

## Report for Resolution

**Report to** Planning Applications Committee  
**Date** 29 September 2011  
**Report of** Head of Planning Services  
**Subject** 11/01090/F Unit 1 ABC Wharf King Street Norwich NR1  
1QH

Item  
**5(2)**

### SUMMARY

<b>Description:</b>	Change of use from office (Class B1) to hot food take-away (Class A5) including installation of air handling plant.	
<b>Reason for consideration at Committee:</b>	Objections and petition of support	
<b>Recommendation:</b>	Refuse	
<b>Ward:</b>	Thorpe Hamlet	
<b>Contact Officer:</b>	Sarah Platt	Planning Officer - Development Management 01603 212500
<b>Valid Date:</b>	26th July 2011	
<b>Applicant:</b>	Joanna Szatan	
<b>Agent:</b>	Joanna Szatan	

### INTRODUCTION

#### The Site

##### Location, Context and Constraints

1. The application site is on the east side of King Street and forms one unit in a wider complex known as ABC Wharf. The unit is 67.3sqm in size and fronts King Street with a glazed frontage to the main elevation and entrance door on the southern most end of the building. There is no outside space attributed to this unit.
2. It falls within the City Centre Conservation Area and forms part of the King Street character area of the Conservation Area Appraisal, noted for its high significance in terms of the concentration of historic buildings and quality of building detail. The wider area is mixed in character with important and historic domestic buildings and more recent industrial units. There is a lot of regeneration and enhancement being carried out in this area and with the creation of the new footbridge across from Riverside this route has become an important strategic pedestrian route linking the city centre and Riverside.
3. The application premise is in close proximity to several listed buildings; the first at 167-169 King Street (Music House) which is a Grade I Listed Building, and a run of terraced dwellings from 168 to 182 King Street which are all Grade II Listed Buildings. There are also a plethora of locally listed buildings in the area; The Waterfront Nightclub, Wensum Lodge and some of the buildings in the ABC Wharf

complex itself.

### **Topography**

4. The topography of the area is fairly flat at this point with a slight slope of around 1-2m towards to river in the east.

### **Planning History**

5. There is no relevant planning history..

### **Equality and Diversity Issues**

There are no significant equality or diversity issues.

### **The Proposal**

6. The application seeks the change of use of the application site from an office (Use class B1) to a hot food takeaway (Use class A5) including the installation of associated extract flues and air handling plant.

### **Representations Received**

7. Advertised on site and in the press. Adjacent and neighbouring properties have been notified in writing. 10 letters of representation have been received objecting to the proposals citing the issues as summarised in the table below. 1 letter has since been withdrawn but shared the same views of other objections so the comments are still noted. In addition, 1 letter of support and a 71 signature supportive petition have been received.

8.

Issues Raised	Response
This is a residential environment with existing residential premises opposite the application site and permissions for new residential development in very close proximity.	See paragraphs 18-20
This proposal compromises the regeneration of the area which has been a long standing aim of the Council and local residents.	See paragraphs 15-16
Increased litter	See paragraph 17
Increased noise through additional traffic in the area and noise from the venue itself having a detrimental impact on residential amenity.	See paragraphs 20 and 26-27
Increased traffic and reduced pedestrian safety as a result. Pavements are very narrow in this area and parking pay and display lay-bys are unlikely to be used properly. Potentially reduced parking facilities for other small business units	See paragraphs 26-27

within the ABC Wharf complex.	
The impact of the proposed flue – potential for odour pollution and noise pollution as well as the impact on the Conservation Area.	See paragraphs 22-25 and 21
There is no need for such an establishment with other take-away units in Prince of Wales Road and Rose Lane which are better positioned.	See paragraphs 15-16
If granted, what reassurance is there that opening hours will not be extended or licences granted for the sale of alcohol?	Any application to extend the opening hours of the establishment beyond 23:00hrs (if this application is approved) would be subject to a further application submission and due consideration. Any license for the sale of alcohol would be determined by the Licensing department under Licensing Legislation and cannot be commented on here.
This development is inappropriate in such close proximity to Listed Buildings and in a Conservation Area	See paragraphs 22-25
King Street was always a mixed residential and commercial area and this proposal seeks return to this mix of uses. There used to be a café opposite.	See paragraphs 15-16

