

Report to Planning applications committee
Date 14 March 2013
Report of Head of planning services
Subject 12/00305/ET 150 - 152 Magdalen Street Norwich NR3 1JD

Item
5(5)

SUMMARY

Description:	Extension of time period for the commencement of development for previous planning permission 08/01337/F 'Demolition of existing buildings and redevelopment of site with 8 No. dwellings and 2 No. shop units'.	
Reason for consideration at Committee:	Contrary to Policy	
Recommendation:	APPROVE subject to the signing of a S106 agreement	
Ward:	Mancroft	
Contact Officer:	Miss Sarah Platt	Planning Officer - Development Management 01603 212500
Valid Date:	9th February 2012	
Applicant:	Mr Reeve	
Agent:	Kevin Cole	

INTRODUCTION

The Site

Location and Context

1. The application site is located at the most northerly point of Magdalen Street adjacent to the crossroad junction of Magdalen Street, Magpie Road, Bull Close Road and Magdalen Road. The site consists of a retail unit across the whole site comprising of various extensions of 2, 2.5 and 3 storeys. The adjacent neighbouring site to the South (148 Magdalen Street) is a retail unit with residential above and is a Grade II Listed Building. Adjacent to the North of the application site lies the remains of the City Wall, which is a Scheduled Ancient Monument, and the access road to properties off Wall Lane and Magpie Road. There is a right of access along Wall Lane for these properties. To the rear of the application site is a parking area which the current owner leases from Norwich City Council. This does not form part of the application site.
2. The site is within the City Centre Conservation Area and is within the Northern City character area. The site is within the Large District Centre. The building is identified as having a positive street frontage and marks the start of a positive vista down Magdalen Street back towards the city centre.
3. The Northern City Centre Area Action plan identifies Magdalen Street as a key pedestrian and cycle route into the City Centre.

Planning History

4. Planning Permission and Conservation Area Consent were granted under applications 08/01337/F and 08/01336/C respectively. These permitted the demolition of all existing buildings on site and the redevelopment with 8no dwellings and 2no shop units.
5. Application reference 12/00406/C granted permission for an extension of time to the original Conservation Area Consent for demolition of all existing buildings.

Equality and Diversity Issues

There are no significant equality or diversity issues.

The Proposal

6. The application seeks an extension of time to the original permission for redevelopment of the site with 8no residential dwellings and 2no retail units. The 2no retail units will front Magdalen Street, retaining the traditional frontages of the area. The 8no flats comprise 3no 3 storey houses fronting Wall Lane and 5no flats (2 no flats above the retail units) fronting Magdalen Street and 3no flats in a taller 3 storey building to the rear of the site. The development is car free.

Representations Received

7. Advertised on site and in the press. Adjacent and neighbouring properties have been notified in writing. No letters of representation have been received.

Consultation Responses

8. Local Highway Authority – No objections.
9. Environmental Health – No objections. Given the proximity to a busy traffic junction we will require some sound insulation against road traffic noise to habitable room windows on the north and east elevations. Standard Condition CU2 (amended).
10. Private Sector Housing – No objections.
11. Strategic Housing – No objections subject to a S106 agreement with an overage clause to capture a commuted sum for off-site affordable housing.
12. Historic Environment Service – No objections. Please carry all conditions previously attached to the original consent.

ASSESSMENT OF PLANNING CONSIDERATIONS

Relevant Planning Policies

National Planning Policy Framework:

- Statement 1 – Building a strong, competitive economy
- Statement 2 – Ensuring the vitality of town centres
- Statement 4 – Promoting sustainable transport
- Statement 6 – Delivering a wide choice of high quality homes

Statement 7 – Requiring good design
Statement 12 - Conserving and enhancing the historic environment

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

Policy 1 – Addressing climate change and protecting environmental assets
Policy 2 – Promoting good design
Policy 3 – Energy and water
Policy 4 – Housing delivery
Policy 5 – The economy
Policy 6 – Access and transportation
Policy 20 - Implementation

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

NE9 - Comprehensive landscaping scheme and tree planting
HBE1 – Protection of Scheduled Ancient Monuments
HBE3 – Archaeology assessment in Area of Main Archaeological Interest
HBE8 - Development in Conservation Areas
HBE9 – Development affecting Listed Buildings
HBE12 - High quality of design in new developments
HBE13 – Protection of major views and height of buildings
HBE14 – Gateways to City and quality design
EP22 - High standard of amenity for residential occupiers
EMP1 - Small scale business development
SHO3 – Locational conditions for new retail development – sequential test
SHO7 – Smaller scale expansion of existing retail units
SHO11 – Changes of use in retail frontages in Secondary and Large District Centres
SHO12 – Retail development in district or local centres
HOU2 – Mix of uses including housing on city centre sites
HOU13 – Proposals for new housing development on other sites
TRA7 - Cycle parking standards
TRA8 - Servicing provision
TRA9 – Car free housing – criteria

