

Report for Resolution

Report to Planning Applications Committee
Date 9 June 2011
Report of Head of Planning Services
Subject 11/00675/C 111 Newmarket Road Norwich NR2 2HT

Item
5(3)

SUMMARY

Description:	Demolition of part wall facing Kinver Close to provide vehicular access to the rear of the site.
Reason for consideration at Committee:	Objection
Recommendation:	Recommend approval to the National Planning Unit
Ward:	Eaton
Contact Officer:	Mrs Joy Brown 01603 212542
Valid Date:	5th April 2011
Applicant:	
Agent:	Richard Smith

INTRODUCTION

The Site

Location and Context

1. 111 Newmarket Road is a locally listed large detached dwelling with a substantial garden within the Newmarket Road Conservation Area on the north-west side of Newmarket Road a short distance to the south west of its junction with Mile End Road. The property has a vehicular access from Newmarket Road but has a second pedestrian access into the back garden from an unadopted road, Kinver Close.
2. Planning permission was allowed at appeal for the sub-division of the curtilage to accommodate the erection of a four bedroom detached two storey dwelling and double garage with access from Kinver Close (App ref: 10/00563/F, Appeal ref: APP/G2625/A/10/2133082). The principle of a new vehicular access off Kinver Close has therefore already been established and consideration should focus solely on this application which seeks conservation area consent to demolish a small section of wall in order to create the new vehicular access.
3. The part of the wall to be removed is located on the north-east boundary of the site and faces Kinver Close.

Constraints

4. The property is locally listed and is situated within the Newmarket Road Conservation Area.

Planning History

08/01160/U - Change of use of former pupil referral and offices to 1 No. residential dwelling. (Approved - 27/02/2009)

08/01161/C - Demolish part of existing wall facing Kinver Close to provide vehicular access to rear of site. (Refused - 27/02/2009)

08/01162/F - Division of rear garden of 111 Newmarket Road to incorporate 1 No. four bedroomed detached house plus double garage with access from Kinver Close. (Refused - 26/02/2009)

10/00563/F - Sub-division of curtilage to accommodate the erection of a four bedroom detached two storey dwelling and double garage with access from Kinver Close. (Refused - 29/06/2010 – Allowed at appeal)

10/00565/C - Demolition of part of the existing wall facing Kinver Close to provide vehicular access to the rear of the site. (Withdrawn - 28/06/2010)

Equality and Diversity Issues

There are no significant equality or diversity issues.

The Proposal

5. The proposal is for conservation area consent to demolish part of the wall which faces Kinver Close.

Representations Received

6. Advertised on site and in the press. Adjacent and neighbouring properties have been notified in writing. Four letters of representation have been received citing the issues as summarised in the table below.

7.

Issues Raised	Response
The traffic situation has got worse on Kinver Close with there often being a continuous line of cars on the south side of Kinver Close. A new access to the back of 111 Newmarket Road is unacceptable as it will lead to increased wear and tear to the road, increased danger to children and the elderly, increase use of the junction on to Mile End Road, increase chance of collision at the junction of the rear access road and Kinver Close and increased chance of collisions	See paragraphs 2 and 13

reversing out of other drives.	
The application should be refused to help maintain the character of this particular area and to preserve this unique peaceful location.	See paragraphs 14-16
The removal of trees will deprive wildlife of a home and change the character of the neighbourhood. The trees look healthy and would like to see an independent report on their state of health.	See paragraph 17
Increasing the use of the road will devalue all of the properties in the area	This is not a material planning consideration.
Kinver Close, the Loke and Mile End Close are not adopted and residents are responsible for the up keep of these roads. A large volume of heavy goods vehicles and other construction traffic will increase the wear and tear on the road surface and result in more frequent resurfacing being required.	This is a civil matter.