## Consultation Responses

9. Transportation: There is a double yellow line on King Street but loading is permitted at any time. It is likely that most custom will be on foot and if deliveries do take place these can be accommodated in off-road spaces. The business would not be entitled to parking permits. A pay and display bay is available near-by if customer parking is required. This is an established business premises in a small unit. It is not considered that there will be excessive traffic implications as a result. No cycle storage has been provided for either staff or visitors. This should be addressed.
10. Environmental Health (Pollution Enforcement): There is a potential for noise nuisance and / or odour problems arising from the operation of a hot food takeaway business as well as other associated activities relating to the business such as deliveries and trade waste collections. I would therefore advise that the following is considered:
  - The installation and use of any plant or machinery on the premises shall be in accordance with a scheme approved by the Council for the reduction of the levels of noise and vibration emanating from the premises. The combined noise levels from the plant or machinery shall be inaudible within the nearest noise sensitive property.
  - The design and installation of the kitchen extraction and odour control system must be appropriate to the type of food prepared and the size and type of cooking appliances used.
  - The installation of any plant and machinery for the purposes of odour control must

be installed in accordance with the manufacturer or installers instructions.

- The kitchen extraction system must be maintained in accordance with the manufacturer or installers instructions including the maintenance and replacement of grease filters and activated-carbon filters.
- The kitchen extraction system including the extract fans, any associated ductwork and discharge flue stack should be designed and installed to prevent the transmission of airborne and structure-borne noise and vibration.
- The extract flue stack should be at least 1 metre above the roof of the premises to allow for adequate dispersion and dilution.
- No deliveries or collections, including trade waste, should take place between the hours of 19:00 hours and 07:00 hours Monday to Saturday. There will be no deliveries or collections, including trade waste, on a Sunday, or on Bank Holidays.

## **ASSESSMENT OF PLANNING CONSIDERATIONS**

### **Relevant Planning Policies**

#### **Relevant National Planning Policies**

PPS1 - Delivering Sustainable Development  
PPS4 – Planning for Sustainable Economic Growth  
PPS5 - Planning for the Historic Environment  
PPG13 - Transport  
PPS23 - Planning and Pollution Control  
PPG24 – Planning and Noise

#### **Relevant policies of the adopted East of England Plan Regional Spatial Strategy 2008**

SS6 – City and Town Centres  
ENV7 - Quality in the Built Environment  
ENV6 - The Historic Environment

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

Policy 2 – Promoting good design  
Policy 11 – Norwich City Centre

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

HBE8 - Development in Conservation Areas  
HBE9 – Development affecting Listed Buildings  
HBE12 - High quality of design in new developments  
EP22 - High standard of amenity for residential occupiers  
EMP3 – Protection of small business units and land reserved for their development  
SHO22 – Food and drink uses and conditions on hot food takeaways  
TRA7 - Cycle parking standards  
TRA8 - Servicing provision  
TRA14 – Safe Pedestrian Routes  
CC11 – King Street regeneration

## **Supplementary Planning Documents and Guidance**

City Centre Conservation Area Appraisal (September 2007)

**Written Ministerial Statement: 23 March 2011: Planning for Growth**  
Support of enterprise and sustainable development.

### **Draft National Planning Policy Framework (July 2011)**

## **Principle of Development**

### **Policy Considerations**

11. There are two main areas for consideration: firstly, the loss of the office space and secondly, the conversion to a hot food takeaway and the implications this may have on the policy objective for regeneration of King Street as a wider area. Secondary to these main issues are the associated installations of fume and flue extraction equipment and cycle parking and servicing access.

#### Loss of Offices:

12. The application site is very small in nature being only 67.3sqm. The previous use as an office ceased in January of this year and the unit has been vacant since this time. Saved local plan policy EMP3 and policy 5 of the Adopted Joint Core Strategy seek to protect small business units unless there is evidence there is no demand for such units in the Norwich area. If the premises are unsuited to modern day office requirements a justification/explanation of this is needed which should include details of any efforts to market the property for office use, including evidence of demand, length of vacancy, number of declarations of interest, information of any interest shown and for what uses were proposed and why any offers were not taken up.

13. In this instance, no justification for the loss of this office unit has been provided with the application and no evidence of a lack of demand for such space has been submitted. The proposals are therefore considered to be contrary to the objectives of policy 5 of the JCS and saved policy EMP3 of the Local Plan.

14. However, it is accepted that the use of this unit is not ideal for office purposes and its loss may be accepted if sufficient justification were to be provided.

