



**PLANNING COMMITTEE:** 27<sup>th</sup> October 2020  
**DEPARTMENT:** Planning Service  
**DIRECTOR OF PLANNING:** Peter Baguley

**APPLICATION REF:** N/2019/1063

**LOCATION:** Sofa King Tivoli House, Towcester Road

**DESCRIPTION:** Application for Variation of Conditions 2, 8, and 13 of planning permission N/2017/0127 (Demolition of existing building. Erection of 40no dwellings (Use Class C3) with associated car parking and ancillary space and 130.10m<sup>2</sup> of retail space (Use Class A1)) to alter the design of the approved building, to amend the flood risk assessment and to reduce the level of parking by 1 space

**WARD:** Delapre & Briar Ward

**APPLICANT:** Roses Drapery Stores Ltd  
**AGENT:** Mr Nigel Ozier

**REFERRED BY:** Director of Planning and Sustainability  
**REASON:** Major application requiring S106 agreement

**DEPARTURE:** No

---

## APPLICATION FOR DETERMINATION:

### 1 RECOMMENDATION

1.1 **APPROVAL IN PRINCIPLE** subject to the finalisation of a S106 Legal Agreement to secure:

- i) A payment towards the provision and/or enhancement and/or maintenance of off-site open space;
- ii) The provision of construction worker training opportunities and a financial contribution in respect of the administration of that scheme; and
- iii) The Council's monitoring fee, subject to the Director of Planning and Sustainability being satisfied the monitoring fee is necessary and of an appropriate scale.

1.2 The conditions as set out below and for the following reason:

The proposed development, subject to conditions, represents an acceptable land use which would contribute towards the Council's five year housing supply and would have a neutral impact upon the character and appearance of the surrounding area, visual and neighbour amenity, wildlife, flood risk and the highway system. The development is therefore in conformity with the requirements of the National Planning Policy Framework, Policies S10 and H1 of the West Northamptonshire Joint Core Strategy and Policy E20 of the Northampton Local Plan.

- 1.3 It is also recommended that in the event of the Section 106 Legal Agreement not being completed within three calendar months of this Committee meeting, in addition to being able to grant planning permission as recommended above, the Director of Planning and Sustainability be given delegated authority to either refuse or finally dispose of the application (at his discretion) on account that the necessary mitigation measures have not been secured in order to make the proposal acceptable in line with the requirements of Policies INF1 and INF2 of the West Northamptonshire Joint Core Strategy and the National Planning Policy Framework.

## **2 THE PROPOSAL**

- 2.1 The application proposes to vary Conditions 2, 8 and 13 of planning approval N/2017/0127. Planning application N/2017/0127 was granted permission for the demolition of the existing building and the erection of 40no dwellings (Use Class C3) with associated car parking and ancillary space and 130.10m<sup>2</sup> of retail space (Use Class A1).
- 2.2 Condition 2 is the plans condition, and it is proposed to amend the design of the approved building. This is predominantly through a chamfer to the south-western corner of the building and recessing the south-eastern corner of the building. This is due to the approved building falling partially outside of the legal land ownership controlled by the applicant and the subsequent need to amend the building design to allow delivery of the scheme. The amended design of the proposal also results in the reduction in parking spaces by 1 space.
- 2.3 Condition 8 relates to the delivery of the car parking prior to occupation. It is proposed to amend this condition to take account of the new plan number.
- 2.4 Condition 13 requires the development to be undertaken in accordance with the approved flood risk assessment. A revised flood risk assessment has been submitted with this application and it is proposed to amend the condition to be in accordance with this new flood risk assessment.

## **3 SITE DESCRIPTION**

- 3.1 The application site is located on the periphery of the allocated Far Cotton local centre. St Leonards Road is to the east of the application site, which joins Towcester Road at a roundabout to the south of the application site. Towcester Road is therefore directly adjacent to the western boundary of the site.
- 3.2 The application site contains a building, which was originally constructed as a cinema, but over recent times has been subject to a number of alterations, and has been used as a retail unit. The building is currently vacant.
- 3.3 The surrounding land uses within the immediate vicinity are a variety of commercial and leisure uses, although residential accommodation is prevalent within the wider area. The general trend is that buildings are generally of two storeys in height and constructed in more traditional styles of architecture. Notwithstanding this, the surrounding area has seen more recent developments of larger buildings that have included the erection of flats. This includes a block of flats on the opposite (western) side of Towcester Road.
- 3.4 In addition, the application site is relatively level in nature and is also located within an identified flood zone.

