



PLANNING COMMITTEE: 22nd December 2020
DEPARTMENT: Planning Service
DIRECTOR OF PLANNING: Peter Baguley

APPLICATION REF: N/2020/1118

LOCATION: 2 Mercers Row

DESCRIPTION: Change of Use of Basement and Ground Floor from Estate Agents (Use Class E) to Hot Food Takeaway (Sui Generis), including installation of extraction flue system. Change of Use of Upper Floors from Offices (Use Class E) to House in Multiple Occupation (Use Class C4) for 4 occupants. Associated internal and external alterations to shop front and new flue

WARD: Castle Ward

APPLICANT: Mr S Rajkumar
AGENT: Anva

REFERRED BY: Councillor D Stone
REASON: Overdevelopment

DEPARTURE: No

APPLICATION FOR DETERMINATION:

1 RECOMMENDATION

1.1 APPROVAL subject to the conditions as set out below and for the following reason:

The principle of the proposed uses as a 4 person HIMO and takeaway are considered acceptable in this location in line with national policy requirements to deliver a wide choice of homes and appropriate town centre uses. The proposed HIMO layout would provide adequate facilities for 4 occupants and is located within the town centre where by definition there would not be an impact on the residential character of the area. The proposal would not have an unacceptable impact upon the character and appearance of the Conservation Area, street scene, or host property, nor an unacceptable impact upon neighbouring amenity and highway safety. The proposal thereby complies with the National Planning Policy Framework; Policies H1, H5, BN5, BN7, BN9, N1 and S10 of the West Northamptonshire Joint Core Strategy; policies 1 and 16 of the Central Area Action Plan, and the Council's adopted Houses in Multiple Occupation Supplementary Planning Document.

2 THE PROPOSAL

- 2.1 The application proposes to convert the ground floor of the unit into a hot food takeaway and erect an associated flue, and the upper floors to a house in multiple occupation.
- 2.2 During the course of the application, the proposal has been amended to remove a proposed roof extension, reduce the number of HMO occupiers to 4, and undertake internal rearrangements.

3 SITE DESCRIPTION

- 3.1 The application site is located on the northern side of Mercers Row, near the junction with Drapery and comprises a four storey building. The site has been vacant for an extended period but was previously used as an estate agents with associated offices above. The application building is locally listed and the site is located within the All Saints Conservation Area.

4 PLANNING HISTORY

- 4.1 N/2010/0720 – Change of use of first, second and third floor from jewellers to tattoo studio – Approved

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 Central Area Action Plan (2013).

Sections 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 require Local Planning Authorities when considering development to pay special attention to the desirability of preserving or enhancing the character or appearance of a conservation area.

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:

Paragraph 72 (c) - ensure that a variety of homes to meet the needs of different groups in the community will be provided.

Paragraph 127 (f) - seeks to create safe and healthy places with a high standard of amenity for existing and future users.

Section 12 – seeks to achieve well designed places

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:

S1 – Distribution of development, S3 – Scale and distribution of housing development, S10 – Sustainable development, H1 – Housing Density and Mix and Type, H5- Managing the existing housing stock, BN5 – Historic environment, BN7 – Flood risk, BN9 – Pollution control, N1 – The regeneration of Northampton.

5.4 Northampton Central Area Action Plan (2013)

- 1 – Promoting Design Excellence
- 13 – Improving the retail offer
- 16 – Central Area Living

5.5 **Supplementary Planning Documents**

Northampton Parking SPD (2019)
Planning out Crime in Northamptonshire SPG 2004
All Saints Conservation Area Appraisal and Management Plan 2007
Houses in Multiple Occupation (HIMO) SPD (2019)

Proposals for HIMOs should:

- Contribute towards the creation of a balanced and mixed community and protect the physical character of the street and the neighbourhood as a whole. It should not result in a material change or an adverse impact on the character and amenity of the area. No more than 10% of properties within a 50m radius shall be HIMOs in order to prevent over concentration of similar uses in one locality.
- Secure the provision of adequate facilities, amenities and refuse disposal.
- Minimise flood risk.
- Secure provision of adequate parking whilst promoting sustainable travel movements;
- Ensure provision of adequate storage for refuse and materials for recycling.