#### Conversion to Hot Food Takeaway:

15. The acceptability of the proposed use also requires careful consideration. There is a very clear policy objective in the local plan to promote regeneration of the King Street area. Saved policy CC11 of the local plan clearly states that King Street will be a focus for cultural industries, employment uses, tourism, housing, restaurants, cafes, and public houses and that development should pay particular regards to the heritage of the area. In addition, pedestrian safety and accessibility should also be improved.

16. Whilst it is accepted that the use of this unit for hot food takeaway may add to the vitality of the King Street area and serve as a local service for the immediate community (both residential and employment) the change of use is not fully in accord with the objectives of saved policy CC11. A hot food takeaway, despite falling within the retail 'A' use class category of the Use Classes Order (2010), does not accord with the regeneration hopes for the King Street as a cultural and heritage destination with specialist retail areas. The use proposed is considered to

bring with it additional issues which may be considered to have a detrimental impact on the character of the area. Therefore, on balance, the negative impacts of the proposed use are considered to outweigh the rather more limited benefits of approving such a scheme.

17. Saved policy SHO22 stipulates specific requirements for applications involving the introduction of hot food takeaways. The policy states that proposals for hot food takeaways will not be permitted where they give rise to unacceptable environmental impacts which cannot be overcome by the imposition of conditions, where they give rise to unacceptable highway implications and where they would be detrimental to highway safety. The policy also requires development proposals to contribute to the provision of public facilities in the area including the provision of litter bins and toilets. The application proposals make no reference to the provision of any litter bins either within or outside the application site and there is no customer WC proposed to be provided, either publically available or for use by patrons. The issues of highway safety and reduce pedestrian safety will be discussed in full under the Transport and Access section of this report. The proposal is not considered to be in accordance with the objectives of saved policy SHO22 of the local plan.

## **Impact on Living Conditions**

### **Noise and Disturbance**

18. There is considered to be increased potential for noise pollution as a result of the operation of a premise with an A5 hot food takeaway use. Much of the surrounding area is residential in character and the application site is surrounded by sites with planning permissions for residential development. It is considered that given the close proximity of the residential dwellings to the application site, the amenity of nearby dwellings is likely to be disturbed as a result of these proposals.
19. Of paramount importance is the application sites close proximity to one of Norwich's largest nightclubs. It is the applicant's intention to be open to customers between 11:00hrs and 23:0hrs every day. The proposed use is likely to encourage people to loiter in the area rather than entering the adjacent nightclub or using facilities of a similar nature to those proposed, i.e. hot food takeaways within the late night activity zone and leisure area, less than a 10 minute walk away at Riverside or Prince of Wales Road. There are associated issues with hot food takeaways including increased potential for anti-social behaviour which is subject to specific extra police resource in the late night activity zone, but not in areas of the city such as King Street.
20. In addition, the intermittent, but likely frequent, traffic movements that such a use may result in, particularly in the late evening when footfall in the area decreases from daytime levels, are also considered to result in a detrimental impact on residential amenity. Ambient noise levels in this area of the city are low and reduce further in the evening when the employment uses of the area close. This is a time when occupiers of existing residential dwellings can reasonably expect peace and quiet. The impact of any additional noise sources, be it people's voices and/or car engines and doors, is likely therefore to be more intrusive for existing residents. This is a view supported by appeal decisions on sites in Norwich, such as 29-31 St Stephens Road where ambient noise levels for the area were considered in the determination of the appeal. The proposals are therefore considered to be contrary to the objectives of PPG24 and saved policy EP22 of the local plan which both seek

to protect residential amenity from potential sources of noise pollution.

### **Smell Disturbance**

21. Whilst a flue is proposed and concerns have been raised with regard to the potential for odour pollution, modern day flues and extraction systems can run quietly and effectively. Given the distance between the application site and any existing residential unit there is not considered to be any potential for odour pollution as a result of these proposals. However, it should be noted that the flue proposed is not currently of a sufficient height to achieve adequate dispersal of odours, but this could be achieved through the imposition of conditions.

## **Design**

### **Conservation Area – Impact on Setting and on setting of Listed Buildings**

22. The position, height and design of the proposed flue are not considered to be acceptable given the application sites position within a Conservation Area and the close proximity to Listed Buildings and locally listed buildings. The proposed gable end wall where the flue is proposed to be installed faces the length of King Street and is highly visible when approaching from the north (King Street) or west from Music House Lane. The Environmental Health Officer has requested a condition that the flue be at least 1m above the roof of the building in order to achieve adequate dispersal of fumes. This would result in the flue being 6.3m above ground level on a very prominent gable end wall. This is considered to have a detrimental impact on the character of the Conservation Area as a designated heritage asset and the setting of surrounding Listed Buildings, particularly the Grade I Music House which would be viewed in the context of the application premises when approached from the north.

