

**PLANNING COMMITTEE:** 19<sup>th</sup> December 2017  
**DIRECTORATE:** Regeneration, Enterprise and Planning  
**HEAD OF PLANNING:** Peter Baguley

**APPLICATION REF:** N/2017/1046

**LOCATION:** 194 - 200 Kingsthorpe Grove

**DESCRIPTION:** Variation of Conditions 13 & 14 of Planning Permission N/2015/1228 (Demolish former car showroom and erect building with retail (use A1) on ground floor and 14no. flats including new access and ancillary development, and creation of residential car parking area) to amend opening hours and delivery hours

**WARD:** Trinity Ward

**APPLICANT:** Venulum Trinity Limited  
**AGENT:** David Lock Associates

**REFERRED BY:** Head of Planning  
**REASON:** The application was previously approved by Planning Committee

**DEPARTURE:** No

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**APPLICATION FOR DETERMINATION:**

**1. RECOMMENDATION**

**1.1 APPROVAL IN PRINCIPLE** subject to the following:

- (1) Prior finalisation of a S106 legal agreement to secure permanent retention of the parking area on the satellite site at Trinity Avenue to serve the proposed apartments;
- (2) Financial contribution towards construction training; and
- (3) Planning conditions below and for the following reason:

The proposed development, subject to the revised condition, would continue to have no significant detrimental impact on the amenities of neighbouring occupiers, would be an appropriate development in the context of the site, producing a landmark feature which would not be out of keeping with the character and appearance of the area, and would represent an appropriate use for the site in respect of both the retail and residential elements of the proposal. The proposed development would therefore comply with Policies S2, S3, S9, S10, H1 and H2 of the West Northamptonshire Joint Core Strategy, Policy E20 of the Northampton Local Plan and the National Planning Policy Framework.

- 1.2 It is also recommended that in the event of the Legal Agreement not being completed within three calendar months of this Committee meeting, the Head of Planning be given delegated authority to either refuse or finally dispose of the application, at his discretion.

## **2. THE PROPOSAL**

- 2.1 The proposal refers to the development previously approved on this site for the erection of a two to four storey building, comprising 14 flats and a retail unit at the ground floor. This was subject to conditions, among others, controlling the opening hours (Condition 13) and the hours for delivery to the retail unit (Condition 14). The current submission is an application for the variation of these two related conditions, as set out below:

- The hours of opening would be amended from the approved hours of 8:00am and 10pm to add two extra hours per day, making the opening hours from 7:00am to 11:00pm. This would apply seven days a week.
- The hours for deliveries would be extended from the permitted hours of 8:00am to 8:00pm to add an extra two hours per day, making the hours for deliveries 7:00am to 9:00pm. This would apply on Mondays to Saturdays only.
- In addition to the above hours, it is also requested that one delivery of newspapers to a holding box, by means of a small van, is permitted, on any day when newspapers are published. This was originally to have been between the hours of 4:00am and 5:30am but this has been amended following negotiations, to be between 6:00am and 7:00am, just before the main deliveries.

## **3. SITE DESCRIPTION**

- 3.1 The application site comprises former car showroom premises on Kingsthorpe Grove which are now vacant, as well as an associated site on Trinity Avenue site, which was formerly used for car storage for the dealership. The building remains vacant.
- 3.2 The area around the site is generally characterised by housing, in the form of dense terraced housing and flats. There are some commercial premises in the area, notably the Romany Public House.

## **4. PLANNING HISTORY**

- 4.1 **N/2007/1344** - Demolition of existing buildings and erection of 19 apartments with vehicular access and parking at 194-200 Kingsthorpe Grove – Finally Disposed Of 05/03/2013.
- 4.2 **N/2015/1228** - Demolish former car showroom and erect building with retail (use A1) on ground floor and 14no flats including new access and ancillary development, and creation of residential car parking area. – Approved 14/09/2016.

