

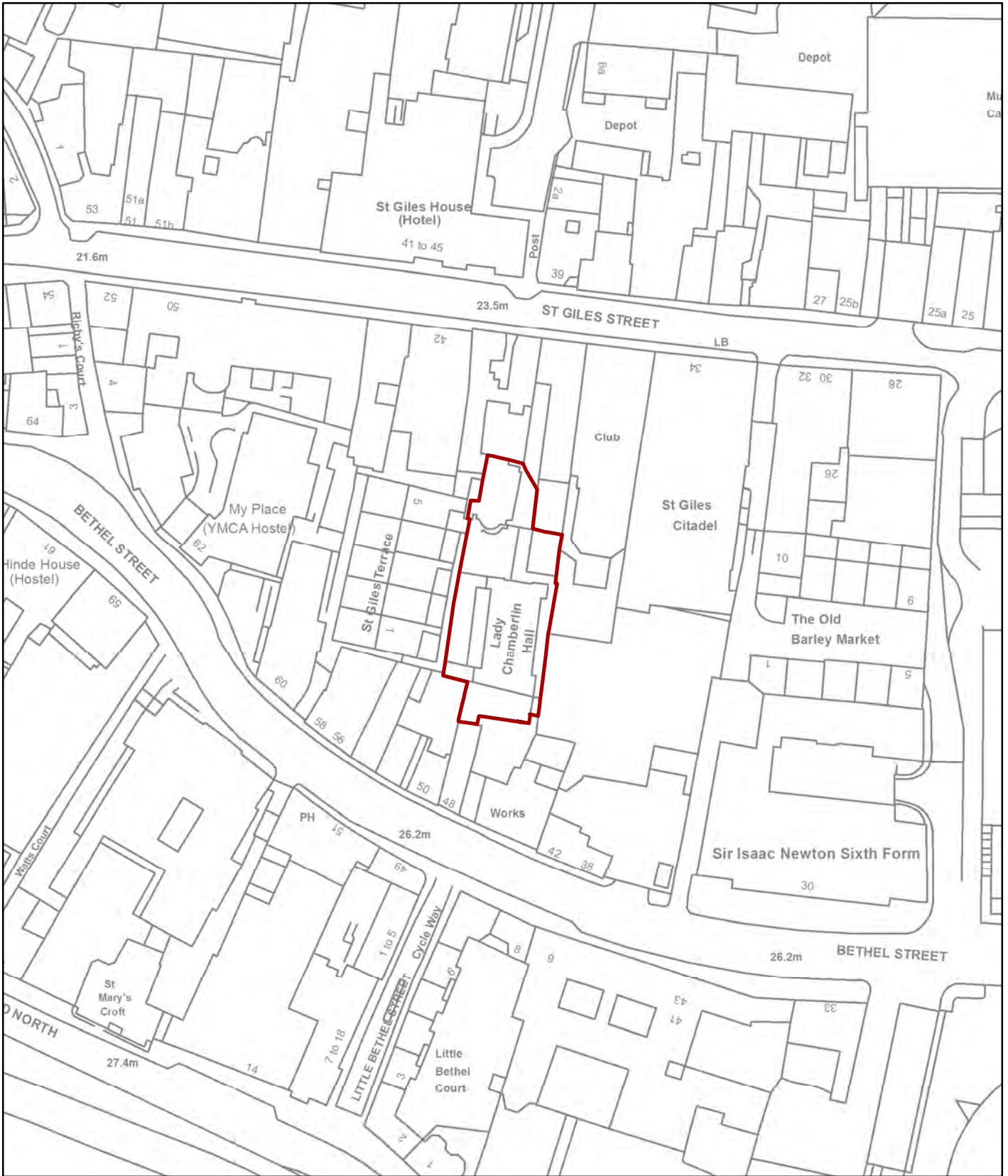
Report to Planning applications committee
 8 August 2019
Report of Head of planning services
Subject Application nos 19/00301/F & 19/00302/L - 38A St Giles
 Street Norwich NR2 1LL
**Reason
 for referral** Objections

Item

4(c)

Ward	Mancroft	
Case officer	Lara Emerson - laraemerson@norwich.gov.uk	
Applicant	Ms Sarah Blyth, Chestnut Nursery School	
Development proposal		
Remove existing extract system and tie bracket and installation of plate axial fan in fan box. Installation of external condensing unit.		
Representations		
Object	Comment	Support
2	0	0

Main issues	Key considerations
1. Design & heritage	Impact on listed building.
2. Amenity	Odour, noise.
Expiry date	21 June 2019
Recommendation	Approve