6 **CONSULTATIONS/ REPRESENTATIONS**

Comments received are summarised as follows:

- 6.1 **NBC Private Sector Housing** – No objection – advise that property will require licencing, that property is suitable for 4 occupants as proposed, that adequate kitchen and sanitary facilities are provided, and that details of a fire protection system will be required when applying to licence.
- 6.2 **NBC Public Protection** – No objection. Request conditions requiring a noise assessment, fume extraction system, controlling opening hours of the takeaway, air quality, refuse storage, waste collections and deliveries, and the control of fats, oils and grease, and an informative on construction times.
- 6.3 **NBC Conservation Officer** – No objection. The upper floor metal windows are original and should be retained and secondary glazed if required for thermal or acoustic reasons. A condition requiring details of any required alterations is suggested. The extract flues on the roof should not be unduly prominent but should be colour coated.
- 6.4 **NCC Highways** – No comment to make on application.
- 6.5 **Town Centre Conservation Area Advisory Committee** – Welcome removal of proposed loft extension. Over concentration of hot food takeaways in the area which has visual impact and adverse impact on conservation area due to rubbish and stained pavements. Principle of residential use for upper storeys acceptable, object to HIMOs as not considered appropriate in conservation areas as should be high quality uses and dwellings. Proposed units have poor amenity and little living space. Existing upper windows are original and should be retained. Any replacement windows should be metal.
- 6.6 **Councillor Danielle Stone** – Quality shops and dwellings needed in town centre. Proposal over development and out of keeping with the area. Bad to propose a HIMO over a fast food outlet.
- 6.7 No neighbour letters have been received.

7 **APPRAISAL**

Principle of development

- 7.1 The application proposes the conversion of the ground floor into a takeaway and the upper floors into a 4 person HIMO. The application site is located within a secondary shopping frontage. Policy 13 of the CAAP outlines that within the secondary frontages the change of use from retail will be allowed where it will not result in a significant decline in the total length of identified retail frontage below 60%. This 60% requirement has been superseded by the revised NPPF (2018) which does not require policies on frontages, and the policies within the Central Area Action Plan are being replaced by the Northampton Local Plan Part 2. As such the requirement for no less than 60% retail frontage within secondary shopping areas can no longer be required as this has been replaced by the more recent requirements of the revised NPPF.
- 7.2 Whilst the limit of 60% cannot be required, Policy 13 of the CAAP does outline that ground floor levels will be expected to contribute to the character and function and be compatible with adjoining uses, and provide high quality shop frontages.
- 7.3 The application site is located within the town centre. The NPPF emphasises that town centres should be able to grow and diversify and identifies that town centre living is a suitable town centre use. Policy 16 of the CAAP identifies that residential accommodation within the town centre is to be supported. Policy S2 of the JCS seeks to ensure the vitality and viability of the town centre is maintained and enhanced. Policy H5 of the JCS allows for HIMOs where the proposal would not adversely impact on the character of the area and amenity of residential areas.
- 7.4 The HIMO SPD (2019) outlines that no more than 10% of properties within a 50m radius of the property can be HIMOs in order to prevent over concentration of similar uses within one locality. It is the case that the intention of this policy is to protect the character and appearance of residential areas and to restrict the number of residential units used as HIMOs.
- 7.5 The application site is located within the town centre, and whilst flats have been approved in the locality, only those which are completed at this time can be counted when calculating the concentration. As currently the vast majority of units within 50 metres of this property are non-residential, when calculating the percentage of HIMOs within the vicinity, the calculation only includes an assessment of those properties in residential use. As such, if a site is located within a non-residential area, any figure would be distorted to appear higher due to the lower number of residential units. Within 50 metres of this site there is one other HIMO property and 18 residential units. This would equate to 11.1% concentration when including the HIMO proposed.
- 7.6 Whilst above the 10% threshold, this 10% threshold does not relate to circumstances within the town centre and the purpose of this threshold is not to restrict development within the town centre, but rather to restrict the number of dwellings being converted into HIMOs within residential areas outside of the town centre.
- 7.7 As such, whilst the development would be over the 10% guidance threshold at this point in time, this is not considered a sufficient reason for refusing the scheme as the intention of the 10% threshold does not relate to this location within the town centre.
- 7.8 With regards to the proposed conversion of the ground floor into a hot food takeaway, this is an appropriate town centre use and is considered acceptable in principle. The application site has been empty for a considerable time and this would be an opportunity to bring a town centre unit back into use. Whilst the objection from the Town Centre Conservation Area Advisory Committee and Ward Councillor to a takeaway is noted, a takeaway is an appropriate town centre use and would bring a vacant building back into use.

