

Planning and Rights of Way Panel 13th November 2018
Planning Application Report of the Service Lead - Infrastructure, Planning & Development

Application address: 100 Spring Road, Southampton			
Proposed development: Change of use of shop (Class A1) to hot food takeaway (Class A5) with the installation of an extractor flue to rear.			
Application number:	18/01483/FUL	Application type:	FUL
Case officer:	John Fanning	Public speaking time:	5 minutes
Last date for determination:	12.10.2018	Ward:	Peartree
Reason for Panel Referral:	Request by Ward Member and five or more letters of objection have been received	Ward Councillors:	Cllr Bell Cllr Houghton Cllr Keogh
Referred to Panel by:	Cllr Houghton	Reason:	Impact on residential amenity (smells, noise). Parking impacts associated with opening hours.
Applicant: Mr Ozel Ozdemir		Agent: Mrs Gokay Toz	

Recommendation Summary	Conditionally Approve
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Community Infrastructure Levy Liable	Not applicable
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Reason for granting Planning Permission

The development is acceptable taking into account the policies and proposals of the Development Plan as set out below. Other material considerations have been considered and are not judged to have sufficient weight to justify a refusal of the application, and where applicable conditions have been applied in order to satisfy these matters. The scheme is therefore judged to be in accordance with Section 38(6) of the Planning and Compulsory Purchase Act 2004 and thus planning permission should therefore be granted. In reaching this decision the Local Planning Authority offered a pre-application planning service and has sought to work with the applicant in a positive and proactive manner as required by paragraphs 39 - 42 and 46 of the National Planning Policy Framework (2018).

Saved Policies - SDP1, SDP5, SDP7, SDP16, REI6, REI7 of the City of Southampton Local Plan Review (Amended 2015); CS13 and CS19 of the Local Development Framework Core Strategy Development Plan Document (Amended 2015).

Appendix attached			
1	Development Plan Policies	2	Relevant Planning History
3	Opening hours of nearby properties		

Recommendation in Full

Conditionally approve

1. The site and its context

- 1.1 The site is situated along Spring Road in a row of commercial premises, typically with residential at first floor level. The site lies opposite a small area of open space, with the wider area being residential in nature. The site is located within a defined Local Centre (Policy REI6 refers).

2. Proposal

- 2.1 The ground floor is currently vacant, previously being occupied as a shop. The application seeks permission for the change of use of the ground floor to serve as a hot food takeaway (Class A5) with associated external ventilation and extraction equipment.

3. Relevant Planning Policy

- 3.1 The Development Plan for Southampton currently comprises the “saved” policies of the City of Southampton Local Plan Review (as amended 2015) and the City of Southampton Core Strategy (as amended 2015) and the City Centre Action Plan (adopted 2015). The most relevant policies to these proposals are set out at *Appendix 1*.

- 3.2 The application site is located within the Merryoak Local Centre where Policy REI6 applies. It states that:

“In order to maintain and, where possible, enhance their role of serving the daily needs of the local population, development proposals will be permitted in Local Centres if:

- i. the use falls within Classes A1, A2, A3, A4 or A5;
- ii. the use provides appropriate leisure, social or community uses;
- iii. the use provides employment opportunities;
- iv. the use is for residential purposes, but not at ground floor level.

Development for all but residential uses will only be permitted if it is less than 500m² net floorspace.”

- 3.3 The National Planning Policy Framework (NPPF) was revised in July 2018. Paragraph 213 confirms that, where existing local policies are consistent with the NPPF, they can be afforded due weight in the decision-making process. The Council has reviewed the Development Plan to ensure that it is in compliance with the NPPF and are satisfied that the vast majority of policies accord with the aims of the NPPF and therefore retain their full material weight for decision making purposes, unless otherwise indicated.

4. Relevant Planning History

- 4.1 The site appears to have a historic use as a retail premises (Class A1). Publicly available images of the street scene appear to show the premises have in recent years been operated for a variety of uses, some of which may have fallen outside of Class A1 (Class A3 in particular most recently). However, none of these transient uses appear to have been present for sufficient time to accrue a lawful use before the current vacancy of the site so the existing lawful use is considered

to be as a Class A1 retail premises. A schedule of the relevant planning history for the site is set out in Appendix 2 of this report.