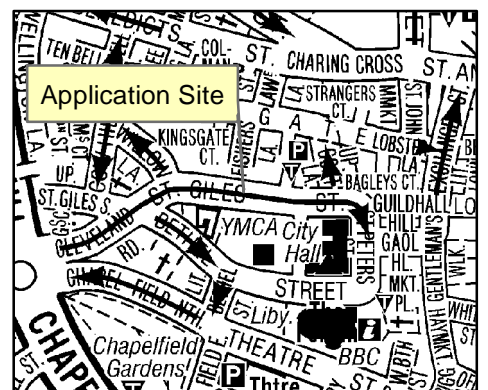
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Planning Application No 19/00301/F & 19/00302/L
 Site Address Chestnut Nursery School
 38A St Giles Street
 Scale 1:1,000



NORWICH
City Council

PLANNING SERVICES



The site, surroundings & constraints

1. The site is in use as a children's nursery and is accessed from St Giles Street within the city centre. This part of the site is just visible from Bethel Street, through an archway and yard.
2. 48 Bethel Street is Grade II listed.
3. The site sits within the City Centre Conservation Area.

Relevant planning history

Ref	Proposal	Decision	Date
4/1989/0581	Change of use from auction rooms to nursery (Class D1).	Temporary permission granted	22/08/1989
4/1991/0829	Continued use of premises as nursery (Class D1) originally granted in pursuance of a planning permission dated 22 August 1989 (app. no. 4890581/U).	Approved	05/12/1991
4/1996/0764	Extension in height of existing kitchen extract flue.	Refused	08/05/1997

The proposal

4. It is proposed within this application to replace a large metal flue with a small wall mounted box fan. The external flue appears to have been in place for a number of years. Following a report from neighbours, it became apparent that the building was curtilage listed (to 48 Bethel Street) and the flue did not benefit from listed building consent.
5. An air conditioning unit has also been installed beside the rear door to the nursery. This has been housed in a wooden box screen and is also the subject of this application.

Representations

6. Advertised on site and in the press. Adjacent and neighbouring properties have been notified in writing. 2 letters of representation have been received citing the issues as summarised in the table below.

Issues raised	Response
There are better solutions for the placement of the flue (through the roof) and the air conditioning unit (inside the building).	See Main Issue 1: Design & heritage.
The nursery should not operate here.	The applications do not relate to the use of the premises, which is lawful by virtue of planning permission ref 4/1991/0829.
Enforcement action is required.	See paragraph 28
Numerous comments and complaints regarding the ownership of the land on which the air conditioning unit stands.	This is not a material planning issue. See paragraphs 24-27.

Issues raised	Response
The existing flue causes noise and odour issues to the neighbouring property, 48 Bethel Street.	These applications do not relate to the existing flue.
The kitchen of the nursery is very small and we don't believe it has ever needed a flue/ventilation of this scale.	This comment refers to the existing flue which is significantly larger than the fan which is proposed.
It is unreasonable to allow the applicant 3 years to undertake the works.	The recommended 3 year time limit (condition 1 on each recommended list of conditions) is standard practice. See paragraph 28 regarding proposed enforcement proceedings.
A wall plated fan would discharge kitchen air close to the windows and back door of 48 Bethel Street.	See Main Issue 2: Amenity.

Consultation responses

7. 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.

Design and conservation

8. Full comments can be read online, but the conclusion is that despite the less than desirable nature of the installations, it is suggested that the most judicious course of action would be to approve the application (subject to conditions), including 'informative' advice clarifying the extent to which the works have been approved.

Environmental protection

9. Having received specifications and noise information sheets for the equipment, it appears that this is the same baffle filter that has been used previously and I have no record of odour complaints regarding the premises. Also, due to the small quantities of food cooked on the premises, this form of filtration should be fine. I am satisfied that its continued use will not result in a statutory nuisance providing it is regularly maintained.
10. From the noise data received, I would like a "time of use" condition to limit the use of the equipment to between the hours of 07:00 and 23:00 to be applied. This was previously discussed and verbally agreed during my visit to the premises.