23. In addition, limited detail has been supplied of the design, materials, or proposed colour of the flue and as such the proposals, even if subject to the conditions recommended by the Environmental Health Officer, are not considered acceptable.

24. Therefore the proposals are considered to be contrary to the objectives of PPS5, policies ENV6 and 7 of the East of England Plan, policy 2 of the adopted JCS and saved policies HBE8, HBE9 and HBE12 of the local plan.

25. However, this element of the objection to the application could be overcome if conditions were imposed to require detail of the position, type, material, and colour of the proposed flue in addition to the conditions already requested by the Environmental Health Officer.

## **Transport and Access**

### **Vehicular Access, parking and Servicing**

26. There is a detrimental impact on highway safety as a result of these proposals. King Street was restricted as a through route in 1998 and promoted as more of a residential area in accordance with the regeneration proposals for the wider area (the supporting text to saved policy C11 refers) with the benefit of reducing traffic movements and the promotion as a pedestrian access route to the city. This is further emphasised by the development of the two pedestrian bridges connecting Riverside and King Street to the wider city centre. It is likely that customers for the hot food takeaway will be on foot and car borne. Car borne customers will increase

traffic movements in the area. At this point, King Street is double yellow lined on both sides of the road, except for a 30 minute pay and display parking bay directly opposite the application site. Experience suggests that the pay and display parking bay will not be used correctly by customers and cars may even wait on the double yellow lines if their visit only results in a short stay. This is considered to hinder pedestrian accessibility and safety in this area given the narrow pavements in the vicinity. Therefore the proposals are not considered to be in accordance with the objectives of PPG13, and saved policy TRA14 of the local plan.

27. With regards to servicing provision, the refuse storage area shown on the application plans is not within the red line indicating land ownership on the site location plan. The refuse storage area is proposed in an area of staff and customer parking for an adjacent business unit operating as a garage for car repairs and therefore cannot be guaranteed to be available either for refuse storage or for access for collection purposes. The ease of access to this car parking space is therefore fundamental to the operation of the adjacent unit. The proposed servicing arrangements and refuse storage is not considered to be acceptable in accordance with the requirements of saved policy TRA8 of the local plan.

### **Cycling Parking**

28. Insufficient cycle parking has been provided for the application proposals to be considered acceptable and in accordance with the objectives of saved local policy TRA7. Cycle parking for at least 1 staff member should be provided on site with customer cycle parking provided in the vicinity. No cycle parking has been provided and although there may be some public cycle parking available nearby the proposals are still considered unacceptable.

### **Conclusions**

29. There are some wider benefits that may result from the application proposals, such as increased footfall and added vitality in the King Street area during the daytime and the provision of a service for local people and some of the concerns could be overcome through the imposition of conditions, such as the position and visual impact of the flue; the loss of the office space and odour pollution. However, these are outweighed by a number of objections which cannot be reasonably overcome by conditions and which render the proposals unacceptable.

30. The main objections to the application proposals are listed below for clarity:
- There is considered to be increased potential for noise pollution as a result of the operation of a premise with an A5 hot food takeaway use in the vicinity as a result of increased traffic movements;
  - The proposed use is likely to encourage people to loiter in the area late at night up until 23:00hrs resulting in increased potential for noise pollution and anti-social behaviour in an area with no specific extra police resource in times of late night activity;
  - No justification for the loss of this office unit has been provided with the application and no evidence of a lack of demand for such space has been submitted;
  - The application proposals make no reference to the provision of any litter bins either within or outside the application site and there is no customer WC proposed to be provided, either publically available or for use by patrons;
  - The position, height and design of the proposed flue are not considered



to be acceptable given the application sites position within a Conservation Area and in close proximity to Listed Buildings and locally listed buildings;

- There is considered to be a detrimental impact on highway safety as a result of these proposals with the potential for increased traffic movements and reduced pedestrian accessibility and safety;
- The refuse storage area shown on the application site location plan is not within the control of the applicant, and;
- Insufficient cycle parking has been provided.