## **4 PLANNING HISTORY**

- 4.1 N/2017/0127 - Demolition of existing building. Erection of 40no dwellings (Use Class C3) with associated car parking and ancillary space and 130.10m<sup>2</sup> of retail space (Use Class A1) – Approved 12/01/2018.
- 4.2 N/2019/0703 - Variation of S106 agreement following the grant of planning permission N/2017/0127 for the development of 40 no. dwellings with retail. This was to remove the need for

affordable housing provision within this development. Approved in Principle by Committee 24/09/2019.

## **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 the 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:

Paragraphs 7-12 - Presumption in favour of sustainable development.  
Paragraph 60 - Housing needed for different groups in the community.  
Paragraph 127 - Create places with a high standard of amenity for existing and future users.  
Section 8 - Promoting healthy and safe communities.  
Section 9 - Promoting sustainable transport  
Section 12 - Achieving 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:

Policy S1 - The Distribution of Development  
Policy S2 – Hierarchy of Centres  
Policy S10 - Sustainable Development Principles  
Policy H1 - Housing  
Policy BN9 - Planning for Pollution Control  
Policy INF2 – Contributions to infrastructure requirements

### **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 - New Development (Design)

### **5.5 Supplementary Planning Documents**

Northampton Parking SPD (2019)  
Planning out Crime in Northamptonshire SPG 2004

## **6 CONSULTATIONS/ REPRESENTATIONS**

Comments received are summarised as follows:

### **6.1 NCC Highways – No comment to make on application.**

- 6.2 **NCC Ecology** – Proposal does not appear to have any impact for biodiversity and no comments to make.
- 6.3 **NCC Archaeology** – No comments to make on application. Archaeology condition should remain.
- 6.4 **NBC Public Protection** – Conditions requested to ensure a reasonable level of residential amenity can be achieved on site with regards to odour, air quality and noise.
- 6.5 **NBC Planning Policy** – No comment to make.
- 6.6 **Northamptonshire Police** – No objection to the application.
- 6.7 **Environment Agency** – No objection. Retail unit is less vulnerable and Northampton Hazard Mapping shows that the majority of the site is unaffected by the 0.5% (1 in 200) plus climate change breach scenario. Suggest amended wording for condition 13.
- 6.8 **Local Lead Flood Authority** – No objection to alterations. Suggest amended wording for condition 13.
- 6.9 **Anglian Water** – No comments.
- 6.10 **Town Centre Conservation Area Advisory Committee** – Object to demolition of Tivoli House which is an important building much valued by local residents, and to the design of the new building. Recognise principle has been established and no specific objections to the amendments proposed. Retention of archaeology condition (12) is important.
- 6.11 **NHS England** – Contributions requested towards primary health care.
- 6.12 **Fusion 21** – Contribution towards apprentice training requested.
- 6.13 1 neighbour letter has been received commenting that no work should occur during the night.

## **7 APPRAISAL**

### **Principle of development**

- 7.1 Application N/2017/0127 granted planning permission for the erection of 40 flats and 1 retail unit. As such the principle of the development has been established. In any case, the application site is in a residential area within the urban area of Northampton and therefore development of the site for residential purposes is acceptable in principle under Policy S1 of the Joint Core Strategy.
- 7.2 It is also the case that the Council cannot presently demonstrate a five year housing land supply. Therefore, in accordance with the presumption in favour of sustainable development in Paragraph 11 of the NPPF, development should be permitted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits. The development of the site for housing would contribute towards the Council's housing supply with associated social and economic benefits and this therefore weighs in favour of the proposal.

### **Design**

- 7.3 The application proposes to amend the design of the approved scheme. The changes proposed are largely associated with two alterations – the chamfer of the south-western corner of the building and the recessing of the south-eastern corner of the building.
- 7.4 On the eastern elevation the south-eastern corner of the building would be amended from an approved single gable projection to a re-configured double gable projection with increased window openings.