Assessment of planning considerations

Relevant development plan policies

11. **Joint Core Strategy for Broadland, Norwich and South Norfolk adopted March 2011 amendments adopted Jan. 2014 (JCS)**
- JCS2 Promoting good design
 - JCS7 Supporting communities
12. **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
- DM9 Safeguarding Norwich's heritage
- DM11 Protecting against environmental hazards
- DM22 Planning for and safeguarding community facilities

Other material considerations

13. Relevant sections of the National Planning Policy Framework March 2012 (NPPF):

- NPPF0 Achieving sustainable development
- NPPF1 Building a strong, competitive economy
- NPPF6 Delivering a wide choice of high quality homes
- NPPF7 Requiring good design
- NPPF12 Conserving and enhancing the historic environment

Case Assessment

14. 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: Design & heritage

15. Key policies and NPPF paragraphs – JCS2, DM3, DM9, NPPF paragraphs 9, 17, 56 and 60-66, 128-141.
16. The building to which these applications relate appears to be a former hayloft/cart-shed, which is likely associated with 48 Bethel Street (Grade II listed). This opinion is supported by historic mapping data, which shows a curtilage wall to the rear of the building, separating it from development fronting St Giles Street. The council has therefore concluded that the building is curtilage listed. The building is therefore a designated heritage asset and is within the Conservation Area, which is also a designated heritage asset.
17. When determining applications for planning permission that affect Listed Buildings, the Council has a statutory duty under Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 to 'have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it [the building] possesses'. In addition, because the site is in a Conservation Area, Section 72(1) of the same Act places a duty on the council to pay special attention to the desirability of preserving or enhancing the character or appearance of the Conservation Area. Paragraph 193 of the NPPF states that 'great weight' should be given to preserving a heritage asset.

18. The existing unauthorised flue is in disrepair and is oversized for the small nursery kitchen that it serves. It was therefore suggested by officers that the current occupants should replace it with something smaller, causing less harm to the listed building and requiring less ongoing maintenance. The resultant proposal for a wall mounted fan reduces the harm caused to the listed building to a level that is acceptable.
19. An air conditioning unit (ACU) has also been installed on the ground beside the rear door to the nursery, again without consent. This has been housed in a wooden box which helps to screen the unit. It does not impact significantly on the appearance of the listed building.
20. The proposal to replace the flue reduces the harm to the appearance of the listed building to an acceptable level. The floor mounted ACU has a minimal impact on the historical interests of the building as it is not physically attached to it and is modest in scale and screened. Consequently, the application is acceptable in terms of it's impact upon heritage assets.
21. **Main issue 2: Amenity**
22. Key policies and NPPF paragraphs – DM2, DM11, NPPF paragraphs 9 and 17.
23. By virtue of its size, and the infrequent and day time use of the nursery, the wall mounted fan and air conditioning unit are not expected to cause significant noise or odour disturbance to the residential occupants of 48 Bethel Street or any other nearby residents. This has been confirmed by the council's Environmental Protection Officer following consideration of the material submitted with the application.

Other matters

Land ownership

24. One of the objectors to the scheme has raised issue with the ownership of the land on which the ACU stands.
25. The planning system entitles anyone to apply for permission to develop any area of land, irrespective of ownership. However, an applicant is required to notify owners of the land or buildings to which the application relates in accordance with article 13 of the Town and Country Planning (Development Management Procedure) (England) Order 2015. When making an application, an applicant is required to sign a certificate confirming the ownership of the land to which the application relates and that the relevant notices have been served.
26. In this case, the applicant correctly served notice on the owners of the land prior to the submission of the applications.
27. The grant of planning permission does not confer any additional rights over land that did not exist prior to approval being granted. If, as the objector maintains, the ACU is not on the applicant's land then this is a civil matter that needs to be resolved between the parties and is not a material consideration in determining either the planning application or the application for listed building consent.

Enforcement proceedings

28. Since the existing flue is harmful to the character and appearance of the listed building, officers intend to informally agree a timescale for the installation of the proposed wall-mounted fan. Should this timescale not be met, officers would proceed with the service of a formal enforcement notice to require the works to be carried out within a specified compliance period.

Equalities and diversity issues

29. There are no significant equality or diversity issues.

Local finance considerations

30. 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.

Conclusion

31. The proposed works have minimal impact on the amenity of nearby residents and would lead to less than substantial harm to the listed building. This less than substantial harm is outweighed by the public benefit of supporting the operation of the children's nursery.
32. The development is in accordance with the requirements of the National Planning Policy Framework and the Development Plan, and it has been concluded that there are no material considerations that indicate it should be determined otherwise.

