

DEVELOPMENT MANAGEMENT COMMITTEE 20th May 2024

Case No: 23/02498/FUL

Proposal: CHANGE OF USE FROM SHOP TO DWELLING (CLASS C3).

Location: 43 HIGH STREET BRAMPTON PE28 4TG

Applicant: MR Pauline Shaw

Grid Ref: 521162 270765

Date of Registration: 16.01.2024

Parish: BRAMPTON

RECOMMENDATION - REFUSE

This application is referred to the Development Management Committee (DMC) because the Officer recommendation is contrary to the Parish Council recommendation.

1. DESCRIPTION OF SITE AND APPLICATION

Site and Surroundings

- 1.1 The application site is located on the southern side of High Street, Brampton. The application site comprises approximately 28.8 sqm of Class E floorspace adjoined to the residential dwelling at 43 High Street, Brampton. The site was previously used as a Post Office before the Post Office relocated elsewhere in the village. More recently the site was used as a card shop, after which its commercial use ceased.
- 1.2 The application site lies within Brampton Conservation Area. A Grade II Listed Building 41 High Street is located immediately to the east, with further Grade II Listed buildings located further east. There are no other site constraints.

Proposal

- 1.3 The application seeks approval for the change of use of the former Post Office/card shop (use class E) adjoining 43 High Street to form part of existing residential property (use class C3).
- 1.4 Officers have scrutinised the plans and have familiarised themselves with the site and surrounding area.

1.5 The application is supported by the following documents;

- Heritage Statement
- History of the application site
- Supporting Statement
- Drawings

2. NATIONAL GUIDANCE

2.1 The National Planning Policy Framework (December 2023) (NPPF 2023) sets out the three objectives - economic, social and environmental - of the planning system to contribute to the achievement of sustainable development. The NPPF 2023 at paragraph 10 provides as follows: 'So that sustainable development is pursued in a positive way, at the heart of the Framework is a presumption in favour of sustainable development (paragraph 11).

2.2 The NPPF 2023 sets out the Government's planning policies for (amongst other things):

- delivering a sufficient supply of homes;
- building a strong, competitive economy;
- achieving well-designed, beautiful and safe places;
- conserving and enhancing the natural, built and historic environment

2.3 Planning Practice Guidance and the National Design Guide 2021 are also relevant and material considerations.

For full details visit the government website [National Guidance](#)

3. PLANNING POLICIES

3.1 Huntingdonshire's Local Plan to 2036 (Adopted 15th May 2019)

- LP1: Amount of Development
- LP2: Strategy for Development
- LP3: Green Infrastructure
- LP4: Contributing to Infrastructure Delivery
- LP5: Flood Risk
- LP7: Spatial Planning Areas
- LP11: Design Context
- LP12: Design Implementation
- LP14: Amenity
- LP16: Sustainable Travel
- LP17: Parking Provision and vehicle movement
- LP22: Local Services and Community Facilities
- LP34: Heritage Assets and their Settings

3.2 Supplementary Planning Documents (SPD) and Guidance:

- Huntingdonshire Design Guide Supplementary Planning Document (2017):

- Developer Contributions SPD (2011)
- Huntingdonshire Landscape and Townscape Assessment (2007)
- Cambridgeshire Flood and Water SPD 2017
- Huntingdonshire Tree Guidance Note 3
- Annual Monitoring Report – Part 1 (Housing) 2019/2019 (October 2019)
- Annual Monitoring Report – Part 2 (Non- Housing) 2018/2019 (December 2019)
- RECAP CCC Waste Management Design Guide (CCC SPD) 2012

3.4 The National Design Guide (2021)

- * C1 - Understand and relate well to the site, its local and wider context
- * I1 - Respond to existing local character and identity
- * I2 - Well-designed, high quality and attractive
- * B2 - Appropriate building types and forms
- *M3 - Well-considered parking, servicing and utilities infrastructure for all users
- * H1 - Healthy, comfortable and safe internal and external environment

For full details visit the government website [Local policies](#)

4. PLANNING HISTORY

- 4.1 23/01467/P3JPA - Change of use from shop to dwelling with removal of signage.
- The application was refused as the application site is considered to be one planning unit of a mixed residential use (Class C3) and retail (Class E) and therefore a Sui Generis use. The site, therefore, does not benefit from Permitted Development Rights under Class MA of the Town and Country (General Permitted Development) Order 2015 (as amended). The applicant was subsequently advised to submit a FUL application.

