



# NORWICH City Council

**Committee name:** Planning applications

**Committee date:** 14/12/2023

**Report title:** Application no 23/01176/U 7 Bowthorpe Main Centre Wendene, Norwich, NR5 9HA

**Report from:** Head of planning and regulatory services

## OPEN PUBLIC ITEM

### Purpose:

To determine:

Application no: 23/01176/U

Site Address: 7 Bowthorpe Main Centre Wendene Norwich NR5 9HA

Decision due by: 20/12/2023

Proposal: Change of use on the ground floor from a retail unit (Class E) to a hot food takeaway (sui generis) and installation of ventilation and extraction equipment with associated external works.

### Key considerations:

- Loss of Class E floorspace, creation of hot food takeaway
- Impact of the proposal on the neighbouring residential amenity
- The impact the proposal will have on the character and appearance of the building.
- The acceptability of the proposed change of use in regard to accessibility and refuse storage.

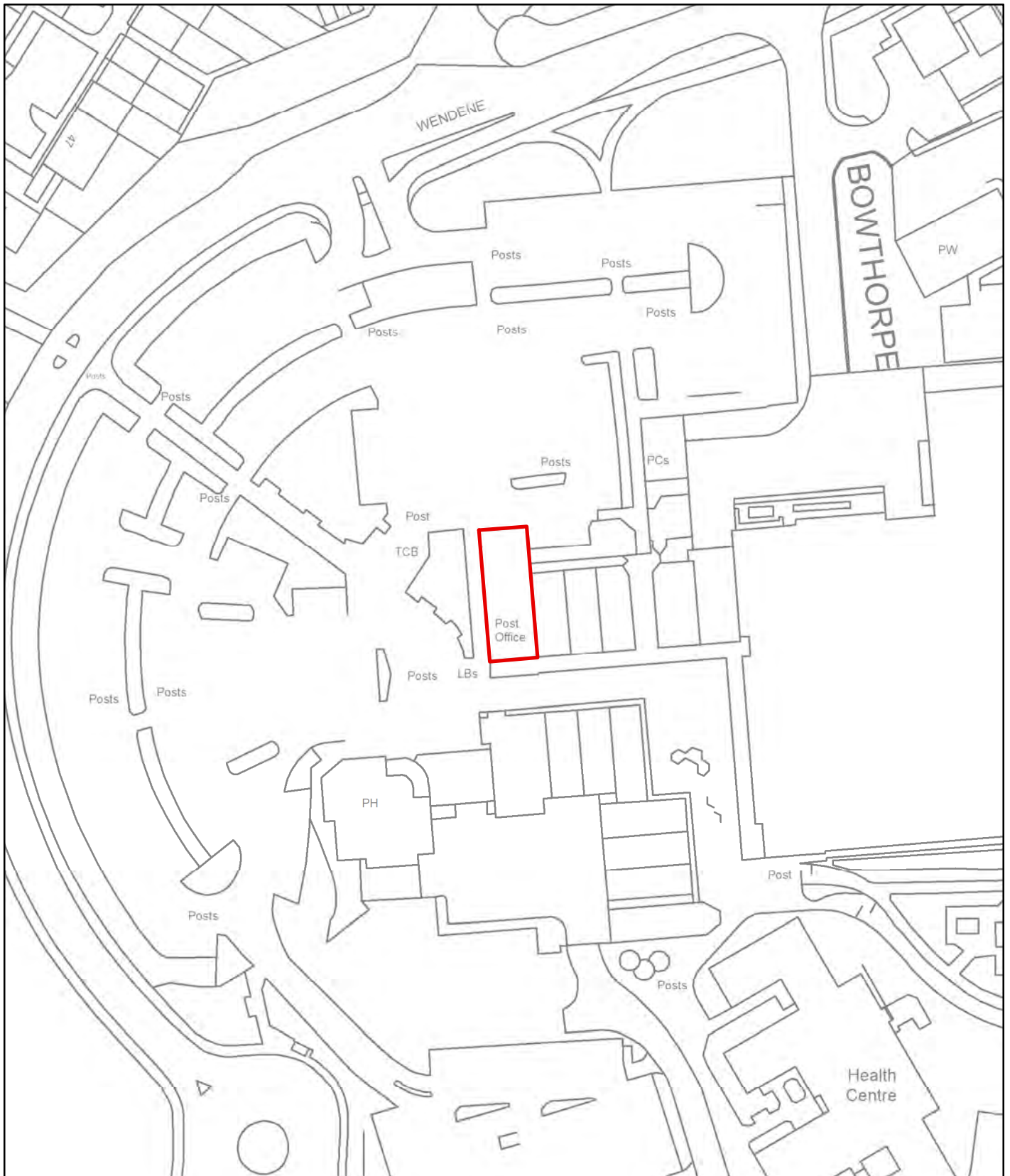
**Ward:** Bowthorpe

**Case Officer:** Nyasha Dzwowa

**Applicant/agent:** Fergus Sykes

**Reason at Committee:** Objections

**Recommendation:** It is recommended to approve the application for the reasons given in the report and subject to the planning conditions set out in paragraph 54 of this report, and grant planning permission.



