

**Report to** Planning Applications Committee  
**Date** 8 November 2012  
**Report of** Head of planning services  
**Subject** 12/00215/ET 131 - 133 King Street Norwich NR1 1QE

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**Item**  
**5(3)**

## SUMMARY

<b>Description:</b>	Extension of time period for the commencement of development for previous planning permission 07/00412/F 'Demolition and redevelopment of site with three to six storey building to provide 25, two and three-bedroom apartments; 1, retail unit (Class A1); 1, bar/restaurant (Class A3) and associated parking and landscaping'.	
<b>Reason for consideration at Committee:</b>	Contrary to Policy.	
<b>Recommendation:</b>	Approve with conditions and subject to the signing of a Section 106 agreement	
<b>Ward:</b>	Thorpe Hamlet	
<b>Contact Officer:</b>	Miss Sarah Platt	Planning Officer - Development Management 01603 212500
<b>Date of receipt:</b>	27th January 2012	
<b>Applicant:</b>	Mr Malcolm Parnell	
<b>Agent:</b>	Mr Iain Hill	

## INTRODUCTION

### The Site

#### Location and Context

1. This site is the former Lacey and Lincoln Ltd builders' merchant site on the north-east side of King Street. It is situated between the former 'Bennetts' electrical showroom (125-129 King Street) and Hoborough Lane. The site extends through from King Street almost to the River Wensum. The river edge here is known as St. Julian's Wharf and the strip of land which separates the site from the river is owned by Norwich City Council. On the King Street frontage the site abuts 129 King Street which is a Grade II Listed Building.

## **Constraints**

2. Within the City Centre Conservation Area.

## **Planning History**

**07/00411/C** - Demolition of light industrial units prior to redevelopment of site with a mixed use development. (Approved - 30/01/2009)

**07/00412/F** - Demolition and redevelopment of site with three to six storey building to provide 25, two and three-bedroom apartments; 1, retail unit (Class A1); 1, bar/restaurant (Class A3) and associated parking and landscaping. (Approved - 30/01/2009)

**11/01642/ET** - Extension of time period for previous planning permission (App. No. 07/00412/F) 'Demolition and redevelopment of site with three to six storey building to provide 25, two and three-bedroom apartments; 1, retail unit (Class A1); 1, bar/restaurant (Class A3) and associated parking and landscaping'. (Refused - 28/10/2011)

**11/01736/ET** - Extension of time period for previous conservation area consent 07/00411/C 'Demolition of light industrial units prior to the redevelopment of the site with a mixed use development'. (Approved - 22/11/2011)

## **Equality and Diversity Issues**

There are no significant equality or diversity issues.

## **The Proposal**

3. The application seeks an extension of time to planning permission 07/00412/F for the redevelopment of the site to include the demolition of the existing buildings and redevelopment with a three to six storey building providing 25 no 2 and 3 bedroom apartments, 1 no retail unit (Class A1), 1 no bar/restaurant (Class A3) and associated parking and landscaping.
4. Conservation Area Consent has been granted under application numbers 07/00411/C and 11/01736/ET. This does not expire until 23<sup>rd</sup> November 2014.

## **Representations Received**

5. Advertised on site and in the press. Adjacent and neighbouring properties have been notified in writing. No letters of representation have been received.

## **Consultation Responses**

6. Broads Authority: Original objections as made against the original permission (07/00412/F) still remain: a) Welcome the inclusion of a riverside walk and open area adjacent to the river; b) the application includes no assessment of the impact of the building on views from the river nor any proposals for the river frontage; c) the scale, height, massing and density of the development is not in keeping with the character of the area and; d) a revised scheme should be submitted which represents a missed use redevelopment.

7. Anglian Water: No objections in principle. Suggested conditions with regards to the need for a surface water drainage strategy.
8. Heritage Environment Service: No objections in principle. Please carry all conditions from the previous consent with the new standardised wording.
9. English Heritage: No comments.
10. Natural England: No objections.
11. Environment Agency: No objections in principle. Appropriate conditions recommended
12. Local Highway Authority: No comments.
13. Environmental Health: No objections in principle. Please carry all conditions.