5. CONSULTATIONS

- 5.1 Brampton Parish Council – Support.
- 5.2 Local Highway Authority – No objection. It is considered that there are no significant adverse effects upon the Public Highway as a result of the proposal.
- 5.3 Environmental Health – No objection.

6. REPRESENTATIONS

6.1 None received.

7. ASSESSMENT

7.1 When determining planning applications, it is necessary to establish what weight should be given to each plan's policies in order to come to a decision. The following legislation, government policy and guidance outline how this should be done.

7.2 As set out within the Planning and Compulsory Purchase Act 2004 (Section 38(6)) and the Town and Country Planning Act 1990 (Section 70(2)) in dealing with planning applications the Local Planning Authority shall have regard to have provisions of the development plan, so far as material to the application, and to any other material considerations. This is reiterated within paragraph 47 of the NPPF (2023). The development plan is defined in Section 38(3)(b) of the 2004 Act as "the development plan documents (taken as a whole) that have been adopted or approved in that area".

7.3 In Huntingdonshire the Development Plan consists of:

- Huntingdonshire's Local Plan to 2036 (2019)
- Cambridgeshire & Peterborough Minerals and Waste Local Plan (2021)

7.4 The statutory term 'material considerations' has been broadly construed to include any consideration relevant in the circumstances which bears on the use or development of the land: *Cala Homes (South) Ltd v Secretary of State for Communities and Local Government & Anor* [2011] EWHC 97 (Admin); [2011] 1 P. & C.R. 22, per Lindblom J. Whilst accepting that the NPPF does not change the statutory status of the Development Plan, paragraph 2 confirms that it is a material consideration and significant weight is given to this in determining applications.

7.5 The main issues to consider as part of this application are:

- Principle of Development
- Design, Visual Amenity and impact on the surrounding area and heritage areas
- Highway Safety and Parking Provision

Principle of Development

7.6 The site is located within the built up area of Brampton which is classed as within the Huntingdon Spatial Planning Area under Policy LP7 of the Local Plan.

- 7.7 Policy LP7 states a proposal for residential development will be supported where it is appropriate located within a built-up area of an identified Spatial Planning Area Settlement.
- 7.8 The application seeks approval for the change of use of the former Post Office/Card Shop (use class sui generis) adjoining 43 High Street to form part of existing residential property (use class C3).
- 7.8 Policy LP22 (Local Service and Community Facility) is the most relevant policy here.
- 7.9 Policy LP22 states outlines how local services and community facilities include, but are not limited to, shops, public houses, places of worship, cemeteries, health centres, libraries, fuel filling stations and public halls.
- 7.10 Policy LP22 (Local Services and Community Facilities) states: Where permitted development rights do not apply a proposal which involves the loss of a local service or community facility will only be supported where:
- d. an equivalent service or community facility will be provided in a location with an equal or better level of accessibility for the community it is intended to serve; or
 - e. it demonstrates that there is no reasonable prospect of that service or facility being retained or restored because either:
 - i. there is insufficient community support for its continuation; or
 - ii. reasonable steps have been taken to effectively market the property for its current use without success.

A proposal will not be supported where the proposed loss is within a Key Service Centre and it would undermine the settlement's role in provision of services.

- 7.11 As LP22 covers a wide range of different local services and community facilities, members should note that the evidence base will vary from case to case. Each case/use should be assessed on its own merits. For example, fuel filling stations are very different from public houses, and public houses are very different from a public hall community facility.
- 7.12 It is noted that the application is supported by a Supporting Statement and confirms that the removal of the Post Office from this site was carried out without agreement from the applicant. The Post Office was relocated to another site within the village offering longer opening hours. The applicants then attempted to run a card shop from the site, but this was not financially viable.
- 7.13 The applicants have stated that the shop does not benefit from its own services; these are linked to the main residential property. The applicants consider that the shop premises are closely integrated with the main residential dwelling and therefore do not wish to rent out the space to anyone outside of their family and

therefore they have not carried out any marketing of the premises for the continued use as a commercial unit, as would be required under criterion (e.) of LP22. In addition, it is noted that there are several other units within the village that sell cards and stationery and therefore there is no loss of amenity.