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Planning Application No 23/01176/U

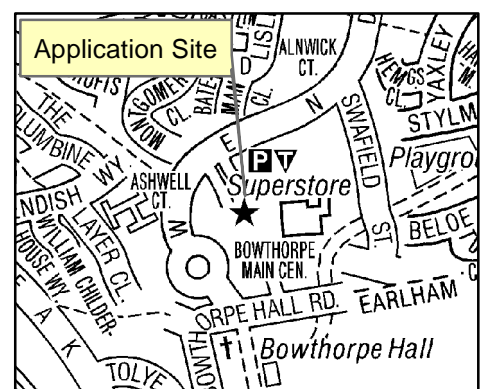
Site Address 7 Bowthorpe Main Centre, Wendene.

Scale 1:1,000



**NORWICH**  
City Council

PLANNING SERVICES



## **The site and surroundings**

1. The application site is set within the Bowthorpe retail centre, a complex constructed in red brick with many of the units having shop fronts of varying design and colour. The main building faces Wendene is a single storey building, which has some similarities in shape and form to that of the residential dwellings in the surrounding area. The site is 1 of 17 modest single storey units within the Bowthorpe retail centre which also includes the larger anchor Roys store, a public house and health centre. These are set out in a courtyard arrangement and surrounded by a large surface car park.
2. To the east of Bowthorpe retail centre is Swafeld Street which is a residential street with two storey residential properties with gardens backing on to the retail centre. The dwellings along Swafeld are a mix of semi-detached and terraced properties mostly two storeys. The tree belt along Wendene is identified as an area of woodland within the Local Plan.
3. The site itself lies outside of the Bowthorpe Conservation Area

## **Constraints**

4. District Retail Centre

## **Relevant Planning History**

5. There are no relevant records held by the city council.

## **The Proposal**

6. The application seeks for planning permission for change of use from a retail (Class E) to a hot food takeaway (Sui Generis). The change of use also includes associated works including installing ventilation and extraction system and associated external works.
7. The proposed extraction and ventilation system will be mostly installed internally within the building. The system comprises of fans, attenuator, fresh air intake system, air conditioning unit, air handling unit, cold room compressor which are all connected through a system of ductwork.
8. The associated external works include extraction outlet and fresh air intake on the rear elevation, an air conditioning unit and cold room compressor would be located on the side elevation. A water heater flue would also be located on the side elevation.
9. Repairs to the shopfront including the entrance door and paint in RAL 7043. Infilling an existing blocked doorway and opening up and repair the obscured windows.

## **Summary of Proposal – Key facts:**

10. The key facts of the proposal is summarised in the tables below:

<b>Operation</b>	<b>Key Facts</b>
Opening hours	11:00 till 23:00 on every day of the week
Ancillary plant and equipment	1 Flue 1 Air conditioning unit 1 Cold room compressor 1 Air handling unit 1 Oven extraction fan

<b>Transport Matters</b>	<b>Key Facts</b>
Vehicular access	The site can be accessed via Wendene
No of car parking spaces	400 (within the car park serving the whole centre)
No of cycle parking spaces	20 (within the car park serving the whole centre)
Servicing arrangements	Bin store is located internally at the rear of the premises and bins will be put out on collection day. Deliveries can be carried out using the rear access to the car park.

## **Representations**

11. Adjacent and neighbouring properties have been notified in writing. 3 letters of representation have been received citing the issues as summarised in the table below:

<b>Issues raised</b>	<b>Response</b>
Hot food takeaway is not needed	Main issue 1
Out of scale development	Main issue 2
Smell disturbance	Main issue 3
Highways	Main issue 4
Business competition	Other matters

## **Statutory and non-statutory consultees**

12. Consultation responses are summarised below. The full responses are available to view at <http://planning.norwich.gov.uk/online-applications/> by entering the application number.