The impact of the proposed conversion on the character and appearance of the host property, street scene and Conservation Area

- 7.9 The application is predominantly for the conversion of the property and the external appearance would remain largely akin to that existing. The only exterior alteration proposed is the insertion of a flue, which would be placed in the north-western corner to reduce its appearance from outside of the site.
- 7.10 The Council's Conservation Officer has been consulted on this proposal and advises that the application site relates to a good example of a 1920s commercial building that is locally listed and makes a positive contribution to the character and appearance of All Saints Conservation Area. The building is in a sensitive and significant setting. No objection is raised to the proposed use of the ground floor as a takeaway, which would not harm the character of the conservation area; it is further advised that the extraction flue at the rear would not be unduly prominent. The Conservation Officer advises that the retention of the existing corner entrance is important and the alteration to the shopfront on Drum Lane to re-open an entrance to the upper floors is acceptable. The Conservation Officer advises that the residential use of the upper floors is also acceptable in principle as a means of bringing the whole of the building into use.
- 7.11 The Conservation Officer advises that the upper floor metal windows are original and should be retained and that any replacement windows at ground floor should be metal. A condition requiring details of any required alterations and details of the flue is proposed.
- 7.12 The Town Centre Conservation Area Advisory Committee (TCCAAC) object to the provision of a takeaway due to rubbish from this impacting on the appearance of the Conservation Area. Subject to suitable waste provisions being provided, it is not considered that the use of the building for a takeaway within the town centre would have an unacceptable impact upon the appearance of the Conservation Area. Furthermore, the TCCAAC object to the provision of a HIMO as the uses in a Conservation Area should be high quality and dwellings. The application site is located within the town centre where it is appropriate to have residential uses above commercial properties. The use of the building as a HIMO, which could be high quality itself, as opposed to a residential flat and does not impact upon the appearance of the Conservation Area.

Amenity

- 7.13 The proposal is for a 4 bedroom, 4 person HIMO within the upper floors. At first floor a communal kitchen with living room is provided, alongside a toilet with sink. At second floor two bedrooms are provided alongside a shower room. At third floor two bedrooms are provided alongside a further shower room. Bin storage is shown at ground floor level, with a cycle storage area within the basement.
- 7.14 All of the proposed bedrooms exceed the minimum bedroom sizes within the HIMO SPD, and the proposed communal space (kitchen/dining room and lounge) and bathroom facilities also exceed that required within this SPD. It is therefore considered that adequate living facilities for the occupiers of the proposed HIMO are provided. NBC Private Sector Housing have been consulted on the application and no objection has been raised.
- 7.15 With regards to the relationship between the proposed HIMO and the proposed takeaway use, Public Protection have raised no objection to the proposal subject to conditions controlling noise, fumes, opening hours, air quality, refuse storage, waste collections and deliveries, and the control of fats, oils and grease.
- 7.16 The proposed change of use and new flue is not considered to impact upon any existing neighbouring amenity within the vicinity of this site.

Flood risk

- 7.17 The site is located outside the areas at risk of flooding.