Consultation Responses

8. Design and Conservation – No objection. The part of the boundary wall that is due to be demolished is of relatively modern construction and the historic wall will be retained. The new gate piers and gates will be in keeping with the character of the area. In agreement with the planning inspector who stated that the wall makes little contribution to the character of the area.
9. Transportation – No objection
10. Tree Protection Officer – No comment
11. English Heritage – Do not wish to comment in detail, but offer the following general observation. Last year when commenting on the application to site a new dwelling to the rear of no 111 Newmarket Road, English Heritage advised that ‘while the new gates may be traditional they are far more elaborate than one would expect in this location and simple, timber boarded gates would be much more appropriate. Such an approach is more likely to make a positive contribution to the character and local distinctiveness of the historic environment as required by Policy HE7.5 of PPS5’. The current application continues to propose elaborate iron gates and therefore, while not wishing to oppose this application, we remain of the view that a simpler treatment for the gates would be more appropriate in this location. We would urge you to address the above issues and recommend that the application should be determined in accordance with national and local policy guidance, and on the basis of your specialist conservation advice.

ASSESSMENT OF PLANNING CONSIDERATIONS

Relevant Planning Policies

Relevant National Planning Policies

PPS1 – Delivering Sustainable Development

PPS5 – Planning for the Historic Environment

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

Policy 1 – Addressing climate change and protecting environmental assets

Policy 2 – Promoting good design

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

Policy HBE8 – Development in Conservation Areas

Policy HBE12 – High quality of design

Principle of Development

Policy Considerations

12. The principle of a new dwelling on this site and the creation of a new access to Kinver Close has already been established. This application seeks Conservation Area Consent for the demolition of part of the wall which faces Kinver Close. Therefore the main issues for consideration are the contribution which the existing wall and gate make to the conservation area and the general appearance of the area.

Design and impact on conservation area

13. Consideration was given to the loss of the wall as part of the previous planning application which was allowed at appeal. The Inspector's report is attached as an appendix to this report; however in summary the Inspector concludes that the non-original wall to be demolished makes little positive contribution to the character and appearance of the Conservation Area and that its demolition would leave unharmed, and thus preserve, the character and appearance of the Conservation Area, and that the proposals for its replacement with gates and brick pillars would enhance both the character and appearance of the Conservation Area and the setting of 111 Newmarket Road. The inspector goes on to say that the proposal would not be contrary to national and Development Plan Policies.
14. Since the previous application was allowed at appeal, the Joint Core Strategy has been adopted. Policy 1 and 2 of the Joint Core Strategy are of particular importance. Policy 1 of the Joint Core Strategy sets out that heritage assets and the wider historic environment will be conserved and enhanced through the protection of structures which contribute to their surroundings and policy 2 seeks to promote good design. As the section of wall to be demolished is of relatively modern construction and the historic wall will be retained it is considered that the proposal accords with policy 1 and 2 of the Joint Core Strategy.
15. Consultations with Design and Conservation and English Heritage concur with the Inspector's findings regarding the demolition of the wall, although English Heritage would prefer to see a more simple, timber gates than that which is proposed. However as this application is solely for the demolition of the wall, the nature of the proposed gates should not be a consideration as this was established as part of the previous planning application.

Therefore in summary it is considered that the relatively modern existing wall and gate to be demolished make little contribution to the conservation area. The historic section of wall is retained and therefore the proposal is considered acceptable.

Loss of Trees and Impact on Trees

16. The issue of the loss of trees was considered as part of the previous application, with the tree protection officer raising no objection to the proposal as it was considered that the proposed replacement tree planting would result in an improvement in the tree population. An Arboricultural Implications Assessment was agreed as part of the previous application and relevant tree protection conditions were attached to the permission. To ensure the protection of the trees on site, it is also necessary to attach conditions to the conservation area consent to ensure that no demolition takes place until the tree protection works are in place.

Conclusions

17. In summary, it is not considered that the section of wall to be removed contributes towards the character of the conservation area and therefore its demolition is considered acceptable and accords with policy HBE8 and HBE12 of the City of Norwich Local Plan, policies 1 and 2 of the Joint Core Strategy for Broadland, Norwich and South Norfolk and Planning Policy Statement 5.