Northern City Centre Area Action Plan (March 2010)

LU1 – Mixed use development to promote regeneration and a distinctive identity
LU2 – Large District Centre
LU3 – Residential development
TU1 – Design for the historic environment
MV1 – Sustainable transport

Supplementary Planning Documents and Guidance

City Centre Conservation Area Appraisal (September 2007)
Report to cabinet – Interim Statement on the off-site provision of affordable housing.

Other Material Considerations

The Localism Act 2011 – s143 Local Finance Considerations

Principle of Development

Policy Considerations

13. The application is for the extension of time to the previous permission 08/01337/F. It is a long standing policy aim of the Council to promote regeneration in the Northern City centre Area. The adopted Northern City Centre Area Action Plan (March 2010) (NCCAAP) sets out regeneration aims for retail and residential development in the various sectors of the northern city centre. Area wide policies

LU1, LU2 and LU3 identify the types of development sought (mixed uses), how change of use applications within the Large District Centre will be dealt with, and specific requirements of new residential development.

14. Paragraph 23 of the Government Guidance document '*Greater Flexibility for Planning Permissions*' states that in the assessment of applications for extensions of time of previous approvals, the development will by definition have been judge to be acceptable in principle. The focus of local authorities should therefore be on development plan policies and material considerations which have changed significantly since the grant of planning permission. The main issues to assess in this case are changes in policy or changes in circumstances since the original approval.
15. The Joint Core Strategy for Broadland, Norwich and South Norfolk (JCS) has been adopted and the National Planning Policy Framework (NPPF) has replaced former planning policy statements and guidance. A number of the policies in these two new policy statements continue the direction of previous policy and in this case support the provision of new housing facilities and promote good design. The changes in policy are not considered to have any material affect on the assessment of the proposals in terms of their acceptability in principle, (i.e. the use, design, amenity, parking or servicing).
16. At the time the original application was determined the NCCAAP was not adopted. However it was adopted in March 2010 and now forms part of the local plan. Policies LU1, LU2 and LU3 of the NCCAAP are applicable to this application. The proposals are considered to be in accordance with the objectives of these policies, proposing a mixed use development, with retention of the retail frontage in the Large District Centre and with an element of family housing being provided.
17. Under JCS policy 3 the proposals would trigger the requirement for code level 4 for water efficiency. This can be secured via a new condition.
18. Joint Core Strategy policy 4 suggests that new housing development should include an element of affordable housing for sites of 5 dwellings and above. The Affordable Housing SPD (Oct 2009), although out of date in terms of the quantity of affordable housing required, goes on to qualify how the City Council expects developers to negotiate on this and what will be required of them if the overall financial viability of the proposed scheme is affected (i.e. the scheme cannot take the full percentage of affordable housing required).
19. Discussed below are the policy compliant S106 contributions and viability.

Development Viability and Deliverability or Affordable Housing

20. The applicant has made a case that if on site affordable housing which would normally be sought under JCS policy 4 is provided it would render the development unviable. A viability assessment to support this has been submitted.
21. The viability of the scheme has been verified by Strategic Housing. Given the scale of the development proposals verification by the District Valuer was not deemed to be necessary in this case. The viability assessment indicates that affordable housing cannot be provided on site. This is accepted by officers.
22. JCS policy 4 seeks the provision of 20% affordable housing with appropriate tenure mix of agreed on a case by case basis. In this case this would equate to 2 units. The policy allows for the proportion of affordable housing sought to be reduced and the balance of tenures amended where it can be demonstrated that site characteristics, including infrastructure provision, together with the requirement for affordable housing would render the site unviable in prevailing market conditions, taking account of the availability of public subsidy to support affordable housing.
23. This policy ties in the with objectives at national and regional level to achieve viable

development which achieves a mix of housing including affordable housing which meets market needs and helps to create mixed communities.

