

## BOROUGH OF KETTERING

<b>Committee</b>	<b>Full Planning Committee - 01/03/2011</b>	<b>Item No: 5.1</b>
<b>Report Originator</b>	<b>Mark Coleman Assistant Development Officer</b>	<b>Application No: KET/2010/0727</b>
<b>Wards Affected</b>	<b>Slade</b>	
<b>Location</b>	<b>19A High Street, Broughton</b>	
<b>Proposal</b>	<b>Full Application: Change of use of ground floor from retail to hot food take-away</b>	
<b>Applicant</b>	<b>Mr M Dainty</b>	

### **1. PURPOSE OF REPORT**

- To describe the above proposals
- To identify and report on the issues arising from it
- To state a recommendation on the application

### **2. RECOMMENDATION**

THE DEVELOPMENT CONTROL MANAGER RECOMMENDS that this application be APPROVED subject to the following Condition(s):-

1. The development hereby permitted shall be begun before the expiration of 3 years from the date of this planning permission.

REASON: To comply with Section 91 of the Town and Country Planning Act 1990 (as amended) and to prevent an accumulation of unimplemented planning permissions.

2. Notwithstanding the proposed rear flue shown on amended plan MCS 10 79 - 02A, received 31st January 2011, which is not approved, no development shall commence until details of the air extraction and odour control system associated with the cooking equipment to be installed and a flue(s) to be used in conjunction, has been submitted to and approved in writing by the Local Planning Authority. The approved system shall be implemented and retained thereafter for the duration of the use, and maintained in accordance with the approved details. No other cooking equipment may be installed or used on the premises without the prior written consent from the Local Planning Authority. In the event that these requirements are not complied with, the use shall immediately cease.

REASON: For the purpose of protecting the amenity of neighbouring properties and the surrounding area in terms of odour, in accordance with the aims of policy 2 of the East Midlands Regional Plan, and Policy 13 of the North Northamptonshire Core Spatial Strategy.

3. No development shall commence until a scheme for sound insulation of the kitchen extraction system required by condition 2 has been submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be implemented and retained thereafter for the duration of the use, and maintained in accordance with the approved details. In the event that these requirements are not

complied with, the use shall immediately cease.

REASON: For the purpose of protecting the amenity of neighbouring properties and the surrounding area in terms of noise, in accordance with the aims of policy 2 of the East Midlands Regional Plan, and Policy 13 of the North Northamptonshire Core Spatial Strategy.

4. The use hereby approved shall not operate outside the hours of 11.30am and 21.30 on Monday to Saturday and at no time whatsoever on Sundays and recognised Bank/Public Holidays. No customer shall be admitted to, or allowed to remain on the premises outside the specified hours of operation.

REASON: For the purpose of protecting the residential amenity in terms of odour and noise, in accordance with the aims of policy 2 of the East Midlands Regional Plan, and Policy 13 of the North Northamptonshire Core Spatial Strategy.

5. No deliveries to or collections from the development hereby approved shall take place outside the hours of 07.00am - 21.30 Monday to Saturday and at no time whatsoever on Sundays and recognised Bank/Public Holidays

REASON: For the purpose of protecting residential amenity with regard to noise, in accordance with the aims of policy 2 of the East Midlands Regional Plan, and Policy 13 of the North Northamptonshire Core Spatial Strategy.

6. Prior to the commencement of the use hereby approved, a scheme for the storage and management of recycling/refuse shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall include details relating to method of containment for individual materials (including screening of the storage area), frequency of collection arrangements, and demonstrate that recycling/waste reduction is achieved. The approved scheme shall be implemented and retained thereafter for the duration of the use.

REASON: For the purpose of protecting the amenity of neighbouring properties and the surrounding area in terms of odour control and nuisance from pests, and improve the environmental performance of the use in accordance with the aims of policy 2 of the East Midlands Regional Plan, and Policy 13 and 14 of the North Northamptonshire Core Spatial Strategy.

7. No materials, goods, consumables, or refuse shall be stored in outside areas, unless in accordance with the approved scheme for recycling/refuse storage required by condition 6 of this planning permission.