## **5. PLANNING POLICY**

### **5.1 Statutory Duty**

Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires a planning application to be determined in accordance with the Development Plan unless material planning considerations indicate otherwise. The Development Plan for the purposes of this application comprises the adopted West Northamptonshire Joint Core Strategy (2014) and Northampton Local Plan (1997) saved policies.

## 5.2 National Policies

The National Planning Policy Framework (NPPF) sets out the current aims and objectives for the planning system and how these should be applied. In delivering sustainable development, decisions should have regard to the mutually dependent social, economic and environmental roles of the planning system. The NPPF should be read as one complete document. However, the following sections are of particular relevance to this application:

The NPPF has a presumption in favour of sustainable development.

Paragraph 17 sets out core planning principles that include seeking to secure high quality design and a good standard of amenity for existing and future occupiers; encouraging the effective use of land by using brownfield sites; managing patterns of growth to make fullest use of sustainable transport methods and in sustainable locations.

Paragraph 25 – requires that a sequential test should be applied to applications for main town centre uses that are not in an existing centre. Such uses should be located in town centres and then edge of centre locations and only if suitable sites are not available should out of centre sites be considered.

Paragraph 47 – requires Local Planning Authorities to meet objectively assessed housing needs for their area and to identify and update a supply of deliverable sites to provide 5-years' worth of housing against these requirements.

Paragraph 49 – housing applications should be considered with a presumption in favour of sustainable development.

Paragraph 56 – good design is a key aspect of sustainable development and should contribute to making places better for people.

## 5.3 West Northamptonshire Joint Core Strategy (2014)

The West Northamptonshire Joint Core Strategy (JCS) provides an up to date evidence base and considers the current Government requirements for plan making as it has been prepared in full conformity with the NPPF. Policies of particular relevance are:

Policy S1 – The distribution of development - in assessing the suitability of sites for development priority will be given to making best use of previously developed land and vacant and under-used buildings in urban or other sustainable locations contributing to the achievement of a West Northamptonshire target of 30% of additional dwellings on previously developed land or through conversions.

Policy S2 – Hierarchy of Centres - The vitality and viability of centres must be maintained and enhanced commensurate with their role and function.

Policy S3: Scale and Distribution of Housing Development – provision will be made for about 18,870 dwellings in the plan period 2011 to 2029.

Policy S9 – Distribution of Retail Development - proposals for new retail development which cannot be accommodated within the town centres will be subject to a sequential approach where first preference is given to well-connected edge of town centre sites, and then sites within district / local. Only if sequentially preferable sites are not suitable and available should out of centre sites be considered.

Policy S10 - Sustainable Development Principles – development will achieve the highest standards of sustainable design incorporating safety and security considerations, be located where services and facilities can be easily reached by non-car modes; protect, conserve and enhance the built environment; minimise pollution from noise, air and run-off.

Policy H1 - Housing Density and Mix and Type of Dwellings – new housing development will provide for a mix of house types, sizes and tenures having regard to the character of the area; accessibility to services and facilities and public transport; living conditions of future residents and impact on amenity of occupiers of neighbouring properties.

Policy H2 - Affordable Housing – required to be provided at 35% on sites of 15 dwellings or more.

Policy BN9 - Planning For Pollution Control - proposals for new development which are likely to cause pollution or likely to result in exposure to sources of pollution or risks to safety will need to demonstrate that they provide opportunities to minimise and where possible reduce pollution issues that are a barrier to achieving sustainable development and healthy communities.

#### 5.4 **Northampton Local Plan 1997 (Saved Policies)**

Due to the age of the plan, the amount of weight that can be attributed to the aims and objectives of this document are diminished, however, the following policy is material to this application:

Policy E20 – the design of new development should adequately reflect the character of the surrounding area and be designed and located to ensure adequate standards of privacy, daylight and sunlight.