Parking/use of public transport

- 7.18 The application site is located within the town centre of Northampton, within a sustainable location that is within walking distance of bus stops and facilities within the town centre. It is, therefore, considered that a nil parking provision would be acceptable on this site.
- 7.19 NCC Highways have been consulted on the proposal and have raised no objection.
- 7.20 The proposal includes an internal cycle store for the HIMO occupants. A condition requiring the provision of this pre-occupation is proposed.

Refuse store

- 7.21 The proposal has been designed to ensure that the HIMO use and takeaway use are separate within the building and that a person using the takeaway cannot access the HIMO and vice versa. A refuse store for the HIMO is provided at ground floor level. The takeaway is provided with a basement kitchen with store rooms, within which a refuse store could be provided. A condition requiring details of this and the provision of each store before occupation/first use is proposed.

8 CONCLUSION

- 8.1 To conclude, it is considered that the principle of the proposed uses as a 4 person HIMO and takeaway are acceptable in this location in line with national policy requirements to deliver a wide choice of homes and appropriate town centre uses. The proposed HIMO layout would provide adequate facilities for 4 occupants and is located within the town centre where by definition there would not be an impact on the residential character of the area. The proposal would not have an unacceptable impact upon the character and appearance of the Conservation Area, street scene, or host property, nor an unacceptable impact upon neighbouring amenity and highway safety. The proposal thereby complies with the National Planning Policy Framework; Policies H1, H5, BN5, BN7, BN9, N1 and S10 of the West Northamptonshire Joint Core Strategy; policies 1 and 16 of the Central Area Action Plan, and the Council's adopted Houses in Multiple Occupation Supplementary Planning Document.

9 CONDITIONS

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

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: Location plan 1:1250, 049.20/5 Rev C, 049.20/06 Rev D, 049.20/07 Rev D, 049.20/08 Rev D.

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

3. Prior to the commencement of development, full details of all proposed external facing materials (including details of any replacement windows with sections and details of the flue coating) 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 Policy BN5 of the West Northamptonshire Joint Core Strategy. This is a pre-commencement condition to enable timely submission of information.

4. Prior to the commencement of development, a full noise survey and assessment must be submitted to and approved in writing by the Local Planning Authority. The noise survey must take into account existing noise sources likely to affect future occupiers of the proposed HMO and potential noise nuisance from the proposed commercial kitchen extraction system on existing and proposed residential receptors alongside mitigation for this. Any proposed mitigation must ensure

that the internal noise climate for each habitable room for both new and existing residential receptors should achieve compliance with BS8233: 2014 recommended Internal ambient noise level guidelines and the commercial kitchen extraction system should be rated to operate at 10 dB below the existing measured background noise level to avoid background noise creep. The approved mitigation shall be provided in full on site prior to first use of the takeaway and House in multiple occupation hereby permitted and retained thereafter.

Reason: In the interests of securing a satisfactory standard of development, in accordance with the requirements of Policy S10 of the West Northamptonshire Joint Core Strategy. This is a pre-commencement condition to enable timely submission of information.

5. Prior to the commencement of development and notwithstanding the submitted details, precise details of a fume extract system for the takeaway use hereby permitted (including high end abatement technology) shall be submitted to and approved in writing by the Local Planning Authority. The system shall be provided on site in full accordance with the approved details prior to first use of the takeaway hereby permitted and shall thereafter be maintained in accordance with the approved details.

Reason: In the interests of securing a satisfactory standard of development, in accordance with the requirements of Policy S10 of the West Northamptonshire Joint Core Strategy. This is a pre-commencement condition to enable timely submission of information.

6. Prior to the commencement of development, a comprehensive health exposure assessment with regards to air quality, including mitigation measures, and with due regard to the Council's adopted Low Emission Strategy, shall be submitted to and approved in writing by the Local Planning Authority. The approved mitigation measures shall be undertaken in full accordance with the details prior to first occupation and retained in full working condition at all times thereafter.

