



**NORTHAMPTON**  
**BOROUGH COUNCIL**  
Planning Committee

**PLANNING COMMITTEE:** 5<sup>th</sup> March 2013  
**DIRECTORATE:** Planning, Enterprise and Regeneration  
**HEAD OF PLANNING:** Susan Bridge

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**N/2007/1161:** Residential development including demolition of 55 Berry Lane - Outline application at Land South of Berry Lane

**WARD:** Nene Valley

**APPLICANT:** Mr G Goodwin  
**AGENT:** Brian Barber Associates

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**N/2007/1344:** 19no. apartments with vehicular access and parking together with offset parking on land adjacent to 78 Trinity Avenue at Kingsthorpe Grove and Stanhope Road

**WARD:** Kingsthorpe and Kingsley

**APPLICANT:** Venulum Property Investments  
**AGENT:** Whittaker Prestige Architects LTD

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**N/2008/1036** Demolition of existing buildings and erection of 23no. flats with associated access and parking at Land at Balmoral Road.

**WARD:** Kingsthorpe

**APPLICANT:** Babington Properties  
**AGENT:** Shoosmiths

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**N/2008/1256:** Demolition of all on-site buildings and erection of 15no. 1 bed and 15no. 2 bed self-contained flats at Victoria Business Park

**WARD:** Castle

**APPLICANT:** Mr Steve Hofford  
**AGENT:** Rod Kilsby Partnership

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**N/2009/0187:** 68-72 Abbey Street Demolition of existing  
4no. dwellings and business premises and  
erection of 29no. apartments.

**WARD:** St James

**APPLICANT:** P and G Brindisi  
**AGENT:** Shoosmiths

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**REFERRED BY:** Head of Planning  
**REASON:** Contrary to Previous Committee Decision

**DEPARTURE:** N/2007/161 – Yes, Others – No

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#### **APPLICATIONS FOR DETERMINATION:**

##### **1. RECOMMENDATION**

1.1 It is recommended that these planning applications are “**finally disposed of**” under the provisions of the 2010 Development Management Procedure Order.

##### **2. THE PLANNING APPLICATIONS**

2.1 N/2007/1161 – Outline application for residential development (all matters reserved)

2.2 N/2007/1344 – Demolition of existing buildings and erection of three storey block with 19 apartments.

2.3 N/2008/1036 – Demolition of existing buildings and erection of 23 flats in 3 / 4 storey blocks.

2.4 N/2008/1256 – Demolition of existing buildings and erection of three storey block of 15 flats.

2.5 N/2009/0187 – Demolition of four dwellings and business premises and erection of 3 storey block of 29 apartments.

##### **3. SITE DESCRIPTIONS**

3.1 N/2007/1161 – Area of open space, now under development following subsequent planning permissions.

3.2 N/2007/1344 – Car dealership and car storage area.

- 3.3 N/2008/1036 – Former social club.
- 3.4 N/2008/1256 – Former bakery premises, now disused and derelict.
- 3.5 N/2009/0187 – Former commercial premises and dwellings.

#### **4. PLANNING HISTORY**

- 4.1 **N/2007/1161** – No planning history prior to this application, subsequently there have been the following - *N/2009/0762 Outline application – Residential development including demolition of 55 Berry Lane. Approved 31-10-2011; N/2011/1249 - Erection of 14 detached dwellings with associated works following the demolition of single existing dwelling. Approved 15-06-2012.*
- 4.2 **N/2007/1344** – No Relevant History.
- 4.3 **N/2008/1036** – *99/0074 Demolition Of Existing Buildings & Erection Of 36 Flats - No Decision; N/2004/1112 20 New Flats Approved 15-11-2004; N/2007/1045 36no. New Flats with Associated Parking And Bin Stores And Associated Access - Refused 31-10-2007 Appeal 07-04-2008; N/2008/0261 Demolition of Existing Buildings and Erection Of 22no. Flats With Associated Access And Parking - Withdrawn 20-06-2008; N/2008/0762 Demolition Of Existing Buildings And Erection Of 23 Flats With Associated Access And Parking - Withdrawn 12-09-2008.*
- 4.4 **N/2008/1256** – No Relevant History.
- 4.5 **N/2009/0187** – No Relevant History.

#### **5. PLANNING POLICY**

##### **5.1 Development Plan**

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 current Development Plan comprises of the saved policies of the Northamptonshire County Structure Plan and Northampton Local Plan 1997.

##### **5.2 National Policies:**

National Planning Policy Framework

##### **5.3 Northampton Borough Local Plan**

H6, H17, H32, E20, and E40

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

- 6.1 The consultations and representations received are not relevant to the current consideration as to whether the application should be finally disposed of.