#### 5.5 **Supplementary Planning Documents**

Northamptonshire County Parking Standards SPG 2003

Planning out Crime in Northamptonshire SPG 2004

### 6. **CONSULTATIONS/ REPRESENTATIONS**

Comments received are summarised as follows:

- 6.1 **Environmental Health** – Prepared to support the application for variation in hours as below: Opening hours 7am-11pm, Delivery hours 7am-9pm (Monday to Saturday). Maintain objection to deliveries taking place prior to 7am due to the potential for noise and disturbance to nearby residents.
- 6.2 **Councillor Jane Birch** - To extend the hours of traffic and noise disruption and disturbance to local residents is not in any way acceptable. This convenience store will have a significant detrimental impact on local residents due to increased traffic, vehicle and customer noise. The extension time for large delivery trucks is also not acceptable. Stanhope Road is narrow with cars parked either side. Large delivery trucks will completely block the road and make it impassable for residents. This development will already have a negative impact on the amenity of existing residents. To extend the opening and delivery times would extend the period of disturbance and disruption to these residents into the early mornings and night time.
- 6.3 24 representations received from 19 different nearby residential occupiers, making the following points in summary:
- Parking not adequate for flats and shop.
  - Concerned about safety with additional traffic.
  - Longer hours not necessary, already late opening shops in the area.

- There will be noise issues with deliveries – engines running, doors slamming.
- Additional deliveries will lead to parking issues, lorries will block access to car park.
- Increase traffic at the times of the day when the area has issues with congestion and noise.
- Can't understand how the development will serve the community.
- Nobody wanted this development in the first place.
- Potential customers will park inappropriately.
- Would lead to additional anti-social behaviour.
- Increased number of lorries will have a detrimental effect on surrounding roads.
- Most main bedrooms directly face the street and noise is amplified.
- The development is not appropriate within a residential area.
- Contrary to the convention on human rights for peaceful enjoyment of property.
- Applicants should have revealed their true intentions in the first application.
- Methodology of the noise test is incorrect, does not consider impact to the rear of properties on Kingsthorpe Grove, from additional movements in the car park.

## **7. APPRAISAL**

- 7.1 The issues to consider are the impact on the amenities of adjoining and nearby residential occupiers as a result of the proposed increase in opening and delivery hours.
- 7.2 The development has already been approved with the opening and delivery hours as set out in the original permission. Therefore the principle of development and any impact which may be considered to occur due to the opening and delivery hours as previously approved cannot now be reconsidered. The only issues which can be considered are the extent to which the impact of the development may be increased due to the proposed extension to the opening and delivery hours.
- 7.3 The proposal entails the increase of the opening and delivery hours from what was previously approved and required by condition, by one hour in the morning and one in the evening. This would result in the shop being open from 7am to 11pm on seven days per week and deliveries taking place between 7am and 9pm on Mondays to Saturdays only, with no deliveries on Sundays and Bank Holidays.
- 7.4 In addition, the proposal includes a request for an additional single delivery of newspapers between 4am and 5.30am on any day when newspapers are published. In practice this would be almost all days of the year, as the only day when no newspapers are published is Christmas Day.
- 7.5 In support of the application a noise report has been submitted. The conclusion of this is that the environment is dominated by traffic noise and that the increased opening hours would therefore have little additional impact.
- 7.6 This report has been considered by Environmental Health officers who have concluded that the increase in opening hours or in the principal delivery hours would not result in a significantly detrimental impact on neighbouring residents. The reasoning behind this being due to the fact that these times are within the normally expected period of "daytime" activities and due to the general environment which does feature significant traffic noise. Furthermore, as the proposal is only for an additional hour in the morning and evening, when it can reasonably be expected that the number of vehicles calling at the premises would not be significant.
- 7.7 On this basis it is therefore recommended that the application be approved in respect of the opening hours and principal delivery hours, given the minimal additional impact which would result. It is further considered that a refusal on the grounds of noise impact, which would be contrary to the advice of professional Environmental Health officers, would be difficult to defend at any subsequent appeal.

