

**Report to** Planning applications committee

**Item**

12 October 2017

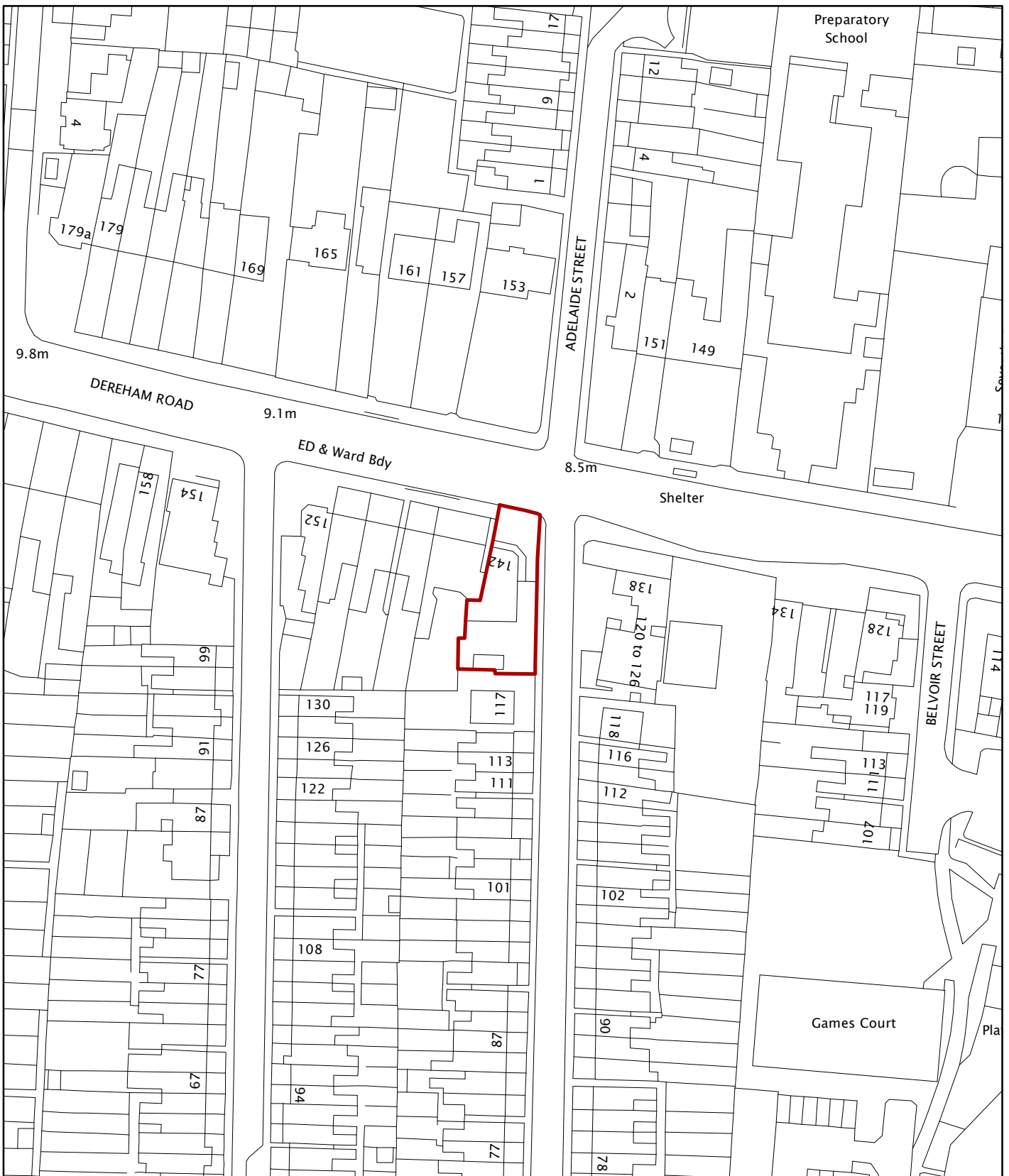
**Report of** Head of planning services

**4(e)**

**Subject** Enforcement Case – 142 Dereham Road, Norwich, NR2  
3AB

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<b>SUMMARY</b>	
<b>Description:</b>	Without planning permission a food van has been parked on the forecourt on a vacant commercial unit.
<b>Reason for consideration at committee:</b>	Enforcement action recommended.
<b>Recommendation:</b>	Authorise enforcement action to secure the cessation of trading and removal of the food van from the premises, including the taking of direct action which may result in referring the matter for prosecution if necessary.
<b>Ward:</b>	Nelson (outer)
<b>Contact officer:</b>	Lydia Tabbron <a href="mailto:lydiatabbron@norwich.gov.uk">lydiatabbron@norwich.gov.uk</a>