5. Consultation Responses and Notification Representations

5.1 Following the receipt of the planning application a publicity exercise in line with department procedures was undertaken which included notifying adjoining and nearby landowners and erecting a site notice (31.08.2018). At the time of writing the report **11 representations** have been received from surrounding residents. The following is a summary of the points raised:

- 5.2 **• There are already a number of food/takeaway properties nearby**

Response

The site hasn't been allocated for a particular use in the Council's Development Plan and this change of use falls to be determined against the plan policies. As such the key issue under consideration is if the proposed use is harmful to the character or amenities of the surrounding area. The future financial viability of the scheme is for the applicant to consider and existing competition is a factor in their considerations (and not the Panel's). There is no policy presumption against additional A5 uses in this location.

- 5.3 **• Potential to exacerbate existing issues with littering**

Response

A condition has been recommended to secure a litter bin within the premises.

- 5.4 **• Potential to exacerbate existing parking issues**

Response

The proposal relates to the change of use of an existing commercial premises. While the proposed traffic generation will likely be different, it is not felt that the change is likely to result in significant additional harm beyond the existing situation. The site is within a Local Centre serving a local population and there's a bus stop outside. Not all customers will, therefore, drive to this site.

- 5.5 **• Noise and disturbance from late night use or early morning deliveries**

Response

The Development Plan supports commercial uses, including A5 takeaways, in this location and it is not uncommon for takeaways to trade later into the night than other commercial uses. A condition has been recommended to limit delivery times. The applicant has sought opening hours of midday to 11PM Mon-Sat and midday to 10PM Sun. The existing lawful A1 use of the premises has no planning restrictions on its hours of operation. The proposed hours of use are considered reasonable in the surrounding commercial context. This issue is discussed in more detail in section 6 below.

- 5.6 **• Potential odour issues**

Response

The Council's Environmental Health team have reviewed the submitted details and are satisfied that appropriate odour mitigation can be installed to address a potential odour nuisance.

- 5.7 **• Landlords don't maintain properties/rear gardens of commercial units are poorly maintained encourage pests**

Response

The application includes details of commercial waste management. Maintenance of properties falls outside of the remit of the planning process and is the

responsibility of the land owner to manage, regardless of if the current application is approved or not. Pests can be reported to the Councils Environmental Health team who have strict controls over food preparation premises.

5.8 • **Reduction in surrounding property values**

Response

Issues relating to the character of the area or amenity of nearby residents do form material planning considerations. The value of nearby properties itself is not a material planning consideration and cannot be given weight in the decision making process.

Consultation Responses

5.9 **Environmental Health** – Following a site meeting and further submission of additional details, no objection is raised. A number of conditions are recommended to secure that the development is provided in accordance with the agreed details.

5.10 **Police** – No comment.

5.11 **Licensing** – No comment.

5.12 **Cllr Houghton** – Insufficient detail of odour control and potential noise from extract/ventilation equipment. Additional opening hours could exacerbate parking impacts. Potential for litter.

6.0 Planning Consideration Key Issues

6.1 In terms of the current proposal it is considered that the key issues are:

- Principle of use
- Impact on character
- Impact on amenity

6.2 Principle of Use

6.3 The site is not allocated for a specific use in the Local Plan. The surrounding area is broadly residential in nature but the immediate context of the site is a small commercial frontage with a mix of uses including some other restaurants and takeaways in the wider area. The supporting text to Policy RE16 explains that *‘the smaller local shopping centres play an important role in catering for day to day needs of local residents, and form part of the overall shopping hierarchy of the city. Since they are associated with a catchment area which generally lies within walking or cycling distance, they tend to be relied upon particularly by those without access to a car, and people with disabilities. The emphasis of the Plan will be to consolidate and enhance the existing retail provision, and ensure that any expansion can be integrated into the centre.... Similarly, the large number of shopping parades, groups of shops and individual retail outlets, help to provide an accessible local service, which it is important to retain...’*. No objection is raised to the principle of the commercial use so the key issues are the specific impacts of the proposed development.

6.4 Impact on character

6.5 The application proposes some physical alterations to the rear of the property to install extract/ventilation equipment but otherwise would be retained in line with the existing appearance of the property. The physical alterations are relatively minor in scope, situated to the rear and more broadly integrate into the commercial features in the surrounding area. In the context of the commercial

frontage it is not considered that an additional takeaway would have a harmful impact on the wider character of the area.

6.6 Impact on amenity

6.7 The potential amenity impacts are somewhat more wide ranging relating to a number of issues associated with the new use. The key focus will be on the differences between the lawful retail use of the site compared to the potential impacts of the proposed takeaway use.

6.8 The Council's Environmental Health team have reviewed the submitted details of the proposed extract/ventilation system. Following the submission of additional details and clarification during the application process their advice is that a set of conditions securing the development in accordance with these details will be sufficient to address potential noise and odour concerns for nearby residential occupiers. Their comments are materials to the Panel's deliberations and have been afforded significant weight by officers.