RECOMMENDATIONS

Forward to National Planning Unit with recommendation to approve, subject to the following conditions: -

1. Commencement within three years
2. In accordance with plans
3. No demolition to take place until contract is in place for the construction of the dwelling and driveway
4. All works to be carried out in full compliance with the Arboricultural Implications Assessment (AIA) dated 18 May 2011 and Appendices 1 to 6 of that document approved under permission 10/00563/F (Appeal ref: APP/G2625/A/10/2133082)
5. No work to take place until condition 7 of permission 10/00563/F (Appeal ref: APP/G2625/A/10/2133082) has been formally discharged by the Local Planning Authority. The tree protective barriers shall be carried out in accordance with approved specification and methodology.

(Reasons for approval: The decision has been made with particular regards to saved policies HBE8 and HBE12 of the adopted City of Norwich Replacement Local Plan, policies 1 and 2 of the adopted Joint Core Strategy for Broadland, Norwich and South Norfolk, Planning Policy Statement 5 and all material planning considerations. The demolition of part of the wall by means of its location on the north east side of the site will not have an adverse effect on the character of the Newmarket Road Conservation Area.)



Appeal Decision

Site visit made on 18 January 2011

by **Ron Boyd BSc (Hons) MICE**

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 1 April 2011

Appeal Ref: APP/G2625/A/10/2133082
111 Newmarket Road , Norwich NR2 2HT

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Norfolk County Council against the decision of Norwich City Council.
 - The application Ref 10/00563/F, dated 19 March 2010, was refused by notice dated 29 June 2010.
 - The development proposed is sub-division of the curtilage of 111 Newmarket Road to accommodate a four bedroom detached two storey dwelling and double garage with access from Kinver Close.
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Decision

1. I allow the appeal, and grant planning permission for sub-division of the curtilage of 111 Newmarket Road to accommodate a four bedroom detached two storey dwelling and double garage with access from Kinver Close at 111 Newmarket Road Norwich NR2 2HT in accordance with the terms of the application, Ref 10/00563/F, dated 19 March 2010, subject to the conditions in the schedule attached to this decision.

Main Issues

2. I consider these to be:
 - the effect the proposed loss of part of the north-east garden wall to the appeal property would have on the character and appearance of the Newmarket Road Conservation Area: and
 - the effect the proposed use of Kinver Close would have on highway safety.

Reasons

3. The appeal property is a locally listed large detached dwelling in the Newmarket Road Conservation Area on the north-west side of Newmarket Road, a short distance to the south west of its junction with Mile End Road. The property has vehicular access from Newmarket Road but has a second access into the back garden from an unadopted road, Kinver Close. This lies within the site and runs parallel to Newmarket Road between the back garden and a junction with Mile End Road, a short distance north-west of the roundabout junction with Newmarket Road.

4. The proposed development is the division of the back garden and the provision of a detached 4 bedroom house and double garage in the north-western part with vehicular access via Kinver Close.