- 7.14 Officers note the arguments put forward by the applicant and will respond to the points made.
- 7.15 Firstly, officers do not consider the proposal complies with Policy LP22 part d). Whilst the site originally operated as a Post Office, it more recently operated as a card shop. The applicant acknowledges this. Therefore, the argument that the post office has been replaced with an equivalent service and that the proposal complies with Policy LP22 part d) is not valid. This is because Officers have to consider the current (most recent) use that is being lost, which is use class E. Despite there being provision within the village of other card shops, this unit has not been replaced and therefore there has been a loss of service.
- 7.16 So the loss of the local service must therefore be assessed against Policy LP22 part e).
- 7.17 When considering Policy LP22, it is a matter of judgement for Officers on whether part e) i) (insufficient community support for its continuation) or part e) ii) (marketing) is the most appropriate route to determine whether there is no reasonable prospect of that service or facility being retained or restored.
- 7.18 Local Plan Policy LP22 supporting text paragraph 6.49 outlines the following: *Assessing the level of community support for a local service or facility is a matter of judgement, but could be informed by information such as evidence of the level of recent usage, as well as the number and nature of comments made on an application by members of the local community. For commercially run facilities such as local shops and pubs, the Council considers that a robust marketing exercise is the most transparent way of demonstrating that such facilities are no longer viable. This should be of sufficient duration to allow the local community time to consider making a bid to run or acquire premises of value through the Community Right to Bid. In seeking to justify the loss of local services or community facilities, applicants will also be required to consider whether existing premises or sites can be adapted to retain a viable community facility or service. Effective marketing will in most cases need to be for a continuous period of 12 months at a value reflecting its permitted use with details kept of any offers received and detailed reasoning for declining them. However, in particular circumstances it may be appropriate for alternative arrangements to establish if there is any realistic prospect of maintaining the service or facility.*

- 7.19 To expand on the above, Policy LP22 covers a wide range of different local services and community facilities, members should note that the evidence base will vary from case to case. Each case/use should be assessed on its own merits. For example, commercial units are very different from public houses, and public houses are very different from a public hall community facility. There is a difference between how a service and a facility operates. A lot of community facilities such as a public hall operate with a booking system. Customers would book the facility ahead of time as such places don't allow people to just turn up to use the facilities. In such a case, you would be able to quantify a demand for a facility and establish if there is insufficient community support for its continuation due to the number of bookings over a time period.
- 7.20 The supporting text for LP22 is clear that for 'commercially run facilities such as local shops and pubs, the Council considers that a robust marketing exercise is the most transparent way of demonstrating that such facilities are no longer viable'. Given that the application in question is for a commercial unit (use class E), the most appropriate route to determine whether there is no reasonable prospect of that service or facility being retained or restored would be through effective marketing of the property for its current use which would be Policy LP22 part e) ii).
- 7.21 In this instance, the applicant has not marketed the unit, as they consider that the space is integral to their residential property and do not want it to be let on a commercial basis. They would like the space to be integrated back into the residential dwelling as it was intended to be when first built.
- 7.22 The proposal has failed to demonstrate that the site has been effectively and robustly marketed for its current use without success to demonstrate that there is no reasonable prospect of that service or facility being retained or restored. Subsequently, the application has also failed to demonstrate that the loss of the commercial site will not undermine the settlement's role in provision of services. The proposal is therefore contrary to policy LP22 part e) ii) of the Huntingdonshire Local Plan to 2036.

Design, Visual Amenity and impact on the surrounding area and Heritage Assets

- 7.23 The application site lies within Brampton Conservation Area.
- 7.24 A Grade II Listed Building 41 High Street is located immediately to the east of the property, with further Grade II Listed properties located further to the north-east. There are no other site constraints.