REASON: For the purpose of protecting the amenity of immediate neighbouring properties in terms of odour and nuisance from pests, in accordance with the aims of policy 2 of the East Midlands Regional Plan, and Policy 13 of the North Northamptonshire Core Spatial Strategy.

Notes (if any) :-

- In submitting schemes for the control of fume, odour and noise the developer shall have regards to the 'Guidance on the Control of Odour and Noise from Commercial Kitchen Exhaust Systems', a report prepared by Netcen on behalf of the Department for Environment, Food and Rural Affairs, and published in January 2005. Prepared details seeking to control issues of noise and odour

should also specify control mechanisms relating to existing openings on the premises.

### **Justification for Granting Planning Permission**

The proposal is in accordance with national and local policies as set out in Planning Policy Statements/Guidance Notes 1, 4, 13, 23, 24, Policies 2, 3, 27, 36 of The East Midlands Regional Plan, Policies 1, 9, 11, 13, 14 of the North Northamptonshire Core Spatial Strategy and Policy 99 of the Local Plan for Kettering Borough. The issues relating to noise, odour, highway safety, access, congestion, parking, litter, crime and disorder, human health impacts, and the Broughton Parish Plan are material planning considerations and, in reaching the decision to approve the proposal, have been carefully weighed against all relevant policy considerations.

## Officers Report

### 3.0 Information

#### Relevant Planning History

KE/98/0241 – [19A High Street] Change of use (5/6 telephones, a fax and photocopier service, telesales operation, for company and the sale of stationary items to the public) (Approved)

KE/97/0589 – [19A High Street] Change of Use to Coffee Shop and Bakery (Approved)

KE/96/0634 – [19A High Street] Change of Use to A3 hot food take-away (Refused)

KET/2006/0234 [13 High Street, Broughton] Change of Use from Post Office to A5 Take-away (Refused)

KE/04/1227 [1 Northampton Road, Broughton] Single storey side extension to form new chip shop takeaway (Refused)

Officer's site inspection was carried out on 9<sup>th</sup> February and 15<sup>th</sup> February 2011. The site is located in the centre of Broughton, directly on the High Street leading through the village. The site is occupied by a two storey building erected in 1907. The building has significant architectural merit, constructed from ironstone, with limestone quoins, date stone, lintel and surrounds, and stone moulded shop front (pilaster, console brackets, stall riser). The roof is constructed to traditional ridge design, with low rising gable centrally located to the front providing relief to the roof slope. Above the eaves, the gable ends are finished with a Canterbury Spar render incorporating ornate timber relief details. Original casement windows remain, which are constructed of timber. A 1.5 and single storey wing extends from the rear of the property, providing rear access/storage to the Co-op supermarket next door (north). This wing also includes dormer loft hatch to the first floor. Immediately abutting the premises to the south is a shared access, which is understood to provide access rights to the application site, the Co-op, and the residents of no.17 High Street. A tradesman's entrance to the site leads from this access, as does a secondary lounge window to No.17 High Street; the main customer entrance to the application site is located on the north elevation adjacent the Co-op.

To the rear of the application site is a storage yard shared between the application site and the Co-Op, and is currently used for storage trade waste. The principal garden area serving no.17 abuts this area. The first floor of the premises (no.19A) is currently unused, but physically linked with the Co-op providing additional incidental storage space to the retail use.

The surrounding area has a distinctive character, typified by two storey buildings constructed from natural stone, slate, and built directly abutting the highway boundary providing strong enclosure of the street. Although the application site is in a central village location, with the exception of the Co-Op, AM2PM (retail), and disused Post Office 2 doors down at no.13 High Street, the area is predominantly residential in character with dwellings surrounding the application site to the northeast round to the west (clockwise).

It is noted that a traffic calming bottleneck is present approximately 50m south of the application site. Directly adjacent the application site is a belisha beacon zebra crossing, giving priority to pedestrians. Extending from here is a marked zone prohibiting parking over a length 20m in a north/south direction; this is broken to the northeast by provision of a parking bay located directly in front of the Co-Op.

### **Proposed Development**

The application is for change of use of the ground floor from A1 retail to use as an A5 takeaway Fish and Chip shop, together with associated ventilation flue and refuse storage to the rear of the premises. An internal fridge/chiller unit is proposed. No external alterations to the front of the building are proposed. The use will result in the occupation of a currently vacant unit within the village.

