

Report to Planning applications committee

10 August 2017

Report of Head of planning services

Subject Enforcement Case 17/00076/ENF – 1A Midland Street, Norwich, NR2 4QL

Item

4(k)

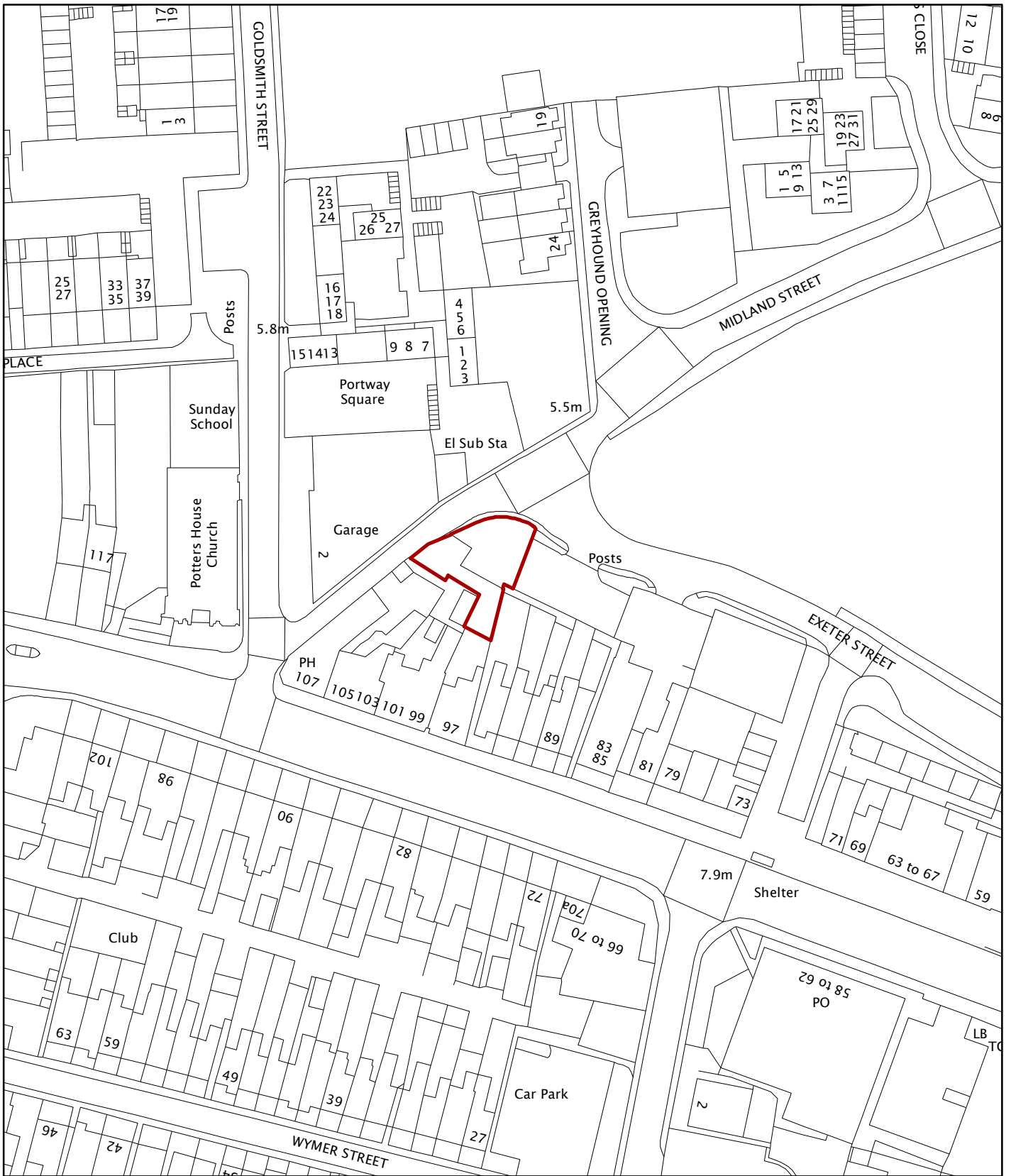
SUMMARY

Description:	Without planning permission the erection of two fabrication units / buildings and associated ancillary works enabling the creation of new vehicle access(es) and gates onto the highway and revised site fencing.
Reason for consideration at Committee:	Enforcement Action recommended.
Recommendation:	Authorise enforcement action up to and including prosecution in order to secure the removal of the two fabrication units / buildings and the ancillary works enabling revised access to the site.
Ward:	Mancroft
Contact officer:	Inner Team Leader

