies of the adopted City of Norwich Replacement Local Plan 2004

- SHO15 – Changes of use within district or local centres
- EMP1 – Small scale business development
- EP22 – Residential amenity

- TRA6 – Parking standards (maxima)
- TRA7 – Cycle parking standards
- TRA8 – Servicing standards

Other Material considerations

- Written Ministerial Statement: Planning for Growth March 2011
- Emerging policies of the forthcoming new Local Plan (submission document for examination, April 2013):

Development Management Policies Development Plan Document – Pre-submission policies (April 2013).

- DM2 - Ensuring satisfactory living and working conditions
- DM21 – Protecting and supporting district and local centres
- DM24 – Managing the impacts of hot food takeaways
- DM30 – Access and highway safety
- DM31 – Car parking and servicing

Procedural Matters Relating to the Development Plan and the NPPF

The Joint Core Strategy and Replacement Local Plan (RLP) have been adopted since the introduction of the Planning and Compulsory Purchase Act in 2004. With regard to paragraphs 211 and 215-216 of the National Planning Policy Framework (NPPF), both sets of policies have been subjected to a test of compliance with the NPPF. The 2011 JCS policies are considered compliant, but some of the 2004 RLP policies are considered to be only partially compliant with the NPPF, and as such those particular policies are given lesser weight in the assessment of this application. The Council has also reached submission stage of the emerging new Local Plan policies, and considers most of these to be wholly consistent with the NPPF. Where discrepancies or inconsistent policies relate to this application they are identified and discussed within the report; varying degrees of weight are apportioned as appropriate.

Principle of Development

16. The NPPF requires that the planning system does everything it can to support sustainable economic growth including ensuring the competitiveness of town centres. The NPPF also recognises town centres as the heart of communities so policies should support their viability and vitality. It is acknowledged that the retail use on the site has been vacant for at least a year and that another retail unit in the centre is vacant. Therefore bringing the unit back into use could contribute in some way in maintaining the centres vitality and viability. It is also considered to be a use which is of a scale appropriate to the local centre.
17. A number of representations have expressed concern that the proposal would result in more competition and distress to other businesses, having an adverse financial impact on the viability of existing operators. However the NPPF encourages competition and consumer choice. The relationships between the applicant and surrounding residents are not material planning considerations.
18. Nevertheless, a key determining factor in the acceptability of the change of use is the requirements of policy SH015 which states that proposals for a change of use from A1 to other uses will only be permitted where the proportions of A1 uses in the defined retail centre would not fall below 60% as a result; or the proposed use provides a service appropriate to the centre's position in the hierarchy, which is

unrepresented in that centre or is a community use and there are no other units available in or adjacent to the centre which could be accommodated.

19. The council's retail shop monitor indicates that the retail presence in the local centre currently stands at 50% with the current proposal reducing this retail (A1) presence further to 42%. Such a reduction is considered to be significant, further eroding the retail presence within the centre, reducing the range of goods and services available in order to provide for peoples day to day needs.
20. Emerging policy DM21 does reduce this threshold to 50%. However, an outstanding objection to DM21 and Cabinet's decision to accept a significant redraft of the policy as a basis for discussion at examination, DM21 as submitted can only be given limited weight at present.
21. However, paragraph 216 of the NPPF does state that where there are unresolved objections, the less significant the unresolved objections, the greater the weight that may be given. With this in mind, no objection has made to the reduced threshold or the change to the retail boundary which adjusts the boundary of the centre to include the five units within the Shipfield shopping centre, two of which fall within the A1 use class. If one uses the expanded centre (17 units) as the basis for calculating the A1 presence under DM21, the proposal would result in an A1 presence of 41% - a deficit of only 9% under the emerging policy threshold of 50%.
22. In addition, to the above, the recently opened Aldi (13/00208/F), could change the dynamics of the nearby local centre by increasing the amount of footfall/passing trade, helping the vitality of existing shops and encouraging vacant A1 premises to reopen for that purpose. The new store now operated by Aldi was an objective of emerging site allocation policy R21 to expand the local centre. Its completion may also mean that further adjustments to the boundary of the centre, by including the Aldi site and the three adjoining units (two of which are A1) this would have the effect of increasing the A1 retail presence in the centre, resulting in 10 retail units out of a total of 21 (48%).
23. Another key factor is whether or not it would harm vitality, viability, diversity of services and retail function, taking into account the impending expansion and reinforcement of the Sprowston Road centre through new retail development.
24. It is acknowledged that the principle of the unit being used as a takeaway was granted planning permission in 2003. The assessment of the current application is based on the current use profile evident in the local centre. Vitality and viability is not solely related to filling vacant premises, in that the type of use within each premise has a contribution to play on how the local centre functions.
25. Whilst a takeaway use could provide a service appropriate to the centre's position in the hierarchy, such a use cannot be considered to be under represented as there are already 2 takeaway (A5) establishments and a sit down pub within the retail centre. Within the expanded retail centre proposed under the emerging proposals map, the centre would also include a Chinese takeaway located within the Shipfield shopping centre.