### **Any Constraints Affecting the Site**

C Road

## **4.0 Consultation and Customer Impact**

### **Parish/Town Council**

No Comment received.

### **Highway Authority**

No objection received 4<sup>th</sup> February 2011

- Acknowledge concerns about on street parking. Can be dealt with by enforcement of traffic regulations.

### **Environmental Protection Services, Kettering Borough Council**

No objection received 2<sup>nd</sup> February 2011

- Request conditions for
  - A scheme for the control of odour and noise to be submitted, approved, implemented and retained prior to use commencing
  - Opening hours restriction between 11:30 – 21:30 Mon – Sat only (no Sundays or Bank Holidays)
  - Delivery/collection hours restriction between 07:00 – 21:30 (Mon – Sat only) No Sundays or Bank holidays).

### **Police Authority**

No Comment received.

### **Neighbours**

A total of 14 Objections have been received from members of the public raising the following issues:

- Increase in litter
- Noise particularly during late hours
- Odour
- Air quality
- Pedestrian and Highway safety issues due to increased vehicle

- movements/congestion
- Insufficient parking provision made worse
- Magnet for anti-social behaviour
- Create litter and attract vermin
- Inappropriate use out of character with the village
- No support for proposal in Broughton Parish Plan
- Adverse health implications for nutrition and lifestyle
- The development is not justified
- Insufficient access to the rear
- Insufficient refuse storage provision

## **5.0 Planning Policy**

### **National Policies**

Planning Policy Statement 1: Delivering Sustainable Development  
 Planning Policy Statement 4: Planning for Sustainable Economic Growth  
 Planning Policy Guidance 13: Transport  
 Planning Policy Statement 23: Planning and Pollution Control  
 & Annex 1: Pollution Control, Air and Water Quality.  
 Planning Policy Statement 24: Planning and Noise

### **Development Plan Policies**

#### **East Midlands Regional Plan**

Policy 2: Promoting Better Design  
 Policy 3: Distribution of New Development  
 Policy 27: Regional Priorities for the Historic Environment  
 Policy 36: Regional Priorities for Air Quality

#### **North Northamptonshire Core Spatial Strategy**

Policy 1: Strengthening the Network of Settlements  
 Policy 9: Distribution & Location of Development  
 Policy 11: Distribution of Jobs  
 Policy 13: General Sustainable Development Principles  
 Policy 14: Energy Efficiency and Sustainable Construction

#### **Local Plan**

Policy 99: Class A3 Uses.

#### **Informal Policy**

Broughton Parish Plan

## **6.0 Financial/Resource Implications**

None

## **7.0 Planning Considerations**

The key issues for consideration in this application are:-

1. The principle of development
2. Impact on neighbour amenity
3. Impact on the character of the area
4. Impact on parking and highway safety
5. Impact on crime and disorder
6. Impact on health

### 1. The Principle of Development

Section 38(6) of the Planning and Compulsory Purchase Act 2004 makes it a legislative requirement for Local Planning Authorities to ensure that planning applications are determined in accordance with the Development Plan unless material considerations indicate otherwise.

The aims of Policies 1 and 9 of the North Northamptonshire Core Spatial Strategy (CSS) and Policy 3 of the East Midlands Regional Plan (EMRP) support development located within an existing settlement area, in order to support the sustainability and economic vitality objectives. It is considered the proposal is consistent with these policy objectives.

Policy EC13 of PPS4 sets out further considerations, including a requirement to consider the importance to the local community of the existing uses which may be lost as a result of a grant of planning permission; where the loss of such uses would result in day to day needs not being met, applications should be refused. In this instance, Broughton is already well served by at least 3 independent convenience shops, and the loss of the [dormant] A1 retail use to an A5 takeaway use would not result in day to day needs not being met.