- 7.8 In respect of the additional proposal for one delivery of newspapers, this was originally proposed to be between the hours of 4.00am and 5.30am. It was considered that this would have a significant impact in terms of noise and disturbance to residents, due to the early hour of the morning proposed and the fact that this would take place on seven days per week, therefore including Sundays and Bank Holidays also.
- 7.9 These concerns were raised with the applicants and in response, an amendment to these earlier delivery times has now been proposed, from 6am to 7am, which is the hour just before the main delivery period. It has also been clarified that the proposed delivery box would be on the Stanhope Road frontage rather than at the rear of the shop.
- 7.10 There would only be deliveries from one small van during these hours, which would be used to simply drop off newspapers into a lockable box. Given that this would now be at a time of the day when there would be an increased traffic flow in the area, it is considered by officers, notwithstanding the comments made by Environmental Health, the impact of such deliveries would be minimal and would not be noticeable over and above normal activity at such times of the day. The wording of the condition has been amended following discussions with the applicants to define the type of vehicle which would be used and also the location, in general terms, of the delivery box. This will ensure that the effect of this one delivery is minimised.
- 7.11 Representations which have been received from neighbouring occupiers which raise a number of issues beyond the additional impact of the extended opening and delivery hours, referring to parking, highway safety and questioning the need for the development. These are issues which were considered when the application was originally approved and therefore these cannot be revisited at this time, as even if the current application for a variation of condition is to be refused, the original permission will remain valid and can be implemented with the original hours of opening and delivery.
- 7.12 It should also be noted that the original condition refers only to bank holidays. This is an oversight as this would allow deliveries on days which are in fact public holidays, such as Christmas Day. The wording of the condition is therefore recommended to be varied to state Bank and Public Holidays, which has also been agreed with the applicants.
- 7.13 As this is a S73 application to vary the planning conditions, the planning obligations that were previously secured by a legal agreement i.e. the permanent retention of the parking area on the satellite site at Trinity Avenue to serve the development, as well as contribution towards construction training would need to be secured again via either a S106 agreement or a unilateral undertaking by the applicant. The application is therefore recommended for approval in principle, subject to the finalisation of the necessary legal agreement.

## **8. CONCLUSION**

- 8.1 It is considered that the proposed increase in opening and delivery hours, by one hour in the morning and one in the evening would not result in a significant increase in noise and general disturbance to nearby residents, which would be sufficient to warrant a refusal of planning permission.
- 8.2 It is further considered that the proposal to have a single additional delivery on every day between 6am and 7am, by means of a small van, would not have a significantly detrimental impact as this would not generally be appreciable over and above ordinary background noise.

## **9. CONDITIONS**

1. The development hereby permitted shall be begun on or before the 14<sup>th</sup> September 2019.

Reason: To comply with Section 91 of the Town and Country Planning Act 1990.

2. The development hereby permitted shall be carried out in accordance with the following approved plans: VTL001-002, 997 – 001C, 997 – 002J, 997 – 003F, 997 – 004C, 997 – 010H, 997 – 011G, 997 – 012E.

Reason: For the avoidance of doubt and to accord with the terms of the planning application.

3. Details and/or samples of all proposed external facing materials shall be submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details.

Reason: In the interests of visual amenity and to ensure that the development will harmonise with its surroundings in accordance with Policies E20 and H6 of the Northampton Local Plan.

4. Notwithstanding the submitted plans, details of visibility splays for the access entrance to the proposed Trinity Avenue car park shall be first submitted to and approved in writing by the Local Planning Authority. The visibility splays shall be provided in accordance with the approved details prior to the car park on Trinity Avenue being brought into use and retained thereafter.

Reason: In the interests of amenity and to secure a satisfactory standard of development in accordance with Policy E20 of the Northampton Local Plan.