Introduction

The Site

1. No.1A Midland Street is an existing commercial unit that is located close to the junction of Exeter Street and Midland Street. The site consisted of two connected workshop buildings fronting onto a yard accessed from the public highway.
2. Terraced housing and shops with flats above are located to the south of the site and a council owned car park is immediately adjacent to the east. A workshop unit, which is understood to be part of the same commercial business and owned by the applicant is situated on the opposite side of Midland Street to the northwest and an open green space is located to the northeast.



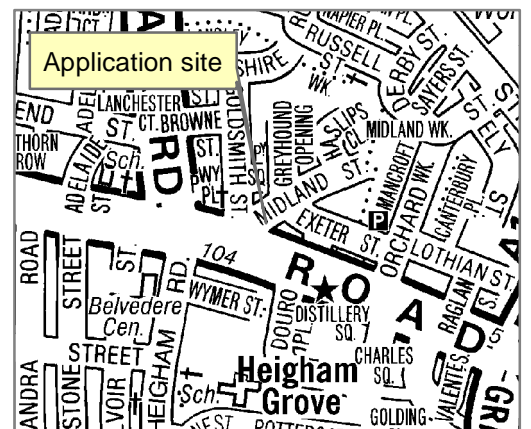
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Planning Application No 17/00076/ENF
 Site Address 1A Midland Street

Scale 1:1,000



NORWICH
 City Council
 PLANNING SERVICES



3. Residential development has been agreed under applications 15/00272/F and subsequently amended under application 17/00220/MA for development of adjacent and nearby council owned land.

Relevant planning history

4. 1A Midland Street was previously owned by Townshend and White, who operated a vehicle repair workshop from there until selling the premises to David Utting in 2008. Mr Utting also owns the adjacent property (2 Goldsmith Street) where his family business is understood to have been trading since 1924 (as D Utting & Son Limited and David Utting Engineering). This company has been operating as a vehicle repair business and additionally fabricating and manufacturing spray booths in the last 25 years. 2 Goldsmith Street address appears to be the main “building” for the business.
5. The use of 1A Midland Street as a vehicle repair place is historic and supported by the business rates history and an appeal decision from 27 November 1985 (4841296/F), which describes the existing premises as a vehicle workshop. It has been accepted that this use falls within Use Class B2. The site has an extant permission (15/00165/F) for an extension which takes up the majority of the site, with roller shutter backing onto Exeter Street/Midland Street. From visiting the site it is clear that this has not been implemented. Application 16/00615/CLE for a Lawful Development Certificate for a vehicle repair workshop and industrial fabrication use on the site was approved in June 2016.

The Breach

6. The construction of two fabrication units / buildings and the ancillary works enabling revised access to and enclosure of the site. The works involve 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 four 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).

7. Policies and Planning Assessment

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
- JCS9 Strategy for growth in the Norwich policy area
- JCS12 The remainder of the Norwich urban area including the fringe parishes

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
- DM11 Protecting against environmental hazards
- DM16 Supporting the needs of business
- DM17 Supporting small business
- DM30 Access and highway safety
- DM31 Car parking and servicing

Justification for Enforcement

8. The fabrication units / buildings that have been built are not sympathetic to the character of the area and original property due to their scale and prominent position on the site. They are also considered harmful to the character of the street scene. The design and appearance of the ancillary structures, fencing/gates are also not particularly sympathetic to the character of the area.
9. The associated new vehicular access is on the inside of a bend in the road with poor visibility and therefore likely to be unsafe, and the unloading/loading associated with the use of the units appears to be causing a highway safety issue.
10. In addition it is considered that the buildings and revised access enable intensification or modified use of the land which creates unacceptable amenity and obstruction issues within the locality.

Equality and Diversity Issues

11. 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 building works 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

12. The unauthorised fabrication units / buildings and ancillary works have a significant detrimental impact on the character and appearance of the area, principal property and street scene. They give rise to highway safety

concerns and intensification or modified use of the land which creates amenity and obstruction issues within the locality.

13. 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

14. Authorise enforcement action to secure the removal of the two fabrication units / buildings and the ancillary works which enable revised access to the site; including the taking of direct action which may result in referring the matter for prosecution if necessary.