6.9 Another potential issue relates to the proposed hours of use which extend until 11PM Mon-Sat and 10PM on Sun. The property is situated as part of a run of commercial premises which runs along Spring Road and into Deacon Road. A summary of the opening hours in accordance with the planning regulations of some of the nearby properties has been attached as Appendix 3 but in brief, the proposed hours of operation are broadly in line with other commercial units in the area. The existing retail use appears to be a historic use of the site and there doesn't currently appear to be any restrictions in terms of the planning legislation on the hours of operation of the premises for retail. Hampshire Constabulary and SCC Licensing have been notified of the application and neither have raised a comment in respect of the proposal.

6.10 Overall taking into account the surrounding commercial context within a defined local centre, the layout in relation to surrounding buildings and the use of appropriate conditions to mitigate associated noise and activity it is considered that the proposed hours of use are reasonable and will not significantly impact on the amenity of surrounding residents when compared to the existing situation.

6.11 The application site has a small area of forecourt which is positioned behind a bus stop. One of the concerns raised by local residents relates to an increase in parking in adjacent streets associated with the proposed takeaway. While there will likely be a different pattern of traffic generation associated with the premises, it is noted that the property is an existing commercial premises, situated in a row of commercial properties. It is not considered that the use as a takeaway will result in significant additional harm.

7. Summary

7.1 The impacts of the proposed use would differ from those associated with the existing retail use of the premises however taking into account the surrounding commercial context, it is considered that the additional impacts can be addressed adequately through the use of conditions.

8. Conclusion

8.1 It is recommended that planning permission be granted subject to the conditions set out below.

Local Government (Access to Information) Act 1985

Documents used in the preparation of this report Background Papers

1. (a) (b) (c) (d) 2. (b) (c) (d) (f) 4.(f) (vv) 6. (a) (b)

JF for 13/11/18 PROW Panel

PLANNING CONDITIONS

01. Full Permission Timing Condition (Performance)

The development hereby permitted shall begin no later than three years from the date on which this planning permission was granted.

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

02. Litter bin (Performance)

A litter bin shall be provided on the site within the customer area of the floor space and made available for use of patrons of the hot food takeaway hereby approved during trading hours.

Reason: To prevent littering in the surrounding area.

03. Extract and ventilation equipment (Performance)

The proposed extract and ventilation equipment shall be implemented in accordance with the details outlined in the submitted documents (including odour filters, anti-vibration mounting and other noise mitigating features) prior to the first occupation of the use hereby approved. The development shall be retained as such thereafter.

Reason: To protect the amenities of nearby properties.

04. Hours of Use (Performance)

The use hereby approved shall not operate outside the following hours:

Monday to Sat - 12:00-23:00 (midday to 11PM)

Sunday and recognised public holidays - 12:00-22:00 (midday to 10PM)

Reason: To protect the amenities of the occupiers of existing nearby residential properties.

05. Delivery times (Performance)

The delivery of goods to the premises shall only take place between the following times:

Mon to Sat - 08:00-22:00 (8AM to 10PM)

Sun and recognised public holidays - 10:00-16:00 (10AM-4PM)

Reason: To protect the residential amenities of adjacent residents

06. Approved Plans

The development hereby permitted shall be carried out in accordance with the approved plans listed in the schedule attached below, unless otherwise agreed in writing with the Local Planning Authority.

Reason: For the avoidance of doubt and in the interests of proper planning.

POLICY CONTEXT

Core Strategy - (as amended 2015)

CS13 Fundamentals of Design
CS19 Car & Cycle Parking

City of Southampton Local Plan Review – (as amended 2015)

SDP1 Quality of Development
SDP5 Parking
SDP7 Urban Design Context
SDP16 Noise
REI6 Local Centres
REI7 Food and Drink Uses (Classes A3, A4 and A5)

Supplementary Planning Guidance

Residential Design Guide (Approved - September 2006)
Planning Obligations (Adopted - September 2013)
Parking Standards SPD (September 2011)

Other Relevant Guidance

The National Planning Policy Framework (2018)
The Southampton Community Infrastructure Levy Charging Schedule (September 2013)

Relevant Planning History

970385/E, Change of use of bedsit accommodation at first floor to one bed self-contained flat and erection of a single storey front extension
Conditionally Approved, 29.05.1997