Loss of the wall

5. At present access into the garden from Kinver Close is through a pedestrian gate in the north-east garden wall. To provide vehicular access it is proposed to provide gates of around 4.5m in width. Together with new supporting pillars this would require the demolition of the wall either side of the pedestrian gate over a total width, agreed with the parties at the site inspection, of approximately 5.75 m. The Council's first reason for refusal is that this demolition would be to the detriment of the character and appearance of the Conservation Area contrary to Planning Policy Statement 5: *Planning for the Historic Environment* (PPS5); Policy ENV7 of the East of England Plan (the RSS); and Policies HBE8 and HOU13 of the City of Norwich Replacement Local Plan Adopted Version November 2004 (the Local Plan).
6. Neither the pedestrian gate nor the majority of the adjoining wall to be demolished is original to the property, but dates from when an earlier, wider, access was restricted to pedestrian use. The parties agreed on site that the proposed demolition would involve about 1m of the wall in its largely original historic condition. The wall would be replaced with black cast iron gates with brick pillars.
7. The non original wall to be demolished makes little positive contribution to the character and appearance of the Conservation Area being predominately modern red brick with modern cement mortar. The short length of the original wall to be removed represents a small proportion of the remaining original wall such that it cannot be said to make other than a small contribution to the Conservation Area. The proposed gates with appropriate brick pillars would to my mind be an enhancement to the Conservation Area and the setting of the locally listed host property compared with the present arrangement.
8. In the light of the above I consider that the proposal would comply with Local Plan Policy HBE8 (i). This, in line with the requirement in Policy HE7.2 of PPS5 states that the demolition of buildings or structures including ancient walls in Conservation Areas will only be permitted if they make little or no contribution to the Area's character and appearance and that proposals for appropriate new development are provided. Compatibility of the proposed brick pillars with the original wall could be secured by a condition requiring details of the bricks, cappings, and mortar to be used to be agreed with the Council. The opportunity would exist for the reuse of bricks from that part of the original wall to be demolished in line with RSS Policy ENV7 which encourages the use of re-used or recycled materials. The proposed demolition of the wall would be an appropriate arrangement contributing to the provision of vehicular access to the proposed dwelling and which would, as I have identified above, have no detrimental impact on the character of the surrounding area. Accordingly, in respect of this aspect of the proposed development, I find no conflict with Local Plan Policy HOU13.
9. I conclude that the proposed demolition of the wall would leave unharmed, and thus preserve, the character and appearance of the Conservation Area, and that the proposals for its replacement with gates and brick pillars would enhance both the character and appearance of the Conservation Area and the setting of 111 Newmarket Road. The proposals would not be contrary to the

national and Development Plan Policies referred to above and would, overall enhance the character and appearance of the Conservation Area.

Highway safety

10. The Council considers the use of Kinver Close and its junction with Mile End Road would not provide a suitable access as required by Local Plan Policy HOU13, to the detriment of highway safety.
11. Kinver Close, Mile End Close and the link road between them are all private unadopted roads used by the occupants of the properties fronting or backing onto them. The additional traffic likely to result from the proposed 4 bedroom house is estimated by the appellant to amount to some 6 to 8 vehicle movements a day. The Council has not disputed the estimate and I have no reason to.
12. I consider the additional vehicular movements would not be such as to be a dominant factor in the area and I consider Kinver Close suitable in terms of width and alignment to accommodate the additional traffic. Neighbouring residents have expressed concern regarding the impact of additional traffic on the condition of the road and the safety of pedestrians. As a private unadopted road the state of repair and arrangements for maintenance are matters for the users and not for this appeal. The additional traffic from one dwelling would not lead to any material deterioration in the safety of pedestrians using the unadopted roads whose very nature should encourage drivers of vehicles to proceed slowly.
13. The junction between Kinver Close and Mile End Road is close to the roundabout. There is, however, clear visibility both to the roundabout and to the north-west. The Planning Officer's Report records that no objection to the proposed access arrangements has been made on behalf of the Local Highway Authority. Whilst residents have referred to accidents at the junction, including some details of a vehicle mounting the pavement where two traffic lanes merge into one, the involvement of vehicles either entering or exiting Kinver Close has not been identified. The Council has not submitted any accident statistics in support of its case.
14. The Inspector who determined the 1987 appeal dismissed it for the reasons that the proposed development, two dwellings at the rear of Nos 1-5 Mile End Close, would amount to over development adversely affecting the character of the residential area, and that the access facilities were not satisfactory. The latter reason was founded on his conclusion that the link road between Mile End Close and Kinver Close would be inadequate as the main access to the dwellings. He referred to the hazards associated with the Kinver Close junction near the roundabout as a factor reinforcing his view on the access facilities.
15. When I visited the site I used the junction both during and after the morning peak, enabling me to make some assessment of its suitability in the light of present day circumstances. Clearly greater frequency of use must increase the risk of conflict between users of the junction and traffic on Mile End Road. However, I consider the additional risk presented by the likely increase in use of this existing access resulting from the proposed house would not be such as to produce a significant deterioration in highway safety.
16. The shortcomings of the junction in terms of its proximity to the roundabout are not, to my mind, sufficient to render it unacceptable for the proposed use.