5. Prior to the commencement of any part of the development, a Construction Environmental Management Plan shall be submitted to, and approved in writing by, the Local Planning Authority. The Construction Environmental Management Plan shall include and specify the provision to be made for the following:

- Dust mitigation measures during the construction period;
- Control of noise emanating from the site during the construction period;
- Hours of construction work for the development;
- Arrangements during the construction period to minimise the deposit of mud and other similar debris on the adjacent public highways;
- Routing agreement for construction traffic
- Details of any temporary site construction access; and
- Loading and unloading arrangements for any large vehicles.
- The construction of the development shall be carried out in accordance with the approved Construction Environmental Management Plan unless otherwise approved in writing by the Local Planning Authority.

Reason: To protect the amenities of adjoining premises and to minimise the impact on the highway network, in accordance with the National Planning Policy Framework. This is a pre-commencement condition as it is essential that the plan is agreed prior to construction commencing.

6. Full details of the security measures including lighting to be incorporated into the development including the car park on Trinity Avenue shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved measures, which shall be in place before the commencement of the commercial use and the occupation of the residential accommodation.

Reason: To ensure a satisfactory standard and layout of accommodation is provided in the interests of the amenity of occupants in accordance with Policy S10 of the West Northamptonshire Joint Core Strategy.

7. No development shall take place until a surface water drainage scheme for the site, based on sustainable drainage principles and an assessment of the hydrological and hydro geological context of the development, has been submitted to and approved in writing by the local planning authority. The drainage strategy should demonstrate the surface water run-off generated up to and including the 1in100 year critical storm will not exceed the run-off from the undeveloped site following the corresponding rainfall event. The scheme shall subsequently be implemented in accordance with the approved details and no hard standing areas shall be constructed until the works have been carried out in accordance with the surface water strategy so approved.

Reason: To reduce the risk of flooding both on and off site in accordance with the NPPF and Policy 13 (q) of the Core Strategy for West Northamptonshire by ensuring the satisfactory means of surface water attenuation and discharge from the site. This is a pre-commencement condition as it is essential that the surface water drainage strategy is agreed in advance of construction work.

8. Prior to the occupation of the building for the uses hereby approved, a detailed scheme for the ownership and maintenance for every element of the surface water drainage system proposed on the site has been submitted to and approved in writing by the Local Planning Authority and the maintenance plan shall be carried out in full thereafter.

Reason: To ensure the future maintenance of drainage systems associated with the development in accordance with the NPPF.

9. No development shall take place until a desktop study, including a site walkover, in respect of possible contaminants within the site is completed and the need for a site investigation is determined. The scope and methodology of the desk top study and the site investigation report shall be submitted to the Local Planning Authority for approval. Any site investigation found to be required under shall be carried out and the results shall be used to produce a method statement for any remedial works (and a phasing programme), which shall be submitted to the Local Planning Authority for approval. All remedial works found to be required shall be fully implemented in accordance with the approved method statement and phasing programme. Confirmation of the full implementation of the scheme and validation report(s) shall be submitted to the Local Planning Authority within 2 weeks of completion (or within 2 weeks of completion of each respective phase). In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken and where remediation is necessary a remediation scheme must be prepared which is subject to the approval in writing of the Local Planning Authority. Following completion of measures identified in the approved remediation scheme a verification report must be prepared, which is subject to the approval in writing of the Local Planning Authority.

Reason: To ensure the effective investigation and remediation of contaminated land sites and in the interests of health and safety and the quality of the environment in accordance with Policy BN9 of the West Northamptonshire Joint Core Strategy. This is a pre-commencement condition as it is essential that any contaminants are identified early.