- 7.25 Section 72 of the Planning (LBCA) Act 1990 states that special attention shall be paid to the desirability of preserving or enhancing the character or appearance of a Conservation Area.
- 7.26 Section 66 of the Planning (LBCA) Act 1990 states that in considering whether to grant planning permission for development which affects a listed building or its setting, the local planning authority shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.
- 7.27 Para. 205 of the NPPF set out that 'When considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance'. Para. 206 states that 'Any harm to, or loss of, the significance of a designated heritage asset (from its alteration or destruction, or from development within its setting), should require clear and convincing justification...'. Para. 208 goes on to state that where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including securing its optimum viable use.
- 7.28 Local Plan Policy LP34 aligns with the statutory provisions and NPPF advice.
- 7.29 Policy LP11 of the Local Plan states that proposals will be supported where it is demonstrated that they positively respond to their context and draw inspiration from the key characteristics of their surroundings, including the natural, historic and built environment.
- 7.30 Policy LP12 of the Local Plan states that proposals will be supported where they contribute positively to the area's character and identity and where they successfully integrate with adjoining buildings, topography and landscape.
- 7.31 It is noted that all signage for the shop premises has already been removed. The application does not involve any external changes, with the retention of the additional front door. Officers have given special attention to the desirability of preserving or enhancing the character or appearance of the Conservation Area and the setting of Listed Buildings within close proximity to the dwelling. The property has the visual appearance of a private residential dwelling. Officers consider the proposal will preserve or enhance the character and appearance of the Brampton Conservation Area and will not adversely impact the setting of the nearby listed assets. The proposed development is in accordance with Policies LP11, LP12 and LP34 of the adopted Huntingdonshire Local Plan

to 2036, Sections 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990, the Huntingdonshire Design Guide SPD and Sections 12 and 16 of the National Planning Policy Framework.

Highway Safety and Parking Provision

- 7.32 Policy LP16 (Sustainable Travel) aims to promote sustainable travel modes and supports development where it provides safe physical access from the public highway. Policy LP17 (Parking Provision and Vehicle Movement) states a proposal will be supported where it incorporates appropriate space for vehicle movements, facilitates accessibility for service and emergency vehicles and incorporates adequate parking for vehicles and cycles.
- 7.33 The proposed change of use would result in the site operating as one planning unit. The Highway Authority has been consulted and raises no objection. The existing dwelling has off-street car parking. Officers therefore consider the proposal would not have an adverse impact upon highway safety and would have appropriate car parking provision in accordance with Policies LP16 and LP17 of the of the Huntingdonshire Local Plan to 2036.

Residential Amenity

Amenity of neighbouring properties

- 7.34 Policy LP14 states that a proposal will be supported where a high standard of amenity is maintained for all occupiers of neighbouring land and buildings.
- 7.35 As the proposal is to change the use of the commercial unit to form part of the existing residential property at 43 High Street, the proposal would not have any adverse neighbour amenity impacts in terms of noise. The proposal is therefore considered to accord with Policy LP14 of the Local Plan in respect of its impact upon neighbouring properties.

Conclusion

- 7.36 The proposal is for a change of use of the former Post Office/card shop (use class E) adjoining 43 High Street to form part of existing residential property (use class C3).
- 7.37 Policy LP22 states that a proposal that includes a loss of a local service or community facility needs to demonstrate that there is no reasonable prospect of that service or facility being retained or restored through effective and robust marketing for its current use without success. The application has failed to demonstrate this.

7.38 Having regard to all relevant material considerations, it is concluded that the proposal would not accord with local and national planning policy. Therefore, it is recommended that planning permission be refused.

8. RECOMMENDATION – REFUSE for the following reason:

1. The proposal has failed to demonstrate that the site has been effectively and robustly marketed for its current use without success to demonstrate that there is no reasonable prospect of that service or facility being retained or restored. Subsequently, the application has also failed to demonstrate that the loss of the commercial site will not undermine the settlement's role in provision of services. The proposal is therefore contrary to policy LP22 part e) ii) of the Huntingdonshire Local Plan to 2036.

If you would like a translation of this document, a large text version or an audio version, please contact us on 01480 388424 and we will try to accommodate your needs

CONTACT OFFICER:

Enquiries about this report to **Olivia Manton Development Management Officer** – olivia.manton@huntingdonshire.gov.uk

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Huntingdon
Cambridgeshire PE 29 3TN

Application Number: 23/02498/FUL Case Officer Olivia Manton
Proposal: Change of use from shop to dwelling (Class C3).
Location: Shop43 High StreetBrampton
Observations of Brampton Town/Parish Council.

Please ✓ box as appropriate

Recommend **approval** because(please give relevant planning reasons in space below)
Approved

Recommend **refusal** because...(please give relevant planning reasons in space below)

No observations either in favour or against the proposal

Ms Tess Rogers Clerk to Brampton Town/Parish Council. (For GDPR purposes please do not sign)

Date :

Failure to return this form within the time indicated will be taken as an indication that the Town or Parish Council do not express any opinion either for or against the application.