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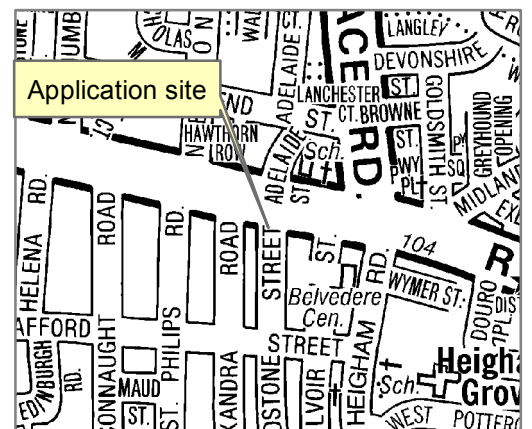
Planning Application No 17/00136/ENF  
 Site Address 142 Dereham Road

Scale 1:1,000



**NORWICH**  
 City Council

PLANNING SERVICES



## **The site**

1. No.142 Dereham Road is a vacant commercial unit (previously a convenience store) located on the junction of Dereham Road and Gladstone Street. The site has an 'L' shaped forecourt/parking area in front of the unit which directly leads onto the public footpath.
2. The area is predominately residential with terraced and semi-detached houses surrounding the site to the west on Dereham Road, across Gladstone Street on the east elevation and behind, to the southern elevation on Gladstone Street. Large detached houses are situated across Dereham Road to the north of the site.
3. Other than being situated in a critical drainage area this site has no other constraints.

## **Relevant planning history**

4. 142 Dereham Road is owned by Mr Quantrell, who recently requested permission for a temporary change of use for the commercial unit from A1 (retail) to A3 (café/restaurant). This was approved in September 2017 (ref. 17/00556/TMPCOU) and he has since sought permission for a permanent change of use from A1 to A3 as well as the installation of a ventilation flue (ref. 17/00045/F). This application is still pending consideration.

## **The breach**

5. The use of the food van by trading on the forecourt on 142 Dereham Road involves development requiring planning permission for which permission has not been sought. It appears to Norwich City Council that the above breach of planning control has occurred within the last ten years and is not therefore immune from enforcement action. As such the works constitute a breach of planning control as defined under section 171A(1)(a) of the Town and Country Planning Act 1990 (as amended).

## **Planning policies**

National Planning Policy Framework:

- NPPF0 Achieving sustainable development
- NPPF1 Building a strong, competitive economy
- NPPF7 Requiring good design

Joint Core Strategy for Broadland, Norwich and South Norfolk adopted March 2011 amendments adopted Jan. 2014 (JCS):

- JCS2 Promoting good design
- JCS5 The economy
- JCS6 Access and transportation
- JCS7 Supporting communities
- JCS9 Strategy for growth in the Norwich policy area

Norwich Development Management Policies Local Plan adopted Dec. 2014 (DM Plan):

- DM1 Achieving and delivering sustainable development
- DM2 Ensuring satisfactory living and working conditions
- DM3 Delivering high quality design
- DM16 Supporting the needs of business
- DM17 Supporting small business
- DM23 Supporting and managing the evening and late night economy
- DM24 Managing the impacts of hot food takeaways
- DM30 Access and highway safety
- DM31 Car parking and servicing

### **Justification for enforcement**

6. The presence of the food van is uncharacteristic and unsympathetic to the character of the area, which in this location is primarily residential and maintains a respectful gap between the front property line and highway. By being positioned very close to the highway and in front of the property line it disrupts the flow and character of the street scene.
7. The operation of a hot food takeaway van is this location, which has been reported to operate until 11pm, impacts upon neighbouring amenity by causing noise and disturbance to local residents. Due to the residential nature of the immediate area, a food van operating late at night in this location is considered unacceptable.
8. The food van is also considered to cause parking issues due to the small size of the forecourt it is situated upon. This is considered to worsen if/when the commercial unit is occupied. This will result in intensification of the forecourt and lead to cumulative issues that may affect the operation of the highway, such as obstruction to the footpath. This will also exacerbate noise and disturbance to neighbouring properties.

### **Equality and diversity Issues**

9. The Human Rights Act 1998 came into effect on 2nd October 2000. In so far as its provisions are relevant:
  - a. Article 1 of the First Protocol (the peaceful enjoyment of ones possessions), is relevant in this case. Parliament has delegated to the Council the responsibility to take enforcement action when it is seen to be expedient and in the public interest. The requirement to secure the removal of the unauthorised use in the interests of amenity is proportionate to the breach in question.
  - b. Article 6: the right to a fair hearing is relevant to the extent that the recipient of the enforcement notice and any other interested party ought to be allowed to address the Committee as necessary. This could be in person, through a representative or in writing.

## **Conclusion**

10. The unauthorised trading from the food van has detrimental impact on the visual amenity and character of the street scene and area, as well as noise and disturbance to neighbouring residential dwellings. The van also presents parking and cumulative highway safety concerns from intensification of use, which will be exacerbated if/when the commercial unit on site is occupied.
11. Authority is sought from the planning applications committee for enforcement action to secure the removal of the unauthorised works. Enforcement action is to include direct action and prosecution if necessary.

## **Recommendations**

12. Authorise enforcement action to secure the cessation of trading and removal of the food van from the premises (142 Dereham Road, Norwich, NR2 3AB), including the taking of direct action which may result in referring the matter for prosecution if necessary.