## **7. APPRAISAL**

- 7.1 This report relates to a number of applications which have previously been considered by the Planning Committee, and have been Approved in Principle subject to the completion of a S106 Agreement.
- 7.2 The Agreements have not been progressed by the applicants to completion and authority is now sought from the Committee to “finally dispose of” the applications.
- 7.3 The 2010 Development Management Procedure Order (Part 7, Article 36, paragraph 13) sets out the circumstances in which an application may be “finally disposed of”; these are principally when both the statutory period for determination and the subsequent period for appeal against non-determination have passed. Whilst it would be open to the Council to alternatively refuse these applications, this would be subject to challenge by appeal and this would detrimentally affect performance statistics through no fault of the Council. The proper procedure in cases where there has been a long period of inactivity is in any event for the application to be finally disposed of.
- 7.4 These are historic applications, as Members may be aware it is now usual practice for delegated authority to be sought from Committee for applications to be refused or finally disposed of if legal agreements are not completed within a specified time frame (usually three months of the Committee resolution), however these applications pre-date the introduction of this approach. These are the only applications on the Council’s books in this situation and it will not, therefore, be necessary for a further report of this nature to be presented to Committee in future.
- 7.5 The progress on each of the applications since the relevant committee decisions are discussed in turn below.

### **N/2007/1161 – Land South of Berry Lane**

- 7.6 This application was reported to the Planning Committee in December 2007 and was approved subject to the completion of a Section 106 Agreement requiring affordable housing, a sustainable urban drainage system and a payment for the provision of education facilities.
- 7.7 Some progress was made on the Section 106 Agreement, however the applicants then acquired additional land adjacent to the site and a further application (N/2009/0762) was submitted and subsequently approved in principle by Committee. The Section 106 agreement was in this case signed and the decision was issued on 31<sup>st</sup> October 2011. Soon after this the land was sold and a third application (N/2011/1249) was made and was approved in principle by Committee, with the decision being issued, following signing of the legal agreement, on 15<sup>th</sup> June 2012.

- 7.8 The development is now under construction in respect of this third application and it is clear that the original proposals will not be progressed. On this basis it is recommended that Committee agree the final disposal of this application.

**N/2007/1344 – Kingsthorpe Grove**

- 7.9 This application was approved in principle on March 12<sup>th</sup> 2008, subject to a S106 agreement to secure affordable housing, a payment for education facilities, retention of the satellite parking area and payments for off-site children play / open space provision.
- 7.10 Whilst some initial progress was made on the Agreement, the applicants and their agent contested the figure for an open space provision. This was a requirement of the original Committee resolution and there is no known basis for this requirement to be set aside, furthermore agreements have been signed on other sites for comparable payments, so this approach would appear to be inequitable.
- 7.11 A series of meetings was held with the agent, however no progress has been made and no contact has been made by the agents since June 2011. Consequently, it is considered that this application may now legitimately be finally disposed of.

**N/2008/1036 – Balmoral Road**

- 7.12 This application was approved in principle on December 19<sup>th</sup> 2008, subject to a S106 agreement to secure affordable housing and a payment for education facilities.
- 7.13 Whilst a draft agreement was produced, there has been no progress on this since February 2011. Consequently, it is considered that this application may also now legitimately be finally disposed of.

**N/2008/1256 - Victoria Business Park**

- 7.14 This application was reported to the Planning Committee in April 2009 and was approved in principle, subject to a Section 106 agreement requiring affordable housing, and payments for education, for a traffic regulation order and for improved changing facilities in Victoria Park.
- 7.15 Immediately following the Committee decision the requirement for a legal agreement was communicated to the applicant's agent by letter, and the Council's legal services were instructed. No response was received from the agent.
- 7.16 A further letter was sent to the agent in January 2011 advising that unless action was taken by them, the application would be disposed of. No response to that letter was received and a further two years have now elapsed. It is recommended, therefore, that Committee agree to this application being finally disposed of.

## **N/2009/0187 - 68 - 72 Abbey Street**

- 7.17 This application was reported to Planning Committee in July 2009 and was approved in principle, subject to a Section 106 agreement requiring affordable housing, a payment for the provision of education facilities and payment for a traffic regulation order.
- 7.18 Immediately following the Committee resolution the requirement for a legal agreement was communicated to the applicant's agent by letter, and the Council's legal services were instructed.
- 7.19 A letter was sent to the agent in January 2011 advising that unless action was taken by them, the application would be disposed of. A response to this was received in March 2011, however no undertaking was received that the Council's legal costs would be met, irrespective of whether the matter progressed and there has been no contact from the agents since March 2011.
- 7.20 It is recommended, therefore, that Committee agree to this application being finally disposed of.