26. The proposal also contains a sit down café element (A3). It could therefore be argued that the proposal would provide an additional service to the community, not currently represented in the centre. Takeaways are often closed during the day only opening during peak times of the day such as lunchtime or in the evenings. However, having the café element will mean that the premises are likely to be open throughout the day, helping deliver vitality to the centre during the day.
27. There would appear to be no other units available in or adjacent to the centre in which the use could be accommodated.
28. The reduction in the retail presence is regrettable. However, the acceptability of the principle of such a change of use is finely balanced, especially in light of the imminent changes to the emerging changes to policy relating to changes of use in local centres as well the changing retail environment presented by the implementation of the Aldi supermarket.
29. Whilst the emerging policy can only be given limited weight, more weight can be given to the reduced retail threshold and expansion of the boundary elements. Such a consideration demonstrates the changing range and mix of goods and services available to the local community. The fact that Aldi development is under construction only reinforces the fact that the retail profile in the area will be in better health compared with the existing boundary of the centre.
30. Weighing up all the above factors, the loss of the A1 unit and replacing it as A3/A5 unit is not considered to significantly harm the vitality, viability, diversity of services and retail function of the centre. The principle of the change of use is considered to be acceptable subject to it not have a significant adverse impact on the amenity of the first floor flat / surrounding area and highway safety.

Impact on living conditions (including environmental effects)

31. Key receptors include the occupants of the first floor flat. Weight should also be given to emerging policy DM2 which also considers the impact of a development on the occupants of other uses such as the nearby businesses.
32. Emerging policy DM24 should also be given significant weight and states that hot food takeaways will be permitted where they would not give rise to unacceptable environmental effects which could not be overcome by the imposition of conditions.

Overlooking and privacy

33. No new windows are proposed so no additional overlooking to surrounding residential or other uses will result.
34. It is noted that the proposed external refuge area is in close proximity to an area also used to access the first floor flat. Given that the development is small scale, no significant conflict between the refuge area and access to the flat is expected.

Waste management

35. Like the surrounding uses, the existing use would have generated a certain level of waste, requiring them to be adequately stored and collected ensuring that the site does not attract pests. The applicant has proposed such facilities to the side of the

premises which are not considered to result in an obstruction which would significantly hamper the occupant of the first floor flat. The owner of the flat above has stated that this area is used to access their flat. The applicant was made aware of this and confirmed that the access way is available for the purposes of refuse storage bin storage.

36. It is acknowledged that concern has been raised about public litter bins being full and litter strewn along the ground having an adverse impact on the appearance of the area.

37. Any littering or improper bin storage created by the use or surrounding properties would normally be subject to other environmental health legislation. Emerging policy DM24 recognises that takeaways can present problems of increased litter and that suitable storage and management arrangements are in place. The bin storage facilities to the side of the premises are deemed to be sufficient to deal with operational waste. However, a condition requiring further details of how the bins are stored and the management of any waste within the access area or to the public footpath will help control this potential problem.

38. Therefore, there are no reasonable grounds to suggest that such a change of use would result in significant additional levels of litter or inconvenience above what is already possible at the moment.