Please send response to email address below:-

Development.control@huntingdonshire.gov.uk

(Development Management)

Development Management Committee



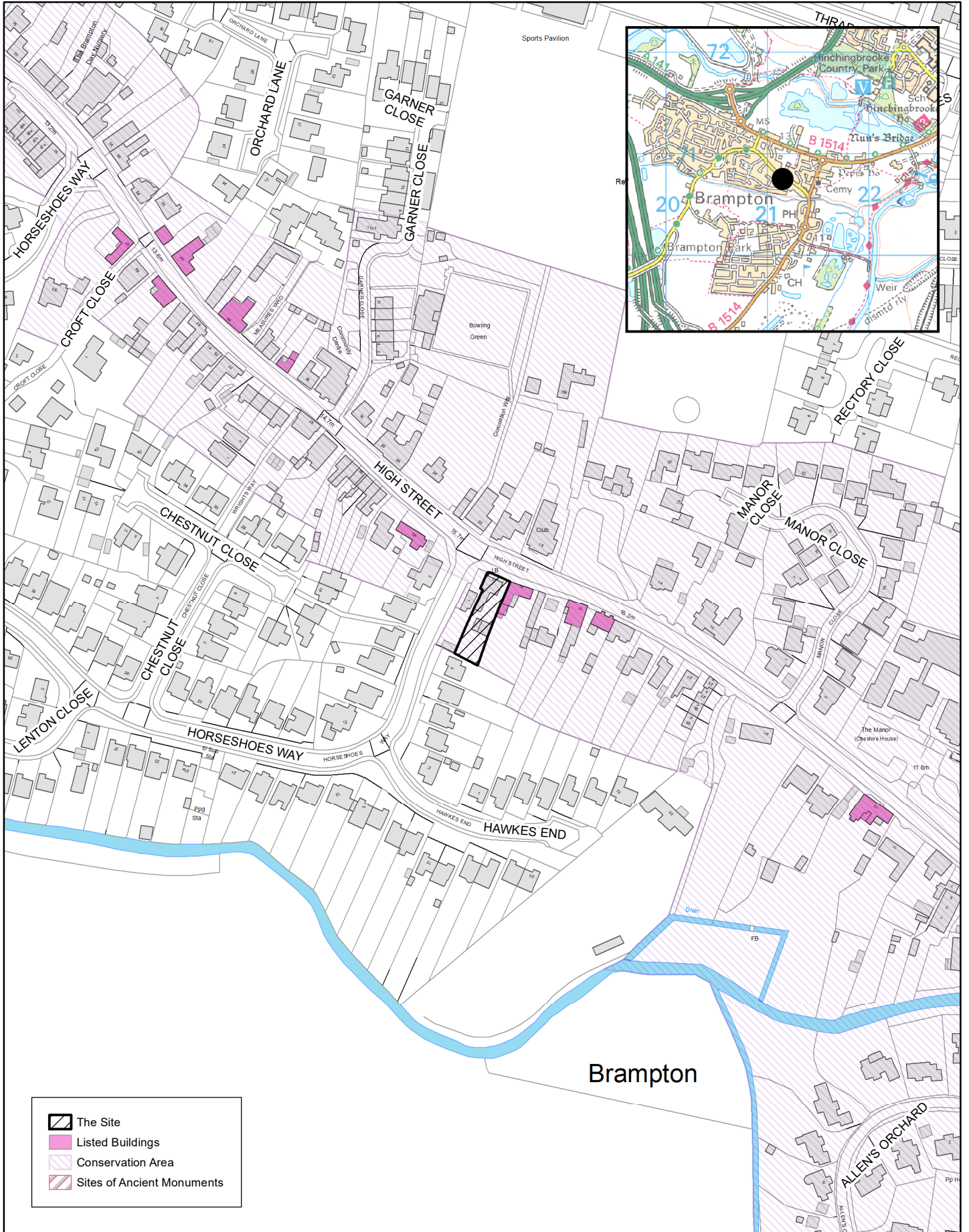
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Application Ref: 23/02498/FUL

Date Created: 07/05/2024

Location: Brampton

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Ordnance Survey HDC 100022322



Location Plan

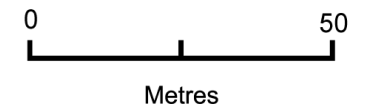
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Date Produced: **22-Dec-2023**