## **ASSESSMENT OF PLANNING CONSIDERATIONS**

### **Relevant Planning Policies**

#### **National Planning Policy Framework:**

- Statement 4 – Promoting sustainable transport
- Statement 6 – Delivering a wide choice of high quality homes
- Statement 7 – Requiring good design
- Statement 12 - Conserving and enhancing the historic environment

#### **Relevant policies of the adopted East of England Plan Regional Spatial Strategy 2008**

- SS1 - Achieving Sustainable Development
- SS6 – City and Town Centres
- T14 - Parking
- ENV6 - The Historic Environment
- ENV7 - Quality in the Built Environment
- ENG1 – Carbon Dioxide Emissions and Energy Performance
- WAT1 – Water Efficiency

#### **Relevant policies of the adopted Joint Core Strategy for Broadland, Norwich and South Norfolk 2011**

- Policy 2 – Promoting good design
- Policy 3 – Energy and water
- Policy 4 – Housing delivery
- Policy 6 – Access and transportation
- Policy 20 - Implementation

#### **Relevant saved policies of the adopted City of Norwich Replacement Local Plan 2004**

- NE9 - Comprehensive landscaping scheme and tree planting
- HBE3 – Archaeology assessment in Area of Main Archaeological Interest
- HBE8 - Development in Conservation Areas
- HBE12 - High quality of design in new developments
- EP1 - Contaminated land
- EP10 – Noise protection between different uses
- EP22 - High standard of amenity for residential occupiers
- HOU2 – Mix of uses including housing on city centre sites

HOU9 – Sites allocated for mixed use development including housing  
 SR5 – Allocation of specific areas for open space  
 SR11 – Riverside Walks – agreement with developers to provide / maintain  
 TRA5 - Approach to design for vehicle movement and special needs  
 TRA6 - Parking standards - maxima  
 TRA7 - Cycle parking standards  
 TRA8 - Servicing provision  
 TRA11 – Contributions for transport improvements in the wider area  
 TRA15 - Cycle network and facilities  
 CC11 – King Street area – regeneration generally  
 CC12 – Site at St Anne's Wharf – mix of uses and conditions

## **Supplementary Planning Documents and Guidance**

City Centre Conservation Area Appraisal (September 2007)

## **Other Material Considerations**

The Localism Act 2011

Written Ministerial Statement: Planning for Growth March 2011

## **Principle of Development**

### **Policy Considerations**

14. The application is for the extension of time of previous planning permission 07/00412/F. It is a long standing policy aim of the Council to promote regeneration in the King Street area as set out in saved policies HOU9 A12 and CC11 of the adopted local plan. These saved policies promote residential development in mixed use schemes with retail, restaurants, bars and offices. Saved policy SR5 also applies to the application site seeking a proportion of open space on site to serve the wider area. This is an aim carried through into the emerging Site Allocations currently undergoing pre-submission consultation (Regulation 19) although this document can be given little weight until formally adopted. The current application to extend the time for implementation of the permission on this site remains consistent with the policy objectives for this area and is still considered acceptable.
15. Paragraph 23 of the Government Guidance document '*Greater Flexibility for Planning Permissions*' states that in the assessment of applications for extensions of time of previous approvals, the development will by definition have been judge to be acceptable in principle. The focus of local authorities should therefore be on development plan policies and material considerations which have changed significantly since the grant of planning permission. Subsequently, the objections raised by the Broads Authority, mainly relating to design, were not considered to be a significant enough to warrant refusal and were addressed at the time of the original application. The main issues to assess in this case are changes in policy or changes in circumstances since the original approval.
16. The Joint Core Strategy for Broadland, Norwich and South Norfolk (JCS) has been adopted and the National Planning Policy Framework (NPPF) has replaced former planning policy statements and guidance. A number of the policies in these two new policy statements continue the direction of previous policy and in this case support the provision of new housing facilities and promote good design. The changes in policy are not considered to have any material affect on the assessment of the proposals in terms of their acceptability in principle, (i.e. the use, design, amenity, parking or servicing).

17. Under JCS policy 3 the proposals would trigger the requirement for code level 4 for water efficiency. This can be secured via a new condition.
18. Joint Core Strategy policy 4 suggests that new housing development should include an element of affordable housing for sites of 5 dwellings and above. The Affordable Housing SPD (Oct 2009), although out of date in terms of the quantity of affordable housing required, goes on to qualify how the City Council expects developers to negotiate on this and what will be required of them if the overall financial viability of the proposed scheme is affected (i.e. the scheme cannot take the full 33% affordable).
19. Discussed below are the policy compliant S106 contributions and viability.