Noise and Disturbance

39. There is a residential flat above the existing premises which would already receive a certain level of noise and smells from the existing retail use, nearby takeaways and noise emitted from the main arterial route into the city.

40. Any noise emitted from the new use is not considered to be a significant deviation over what could theoretically be omitted by the existing use. However, the lack of detailing about the ducting and ventilation system to deal with food cooking processes could mean that the flat above could be adversely impacted by noise vibration and smells. Whilst, the lack of information is a concern, due to the small scale nature of the development, such impacts could be addressed via condition.

41. No specific opening hours have been proposed so nearby residents could be adversely impacted by excessive night time noise. However, such impacts are considered controllable by the imposition of specific operating hours as recommended by the Council's Environmental protection team. These hours are considered to be reasonable as they broadly reflect openings times of other units in the centre.

42. The Environmental protection team have also recommended no trade deliveries of collections including trade waste shall take place between the hours of 1900 and 0700 Monday to Saturday and that there shall be no trade deliveries or collections including trade waste on Sundays or bank or public holidays. Such a condition is deemed to be necessary to ensure that the amenity of the first floor flat and surrounding uses is safeguarded.

Public safety

43. Concern was raised that the approval of such a use would increase crime in the area due to the thieves being attracted to money and expensive equipment within the premises. Such a concern is considered rather unreasonable, especially as the existing use would already have had similar items within the premises.

Highway safety and parking

44. Relevant policies including emerging policy DM24 require that proposals such as takeaways have safe and convenient access and would not have a detrimental impact to highway safety. Policy DM24 also states that hot food takeaways need to be located appropriately so that the potential impact of car borne customers stopping to use the outlet, or customers congregating outside can be properly managed.
45. The existing site is located in a local retail centre which is considered to be accessible by sustainable modes of transport which reduces the need for using the car. It is located in a residential area meaning many customers could access it by foot, cycling or by bus.
46. A number of representations have expressed concern that the development would have insufficient parking and have an adverse impact on highway safety. There may well be lack of parking, in the near area but this cannot be reasonably considered to be attributable to a single business.
47. The type of use proposed will result in car borne trade. However, the development is quite small scale, occupying the same footprint of the existing retail premises. Therefore it would not result in significantly different levels over what the current use of the site would generate. The development would therefore not have a significant additional impact on highway safety or parking in the area.
48. The local highway authority has also raised no objections to the proposal.

Local Finance Considerations

49. As the proposal is solely for a change of use it would not be liable for CIL payments.

Equality and Diversity Issues

50. None

Conclusions

51. The acceptability of the principle of such a change of use is finely balanced.
52. On initial examination of the resulting retail profile of the centre, such a reduction in retail presence could have a significant adverse impact on the centres ability to offer a range and mix of goods and services. The A5 component of the proposal is also not considered to be under represented within the centre. Although, the A3 part of the proposal would deliver a use not currently represented within the centre and could also contribute to the vitality of the centre during the day.