890366/ET, Continued use as retail and bedsitters (Renewal 1556/E56; dated 27/11/79 expired 31/12/84)
Conditionally Approved, 19.04.1989

1630/E38, Single-storey rear extension
Conditionally Approved, 03.05.1983

1556/E56, Continued use as retail and bedsitters (Temporary permission expires 31.12.1984)
Conditionally Approved, 31.12.1984

Opening hours of nearby properties

- 96 Spring Road
05/00534/FUL
11.00-23.00 Mon-Sat, 11.00-22.30 Sun

- 102-104 Spring Road (Tesco)
14/01564/FUL
06.00-23.00

- 104B Spring Road (Subway)
09/00929/FUL
07.00-23.00 Mon-Sat, 07.00-22.00 Sun

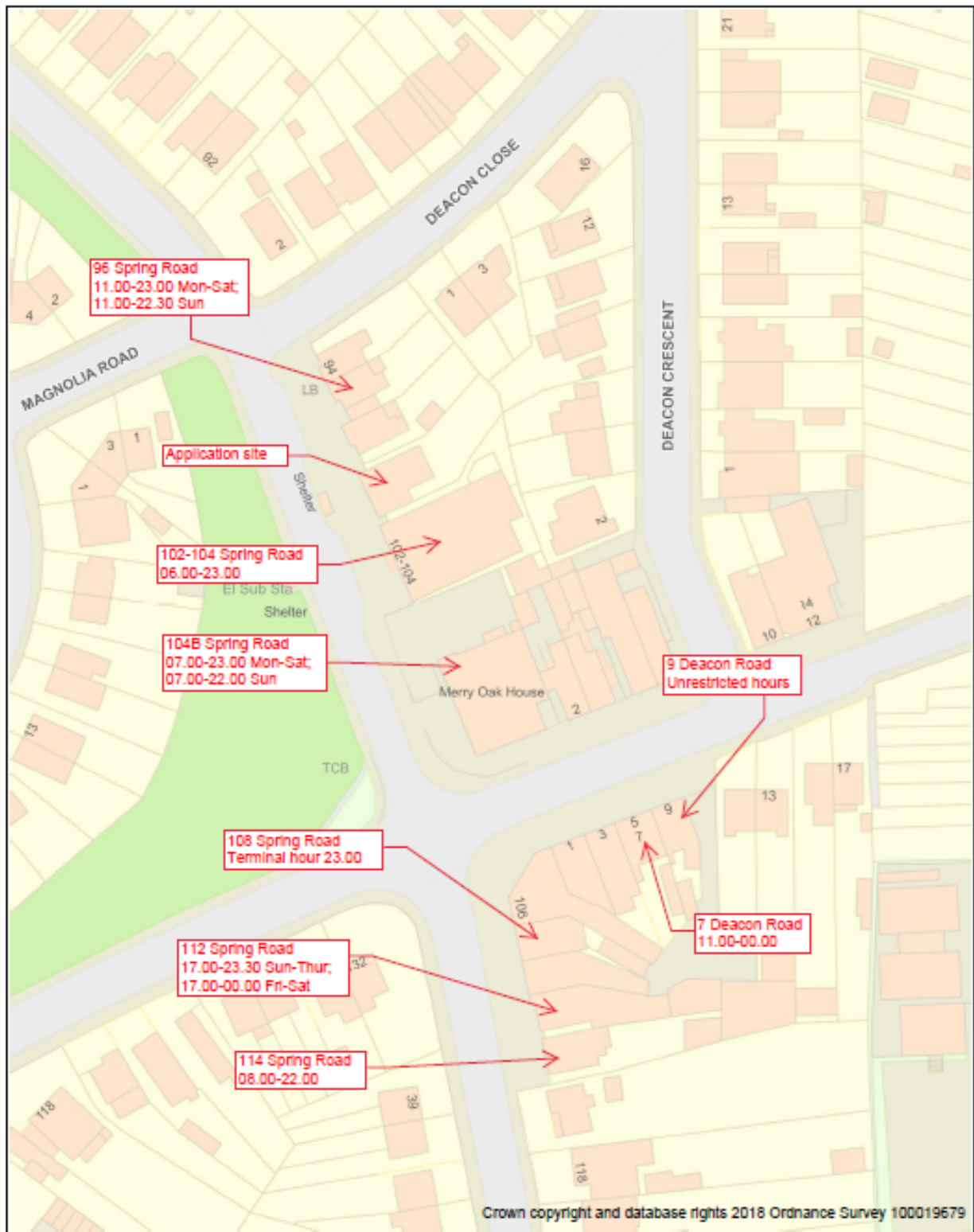
- 9 Deacon Road (Dippies Chippy)
Historic use
Unrestricted hours