### **Environmental Protection (Norwich City Council)**

13. Due to the location, I have no objections to the application, as long as they ensure to carry out the works as proposed in their application. So the installation of carbon filters and methods for odour control and that the extractions system is maintained regularly.

### **Highways (local highways authority) (Norfolk County Council)**

14. The Bowthorpe main centre is designed as a district centre as part of a planned community, whilst the centre and its car park is private land, it has adequate means of vehicular access to the local highway network and is accessible on foot, cycle and bus. For these reasons there are no objections on highway grounds and no recommended conditions.

## **Assessment of Planning Considerations**

### **Relevant Development Plan Policies**

#### **15. 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
- JCS19 The hierarchy of centres

#### **16. 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
- DM18 Promoting and supporting centres
- DM21 Protecting and supporting district and local centres
- DM24 Managing the impacts of hot food takeaways
- DM28 Encouraging sustainable travel
- DM31 Car parking and servicing

#### **17. Relevant sections of the National Planning Policy Framework July 2021 (NPPF):**

- NPPF2 Achieving sustainable development
- NPPF6 Building a strong, competitive economy
- NPPF9 Promoting sustainable transport
- NPPF12 Achieving well-designed places

### **Case Assessment**

18. Planning law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. Relevant development plan policies are detailed above. Material considerations include policies in the National Planning Policy Framework (NPPF), the council's standing duties, other policy documents and guidance detailed above, and any other matters referred to specifically in the assessment below. The following paragraphs provide an assessment of the main planning issues in this case against relevant policies and material considerations.

## **Main Issue 1. Principle of development**

19. Key policies and NPPF paragraphs –DM18, DM21, DM24, JCS5, JCS19, NPPF paragraphs 86-91.
20. The site is in the Bowthorpe District Centre and the proposal results in the loss of a retail unit so policy DM21 applies. The criteria set out within policy DM21 are dealt with in turn below.
21. a) The scale and function of the proposed is consistent with the uses in district centres.
22. b) The proposed use will attract some additional footfall to the district centre therefore this will have additional benefit on the vitality and viability of the centre. Although there are already some takeaway uses at the centre it is considered that the proposed results in additional benefit to the centre by improving the offering at the centre and also consideration has been given to the fact that the unit has been empty for 3 years. Therefore it is considered that having the unit brought back into use is more beneficial compared to the unit remaining empty. The unit would be open daily and available to the public during normal hours.
23. c) The proposed is unlikely to result in harmful impact on residential amenity, traffic and the environment due to its location within a dedicated retail centre.
24. d) The proposed use is not necessarily providing a community benefit or addressing a deficiency in provision however the use does have benefits of employment opportunities for local residents. It is acknowledged that in the letters of representation it was noted that the proposed takeaway use is not needed in the area. The proposed use would result in the creation of 10 full time and 15 part time employment opportunities, and this also benefits the local economy and weighs in favour of the proposal in this case.
25. e) Policy DM21 criterion e) states that proposals should not result in the proportion of A1 retail uses at ground floor level falling below 60% (in the case of district centres). The site is in Class E use (former A1 use (Shop)) and the proposed change of use would therefore result in the loss of a retail unit. Bowthorpe district centre has a total of 17 units of which 6 are non retail. The proposed change of use would result in 41.2% of the district centre being used for non-retail units, which would result in the proportion of retail units falling just below the 60% policy target. It is acknowledged that there have been updates to the Use Class Order since DM21 policy was adopted and this Class E unit could change use to other non-retail units without the need for planning consent. Nevertheless, criterion e) is not strictly complied with and the benefits of the proposal need to be weighed against this policy conflict.
26. f) The proposed change of use will not have an impact on the retail floorspace within a main food store serving the centre.
27. Overall, it should be acknowledged that the change of use would result in the Bowthorpe District Centre falling below the 60% minimum policy target for retail use. In this case it is considered that although the change of use does not satisfy criterion e) of policy DM21 it is considered that the benefits of bringing a vacant unit back into use outweigh the requirement of criterion e). Furthermore, there is no significant harm resulting from the change of use and changes to

the Use Class Order mean that the unit could change to many other non-retail uses without the need for planning permission. Therefore, overall when considered on balance the proposed is considered to be acceptable.