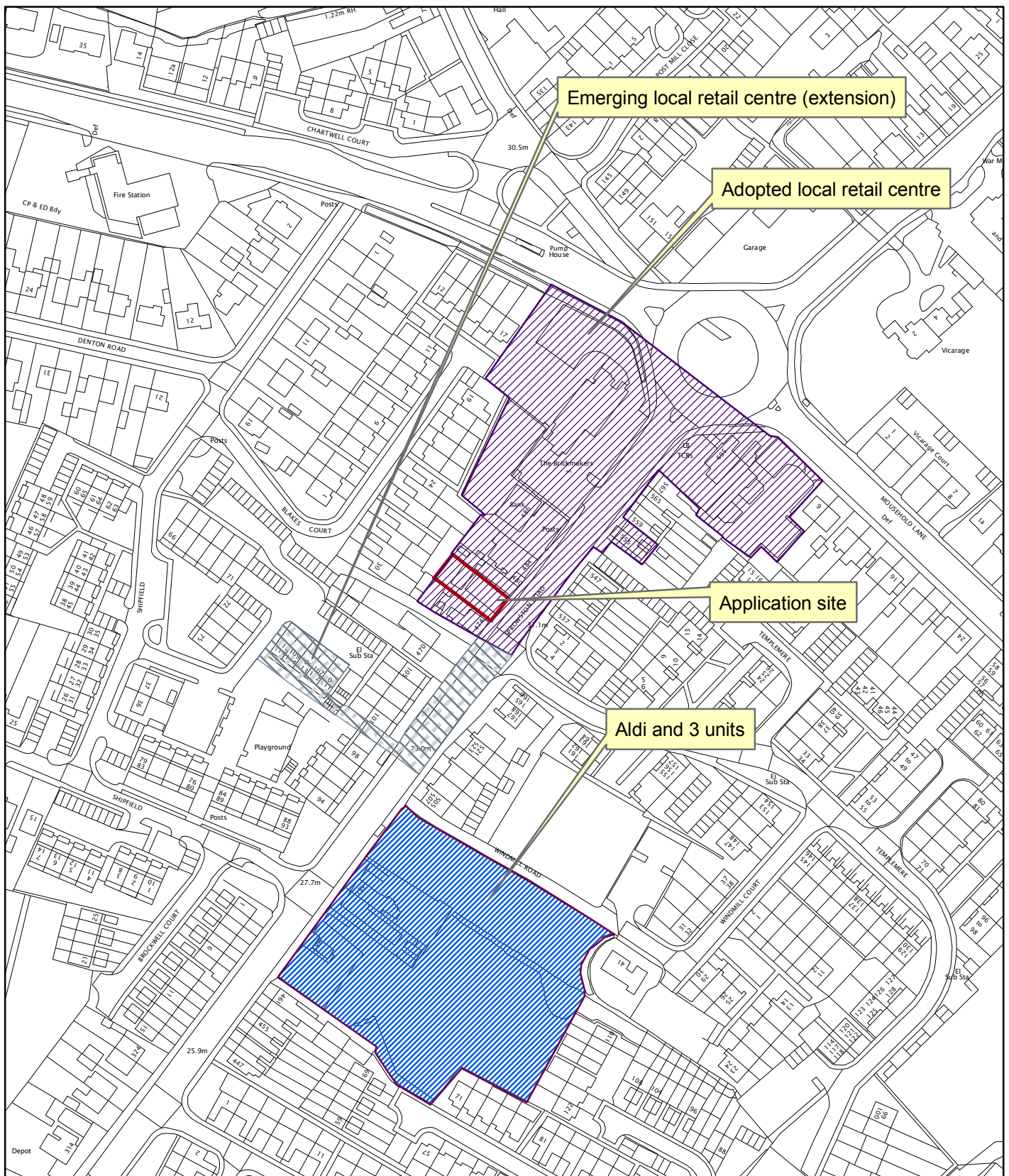
53. Objections to emerging policy DM21 means that limited weight can be applied. However, paragraph 216 of the NPPF does state that where there are objections, the less significant the unresolved objections, the greater the weight that may be given, in this case the specific elements of the policy relating to retail thresholds and the boundary of the centre are not subject to objection. These factors demonstrate the changing range and mix of goods and services available to the local community. The fact that the Aldi development is under construction only reinforces the fact that the retail profile in the area will be in better health compared with the existing centre.
54. In the context of the existing environment and use of the site, the amenity of nearby residential properties and surrounding uses will not be significantly adversely impacted. Matters relating to opening hours, hours of delivery, bin storage, litter management and details of mechanical extraction can be secured by condition.
55. The existing site is located in a local retail centre which is considered to be accessible by sustainable modes of transport which reduces the need for using the car. No significant additional impact on highway safety is expected.
56. The development is quite small scale and would not result in significantly different levels over what the current use of the site would generate. The development would therefore not have a significant detrimental impact on highway safety or parking in the area.
57. Weighing up the above factors, the loss of the A1 unit and replacing it as A3/A5 unit is not considered to significantly harm the vitality, viability, diversity of services and retail function of the centre.