On balance, I conclude that the access arrangements proposed for the development through the use of Kinver Close and its junction with Mile End Road to be acceptable and compliant with the requirements of Local Plan Policy HOU 13 in respect of the provision of a suitable vehicular access. I find no conflict with Planning Policy Guidance 13: *Transport*, or with Local Plan Policy TRA5 in respect of the proposed access arrangements.

17. I note the suggestions from neighbouring residents that access to the proposed new dwelling should be from Newmarket Road. However, such a proposal is not before me.

Other matters

18. A number of neighbouring residents have objected to the proposed development. In addition to the two main issues discussed above concerns included the general effect of the proposed development on the Conservation Area, the removal of the lime tree, overlooking, loss of outlook, and the effect of the recent change in the planning designation of garden land.
19. Amendments to Planning Policy Statement 3 *Housing*, announced on 9 June 2010, removed gardens from the definition of previously developed land. The application was considered in the light of the site being garden land, the re-designation is acknowledged in the appellant's grounds of appeal, and I have determined this appeal on the basis of the current designation.
20. The Conservation Area in the vicinity of the appeal site between the roundabout and Leopold Road and Eaton Road to the south-west is relatively narrow, comprising Newmarket Road and the curtilages of 2,2a and 2b Mile End Road, the properties on the north-west side of Newmarket Road including No. 111, and the those directly to the north-east of the Newmarket Road/Eaton Road junction. Of these, the appeal property has the largest garden. Whilst the change to PPS 3 removes the priority previously given to the development of garden land it does not necessarily preclude all such development. In this case the proposed subdivision of the back garden would leave the host property with a garden larger than its neighbours to the north-east and comparable to that to the south-west.
21. The proposed new dwelling would have a similar sized garden, again, compatible with those of its larger neighbours. The proposal would represent a density of development consistent with that prevailing at present in the surrounding area. The proposed house would have an acceptable appearance and be sufficiently far from the locally listed host property to avoid detracting from its setting. An adequate sense of spaciousness would be retained. Its effect upon the Newmarket Road Conservation Area would be to leave it unharmed.
22. I viewed the site when the lime tree was without its leaves but from photographs of the tree in leaf supplied by a resident there is no doubt that its removal would alter the view into the site from Kinver Close. However, its removal would open up views of the larger trees to the south west. The Council, with advice from its Tree Protection Officer, has raised no objection to its removal and I consider the proposal acceptable.
23. The first floor windows in the north-east façade of the proposed house would be to two bathrooms. Subject to these being fitted with obscured glass, which could be secured by condition, there would be no direct overlooking of either

No 2 Kinver Close or the garden to No 5 Mile End Close. There would be one first floor bedroom window facing north-westwards towards the dwellings in Mile End Close but with a separation between the facing properties of around 50m there would be no unacceptable overlooking or loss of privacy. The outlook from the above dwellings into the site would differ from that at present enjoyed but this would not represent an unacceptable level of harm and would be mitigated in time through new planting within the site.

Conclusion and conditions

24. I have considered all the issues raised, particularly the strong concerns expressed by neighbours, but find nothing to alter my decision. For the reasons given above I conclude that the proposed loss of part of the north-east garden wall to 111 Newmarket Road would not be harmful to the character and appearance of the Newmarket Conservation Area and that the proposed access provision via Kinver Close would be acceptable with regard to highway safety. In these respects the proposed development would not be in conflict with the national and Development Plan Policies mentioned above and the appeal should succeed.