Reason: In the interests of securing a satisfactory standard of development, in accordance with the requirements of Policy S10 of the West Northamptonshire Joint Core Strategy. This is a pre-commencement condition to enable timely submission of information.

7. Prior to the commencement of development, a scheme for the collection, treatment and disposal of fats oils and grease and maintenance of the plant (to meet BS EN 1825:2002 standards) shall be submitted to and approved in writing by the Local Planning Authority. The approved details shall be implemented in full prior to the first use of the takeaway hereby permitted and retained at all times thereafter.

Reason: In the interests of securing a satisfactory standard of development, in accordance with the requirements of Policy S10 of the West Northamptonshire Joint Core Strategy. This is a pre-commencement condition to enable timely submission of information.

8. The house in multiple occupation hereby permitted shall be occupied by a maximum of 4 residents at any one time.

Reason: In the interests of amenity of the proposed occupiers and the surrounding area in accordance with Policies H1 and H5 of the West Northamptonshire Joint Core Strategy

9. Prior to first occupation of the House in Multiple Occupation hereby permitted, the bin store for this use as shown within plan 049.20/05 shall be provided in full and retained at all times thereafter.

Reason: In the interests of amenity and to secure a satisfactory standard of development in accordance with Policies H1 and H5 of the West Northamptonshire Joint Core Strategy and the National Planning Policy Framework.

10. Prior to first occupation of the House in Multiple Occupation hereby permitted, the bike store for this use as shown within plan 049.20/05 shall be provided in full and retained at all times thereafter.

Reason: In the interests of amenity and to secure a satisfactory standard of development in accordance with Policies H1 and H5 of the West Northamptonshire Joint Core Strategy and the National Planning Policy Framework.

11. Prior to first use of the takeaway hereby approved, details of a bin storage area for the use hereby approved shall be submitted to and approved in writing by the Local Planning Authority. The approved bin storage area shall be provided on site prior to first use of the takeaway and retained at all times thereafter.

Reason: In the interests of amenity and to ensure a satisfactory standard of development in accordance with the requirements Policy S10 of the West Northamptonshire Joint Core Strategy and the National Planning Policy Framework.

12. The ground floor takeaway premises shall be open to the public only between the hours of 11am to 11pm Mondays to Saturdays and 12 midday and 10pm on Sundays and Bank and Public Holidays and at no other times.

Reason: To ensure that the development does not prejudice the amenities of residential occupiers in the vicinity of the development in accordance with the requirements of Policy BN9 of the West Northamptonshire Joint Core Strategy.

13. No collections or deliveries to the takeaway unit hereby approved shall occur between the hours of 23:00 hours and 07:00 hours on any day.

Reason: To ensure that the development does not prejudice the amenities of residential occupiers in the vicinity of the development in accordance with the requirements of Policy BN9 of the West Northamptonshire Joint Core Strategy.