10. Prior to development commencing, the applicant shall submit to the Local Planning Authority an assessment of the noise exposure of each habitable room due to transportation noise and noise from any external plant from the proposed retail unit. This must take into account, the likely growth of traffic over the next 15 years. Noise levels shall be assessed in line with the standards set out in Table 1 of Northampton Borough Council's Planning Practice Guidance for noise sensitive developments affected by noise from transport sources

Where noise levels in any habitable room may exceed:

- Indoor habitable areas – LAeq, 16H 35 dB window open, during the daytime period (07:00 – 23:00)



- Bedrooms – LAeq, 8H 30 dB and LAMAX 45 dB (for 2+ events per hour) window open, during the night time period (23:00 – 07:00)

Or where the assessment identifies that whole or part of the development will fall within the LOAEL or SOAEL category, a scheme to protect any affected habitable rooms/bedrooms shall be submitted to the Local Planning Authority for written approval. For habitable rooms/bedrooms this will require the provision of a ventilation, or heat control system that enables the windows to be kept closed in warm weather. The approved scheme shall be implemented prior to the properties being occupied and retained thereafter.

Reason: In order to safeguard the amenities of future occupiers in accordance with Policy S20 of the West Northamptonshire Joint Core Strategy. This is a pre-commencement condition as it is essential that these details are agreed before construction can commence.

11. Before the development hereby permitted commences a scheme shall be agreed with the Planning Authority that specifies the external sources of noise on the site and the provisions to be made for its control (this might include air conditioning units and extract fans). The scheme agreed shall be implemented prior to the development coming into use and shall be retained thereafter and the applicant shall demonstrate that the scheme agreed has achieved its design criteria.

Reason: In order to safeguard the amenities of adjoining/nearby occupiers. In accordance with Policy S20 of the West Northamptonshire Joint Core Strategy. This is a pre-commencement condition as it is essential that these details are agreed before construction can commence.

12. Before the development hereby permitted commences, details of the provision for the storage and collection of refuse and materials for recycling shall be submitted to the Local Planning Authority for approval. The scheme agreed shall be implemented prior to the development coming into use and shall be retained thereafter.

Reason: In order to safeguard the amenities of adjoining/nearby occupiers, in accordance with Policy S10 of the West Northamptonshire Joint Core Strategy and the National Planning Policy Framework. This is a pre-commencement condition as it is essential that these details are agreed before construction can commence.

13. The retail unit on the ground floor of the development hereby approved shall not remain open to the public between the hours of 23:00 and 07:00 on any day.

Reason: In the interests of the protection of residential amenities in accordance with Policy S10 of the West Northamptonshire Joint Core Strategy and the National Planning Policy Framework.

14. Deliveries to or collection from the retail premises shall not take place before 07:00 or after 21:00 hours on Mondays to Saturdays or at any time on Sundays or Bank or Public Holidays, with the exception of a single of delivery of newspapers between 06:00 and 07:00 hours on any day that newspapers are produced and delivered to the retail premises by means of a vehicle no larger than a Category N1 vehicle as defined by the Vehicle Certification Agency (or a vehicle equivalent to such current category in the event of a future change of categorisation or certification body) to a holding box on the Stanhope Frontage of the site.

Reason: In the interests of the protection of residential amenities in accordance with Policy S10 of the West Northamptonshire Joint Core Strategy and the National Planning Policy Framework.

15. Full details of the method of the treatment of the external boundaries of the site, including the boundary of the satellite parking area on Trinity Avenue, shall be submitted to and approved in writing by

the Local Planning Authority, implemented prior to the first occupation of the development hereby permitted and retained thereafter.

Reason: To ensure that the boundaries of the site are properly treated so as to secure a satisfactory standard of development in accordance with Policy S10 of the West Northamptonshire Joint Core Strategy.