- 7.5 On the western elevation an approved gable projection to the south-western corner is to be reduced in height and amended to provide a further gable projection which is on the corner of the site.
- 7.6 On the southern elevation the approved gable end projections are amended in size to facilitate the chamfer of the corners.
- 7.7 The amendments proposed to the design of the approved scheme are not significant and do not greatly change the appearance of the building from that approved. The cutting of the corner on the south-western corner assists in helping the building turn a corner on a prominent corner, arguably improving the appearance of the building from that approved. It is considered that in design terms the amendments would be of an acceptable appearance and would not harm the character and appearance of the area.

### **Amenity**

- 7.8 The proposal does not significantly alter the size of the building from that previously approved, slightly reducing the size, and it is not considered that there would be any greater impact upon neighbouring amenity as a result of the proposed changes when compared to that approved.
- 7.9 With regards to the living conditions for future occupants, the reduction in size of the building on the south-eastern and south-western corners results in a slight internal re-arrangement to accommodate this change, however the number of units remains the same – 14 x 1 bedroom flats, and 26 x 2 bedroom flats. All of the proposed flats remain of a good size with good outlook and natural light.

### **Parking and highway safety**

- 7.10 Application N/2017/0127 provided car parking at ground floor level, with 40 car parking spaces and cycle storage facilities. The amended scheme proposed car parking at ground floor level with 39 parking spaces and cycle storage facilities. As such there has been a reduction in parking of 1. It is the case that the site is within an allocated centre and is in close proximity to the town centre as well as public open space. There is a reasonable probability that residents within the development may not necessarily need access to a private car. Therefore the reduction in parking provision by 1 space is considered acceptable in this specific instance. NCC Highways have raised no comment on this reduction in parking.
- 7.11 Following the grant of application N/2017/0127, the Council has adopted a Parking SPD which requires the provision of 1 electric vehicle charging point per 10 spaces of unallocated parking. This will be required through condition.

### **Flood risk**

- 7.12 The Environment Agency and Lead Local Flood Authority have been consulted on the flood risk of the amended development. No objections have been received.
- 7.13 The LLFA and Environment Agency recommend the rewording of condition 13 to be in accordance with the new flood risk assessment as follows:

'The development permitted by this planning permission shall be carried out in accordance with the approved Flood Risk Assessment (FRA) farrow walsh FW1914\_FRA\_001 V3 and the following mitigation measures:

- Retail unit will have a minimum finished floor level of 59.30m AOD.
- No residential dwellings to be located on the ground floor as shown on drawing 40442/001M.
- The ground floor to be flood proofed to a minimum 1000mm above finished floor levels.

The mitigation measures shall be fully implemented prior to occupation and subsequently in accordance with the scheme's timing/phasing arrangements. The measures details above shall be retained and maintained thereafter throughout the lifetime of the development.

Reason: To reduce the risk of flooding to the proposed development and future occupants in accordance with the requirements of the National Planning Policy Framework.'

### **Planning Obligations**

- 7.14 Application N/2017/0127 was granted subject to a S106 Agreement which secured contributions towards affordable housing, open space, construction training. Under application N/2019/0703, Planning Committee approved on the 24/09/2019 the variation of this S106 to remove affordable housing, with a 0% provision agreed. The signing of the amended S106 to remove affordable housing has been put on hold pending the outcome of this application.
- 7.15 The S106 Agreement associated within application N/2017/0127 does not have a clause tying it to any future variation applications and as such a new S106 Agreement is needed to make this application acceptable, subject to the same obligations as those agreed under application N/2017/0127 as amended by application N/2019/0703.

## **8 CONCLUSION**

- 8.1 To conclude, it is considered that, subject to conditions and the developer entering into a Section 106 Legal Agreement, the proposal represents an effective land use and would have a neutral impact upon visual and neighbour amenity, the highway system and flood risk, whilst contributing to the supply of new housing within the Borough and the redevelopment of a vacant site. As a consequence, the development is in conformity with the requirements of national and local planning policies.