28. Policy DM24 of the Development Management Policies Plan seeks to manage the impacts of hot food takeaway. The policy permits hot food takeaways where criterion a and b have been complied with.
29. Criterion (a) of DM24 permits hot food takeaways where they do not give rise to unacceptable environmental effects which cannot be overcome by imposing a condition. In this case, it is considered that the environmental effects of the proposed change of use will be acceptable, as set out below.
30. Criterion (b) of DM24 requires the proposal to have a safe and convenient access and not be detrimental to highway or pedestrian safety. The site is located in a designated local centre with direct access through Wendene and provision for parking. The site also benefits from a separate access for deliveries which is at the rear of the site. These matters are assessed further in the transport section, below.
31. Overall it is considered the proposed change of use complies with policies DM21 and DM24.

## **Main Issue 2.        Design**

32. Key policies and NPPF paragraphs – JCS2, DM3, NPPF paragraphs 124-132.
33. The change of use does not require changes to the floor area.
34. The proposal will result in minor external changes including works to repair the existing shopfront and entrance door and frame and this would be painted in colour RAL 7043 which is dark grey. On the rear elevation the changes to the appearance of the building will include installing two louvres, an extract outlet and fresh air intake which are connected to the extraction and ventilation system. Furthermore, equipment will be installed on the east side elevation, an air conditioning unit and cold room compressor. The works to the east side elevation also include installing a water heater flue. On the west side elevation, physical changes are proposed including bricking up a blocked doorway to match the existing building and opening up and repairing two obscured windows.
35. There will be no increase in the scale of the building therefore the scale is considered to be acceptable.
36. Overall the design of the building will not be significantly changing as a result of the proposed works.

## **Main Issue 3.        Amenity**

37. Key policies and NPPF paragraphs – DM2, DM11, DM24 NPPF paragraphs 8 and 127.
38. Previously the unit was used as a newsagent, and it is considered that the change of use to a hot food takeaway is unlikely to result in significant harm to the amenity of occupants of nearby properties.

39. The business will be open between the hours of 11:00 till 23:00 everyday of the week. The proposed opening hours are considered to be acceptable given the site is within a district centre where it is considered acceptable to have late opening businesses. Furthermore, it is considered that the site is reasonably distanced from residential properties and there are no residential properties within the centre. It is considered the proposed opening hours are acceptable within a district centre as this is consistent with the other uses within the centre.
40. It is considered unlikely that the change of use would result in harmful levels of noise which cannot be mitigated. Colleagues in Environmental Protection were consulted, and no objections have been raised. It is considered that as long as the works are carried out accordance with the details submitted in regard to odour control, carbon filtration system and extraction system then there will be no significant harm to amenity. It is therefore considered necessary to attach a condition to ensure the works are carried out and maintained as shown in the details submitted in Annex B document.
41. One of the concerns raised in the objections is the smell disturbance, the proposed ventilation and extraction system includes odour control. The proposed Corona Ozone units reduce cooking odours by injecting ozone into the extraction system and reacting with the particles causing odours and neutralising them which removes the odour. The units are specifically designed for commercial kitchens and it is considered that the units are appropriate for removing odour. Colleagues in Environmental Protection have advised that a condition is attached requiring the system to be operated and maintained as per the manufacturers guidance to ensure the system functions effectively.

#### **Main Issue 4.       Transport**

42. Key policies and NPPF paragraphs – JCS6, DM28, DM30, DM31, NPPF paragraphs 8, 102-111.
43. The change of use is unlikely to result in increased need for cycle or car parking. The existing on-site car park is considered adequate for the proposed new use. The existing car park serving the centre has 400 car parking spaces which adequately serves all the visitors to the centre.
44. The site can be easily accessed by public and other means of sustainable transport as it is located within a district centre which is well connected to the highway network by foot, cycling and bus. It is noted that Wendene is a well-served bus route. The centre has bike parking space which accommodates 12 bikes.
45. It is unlikely that the proposed use would result in highways concerns, the site can be accessed through Wendene into the retail centre with sufficient provision for parking and servicing.

#### **Main Issue 5.       Nutrient Neutrality**

#### **Assessment of Impacts under the Conservation of Habitats & Species Regulations 2017 (as amended)**

- Site Affected:       (a)     Broads SAC/Broadland Ramsar  
                             (b)     River Wensum SAC



- Potential effect:
- (a) Increased nitrogen and phosphorus loading
  - (b) Increased phosphorous loading

The application represents a 'proposal or project' under the above regulations. Before deciding whether approval can be granted, the Council as a competent authority must determine whether or not the proposal is likely, either on its own or in combination with other projects, to have any likely significant effects upon the Broads & Wensum SACs, and if so, whether or not those effects can be mitigated against.