## **Planning Obligations**

### **Affordable Housing and Transport Improvements**

20. Under the new JCS the proposals would trigger affordable housing under policy 4 of the JCS at a rate of 33% with a split of 85% social rented and 15% intermediate tenures.
21. In addition to affordable housing the proposals would trigger the following contributions:
  - a. Contribution of £7,054 under local plan policy TRA11 to the city wide transport improvement programme, payable prior to first occupation.

### **Open Space and Play Equipment**

22. The proposals also trigger a need for play/open space. As agreed under the original permission, an area of land within the red line of the application site will be provided for an area of play/open space. Such provision is included within the current site allocation and is considered to be a positive benefit as a result of these development proposals.

## **Development Viability and Deliverability or Affordable Housing**

23. The applicant has made a case that if all the planning obligations which would normally be sought are applied it would render the development unviable. A viability assessment to support this has been submitted.
24. The viability of the scheme has been independently verified by the District Valuer Service. This indicates that the full package of contributions would not be viable and that in order to make the development viable, affordable housing cannot be provided on site. This is accepted by officers.
25. JCS policy 4 seeks the provision of 33% affordable housing with approximate tenure mix of 85% social rented and 15% intermediate tenures, which in this case would equate to 8 units comprising 7 Social Rented and 1 intermediate tenure. The policy allows for the proportion of affordable housing sought to be reduced and the balance of tenures amended where it can be demonstrated that site characteristics, including infrastructure provision, together with the requirement for affordable housing would render the site unviable in prevailing market conditions, taking

account of the availability of public subsidy to support affordable housing.

26. This policy ties in the with objectives at national and regional level to achieve viable development which achieves a mix of housing including affordable housing which meets market needs and helps to create mixed communities.

### **Affordable Housing as a Financial Contribution:**

27. The viability assessment demonstrates a positive residual land value where the following is accepted:

- No affordable housing is provided on site but a commuted sum of £35,000 is paid to contribute toward off site provision;
- The transport contribution of £7,054 is paid, and;
- Open/play space land is provided on site.

28. Such an approach as outlined above has been accepted in a resolution by Cabinet to endorse an interim statement on affordable housing which would be given weight in the determination of planning applications. The statement sets out circumstances where the provision of a contribution to allow affordable housing to be provided offsite may be acceptable. These circumstances are as follows:

- (a) On any site where after an open-book viability assessment has been conducted (and accepted by the council after independent assessment) that demonstrates that a site is not sufficiently viable to enable the provision of a single social rented dwelling on the site;
- (b) On relatively small sites proposed for flatted developments (typically developments of 15 or fewer units on sites of 0.2ha or less) where it can be demonstrated that RPs are reluctant to take on the management of a small number of affordable units. In these cases developers will be expected to provide written evidence that no RP is willing to take on the unit(s). The housing development team will contact the relevant RPs on behalf of the developer if requested.
- (c) On small to medium sites with exceptional factors which would not be attractive to RPs (evidence of this will be required), such as inappropriate floor areas or high service charges, and where it is capable of using contributions in lieu to deliver more affordable units off-site than would have been provided on-site (or the same number of units but in a form that better meets established local needs) elsewhere in the local area.

29. Under the interim statement the total off site commuted sum towards affordable housing for a site of this size and location would be £933,055.15.

30. The principle of accepting an off-site contribution sum instead of provision on site is finely balanced in this case. Notwithstanding the interim statement referred to above it must also be considered whether the particular proposal will result in a development contribution towards essential social infrastructure in the local area and if it will promote social cohesion. In this instance officers tend to the view that the off-site contribution is acceptable as there are a number of sites in close proximity to the development site where the funds could be utilised. The exact site

would depend on the timing of receipt, however potentially this could assist the delivery of sites such as Argyle Street which is 300m from the site.

31. It is recommended that any approval on this basis include provisions within the S106 agreement for an overage clause which seeks to claw back lost planning obligations where reality is better than predicted in the viability assessments. This would operate so as to claw back any profit in excess of 20% of the gross development value up to a cap set via the total commuted sum.
32. It is also recommended that a review mechanism be built into the agreement to require a review of the financial payment in lieu of affordable housing on site: a) where there is no commencement within 18 months of the consent; and b) where first occupation has not occurred within 30 months of commencement.
33. Councillor Bremner, cabinet member for environment and development, has been consulted and supports the above approach.