- 7 Deacon Road (L.A. Pizza)
950580/E
11.00-23.00
05/00974/VC (1 year temporary consent)
11.00-00.00

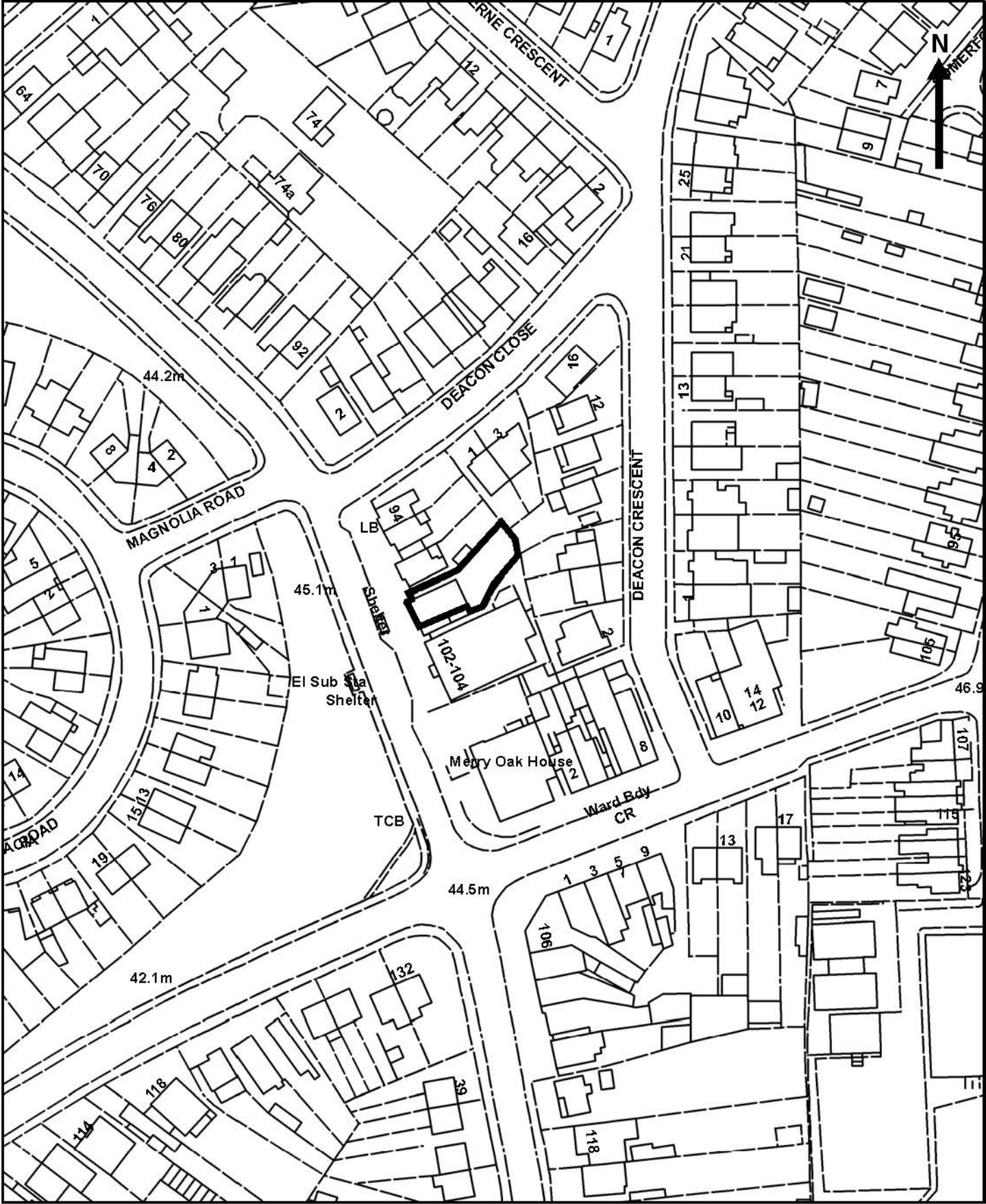
- 108 Spring Road (New Wongs Garden)
1457/74
Terminal hour 23.00

- 112 Spring Road (West Lake)
06/00762/VC
17.00-23.30 (Sun-Thur)
17.00-00.00 (Fri-Sat)

- 114 Spring Road (Mayflower Christian Bookshop)
15/01332/FUL
08.00-22.00



18/01483/FUL



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