31. On balance it is considered that the application proposals are not considered acceptable.

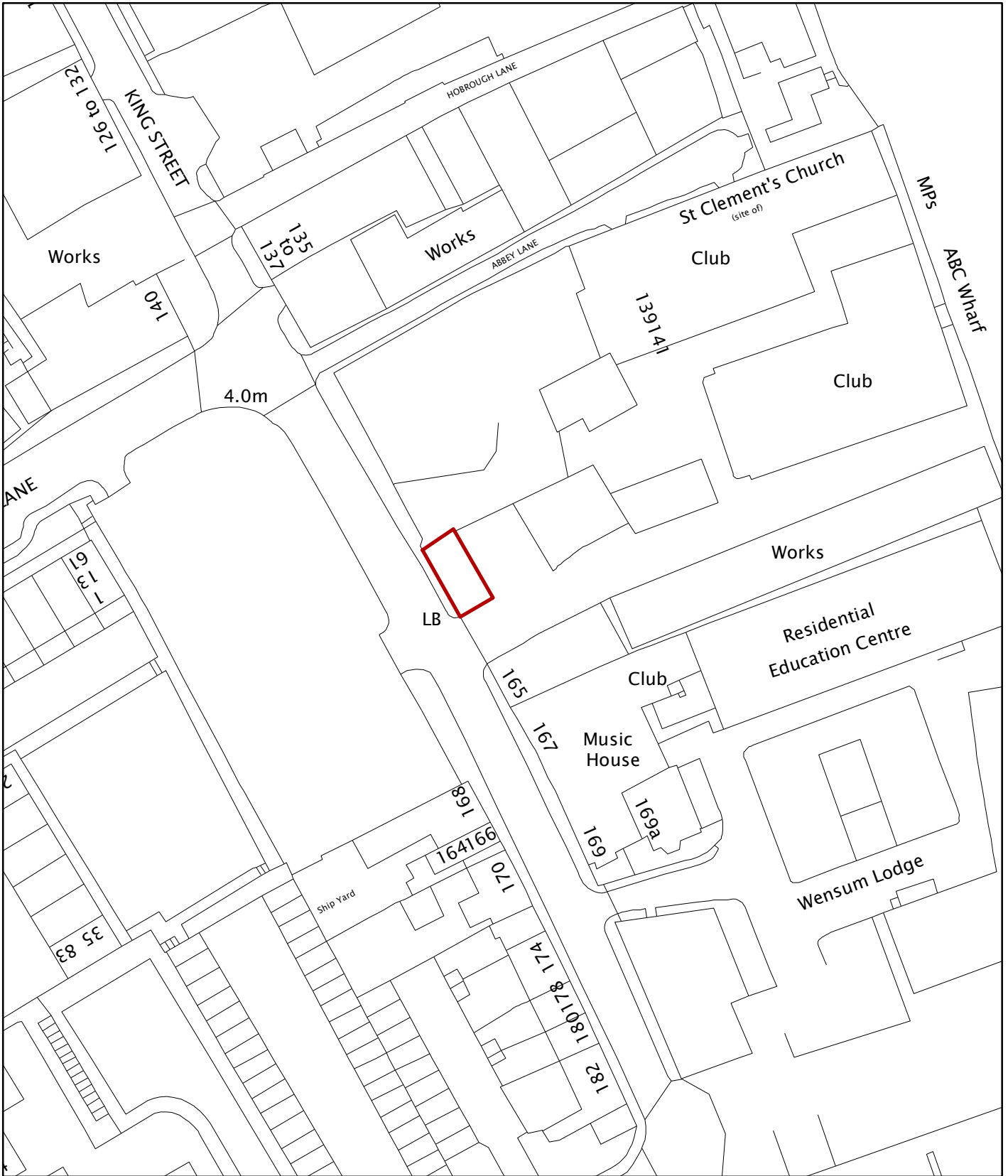
### **RECOMMENDATIONS**

To refuse planning permission for Application No (11/01090/F, Unit 1, ABC Wharf, King Street, Norwich) for the following reason(s):-