Affordable Housing as a Financial Contribution

24. The viability assessment demonstrates a positive residual land value only where no affordable housing is provided on site and no commuted sum is paid initially to contribute toward off site provision.
25. Such an approach as outlined above has been accepted in a resolution by Cabinet to endorse an interim statement on affordable housing which would be given weight in the determination of planning applications. The statement sets out circumstances where the provision of a contribution to allow affordable housing to be provided offsite may be acceptable.
26. Under the interim statement the total off site commuted sum towards affordable housing for a site of this size and location would be £111,716.79.
27. The principle of accepting an off-site contribution sum instead of provision on site is finely balanced in this case. It must also be considered whether the particular proposal will promote social cohesion. I am of the view that the off-site contribution is acceptable as there are a number of sites in close proximity to the development site where the funds could be utilised. The exact site would depend on the timing of receipt, and this could assist the delivery of sites within the city centre or to develop our own new build stock.
28. It is recommended that any approval on this site is subject to a S106 agreement with an overage clause which seeks to claw back lost planning obligations where sale prices are better than predicted in the viability assessment. This would operate so as to claw back any profit in excess of 20% of the gross development value up to a cap set via the total commuted sum.

Design

29. The introduction of the NPPF and the JCS policies on good design broadly follow the principles of PPSs that were in force at the time of determination of the original application. The conditions required at the time of the previous determination should be re-applied to any permission to ensure that the demolition and redevelopment works do not affect the Scheduled Ancient Monument; the city wall remains.

Local Finance Considerations

30. The Localism Act 2011 amended S70 of The Town and Country Planning Act 1990 to require local planning authorities to have regard to local finance considerations in the determination of planning applications, alongside the development plan and other material considerations.
31. In this case the dwellings would result in New Homes Bonus.

Conclusions

32. The regeneration of the northern city centre area remains a strong policy objective and is supported by the adopted Northern City Centre Area Action Plan. The development proposals accord with all policy objectives in terms of principle, proposed uses, design and associated infrastructure.
33. As smaller schemes are brought forward in the northern city centre area these may kickstart the regeneration of this area and therefore there should be flexibility in the approach to financial contributions and policy requirements imposed.
34. It is accepted that the provision of affordable housing on this site renders the

development unviable. The developer has agreed to enter into an overage clause in the S106 agreement allowing the council to claw back any lost planning obligations up to an agreed cap.

35. On balance and given the wording of JCS policy 4 which allows for lesser provision of affordable housing where the scheme is found to be unviable (see paragraph 28 above), the viability evidence submitted and the above material considerations it is considered that the proposals are acceptable subject to the signing of a S106 agreement with an overage clause and the conditions detailed within the recommendation below.

RECOMMENDATIONS

To approve application No 12/00305/ET 150-152 Magdalen Street, Norwich and grant an extension of time to the previous consent 08/01337/F, subject to the following conditions (as per the original consent but re-worded to ensure they are robust, and any newly required conditions) and subject to the signing of a S106 by 31 March 2013 or to delegate authority to the head of planning services to approve or refuse the application after this date:

- 1) Standard time limit condition
- 2) In accordance with the details and drawings submitted
- 2) Details of:
 - a) Rainwater goods, including materials and specification;
 - b) Bricks, including a sample;
 - c) Pantiles, including a sample;
 - d) External Brick Decoration, including a sample;
 - e) Timber cladding, to include details of the colour and finish and a sample;
 - f) Joinery details of the balconies, including materials and 1:20 scaled drawings;
 - g) Access gate, to include a specification, details of how access gates would operate and a proposed elevation including details of the key pad; and
 - h) Velux Rooflights, to include 1:20 scaled drawings and details of the materials.
- 3) Details of shopfront design
- 4) Archaeology - Written Scheme of Investigation (WSI)
- 5) Archaeology – Demolition/development in accordance with WSI
- 6) Archaeology - No occupation until site investigation and post investigation assessment completed
- 7) Archaeology - Stop work if unidentified features revealed
- 8) Landscaping
- 9) Details of cycle parking and provision prior to first occupation
- 10) Any damage to the listed building to be made good
- 11) Details of protection measures to the scheduled ancient monument (City Wall)
- 12) Details of construction traffic access
- 13) Water efficiency
- 14) No occupation until proprietary sound insulating ventilators provided on the habitable room windows of the north and east facades. (CU2 amended).