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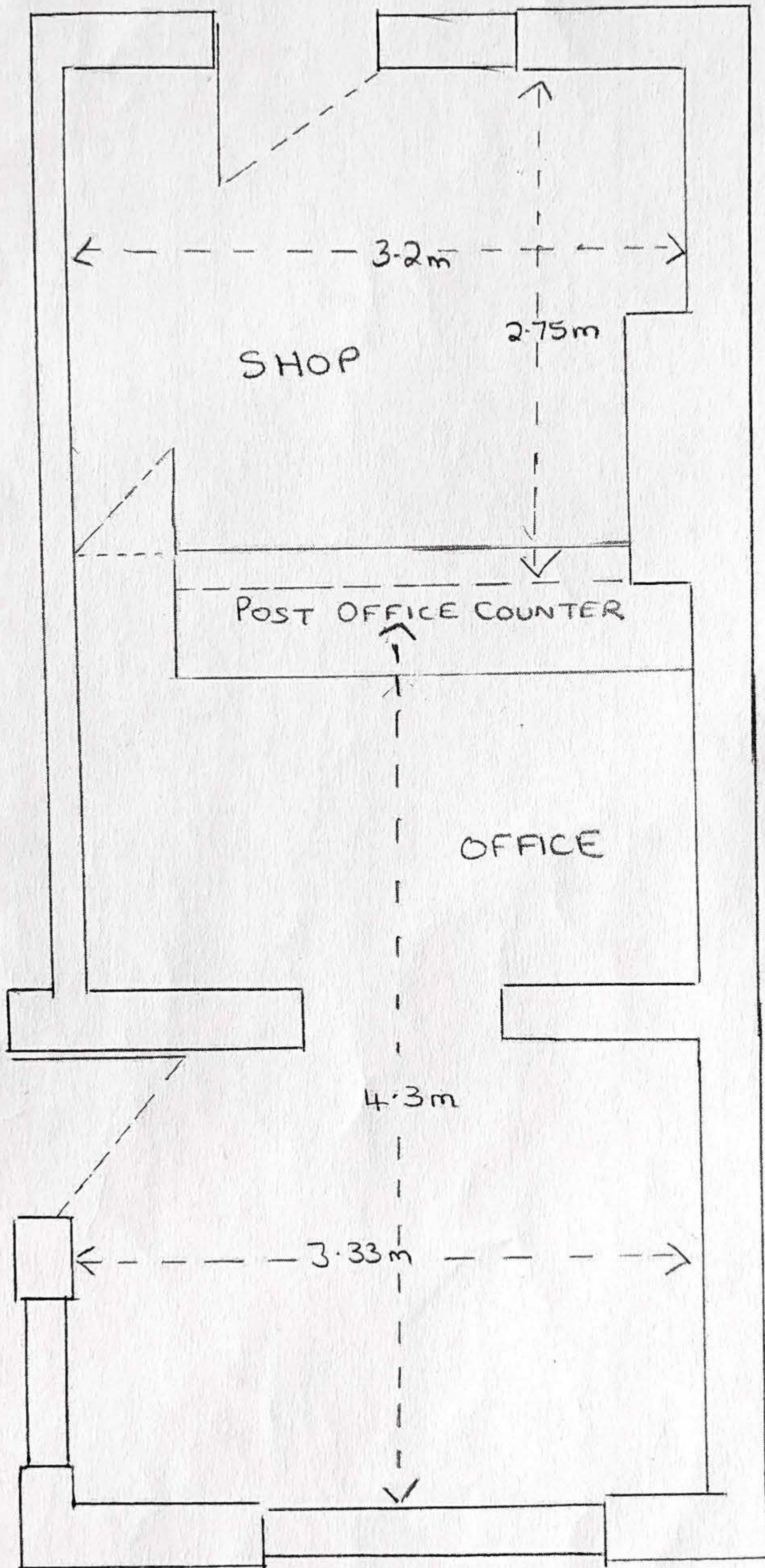