Recommendation

To approve:

- (1) application no 19/00301/F, 38A St Giles Street Norwich NR2 1LL, subject to the following conditions:
1. Standard time limit;
 2. In accordance with plans;
 3. The equipment hereby approved shall not be operated between 23:00 and 07:00 on any day.
- (2) application no 19/00302/L, 38A St Giles Street Norwich NR2 1LL, subject to the following conditions:
1. Standard time limit;
 2. In accordance with plans;
 3. Damage to be made good;
 4. Localised repair to match;

5. Existing fabric to be retained;
6. Any historic features encountered to be retained and reported.

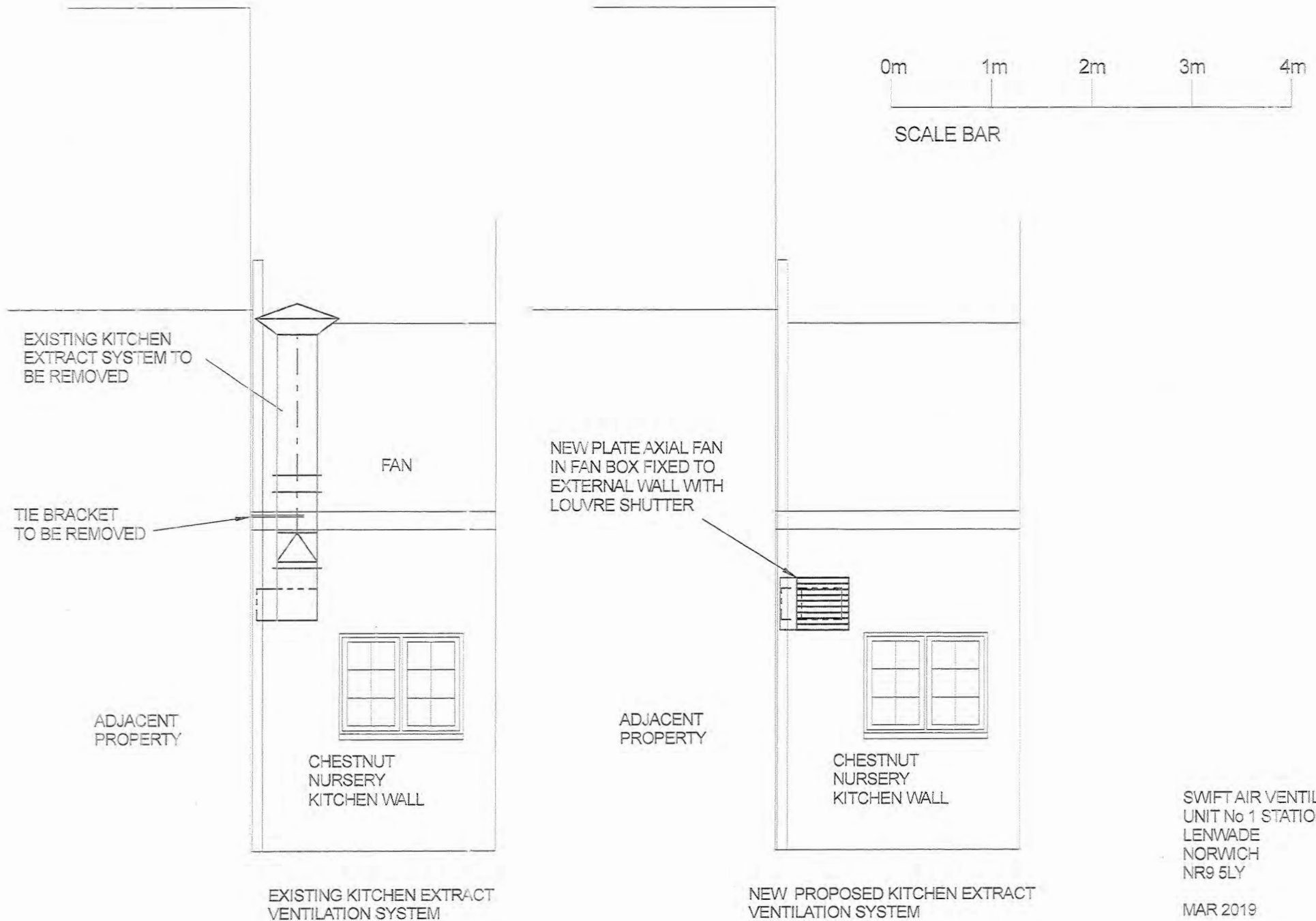
Informatives:

1. Only works shown are approved
2. Historic fabric to be retained

Reason for grant of listed building consent:

The proposal is minimally impactful upon the special character of this curtilage listed building and the host building.

CHESTNUT NURSERY PROPOSED ALTERATIONS TO KITCHEN VENTILATION



SWIFT AIR VENTILATION LTD.
UNIT No 1 STATION YARD
LENWADE
NORWICH
NR9 5LY

MAR 2019

DAIKIN

Air Conditioning
Technical Data

RX-K