RECOMMENDATIONS

To approve Application No 13/01681/F at 476 Sprowston and grant planning permission, subject to the following conditions:-

1. Standard time limit
2. In accordance with the approved plans
3. The premises shall not be open to the public, trading, or have members of the public, as customers or guests, on the premises between the hours of 09:00 hrs and 23:00 hrs [Monday to Thursday] and 09:00 hrs and Midnight [Friday to Sunday].
4. No trade deliveries or collections including trade waste shall take place between the hours of 19:00hrs and 07:00hrs Monday to Saturday. There shall be no trade deliveries or collections including trade waste on Sundays or Bank or Public Holidays.
5. No development shall take place until details of the following on site provisions have been submitted to and agreed in writing by the local planning authority:
 - a) bin enclosure;
 - b) a management plan for the storage and collection of operational waste;
 - c) a management plan for dealing with any litter generated by the takeaway
6. No extraction ventilation system shall be installed or erected on the site unless in accordance with a detailed scheme that has been submitted to and approved in writing by the Local Planning Authority. The detailed scheme shall include the position of all the components of the ventilation system including flue outlet point, canopy, ductwork, extraction fan, use of anti-vibration mountings and the

type of filtration to be installed and used in the premises in pursuance of this permission, together with a schedule of maintenance. No use of the premises as hereby permitted shall take place unless the approved scheme has been installed and is operational and thereafter it shall be retained in full accordance with the approved details and the maintenance of the kitchen extraction system shall be carried out in accordance with the scheme as agreed.



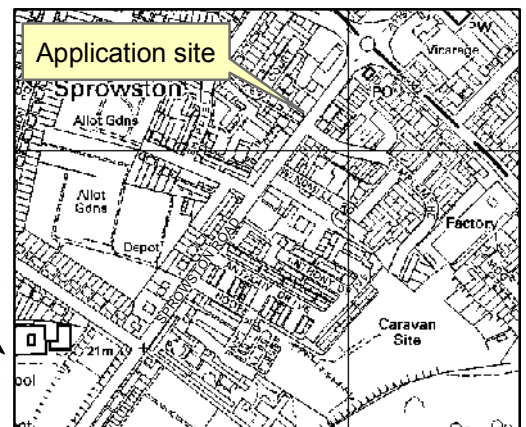
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Planning Application No 13/01681/F
Site Address 476 Sprowston Road

Scale 1:2,000



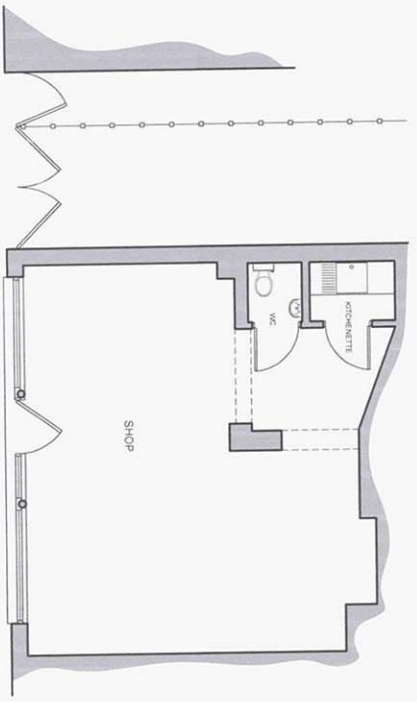
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PLANNING SERVICES



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1	No. Drawings are to be made from the drawing	1
2	Consulting and design	2
3	Design and construction of the building and its contents	3
4	Design and construction of the building and its contents	4
5	Design and construction of the building and its contents	5
6	Design and construction of the building and its contents	6
7	Design and construction of the building and its contents	7
8	Design and construction of the building and its contents	8
9	Design and construction of the building and its contents	9
10	Design and construction of the building and its contents	10

Existing Ground Floor Plan 1:100



Proposed Ground Floor Plan 1:100



Site Location Plan 1:1250

SPROWSTON ROAD

SPROWSTON ROAD

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Norwich

Drawn by
Floor plans and location plan

Scale
1:100/1250@A1
Date
Oct 2013

Drawn by
mja
Checked by
mja