## **9 CONDITIONS**

1. The development hereby permitted shall be begun before 13<sup>th</sup> January 2021.

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: 40442/001M, 40442/002L, 40442/003L, 40442/004L, 40442/005L, 40442/006L, 40442/009G, 40442/011.

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

3. Prior to the construction of the development above ground floor slab level full details 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 Policy E20 of the Northampton Local Plan.

4. Prior to the commencement of construction works on site, details of the existing and proposed ground levels and finished floor levels of the development shall be submitted to and approved in writing by the Local Planning Authority. Thereafter the development shall be implemented in accordance with the approved details.

Reason: In the interests of residential and visual amenity in accordance with Policy E20 of the Northampton Local Plan. This condition is required to agree such details in a timely manner.

5. Prior to first occupation of the development hereby permitted, full details of the method of the treatment of the external boundaries of the site shall be submitted to and approved in writing by the

Local Planning Authority, implemented prior to the first occupation of the building 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 E20 of the Northampton Local Plan.

6. No development shall take place until a desk top study in respect of possible contaminants within the site is completed and a site investigation has been designed. The scope and methodology of the desk top study and the site investigation report shall be submitted to and approved in writing by the Local Planning Authority. The site investigation and appropriate risk assessments shall be carried out and the results shall be used to produce a method statement for the necessary remedial works (and a phasing programme), which shall be submitted to and approved in writing by the Local Planning Authority. All remedial works 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).

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 condition is required to agree such details in a timely manner.

7. 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 both of which are subject to the approval in writing by 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 by the Local Planning Authority prior to first occupation of the development.

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.

8. The car parking as shown on drawing 40442/001M shall be fully implemented prior to the first occupation of the development hereby permitted and shall be retained thereafter.

Reason: In the interests of highway safety in accordance with the requirements of the National Planning Policy Framework.

9. Notwithstanding the details submitted, full details of refuse and cycle storage to serve the flats shall be submitted to and approved in writing by the Local Planning Authority prior to first occupation of the residential units hereby permitted. Development shall be carried out in accordance with the approved details, be fully implemented prior to the first occupation of the residential development hereby permitted and shall be retained thereafter.

Reason: In the interests of creating a sustainable form of development in accordance with the requirements of Policy S10 of the West Northamptonshire Joint Core Strategy.

10. Notwithstanding the details submitted, full details of refuse storage to serve the retail unit shall be submitted to and approved in writing by the Local Planning Authority prior to first use of the retail unit hereby permitted. Development shall be carried out in accordance with the approved details, be fully implemented prior to the first use of the retail unit hereby permitted and shall be retained thereafter.

Reason: In the interests of creating a sustainable form of development in accordance with the requirements of Policy S10 of the West Northamptonshire Joint Core Strategy.

11. Notwithstanding the details submitted, full details of CCTV shall be submitted to and approved by the Local Planning Authority. Development shall be carried out in accordance with the approved details, be fully implemented prior to the first occupation of the development hereby permitted and shall be retained thereafter.

Reason: In the interests of creating a secure form of development in accordance with the requirements of the National Planning Policy Framework.

12. No development shall take place until the applicant, or their agents or successors in title, has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation which has been submitted by the applicant and approved in writing by the Local Planning Authority.

Reason: To ensure that features of archaeological interest are properly examined and recorded, in accordance with the National Planning Policy Framework. This condition is required to ensure the agreement of such details in a timely manner.

13. The development permitted by this planning permission shall be carried out in accordance with the approved Flood Risk Assessment (FRA) farrow walsh FW1914\_FRA\_001 V3 and the following mitigation measures:

- Retail unit will have a minimum finished floor level of 59.30m AOD.
- No residential dwellings to be located on the ground floor as shown on drawing 40442/001M.
- The ground floor to be flood proofed to a minimum 1000mm above finished floor levels.

The mitigation measures shall be fully implemented prior to occupation and subsequently in accordance with the scheme's timing/phasing arrangements. The measures details above shall be retained and maintained thereafter throughout the lifetime of the development.

Reason: To reduce the risk of flooding to the proposed development and future occupants in accordance with the requirements of the National Planning Policy Framework.