- (1) The proposal is considered to be detrimental to residential amenity especially given that the application site is within an area with a high level of residential occupancy and low ambient noise levels. The proposed hot food take-away is considered likely to encourage people to loiter in the area leading to significant adverse residential amenity conditions through noise from customers, car engines running and doors closing for collections made by car, potential for increased litter in the adjacent and surrounding area, and increased potential for anti-social behaviour.
- (2) The proposal is therefore considered to contravene saved policies EP22 and SHO22 of the City of Norwich Replacement Local Plan (Adopted Version November 2004) and any approval is not considered to be in accordance with the Council's duty to minimise the potential for crime, disorder and public nuisance.
- (3) The proposal is considered to be harmful to highway safety, in that the use of the building as a hot food take-away is considered likely to lead to increased traffic movements, particularly in the early and late evening hours when footfall in the area reduces. At this point, King Street is double yellow lined on both sides of the road, except for a 30 minute pay and display parking bay directly opposite the application site. Experience suggests that the pay and display parking bay will not be used correctly and cars may even wait on the double yellow lines directly outside the application premises if their visit only results in a short stay. This is considered to hinder pedestrian accessibility and safety in this area given the narrow pavements in the vicinity. The proposal is therefore considered to contravene saved policies TRA14 and SHO22 of the City of Norwich Replacement Local Plan (Adopted Version November 2004).
- (4) The proposed extraction flue is not considered acceptable by virtue of its position, and height. The proposed flue is high visible when approaching the application site from the north and is considered to have a negative impact on the setting of adjacent Grade I and Grade II Listed Buildings viewed in the context of the application premises. The flue is also considered to have a detrimental visual impact on the appearance of the street scene and wider

Conservation Area given its highly prominent positioning. In addition, the flue as shown on plan ref 32[P]003 rev.0 is not tall enough to adequately disperse odours from the application premises. Any increase in height would only render the flue more visually prominent in its currently proposed position and deem it more unacceptable. The proposals are therefore considered to contravene the objectives of PPG24, policy 2 of the Adopted Joint Core Strategy for Broadland, Norwich and South Norfolk, policies ENV6 and ENV7 of the East of England Plan (May 2008) and saved policies HBE8, HE9, HBE12 and EP22 of the City of Norwich Replacement Local Plan (Adopted Version November 2004).

- (5) No justification for the loss of the office space has been provided and the proposals are therefore considered to contravene saved policy EMP3 of the City of Norwich Replacement Local Plan (Adopted Version November 2004).
- (6) Insufficient refuse storage facilities have been provided on site and the proposals make no provision for staff or customer cycle parking. Therefore the proposals are considered to contravene saved policies TRA7 and TRA8 of the City of Norwich Replacement Local Plan (Adopted Version November 2004).



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Planning Application No 11/01090/F  
Site Address Unit 1, ABC Wharf, King Street, Norwich NR1 1QH  
Scale 1:750

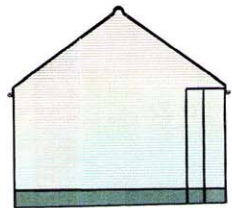


**NORWICH**  
City Council

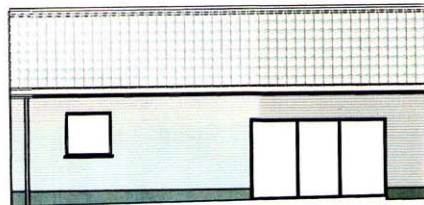
PLANNING SERVICES



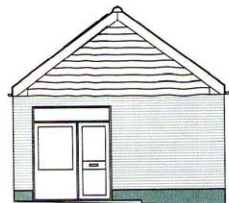
# Existing



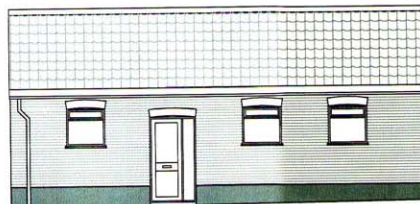
North



West (to King Street)



South

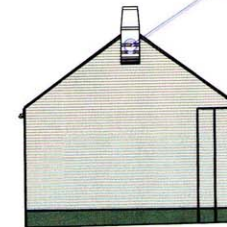


East

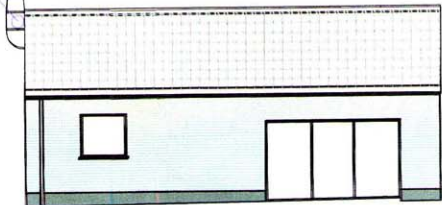
# Proposed

Organisational Development  
15 JUL 2011  
Planning Reception

See SAXON drawing no. 1056 for details of new air handling plant



North



West (to King Street)