## **8. CONCLUSION**

- 8.1 It is considered by officers that it is clear that these applications are very unlikely to be progressed by the applicants or their agents. With this in mind and given the considerable passage of time and the changes in planning circumstances that have occurred in the intervening period, Committee is asked to agree to their being finally disposed of as set out under relevant legislation.

## **9. BACKGROUND PAPERS**

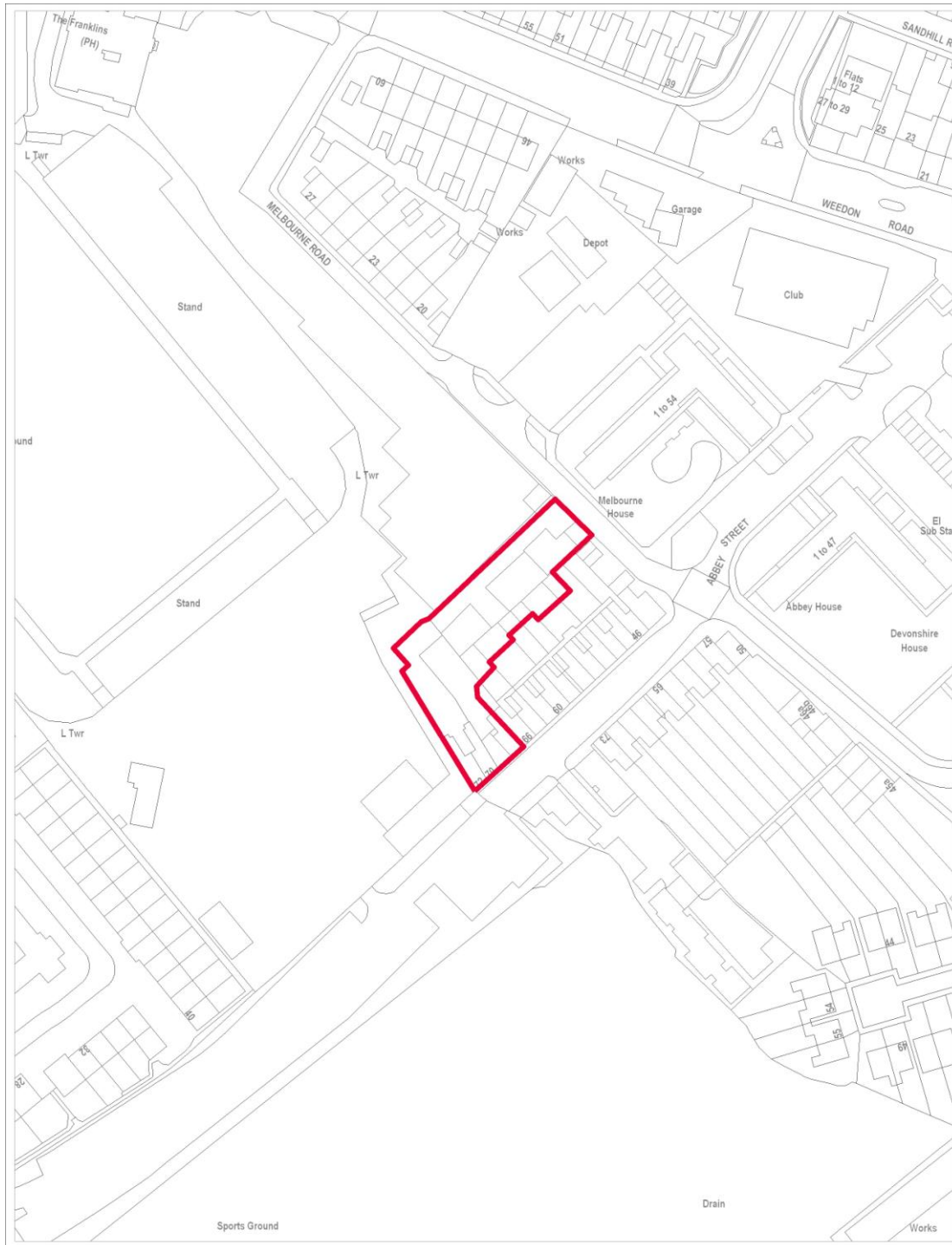
- 9.1. Application files N/2007/1161, N/2007/1344, N/2008/1036, N/2008/1256 and N/2009/0187.

## **10. LEGAL IMPLICATIONS**

- 10.1 None.