The Council's assessment is set out below and is based on advice contained in the letter from Natural England to LPA Chief Executives and Heads of Planning dated 16 March 2022.

(a) Broads SAC/Broadland Ramsar

- i. Does the plan or project create a source of water pollution or have an impact on water quality (e.g. alters dilution)? AND
- ii. Is the plan or project within the hydrological catchment of a habitats site which includes interest features that are sensitive to the water quality impacts from the plan or project?

Answer: NO

The proposal does not:-

- Result in an increase in overnight accommodation in the catchment area of the SAC;
- By virtue of its scale, draw people into the catchment area of the SAC
- Result in additional or unusual pollution to surface water as a result of processes forming part of the proposal.

Consequently, the proposal would not result in an increase in nutrients flowing into the SAC in the form of either nitrogen or phosphorous.

Conclusion: It is not necessary to carry out an assessment under the Habitats regs.

(b) River Wensum SAC

- i. Does the plan or project create a source of water pollution or have an impact on water quality (e.g. alters dilution)? AND
- ii. Is the plan or project within the hydrological catchment of a habitats site which includes interest features that are sensitive to the water quality impacts from the plan or project?

Answer: NO

The proposal does not:-

- Result in an increase in overnight accommodation in the catchment area of the SAC;
- By virtue of its scale, draw people into the catchment area of the SAC

- Result in additional or unusual pollution to surface water as a result of processes forming part of the proposal.

In addition, the discharge for the relevant WwTW is downstream of the SAC.

Consequently, the proposal would not result in an increase in nutrients flowing into the SAC in the form of either nitrogen or phosphorous.

Conclusion: It is not necessary to carry out an assessment under the Habitats regs.

### **Other matters**

46. In the letters of representation concerns on increased business competition have been raised. The concerns are not material planning considerations therefore have not been considered in the assessment of this application. Planning decisions can only be made on planning grounds and do not seek to prevent competition between businesses.

### **Equalities and diversity issues**

47. There are no equality or diversity issues.

### **Local finance considerations**

48. Under Section 70(2) of the Town and Country Planning Act 1990 the council is required when determining planning applications to have regard to any local finance considerations, so far as material to the application. Local finance considerations are defined as a government grant or the Community Infrastructure Levy. Whether or not a local finance consideration is material to a particular decision will depend on whether it could help to make the development acceptable in planning terms. It would not be appropriate to make a decision on the potential for the development to raise money for a local authority. In this case local finance considerations are not considered to be material to the case.

### **Human Rights Act 1998**

49. Officers have considered the implications of the Human Rights Act 1998 in reaching a recommendation to approve this application. They consider that the interference with the human rights of the applicant under Article 8/Article 1 of Protocol 1 is justifiable and proportionate for the protection of the rights and freedom of others or the control of his/her property in this way is in accordance with the general interest.

### **Section 17 of the Crime and Disorder Act 1998.**

50. Officers have considered, with due regard, the likely effect of the proposal on the need to reduce crime and disorder as part of the determination of this application, in accordance with section 17 of the Crime and Disorder Act 1998. In reaching a recommendation to grant planning permission, officers consider that the proposal will not undermine crime prevention or the promotion of community.

## **Planning Balance and Conclusion**

51. The development does not comply with criterion e of local policy DM21 however when considered on balance it is considered that the proposed development complies with the other planning material considerations as outlined in criterion a,b,c,d and f of DM21 and criterion a and b of DM24 which outweighs the lack of compliance with policy criterion e of DM21. The economic benefit of the proposal and of bringing this vacant unit back into use has also been considered and it is concluded that this weighs in favour of the proposed development.
52. Consideration is also given to the fact that the development complies with policy DM1 which seeks to enhance and extend the accessible opportunities for employment and support businesses whilst enabling balanced sustainable economic growth.
53. Overall the proposal complies with requirements of the NPPF and Local Plan therefore is recommended for approval subject to the conditions set out below.

## **Recommendation**

54. To approve application 23/01176/U, 7 Bowthorpe Main Centre, Wendene, Norwich NR5 9HA and grant planning permission subject to the following conditions:

- (1) Standard time limit;
- (2) In accordance with plans;
- (3) Opening hours limited to 11:00 till 23:00 daily.
- (4) Works in accordance with details provided in Annex B document and manufacturers guidance.

And subject to the following informatives:

- (1) The applicant is reminded that external signage would require a separate advertisement consent.
- (2) The applicant is reminded that prior to first use of the site the new food business operating will need to register with the Food Standards Agency to be added to Norwich City Council's food hygiene rating scheme.