South

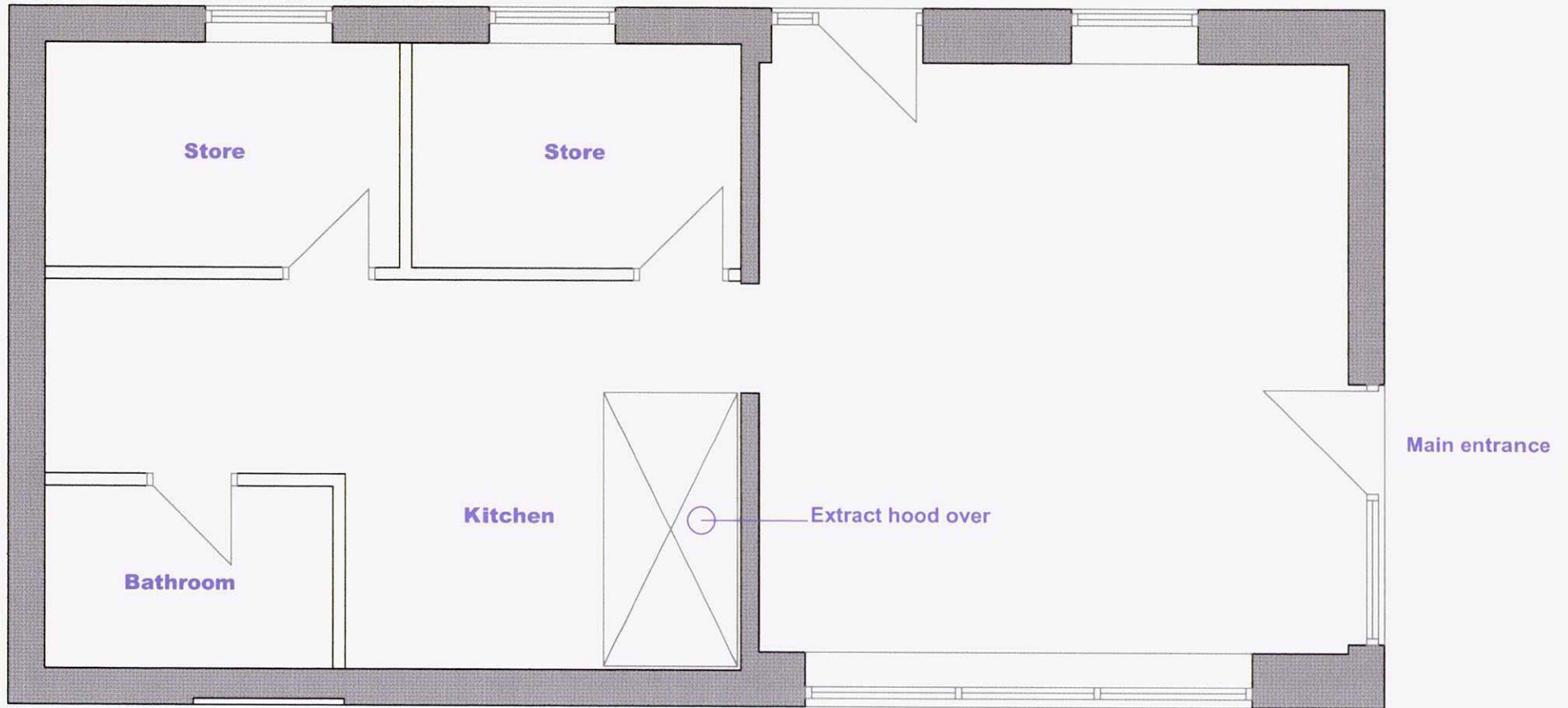


East

REVISED

# Unit 1 - ABC Wharf

Revision 0 Date 14.07.2011  
Drawing number 32/P/003 rev 0  
Scale 1:100 @ A2 Drawn: ja  
Unit 1 - ABC Wharf  
Change of use to A5 (Takeaway)  
Elevations: Existing & Proposed



K I N G S T R E E T

Revision 0 Date 11.07.2011  
 Drawing number 32[P]002 rev.0  
 Scale 1:50 @ A4 Drawn: jra  
**Unit 1 - ABC Wharf**  
**Change of use to A5 (Takeaway)**  
**Plan: Existing and proposed**