## **Local Finance Considerations**

34. The Localism Act 2011 amended S70 of The Town and Country Planning Act 1990 to require local planning authorities to have regard to local finance considerations in the determination of planning applications, alongside the development plan and other material considerations.
35. In this case the proposals if granted would return council tax receipts as well as new homes bonus.

## **Conclusions**

36. In coming to a decision on the acceptability of the scheme with no affordable housing provided on site it is important that a balanced decision is made with due regard to policy, local finance and other material considerations.
37. The site is a brownfield site which has been vacant for a considerable period of time and its redevelopment is desirable. The regeneration of the King Street area remains a policy objective and is supported by such schemes as the South City Centre Area Action Plan. The development proposals accord with all policy objectives in terms of principle, proposed uses, design and associated infrastructure.
38. It is acknowledged that the national housing market is in a depression and that in a more buoyant market there are larger schemes within the immediate locality which would bring a greater impact. However, a number of smaller schemes are being brought forward along King Street which cumulatively could be argued to be kick-starting the regeneration of this area. It must therefore be accepted that the only way to add to this momentum is to accept that on smaller schemes such as this there must be flexibility in the approach to financial contributions and policy requirements imposed.
39. It is accepted that the provision of affordable housing on this site renders the development unviable and it is therefore proposed that no provision on site will be made but rather a commuted sum in lieu of this of £35,000 will be paid, in addition the transport contribution of £7054. The provision of land on site for open/play

space should be maintained. The developer has agreed to enter into an overage clause in the S106 agreement allowing the council to claw back any lost planning obligations up to an agreed cap.

40. On balance and given the wording of JCS policy 4 which allows for lesser provision of affordable housing where the scheme is found to be unviable (see paragraph 28 above), the viability evidence submitted and the above material considerations it is considered that the proposals are acceptable subject to the provision of a commuted sum for off site provision of affordable housing, the required transport contribution and open/play space being provided on site. The permission would also be subject to the signing of a S106 agreement with an overage clause and the conditions detailed within the recommendation below.

## **RECOMMENDATIONS**

To approve application No 12/00215/ET 131-133 King Street, Norwich and grant an extension of time to the previous consent 07/00412/F, subject to the following conditions (as per the original consent but re-worded to ensure they are robust, and any newly required conditions) and subject to the signing of a S106 by 31 December 2012 or to delegate authority to the head of planning services to approve or refuse the application after this date:

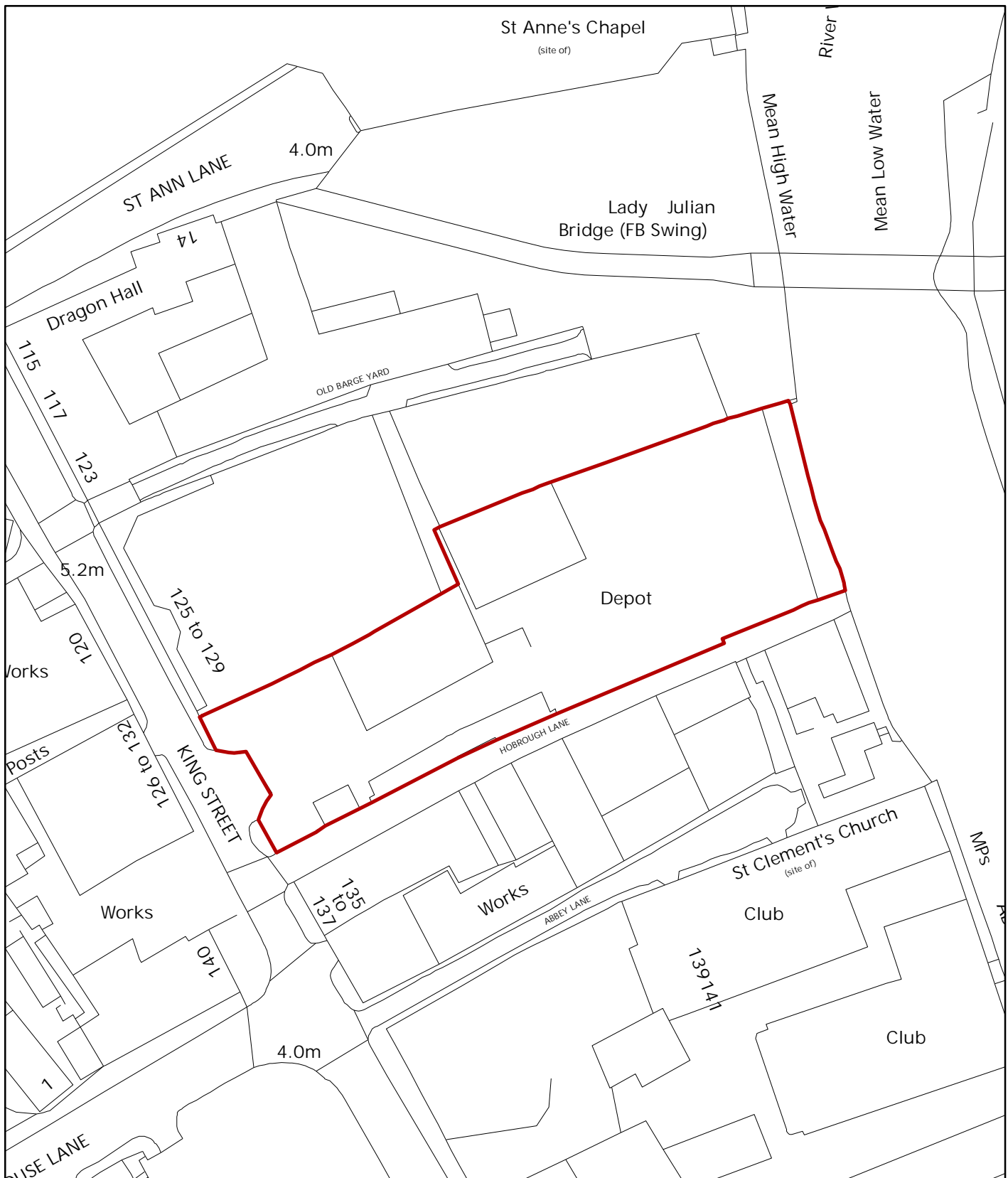
1. Standard Time limit.
2. Submission of external materials for approval.
3. Submission of details for approval – windows, doors, eaves, shopfront, balustrade etc.
4. Provision of open space, children's play area and landscaped areas.
5. Hours of operation of A3 premises.
6. Restrictions on amplified noise.
7. Nest box provision.
8. Details of ventilation and extraction.
9. No external storage.
10. Existing contamination – submission of details prior to development.
11. Existing contamination – submission of verification report prior to first occupation.
12. Unknown contamination.
13. Finished floor level.
14. Flood proofing measures for A3 use and basement car parking areas.
15. Flood defence wall details.
16. Flood evacuation plan for A3 use and basement car parking areas.
17. Flood warning notices details
18. Removal of permitted development rights for porches, extensions or ancillary buildings.
19. Sustainable urban drainage – scheme to be designed.
20. Basement car park design and full surface water drainage details.
21. Renewable Energy measures – details to be agreed.
22. Archaeology – Written scheme of investigation (WSI).
23. Archaeology – demolition/development in accordance with WSI.
24. Archaeology – No occupation until site investigation and post investigation assessment completed.



25. New Housing – Water efficiency.
26. Commercial – Water efficiency.
27. In accordance with details submitted.

(Reasons for approval:

1. The decision to grant planning permission has been taken having regard to saved policies CC11, CC12, HOU9 A12, HOU2, HOU4, SR5.7, SR11, HBE3, HBE8, EP1, EP10, EP22, TRA5, TRA6, TRA7, TRA11, TRA15, TRA8 of the City of Norwich Replacement Local Plan (Adopted November 2004), policies 2, 3, 4, 6 and 20 of the Adopted Joint Core Strategy for Broadland, Norwich and South Norfolk (March 2011), policies SS1, SS6, T14, ENV6, ENV7, ENG1 and WAT1 of the East of England Plan (May 2008) and the objectives of the National Planning Policy Framework, and all material considerations.
2. The proposals provide for the residential redevelopment of a vacant brownfield site in an accessible city centre location. One of the main considerations in this case has been the viability of the proposals and inability of the scheme to provide for affordable housing. On balance, given in particular the wording of JCS policy 4 which allows for lesser provision of affordable housing where the scheme is found to be unviable; the desirability of redeveloping this brownfield site which has been vacant for a considerable period of time; the sites prominence in the townscape; the acceptability of the proposals in all other respects, and; the need for market housing as identified by JCS policy 4, it is considered that the proposals are acceptable subject to the recommended S106 provisions. The proposals are therefore considered to be in accordance with the objectives of the NPPF and policy 4 of the Joint Core strategy for Broadland, Norwich and South Norfolk (March 2012).)