**10. BACKGROUND PAPERS**

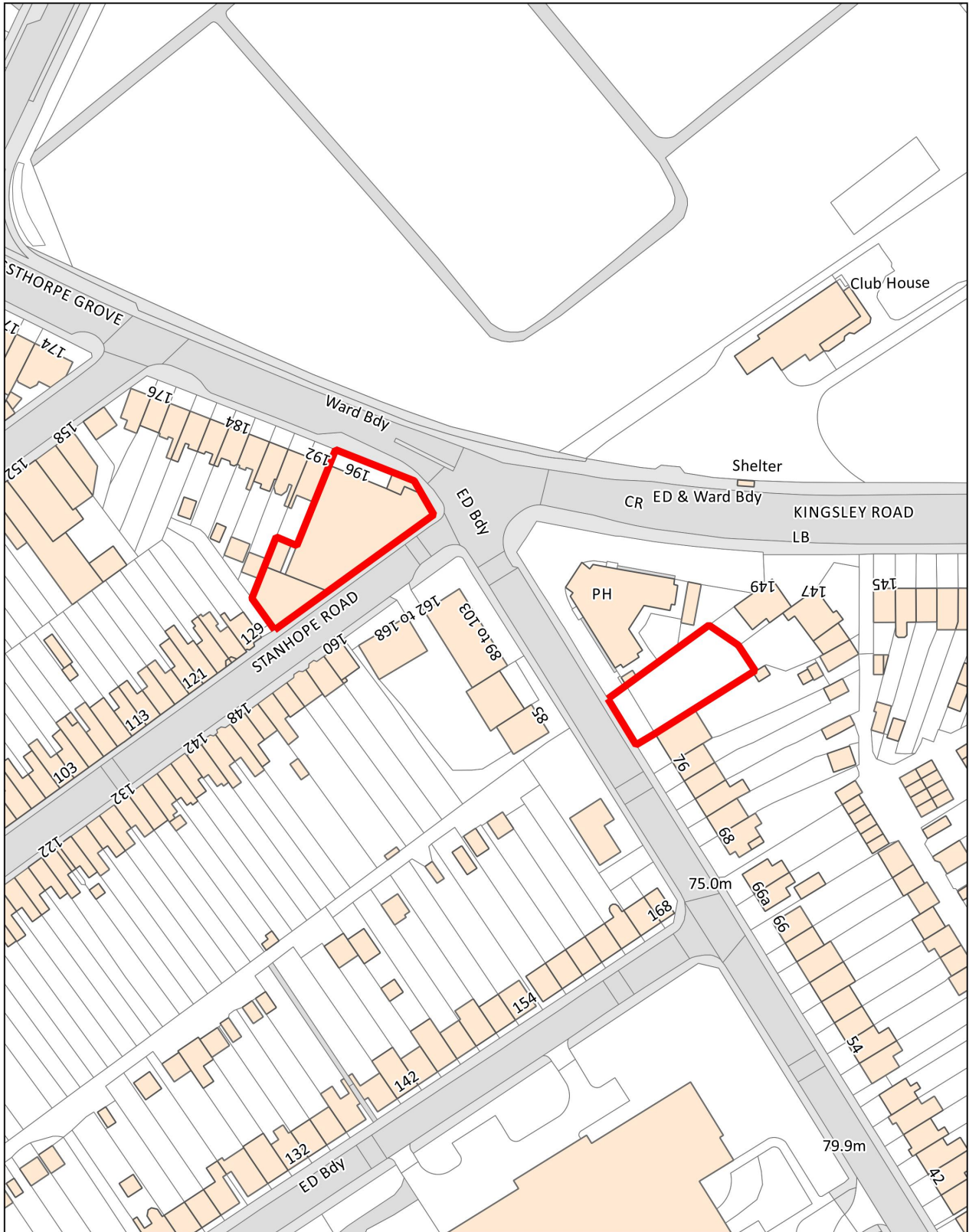
10.1 Application files N/2015/1228 and N/2017/1046.

**11. LEGAL IMPLICATIONS**

11.1 The development is CIL liable.

**12. SUMMARY AND LINKS TO CORPORATE PLAN**

12.1 In reaching the attached recommendations regard has been given to securing the objectives, visions and priorities outlined in the Corporate Plan together with those of associated Frameworks and Strategies.



Title: **194-200 Kingsthorpe Grove**

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Date: 07-12-2017

Scale: 1:1,250

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