## **11. SUMMARY AND LINKS TO CORPORATE PLAN**

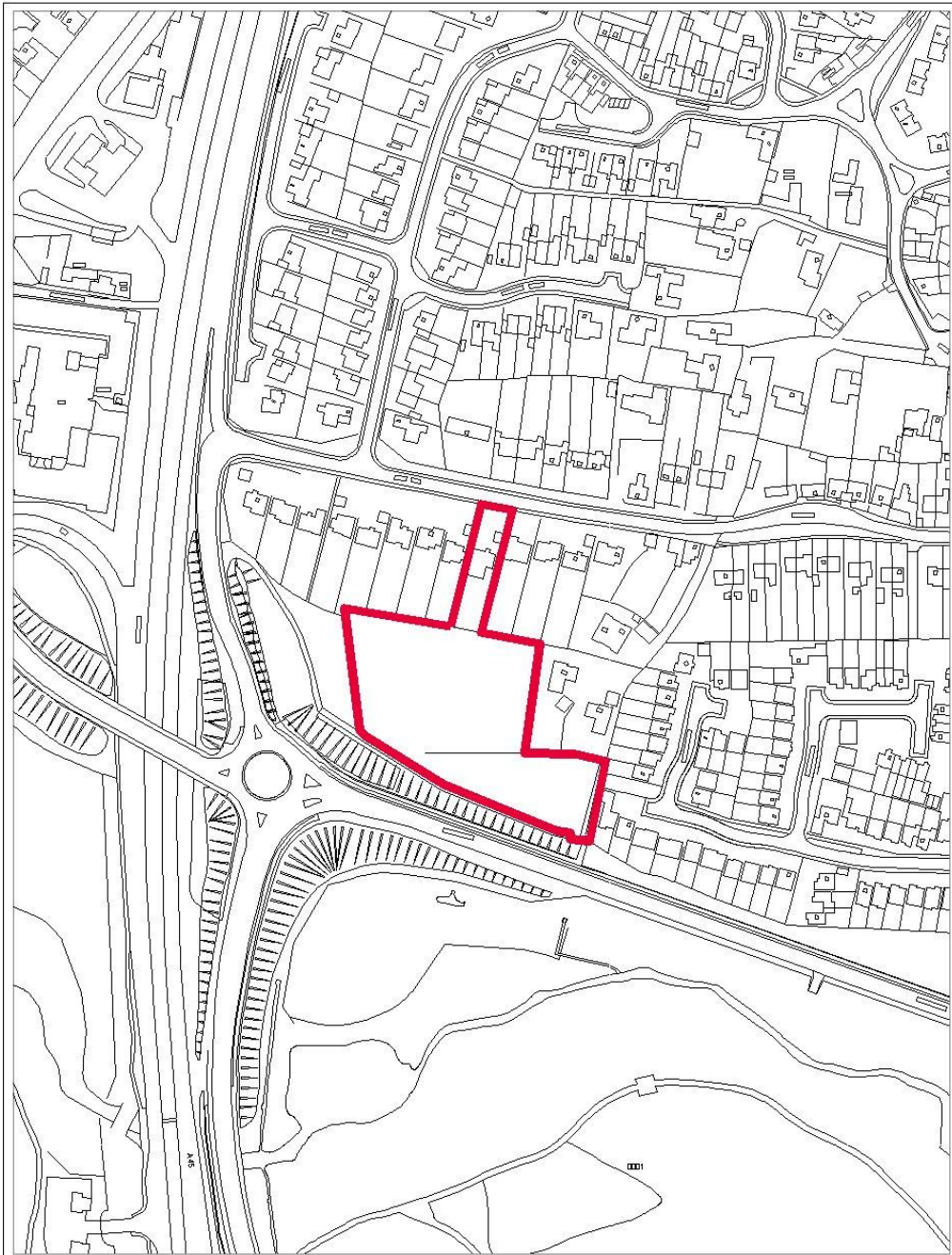
- 11.1 In reaching the attached recommendations regard has been given to securing the objectives, visions and priorities outlined in the Corporate Plan together with those of associated Frameworks and Strategies.