14. 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 plus climate change 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 before the development is completed. The details of the scheme shall include:

- a) Details (i.e. designs, diameters, invert and cover levels, gradients, dimensions and so on) of all elements of the proposed drainage system, to include pipes, inspection chambers, outfalls/inlets and attenuation basins.
- b) Cross sections of all control chambers (including site specific levels mAOD) and manufacturers' hydraulic curves for all hydro brakes and any other flow control devices.
- c) A full range of rainfall data for each return period provided by Micro drainage modelling or similar simulating storms through the drainage system, with results of critical storms, demonstrating that there is no surcharging of the system for the 1 in 1 year storm, no flooding of the site for 1 in 30 year storm and that any above ground flooding for 1 in 200 year storm is limited to areas designated and safe to flood, away from sensitive infrastructure or buildings.

Reason: To reduce the risk of flooding both on and off site in accordance with the National Planning Policy Framework by ensuring the satisfactory means of surface water attenuation and discharge from the site. This condition is required to agree such details in a timely manner.

15. No development shall take place until a detailed scheme for the maintenance and upkeep of 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. This scheme shall include details of any drainage elements that will require replacement within the lifetime of the proposed development.

Reason: In order to ensure that the drainage systems associated with the development will be maintained appropriately and in perpetuity, to reduce the risk of flooding due to failure of the drainage system in accordance with the requirements of the National Planning Policy Framework. This condition is required to agree such details in a timely manner.

16. Prior to the commencement of development a Construction Environment Management Plan shall be submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved plan, which shall include:
- The control of noise and dust during the development process;
  - Traffic management and signage during construction;
  - Enclosure of phase or sub-phase development sites;
  - Provision for all site operatives, visitors and construction vehicles loading, parking and turning within the site during the construction period;
  - Arrangements during the construction period to minimise the deposit of mud and other debris on to the adjacent highway;
  - The safe means of access of construction traffic to the site;
  - Routing agreement for construction traffic; and
  - The hours in which deliveries and construction works would take place.

Reason: In the interests of securing a satisfactory impact upon the highways system and neighbour amenity in accordance with the requirements of the National Planning Policy Framework and Policy BN9 of the West Northamptonshire Joint Core Strategy. This condition is required pre-commencement to ensure that such details are agreed in a timely manner.

17. The retail development hereby approved shall only be open to customers between the hours of 7am and 11pm on any one day.

Reason: In the interests of securing a satisfactory standard of development in terms of the impacts upon neighbouring properties in accordance with the National Planning Policy Framework.

18. Deliveries to the retail unit shall only be made between the hours of 7am and 9pm on any one day.

Reason: In the interests of securing a satisfactory standard of development in terms of the impacts upon neighbouring properties in accordance with the National Planning Policy Framework.

19. The development hereby permitted shall be carried out in accordance with the recommendations (Section 5) of the submitted ecology assessment (reference 16-2504, Version 2 and dated December 2016).

Reason: In the interests of securing a satisfactory form of development in accordance with the requirements of Policy BN2 of the West Northamptonshire Joint Core Strategy.

20. Notwithstanding the details submitted, a strategy for the removal and disposal of the on site Cotoneaster Horizontalis shall be submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the agreed details.

Reason: In the interests of securing a satisfactory form of development in accordance with the requirements of Policy BN2 of the West Northamptonshire Joint Core Strategy.

21. Notwithstanding the details submitted, full details of the foundation design, which shall not encroach onto or under the highway shall be submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details, be fully implemented prior to the first occupation of the development hereby permitted and shall be retained thereafter.

Reason: In the interests of highway safety in accordance with the requirements of the National Planning Policy Framework.

22. Notwithstanding the details submitted, full details of the windows, which shall not open over the highway boundary shall be submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details, be fully implemented prior to the first occupation of the development hereby permitted and shall be retained thereafter.

Reason: In the interests of highway safety in accordance with the requirements of the National Planning Policy Framework.

23. Full details of a minimum of 4 electric vehicle charging points for the units hereby approved shall be first submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details and fully implemented prior to the development being first brought into use and retained thereafter.