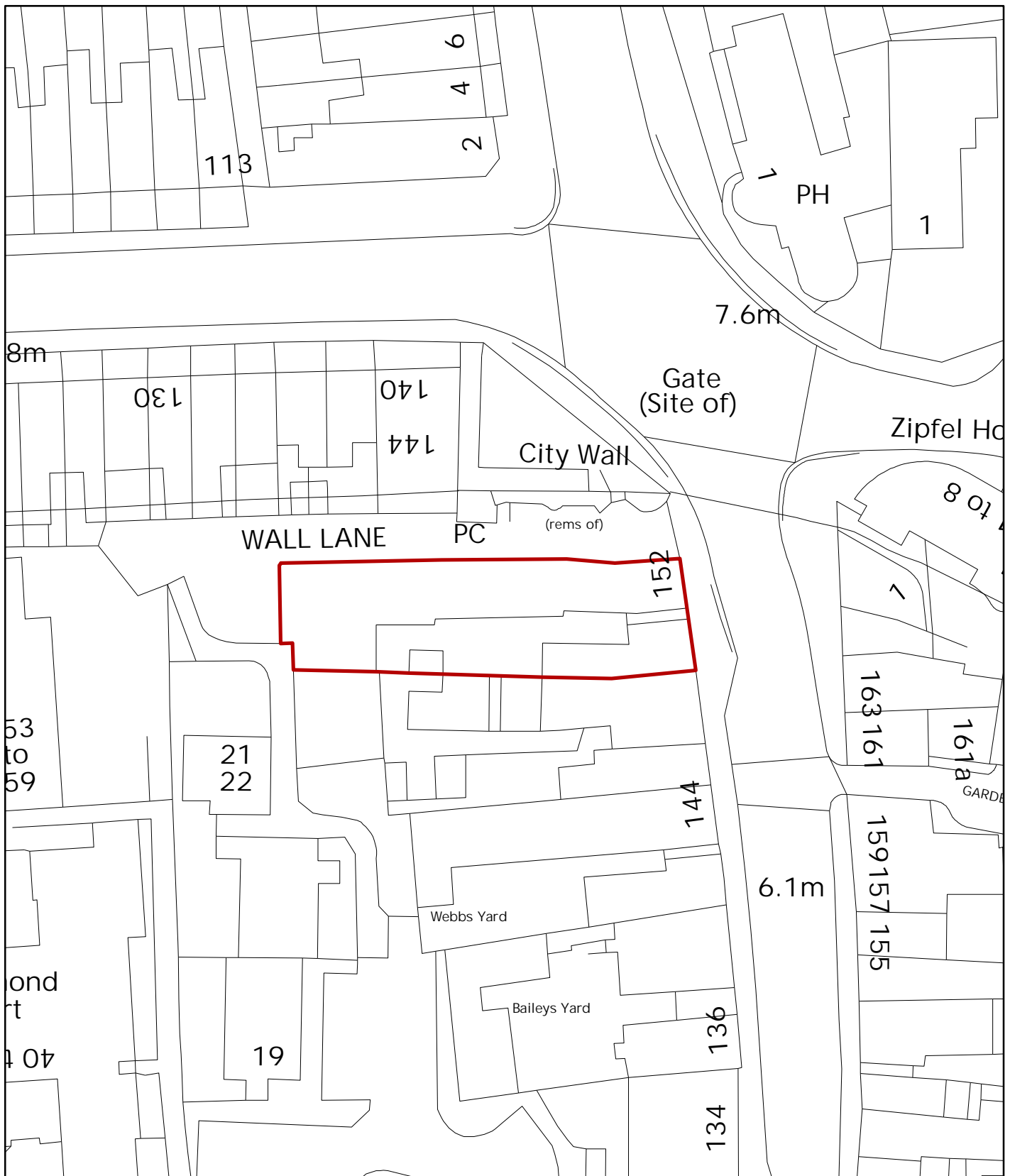
Reasons for approval:

The regeneration of the northern city centre area remains a strong policy objective and is supported by the adopted Northern City Centre Area Action Plan. The

development proposals accord with all policy objectives in terms of principle, proposed uses, design and associated infrastructure. It is accepted that the provision of affordable housing on this site renders the development unviable. The developer has agreed to enter into an overage clause in the S106 agreement allowing the council to claw back any lost planning obligations up to an agreed cap. On balance and given the wording of JCS policy 4 which allows for lesser provision of affordable housing where the scheme is found to be unviable, the viability evidence submitted and the above material considerations it is considered that the proposals are acceptable and in accordance with the NPPF, the Northern City centre Area Action plan (March 2010), policies 1, 2, 3, 4, 5, 6 and 20 of the Joint Core Strategy for Broadland, Norwich and South Norfolk (March 2011) and saved policies HBE1, HBE8, HBE9, HBE12, EP22, SHO3, SHO12, HOU2, HOU13, TRA7, TRA8, TRA9 of the City of Norwich Replacement Local Plan (Adopted Version November 2004).