**Appendices:** None

**Contact officer:** Planner

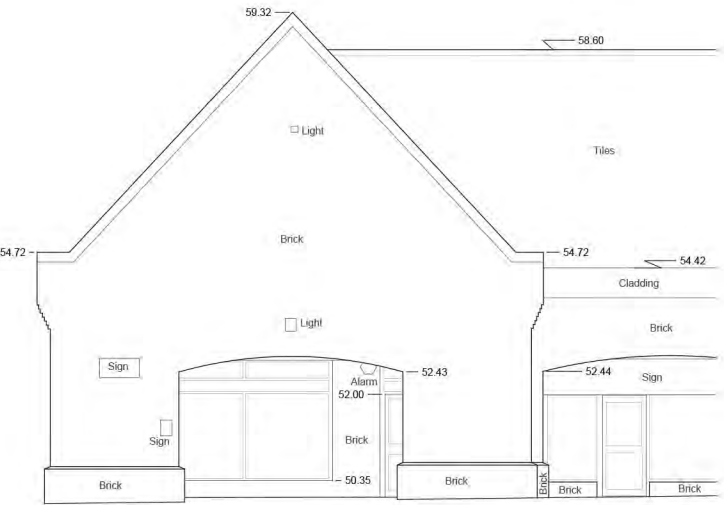
**Name:** Nyasha Dzwowa

**Telephone number:** 01603987998

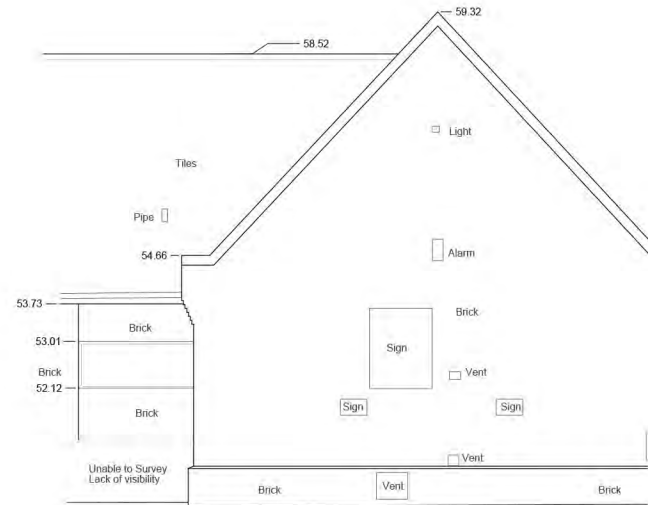
**Email address:** [nyashadzwowa@norwich.gov.uk](mailto:nyashadzwowa@norwich.gov.uk)



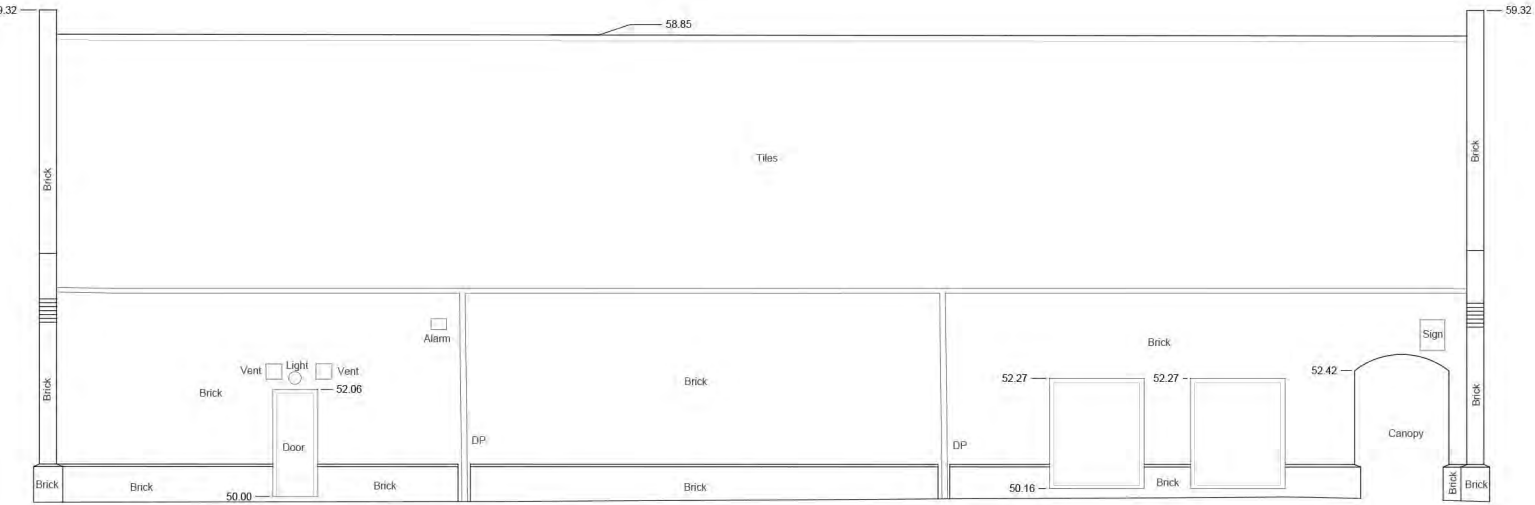
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FRONT ELEVATION (South)