Policy 13 of the CSS, saved policy 99 of the Local Plan and EMRP Policies 2 and 27, support new commercial development where standards of design are continuously raised and other material considerations are also satisfied relating to highway safety, amenity, etc. EMRP Policy 27 and CSS Policy 11 support the use/conversion of under-used buildings where they are subject to sensitive treatment and support employment creation. This approach to design is echoed at a national level in PPS1. In principle, proposed A3 uses (also A5) must fall within the existing settlement boundary and this is satisfied by the proposal, and consistent with policy objectives.

The proposed development is considered acceptable in principle, and in accordance with the aims of the Development Plan, subject to other material considerations being satisfied. These are discussed below.

### 2. Neighbour Amenity

One of the potential impacts on neighbour amenity is noise and air/odour pollution, emitted through the extraction system and existing openings, and associated vehicle movements.

The proposed extraction flue is located at the rear of the property. Mostly likely to be affected by this are the occupiers of No.17 High Street and No.4 Dawkins Court who live directly next door and behind (respectively) the application site. There is the potential for adverse effects on No.17 High Street.

This property has a bedroom window which is located at first floor level approximately 5-6 metres away from the proposed flue. This is the only window serving the bedroom and faces east looking towards the rear yard of the application site and its own back yard. The main back door to the property is also located in a similar position below; a bathroom window serving No.17 High Street also faces towards the proposed flue, as a non habitable room the visual impact is less of a concern.

The rear garden to the property extends east in line with the service yard of the Co-op, abutting the application site. A secondary side window serving the lounge also opens out onto the access shared with the application site and the Co-op. This window is located adjacent to a door/window opening within the application site. Whilst potential impacts on the living areas of No.4 Dawkins Court are less direct, the rear garden of the property is raised approximately 1-1.5 metres above ground levels within the application site which will affect exposure to noise and odour issues.

There is also neighbour concern about disturbance/ noise resulting from customers visiting the premises (oral and vehicle noise). This is also a material consideration raised by Policy 99 of the Local Plan. In addition, objection has been made with respect of the use attracting vermin, odour arising from waste storage, and litter arising.

There is no hours restriction applied to the existing A1 use, and so vehicles and customers which would be associated with the existing use would give rise to comparable levels of disturbance in terms of noise and air pollution arising from vehicle movements.

KBC Environmental Health has been consulted and has no objection subject to further approval of noise and odour mitigation details. This can be secured by proposed conditions 2, 3, 4 and 5.

With respect to neighbour concerns of vermin problems, such matters are adequately controlled via Environmental Health legislation.

As the proposed use is more likely to involve the storage of food waste as well as packaging, it is recommended that a condition be applied seeking full details of a recycling/refuse storage scheme which shall address method of containment for different types of waste, frequency of collections, amenity screening, etc. In addition to this, a condition prohibiting the storage of deliveries (consumables/food/packaged materials) outside of the premises is also recommended in order to protect neighbouring amenity.

Third party consultation comments have highlighted two planning application refusals for similar proposals in the nearby area (KET2006/0234; KE/04/1227). It is also noted, that an application for change of use to takeaway was also refused in 1996 on amenity grounds relating to the application site itself. The majority of the development plan policies which applied at that time have now been superseded, with the exception of Policy 99 of the Local Plan (referred to



above).

The previous decisions referred to are not precedents by which to judge this application.

Subject to the proposed conditions, the development is considered to accord with the aims of Policy 99 of the Local Plan, part (l) of Policy 13 of the North Northamptonshire Core Spatial Strategy, Policy 2 of the East Midlands Regional Plan, and PPS23 and PPG24.

### 3. Character

In terms of visual impact, as there are no alterations proposed to the front or side elevations of the existing building, the proposal involves limited external alterations which are confined to the rear elevation, and relate purely to the ventilation and extraction system.

The existing proposal involves a flue stack which would project beyond the rear elevation, extending beyond eaves level. The current location of the proposed flue means that it would not be visible from within the public realm, but would be within close visual proximity of its immediate neighbours at No.17 High Street and No. 4 Dawkins Court and have some adverse effect on the visual quality of their immediate environment (outdoor garden space). However, the proposed location of a flue, subject to details being approved (condition 2), is considered to offer the most concealed position from view from the public realm.