Article 31(1)(cc) Statement

The local planning authority in making its decision has had due regard to paragraph 187 of the National Planning Policy Framework as well as the development plan, national planning policy and other material considerations, following negotiations with the applicant and subsequent amendments the application has been approved subject to appropriate conditions and for the reasons outlined above.



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Planning Application No 12/00305/ET

Site Address 150-152 Magdalen Street

Scale 1:500



NORWICH
City Council

PLANNING SERVICES

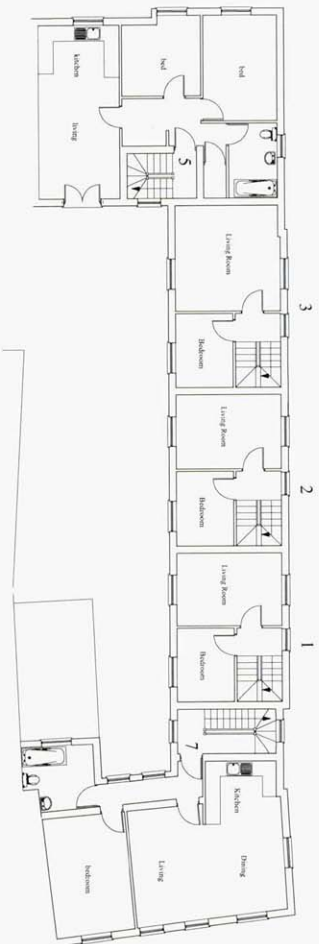


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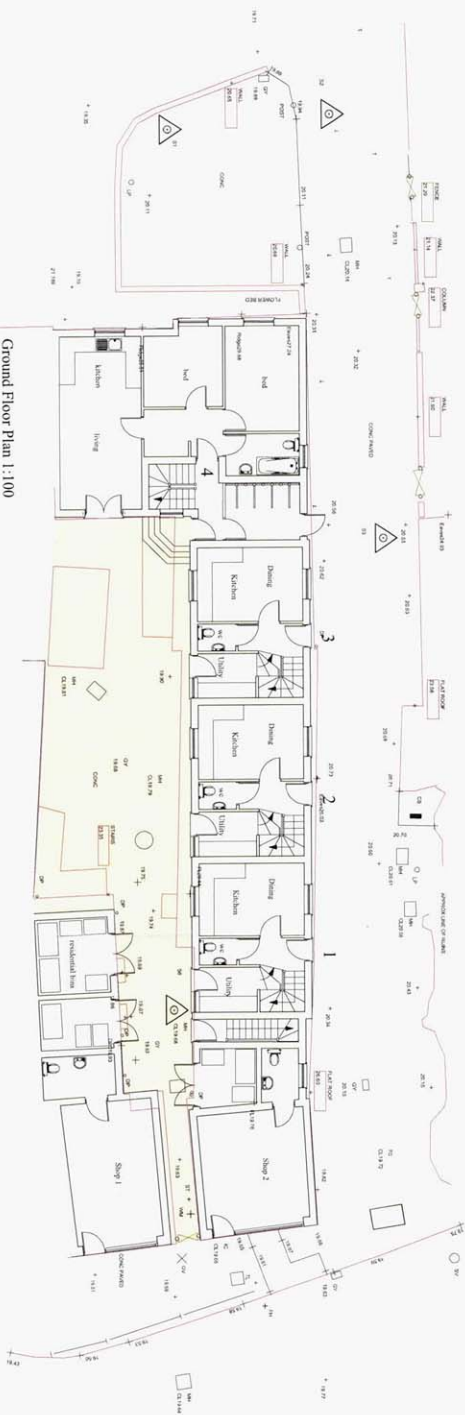
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Second Floor Plan 1:100



First Floor Plan 1:100



Ground Floor Plan 1:100

DATE	SCALE	REF.
16/05/98	1:100	
NO OF FLOORS	STAIRWAYS NOS.	FLOOR NO.
1	1	B

North Elevation - courtyard

10th Street



Unit 1	cream, diesel engine and string, canoe	Unit 2		Unit 3		Units 4, 5, 6
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Unit 4.5.6



East Elevation - Magdalen Street



M 23 (1) (9) - Revised to accordance with planning officer's e-mail 22.01.09. Section added *provision* to meet retention materials described.

A 30 (9) (K) - Revised in accordance with planning officer. High replaced - on of units reduced to 9.

Drawing Title
150 152 Magdalen Street
Norwich
Redevelopment for residential
use - 8 no dwellings
Elevations

Date	Score	Ref
08 08 08	1.100	
Job No. 08175	Dipping No. P.L.O.	Rev R