REAR ELEVATION (North)



SIDE ELEVATION (West)

- Existing solid wall (construction unknown - possibly rendered cavity walls)
- Existing solid wall (assumed where parallel over or below roof)
- Existing steel partition
- Height from FFL to soffits of structural slab or plasterboard
- Height from FFL to suspended ceiling
- Height from FFL to soffit of beam or truss
- Window - sill to head height
- Window - FFL to sill height

**NOTES:**

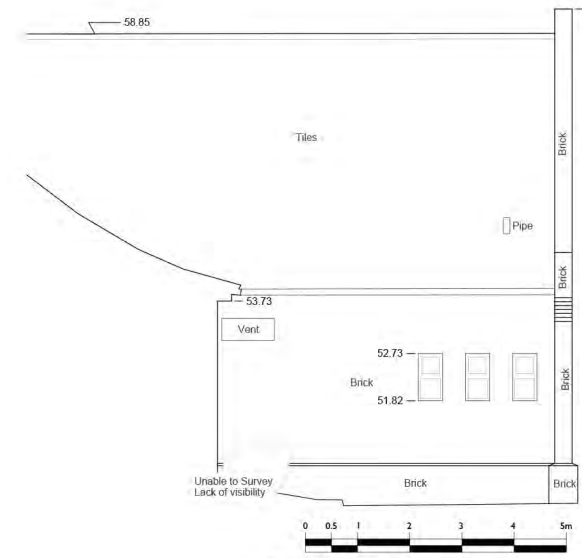
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REV	AMENDMENT	DATE	CHKD



PARTIAL SIDE ELEVATION (East)

**HATTRELL LLP**

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 e-mail: design@hattrell.co.uk / www.hattrell.co.uk

CLIENT  
 DPSK Ltd.

PROJECT  
 Unit 7, Bowthorpe Shopping Centre,  
 Wendene,  
 Norwich,  
 NR5 9HA

DRAWING TITLE  
 Existing Elevations

SCALE @ A1 DRAWN BY CHECKED DATE  
 1:50 ST -- June 23

DRAWING No C5358-A5-02 REVISION -

Change Of Use to Hot Food Takeaway

**SURVEY SOLUTIONS**

LAND SURVEYING  
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 UNDERGROUND SURVEYING  
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PENCH REPOD COVENTRY GLASGOW LONDON MANCHESTER NORWICH NOTTINGHAM WOLV

PROJECT TITLE  
 UNIT 7, BOWTHORPE SHOPPING CENTRE,  
 NORWICH, NR5 9HA

DRAWING DETAIL  
 MEASURED BUILDING SURVEY  
 FLOORPLANS

CLIENT  
 DPSK LIMITED

SURVEYOR  
 DWS

SURVEY DATE  
 12.06.2023

CHECKED BY  
 WWS

APPROVED BY  
 J.A.P.