In terms of the 'use' being out of character with the surrounding area, it is acknowledged that whilst the prevailing character of the area is residential, the site is located within a central position of the village where local commercial services would be most appropriately sited. As a result of this, the application site itself and two other premises within the immediate vicinity already have an established commercial use. It is therefore considered that the proposed use is acceptable in this location.

In conclusion, the proposed development is considered acceptable in terms of visual amenity and character and in accordance with the aims of Planning Policy Statement 1, Policy 13 of the North Northamptonshire Core Spatial Strategy, and Policy 2 and 27 of the East Midlands Regional Plan and Policy 99 of the Local Plan for Kettering Borough.

### 4. Parking and Highway Safety

The general thrust of highways parking policies is to encourage sustainable modes of transport including walking, whilst also preserving safety. Parking requirements originally linked to Policy 99 of the Local Plan have therefore been superseded and no longer apply.

In this instance, the applicant has not proposed additional parking as there is no available provision within the site.

The site occupies a central location within the village and sited adjacent to existing retail shops. This provides opportunities for linked trips to be made,

some of which may be made by sustainable modes of transport (foot, cycle, bus). It is noted that a bus route (Northampton to Kettering [hourly]; Kettering to Desborough [intermittent]) passes the application site.

There have been a number of objections to the proposal on the grounds of exacerbating existing parking issues, and giving rise to highway safety and endangerment of pedestrians, as a result of additional vehicular traffic associated with visiting customers and delivery vehicles. The type of issues raised include parking in people's driveways/blocked driveways, parking in the middle of the road, parking on marked traffic exclusion zones. As a result, there is a concern about parking and highway safety. However, the Highway Authority do not object to the proposal and comment that enforcement of existing traffic regulations would adequately deal with parking offences which would seem to contribute to many of the issues raised through responses received from third party consultees.

Whilst objectors have referred to previous applications (KET/04/1227; KET/2006/0234) for similar proposals within the immediate vicinity which were refused on grounds of impact on highway safety, lack of parking and neighbouring amenity, it is noted that these decisions were made under Development Plan Policies, most of which have now been superseded. However, Policy 99 of the Local Plan has been saved.

Aspects of the policy linked to issues of highway safety and parking refer to increases in traffic which would affect highway safety or amenity (noise), or parking/access provision in line with policy 84 and 85 of the Local Plan. Policies 84 and 85 have now been cancelled. As a result, higher parking standards cannot be sought, and in light of no objection from NCC Highways as discussed above and together with other policy considerations, issues associated with saved policy 99 of the Local Plan are satisfied.

#### 5. Crime and Disorder

A number of third party comments have been received highlighting existing issues of anti-social behaviour occurring within the area, and that the proposed use will further exacerbate this problem. As a result, both the real impact on anti-social behaviour and the perceived fear of crime are material considerations.

It is considered that the proposed use will attract visiting customers, which is necessary for the use to remain viable. As a takeaway use, no food will be consumed on the premises (other than at an ancillary level). As the existing premises is vacant, bringing the building back into use has a beneficial impact in terms of crime and disorder, by introducing an active frontage within the street scene which will introduce additional natural surveillance.

No comments have been made by the Police Authority to validate claims made, or to raise any concerns regarding the proposal.

#### 6. Health

PPS1 supports the promotion of health and wellbeing, which is more typically

addressed through provision for physical activity. However, access to healthy food is also relevant, and has been held to be a material consideration in the High Courts (ref: *R (Copeland) v London Borough of Tower Hamlets [2010]*) where a planning permission change of use from a grocery shop to a hot-food takeaway was quashed. The key issue in that case was that the proposal would have an adverse impact on the local secondary schools healthy eating programme, as it was sited within very close proximity of the school and would encourage poor eating habits.

In this instance, there is only a primary school located within the village of Broughton which is located approximately 150m from the application site.

However, it is considered that in this instance, that little weight should be attached to this as the pupils of the school are not considered to be of an age to independently visit the proposed takeaway use unsupervised.

### **Conclusion**

In accordance with the duty under section 38 (6) of the Planning and Compulsory Purchase Act 2004 which requires decisions to be made in accordance with the Development Plan unless material considerations indicate otherwise, the application is recommended for approval.