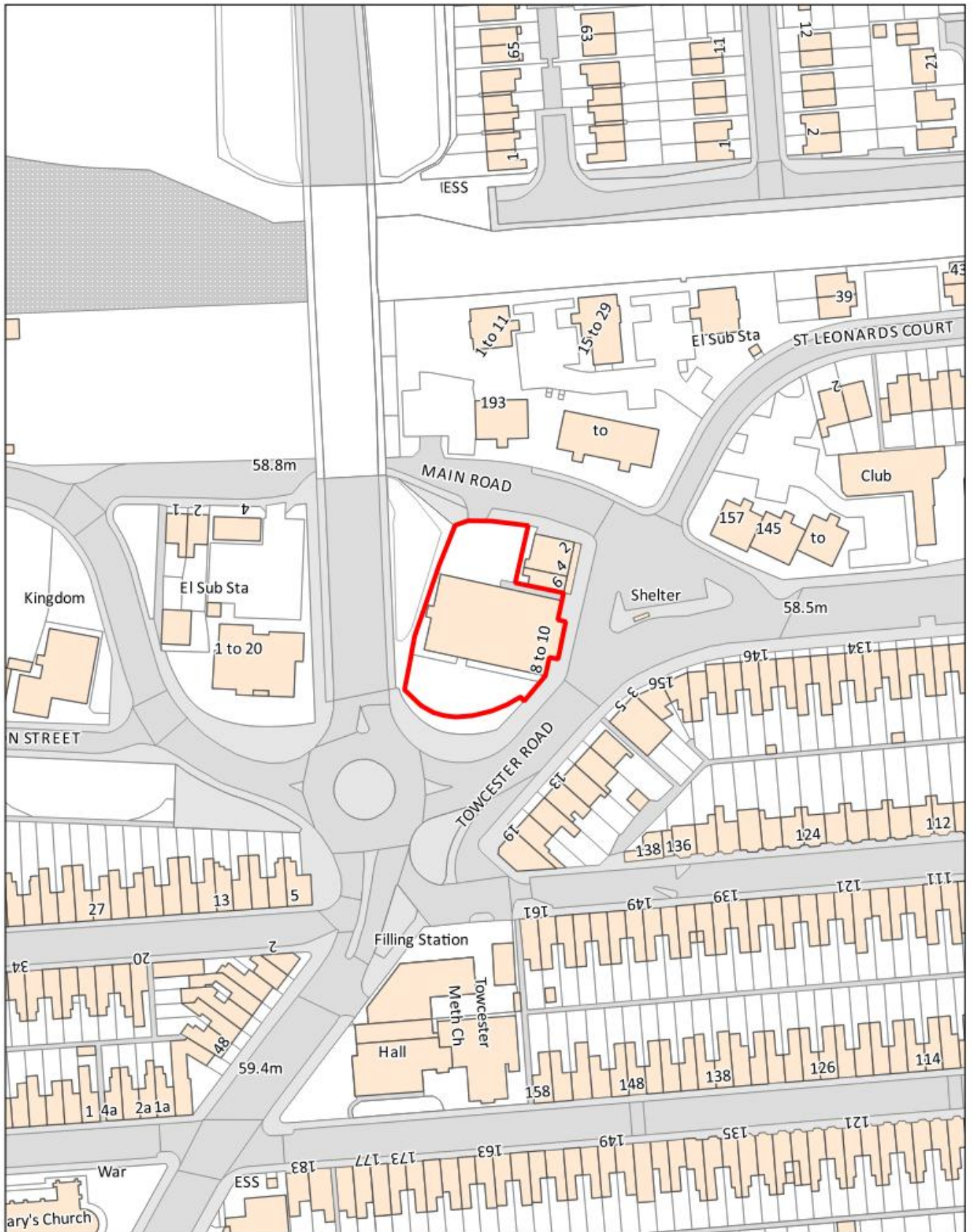
Reason: To ensure the provision of adequate facilities in accordance with the Northampton Parking Standards Supplementary Planning Document (2019).

## **10 LEGAL IMPLICATIONS**

- 10.1 The development is 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: **Towcester Road**

© Crown copyright and database rights 2019 Ordnance Survey licence no. 100019655

Date: 16-10-2020

Scale: 1:1,250

Drawn by: ----