25. There are several conditions which I consider to be necessary for the development to proceed, the majority of which have been suggested by the Council. They deal with:

- the materials to be used in the external surfaces of the development, including the driveway, in the interests of a satisfactory appearance;
- provision of the access and car parking in the interests of highway safety and to protect the living conditions of neighbouring residents;
- provision of storage facilities for refuse and recycling bins and cycles in the interests of a satisfactory appearance and sustainability;
- provision of obscured glass to the first floor windows in the north-east elevation of the proposed dwelling to avoid overlooking;
- protection of existing tree planting and provision and maintenance of new planting in the interests of a satisfactory appearance, assimilation into its surroundings and protection of neighbouring residents' living conditions;
- a construction method statement and hours of working to protect the living conditions of neighbouring residents; and require that
- for the avoidance of doubt and in the interests of proper planning, the development shall be carried out in accordance with the approved plans.

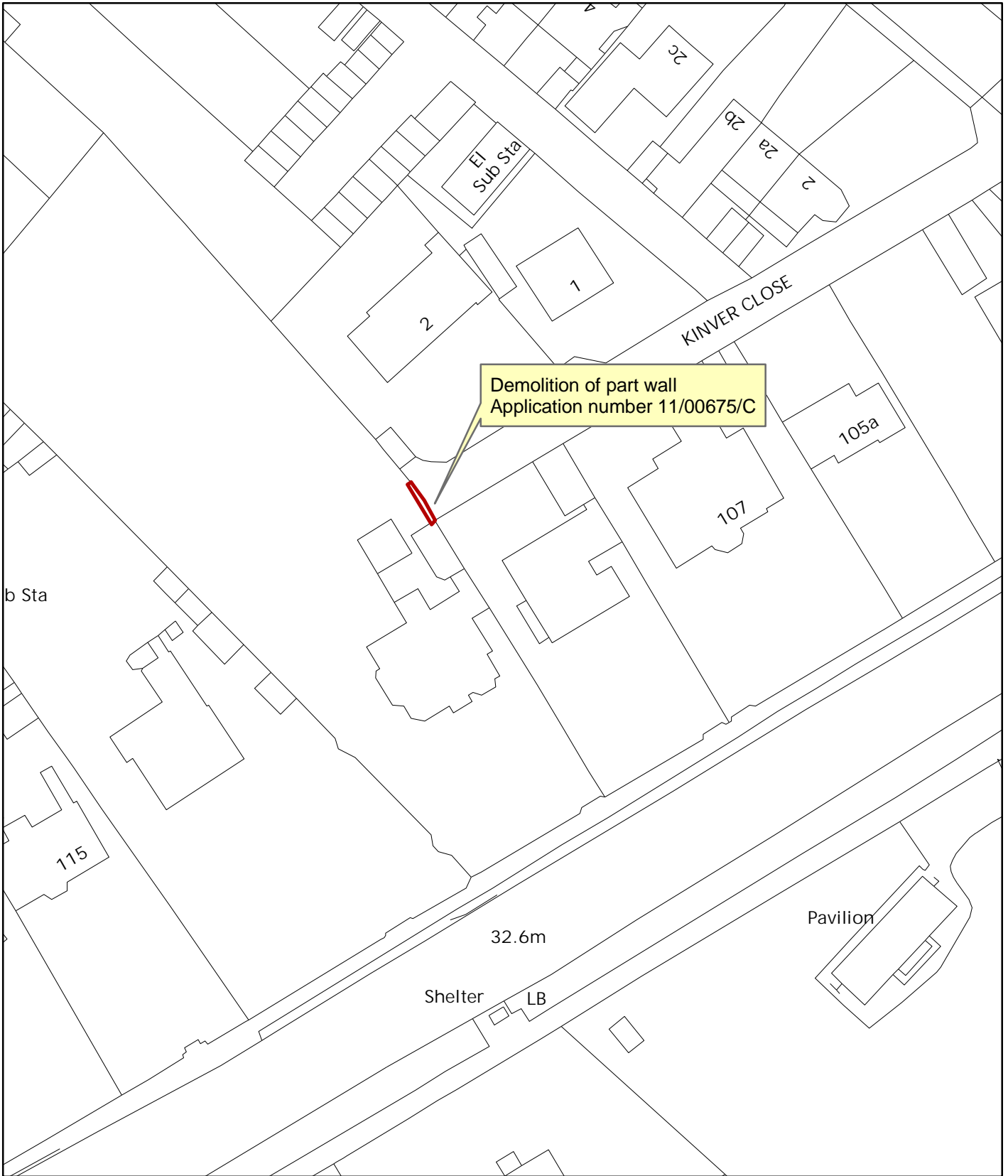
R. T. Boyd

Inspector

Schedule of Conditions

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: CD10086-17-Rev C; CD10086-18-Rev B; CD10086-19-Rev A; and CD10086-21.
- 3) No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to, and approved in writing by, the local planning authority. The approved Statement shall be adhered to throughout the construction period. The Statement shall provide for:
 - i) the hours of working;
 - ii) the parking of vehicles of site operatives and visitors;
 - iii) loading and unloading of plant and materials;
 - iv) storage of plant and materials used in constructing the development;
 - v) the erection and maintenance of security hoarding;
 - vi) wheel washing facilities;
 - vii) measures to control the emission of dust and dirt during construction; and
 - viii) a scheme for recycling/disposing of waste resulting from demolition and construction works.
- 4) No development shall take place until samples of the materials proposed for the construction of the external surfaces of the development hereby permitted, including the bricks, cappings and mortar to be used for the access gate pillars and any reinstatement of the existing historic wall, have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
- 5) No development shall take place until full details of the proposed access gates have been submitted to and approved in writing by the local planning authority. The gates shall be provided as approved. No part of the gates shall overhang or open outwards over Kinver Close.