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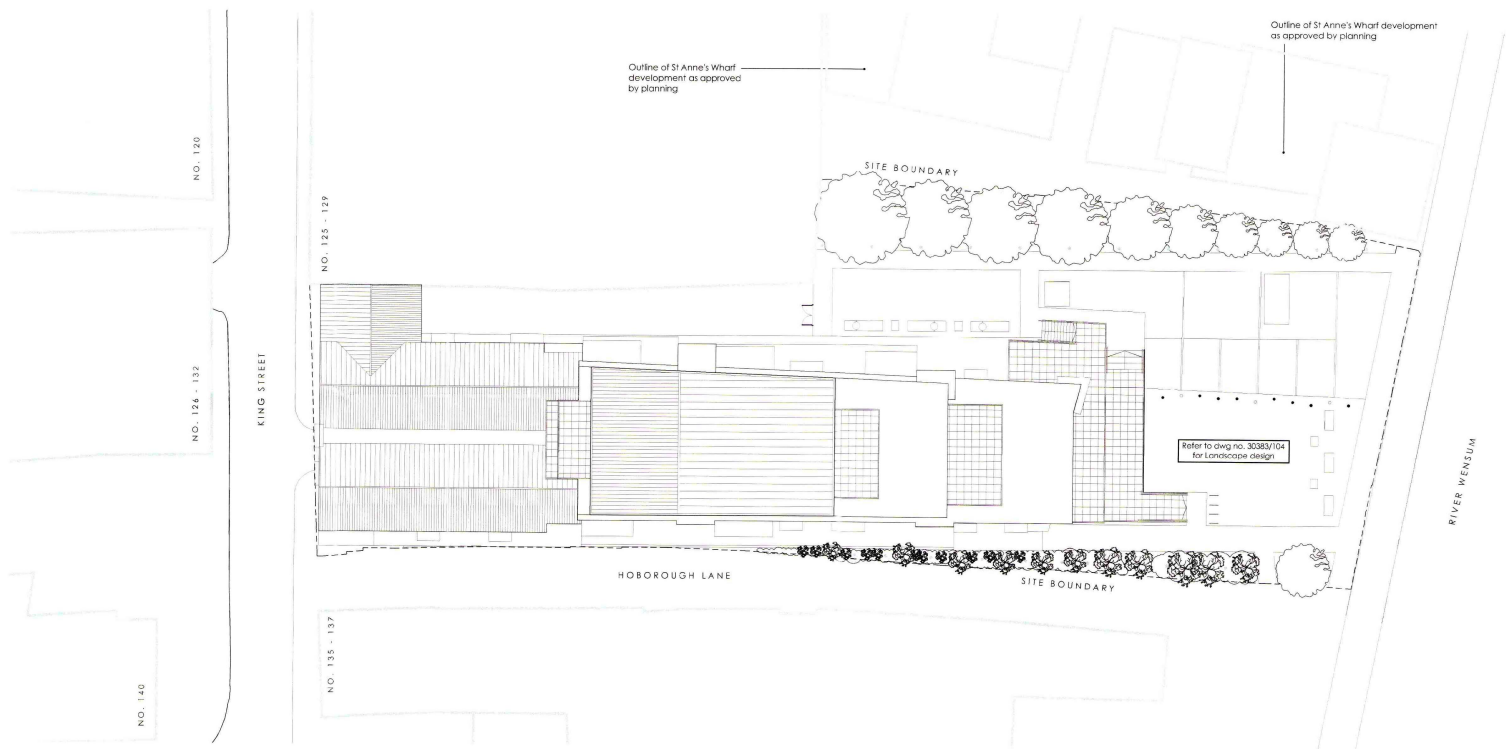
Planning Application No 12/00215/ET  
 Site Address 131-133 King Street  
 Scale 1:750



**NORWICH**  
 City Council

PLANNING SERVICES





LEGEND:

DO NOT SCALE

A	30383/104	Planning Application	30383/104
Version	Date	Description	Drawn
			04 APR 2007

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Organisational Development  
 04 APR 2007  
 Planning Application

Project: Proposed Residential Development  
 131-133 King Street  
 Norwich  
 Norfolk

Drawing: Site Plan

Client: Matrix Marketing

Drawn: JG	Checked: JPD	Date: 27.11.06	Scale: 1:200	File No: A1
30383	103	Revision: A	Author: JG	Checker: JPD