Name: **Planning**  
 Date: **19th February 2013**  
 Scale: **1:1250**  
 Dept: **Planning**  
 Project: **Committee**

Title  
**68 - 70 Abbey Street**

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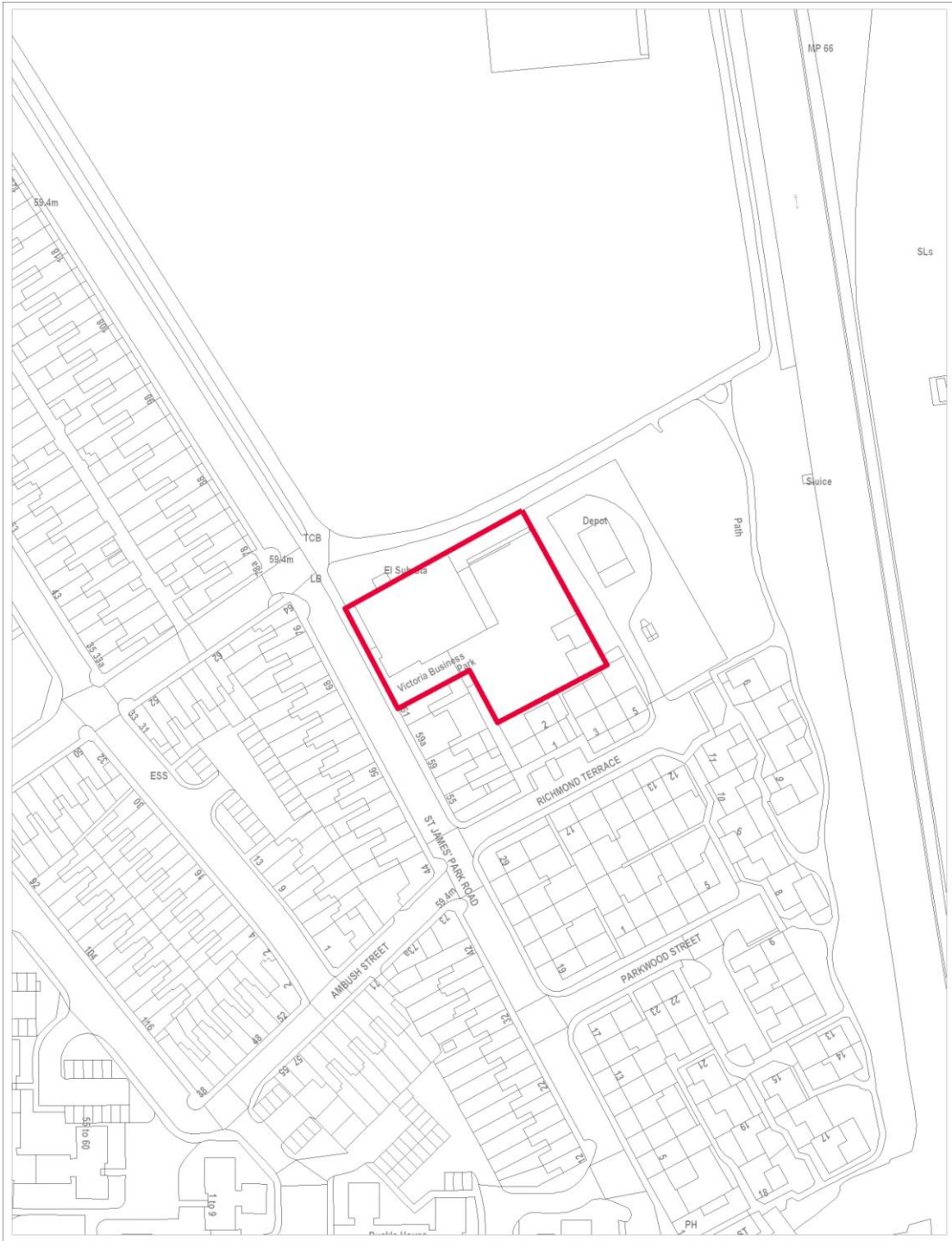


Des: Be c Gittins  
dt: 4th December 2007  
sk: NTS  
st: Planning Support  
map: Location Plan

Title:  
**Land south of Bry Lane, Wootton**

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Name: **Planning**  
 Date: **19th February 2013**  
 Scale: **1:1250**  
 Dept: **Planning**  
 Project: **Committee**

**Title**  
**Victoria Business Park, St James Park Road**

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|  <p><b>NORTHAMPTON</b><br/>BOROUGH COUNCIL</p> | <p>km: DGreenwell<br/>         dt: 29th February 2008<br/>         nr: 1:1250<br/>         pt: Planning<br/>         mpt: Location Plan</p> | <p><b>Title</b><br/> <b>Kingsthorpe Grove/Trinity Avenue</b></p> <p><small>Produced from the 2008 Ordnance Survey mapping with the permission of the Controller of Her Majesty's Stationery Office. © Crown Copyright. Unauthorised reproduction infringes Crown Copyright and may lead to prosecution or civil proceedings. Licence number: 100019655</small></p> |
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Im: SW  
 dt: 5th December 2008  
 nr: NTS  
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 map

**Land at Balmoral Road**

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