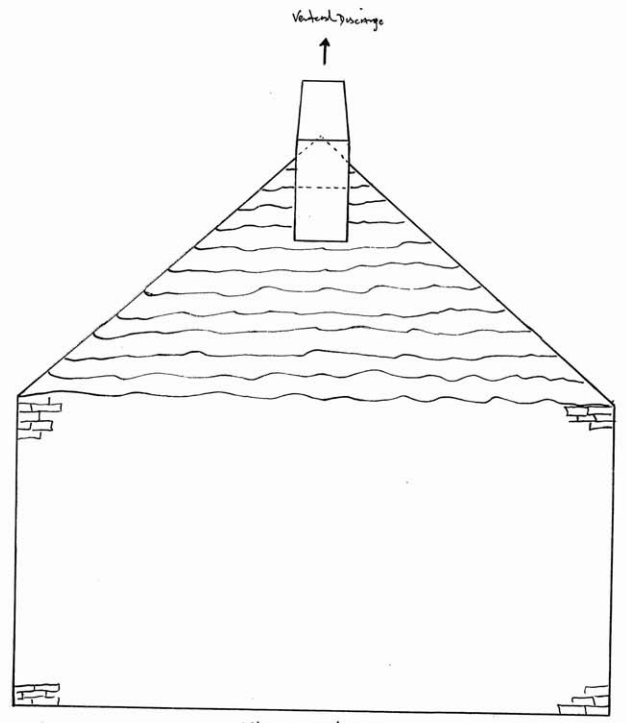
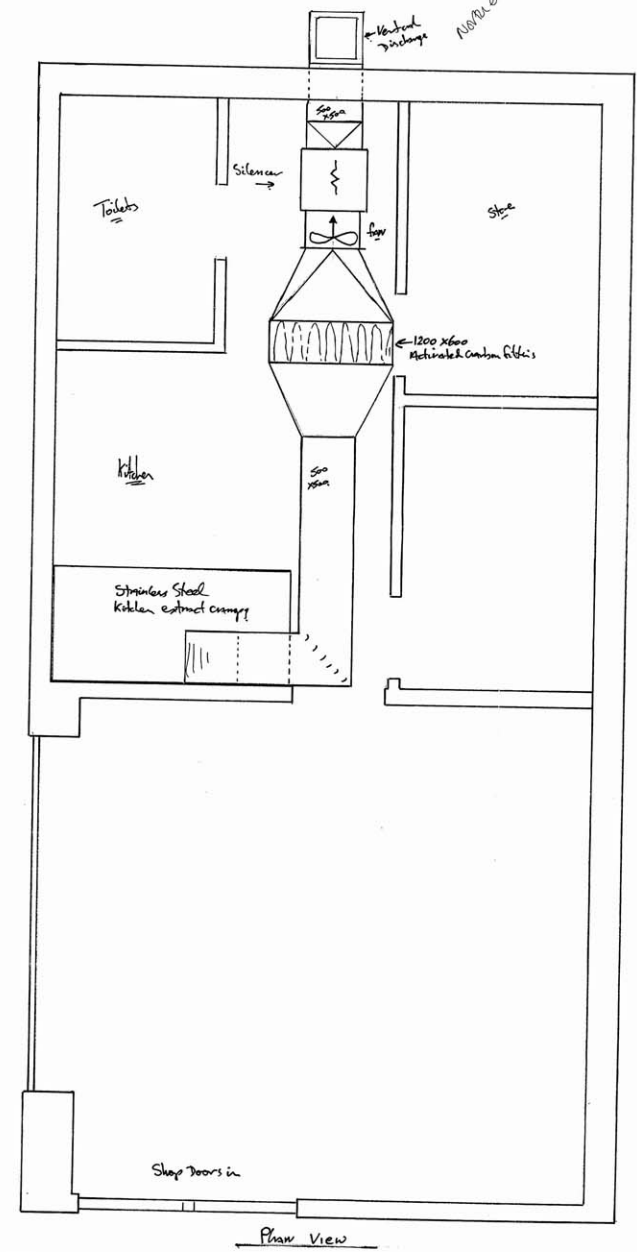
**Unit 1**  
**ABC Wharf**

Organisational Development
1 2 JUL 2011
Planning Reception



A ↓      A ↓

North direction



View on End A.A.

Plan View

Specification

1mb stainless steel kitchen  
Extraction system,  
comprising:  
Gable ductwork incorporating  
1200 X 600 activated carbon  
filter unit  
4600's 500 Dia inline Dust fan  
with speed control.  
HFD inline Silencer  
and terminating with vertical  
Discharge.

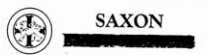
Note  
All dust and steam will  
run through loft area  
with vertical Discharge.  
Expected Sound level  
35 D B m. at 3m


REV	DATE	MODIFICATION	INITIAL

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CLIENT PROJECT  
Unit 1 ABC Wharf 165 King Street  
Norwich

DRAWING  
Kitchen extraction system



Specialists in Kitchen Canopies, Dust and  
Fume Extraction and Ventilation Systems.

DRAWN	B.H.	
DATE		
SCALE	1:25	APPROVAL DATE
CHECKED		
DRWG. No.	1056	REVISIONS