#### **Background Papers**

Title of Document:

Date:

Contact Officer:

Mark Coleman, Assistant Development Officer on 01536  
534316

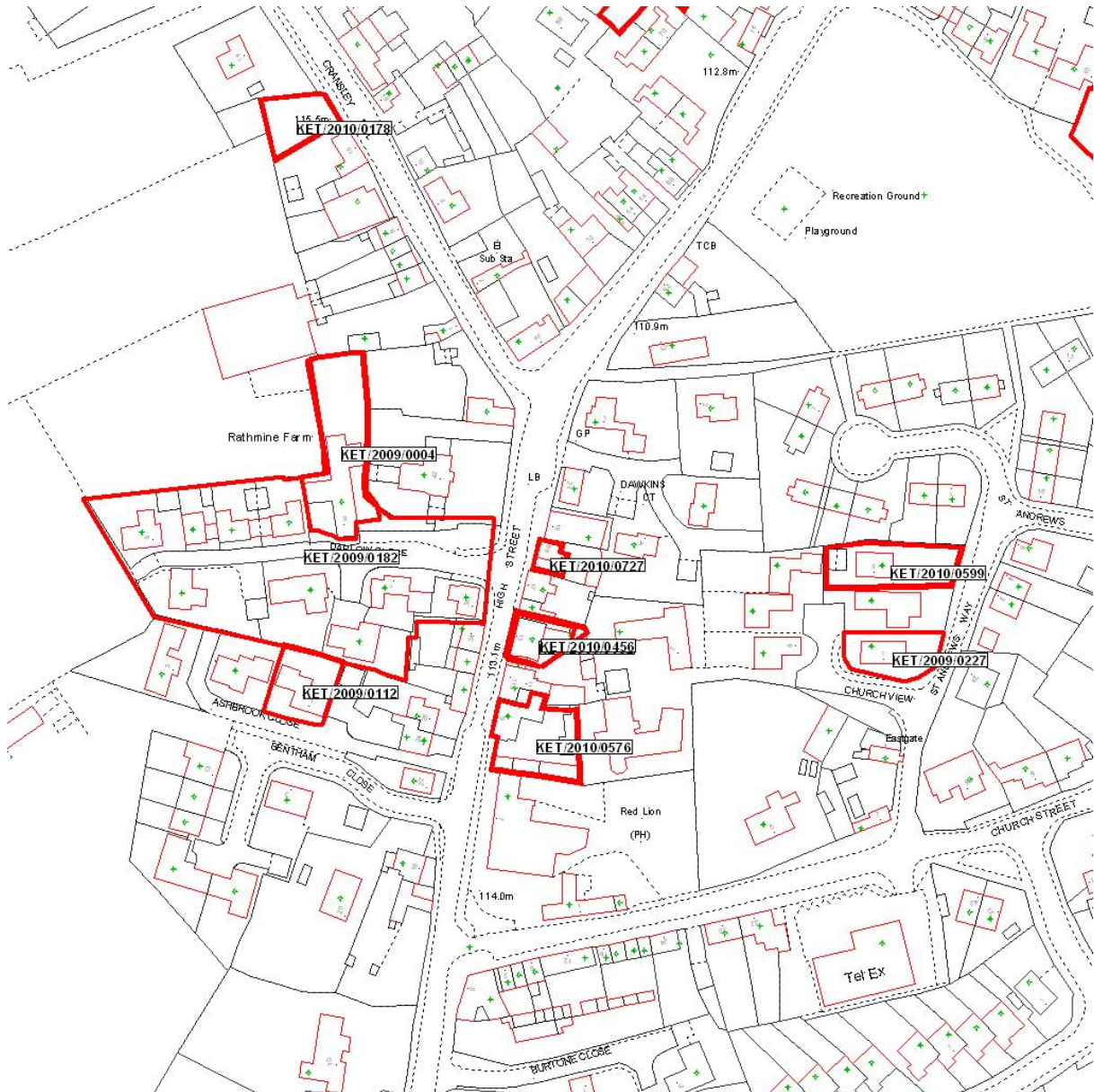
#### **Previous Reports/Minutes**

Ref:

Date:

# SITE LOCATION PLAN

19A High Street, Broughton  
Application No.: KET/2010/0727



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