Informatives

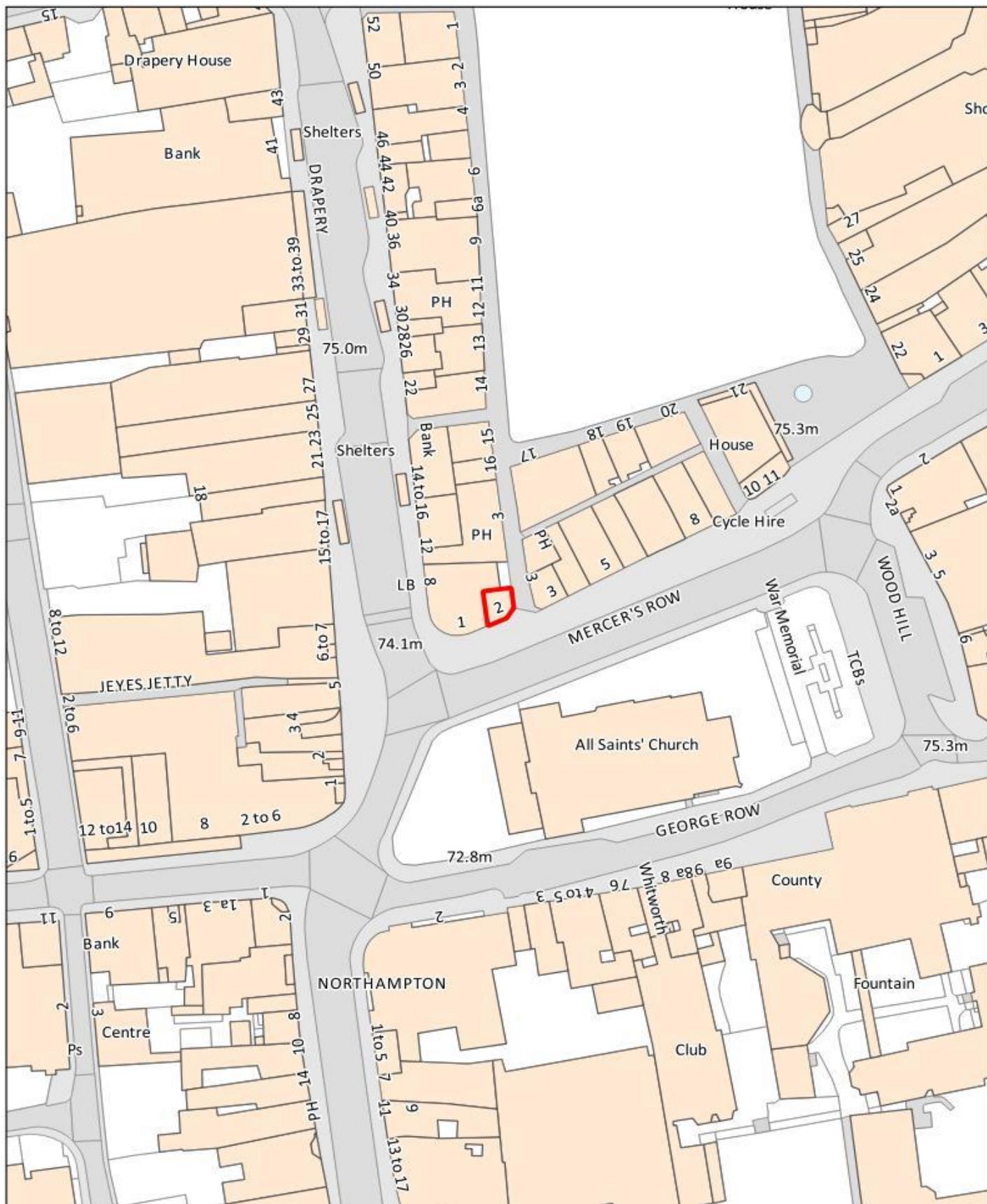
1. It is recommended that the applicants chosen consultants contact the Environmental Protection Team at epadmin@northampton.gov.uk to agree the scope/assessment methodology in advance for conditions 4, 5, 6 and 7.
2. Environmental Health advise that in order to reduce the likelihood of local residents being subjected to adverse levels of noise annoyance during construction, work on site must not occur outside the following hours: -
Monday – Friday 7.30 a.m. – 18.00 p.m.
Saturday 8.30 a.m. – 13.00 p.m.
NO WORK ON SUNDAYS & BANK HOLIDAYS.
3. Private Sector Housing advise that the property will require licensing under the additional licensing scheme. Full details, application forms, schedule of fees and guidance can be accessed at: <http://northampton.gov.uk/info/200144/landlords/1288/houses-in-multiple-occupation-hmos>
Reference should be made by the applicant to the guide downloadable at: <http://www.northampton.gov.uk/downloads/download/2875/hmo-amenities-guide>.

10 LEGAL IMPLICATIONS

- 10.1 The development is not CIL liable.

11 SUMMARY AND LINKS TO CORPORATE PLAN

11.1 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.



NORTHAMPTON
BOROUGH COUNCIL

Title: **2 Mercers Row**

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Date: 10-12-2020

Scale: 1:1,000

Drawn by: -----