DWG STATUS  
 FINAL

REVISION

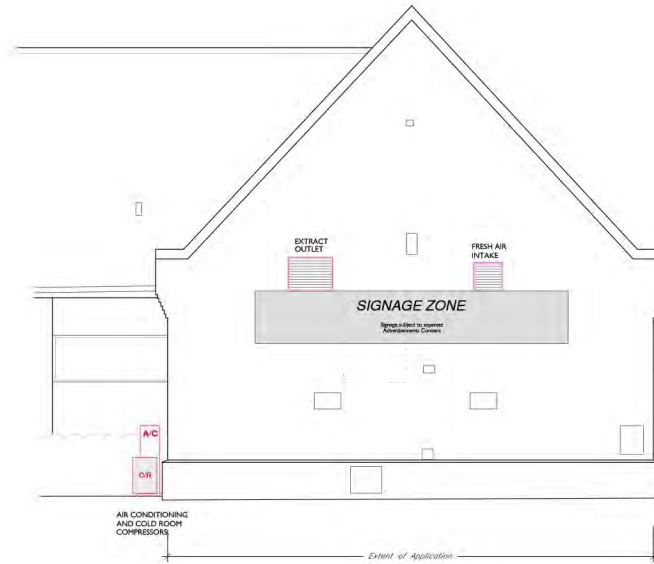
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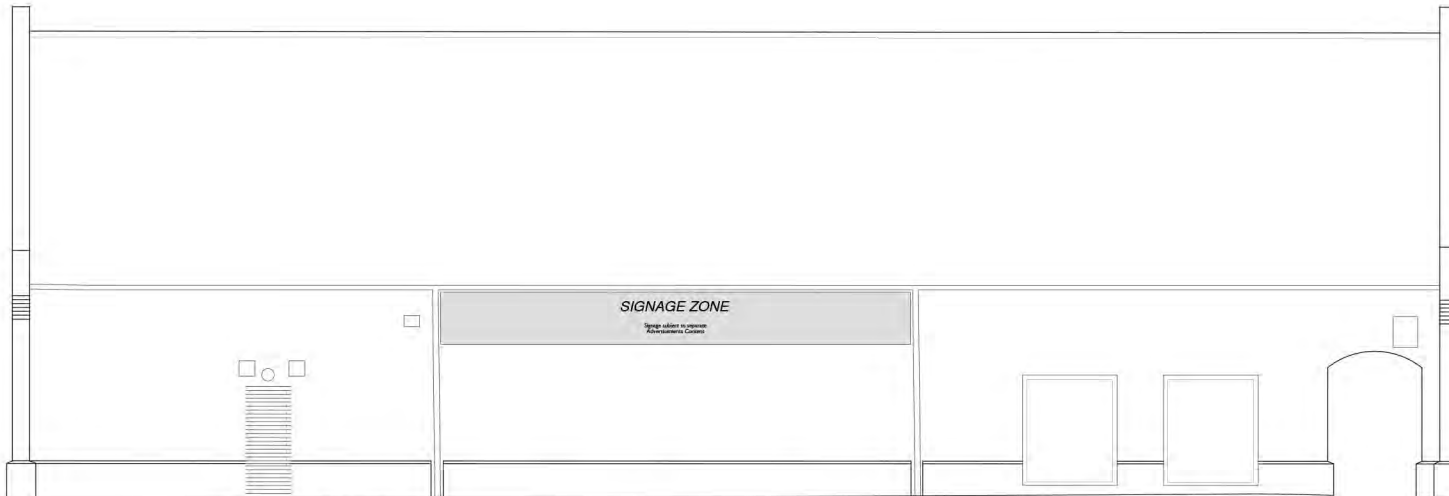
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FRONT ELEVATION (South)



REAR ELEVATION (North)



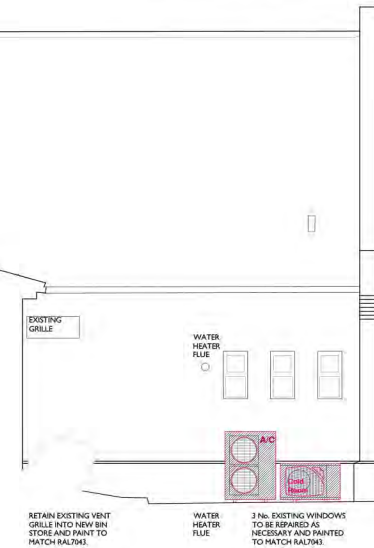
SIDE ELEVATION (West)

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PARTIAL SIDE ELEVATION (East)

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TELEPHONE 0161 829 4207  
e-mail: design@hattrrell.co.uk / www.hattrrell.co.uk

CLIENT  
DPSK Ltd.

PROJECT  
Unit 7, Bowthorpe Shopping Centre,  
Wendene,  
Norwich,  
NR5 9HA

DRAWING TITLE  
Proposed Elevations

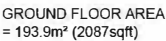
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DRAWING No. REVISION  
C5358-A5-06 -

Change Of Use to Hot Food Takeaway







Client to give due consideration as to how the requirements of the Equality Act (2010) are to be met in respect of means of access for employees and customers, and the provision of accessible sanitary facilities as specific requirements arise.