- 6) The development hereby permitted shall be carried out in full compliance with the Arboricultural Implications Assessment (AIA) dated 18 May 2010 and Appendices 1 to 6 of that document. A complete copy of the document and appendices shall be made available to all site personnel whenever the site is operational. No development shall take place until a meeting has taken place on site between the consulting arborist referred to in Appendix 5 of the AIA, the site Agent and the local planning authority's Tree Protection Officer.
- 7) No development shall take place until a specification and methodology regarding tree protective barriers and planting has been submitted to and approved in writing by the local planning authority. Provision of tree protective barriers and implementation of planting shall be carried out in accordance with the approved specification and methodology.

- 8) No works or development shall take place until full details of all proposed replacement and mitigation planting, the proposed times of planting, and proposed arrangements for subsequent maintenance and, where necessary, replacement, have been submitted to and approved in writing by the local planning authority. The planting and maintenance shall be carried out in accordance with approved details and at the approved times.
 - 9) No development shall take place until detailed drawings and written specifications of the proposed surfacing materials of the driveway have been submitted to and approved in writing by the local planning authority. The work shall be carried out as approved.
 - 10) Prior to the first occupation of the development hereby permitted the proposed driveway and car parking area shall be laid out, surfaced and available for use in accordance with the approved plans and thereafter retained for those specific purposes.
 - 11) Prior to the first occupation of the development hereby permitted the proposed bin and cycle storage shall be provided in accordance with the approved plan and retained thereafter available for that specific use.
 - 12) Prior to the first occupation of the new dwelling hereby permitted the first floor windows in the north-east facing elevation shall be fitted with obscured glass and shall be fixed shut below a height of 1.7m above the floor level adjacent to the window and shall be permanently retained in that condition.
 - 13) The conservatory, shown on the approved plans, on the north-west elevation of the dwelling hereby permitted, shall be of timber construction.
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Planning Application No 11/00675/C
Site Address 111 Newmarket Road
Scale 1:750



NORWICH
City Council

PLANNING SERVICES