Planning Portal Reference: **PP-12681278v1**



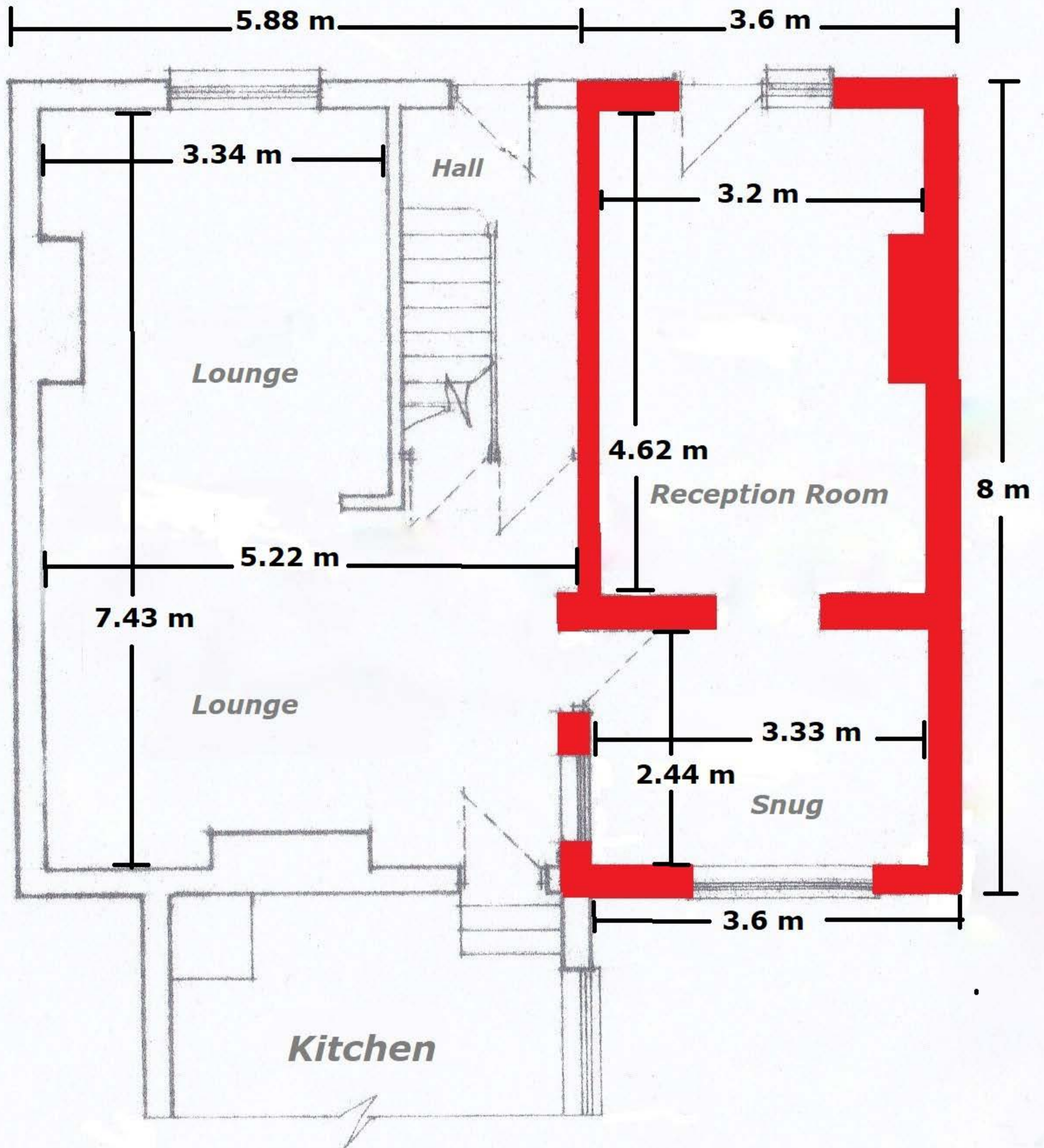
Prior Approval Shop to Dwelling
Shop 43 High Street, Brampton, Huntingdon, PE28 4TG
Ref:23/01467/P3JPA

Shop area
8.8 sq m



Office area
14.32 sq m

Copy of the document sent to the VOA in October 2004
because their valuation was incorrect
It shows the area of the shop and office at that time with the PO counter in situ



Prior Approval Shop to Dwelling
Shop 43 High Street, Brampton, Huntingdon, PE28 4TG
Ref:23/01467/P3JPA



41 and 43 High Street Brampton in 1936 1964 2016



1936

43 High Street
was a private dwelling

1964

43 High Street
was a private dwelling
with a Post Office



2016

43 High Street
was a private dwelling
with a Post Office

