

**Planning Applications Committee
Section B
29 January 2009**

Agenda Number:	B2
Section/Area:	OUTER
Ward:	THORPE HAMLET
Officer:	Rob Parkinson
Valid Date:	14 September 2006
Application Number:	06/00964/F
Site Address :	126 - 128 Barrack Street Norwich Norfolk NR3 1TL
Proposal:	Demolition of existing building and construction of 15 dwellings: 13 No. 2-bed flats, 1 No. 3-bed flat and 1 No. 3-bed maisonette with 15 parking spaces and associated amenity space.
Applicant:	Inner Link Motor Company
Agent:	Lucas Hickman Smith

INTRODUCTION

This application was originally considered by the Planning Applications Committee in December 2006, when it was agreed, subject to no adverse comments from the Environment Agency, to approve the principle of the development subject to the completion of a legal agreement relating to:

- (a) a commuted payment towards the provision of childrens playspace; and,
- (b) the securing of future vehicular access to the adjoining site at 124 Barrack Street,

and to delegate approval to the Strategic Director of Regeneration and Development.

A copy of the relevant report, considered by Committee on 14th December 2006, is attached at Appendix 1 of this report.

THE CURRENT POSITION

Since the resolution to grant approval in principle, in 2006, the scheme has not been amended and is still considered to be an appropriate use of the site with a scheme that is acceptable in form, layout and design.

Following the submission of a Flood Risk Assessment, the Environment Agency has since confirmed that it considers the scheme acceptable providing that any permission is subject to certain conditions, which are added to the original list of conditions, as discussed below (conditions 11-14).

The contributions expected for child playspace under Local Plan policy SR7 have since increased from £17,255 to £18,768.

Since the application was originally considered, Members will be aware that the East of England Plan has since been adopted and requires the provision of 10% of the energy demand to be through on-site renewable or low carbon energy sources. However, it is considered that to insist on implementation at this late stage would be unreasonable.

Members should also note that previous Local Plan policies EP9 (Development of noise sensitive uses) and EP12 (Development in other areas at risk of flooding) have since been discontinued from Local Plan policy and are no longer relevant as planning considerations, despite appearing in the December 2006 Committee report.

PLANNING CONSIDERATIONS: ACCESS AND PLANNING OBLIGATIONS

The applicant has demonstrated that they are willing to provide access across their site to land at 124 Barrack Street, which is also suitable in principle for residential development. The proposed access can be seen in the site layout plan. It is not considered that the location proposed for this access would prejudice the development potential of that site; its provision will provide an alternative means of vehicular access to enhance highways safety, as well as allowing for a more appropriate built frontage to Barrack Street.

Case law has shown that it is not proper to impose a condition to require an owner to provide vehicular access to adjoining premises and nor should planning powers be exercised in a way which removes or diminishes any perceived ransom value. However, it is entirely appropriate to ensure that the ability of future access to the adjacent site is possible so as not to prejudice the future development of the site.

Although willing to supply the link, the applicant previously raised concern that providing the road should be subject to the payment of a sum for rights of access, which in turn gave rise to some concern from the adjacent landowner. Although it may be possible to negotiate with developers under the S106 agreement to seek a beneficial agreement on the matter of ransom value, it would not be reasonable to withhold permission to develop the application site because of the developer's refusal to give up an element of the value of his property. Consequently, any means of easement needed prior to linking the two sites is outside planning's remit.

Legal advice has been taken with respect to the original terms of the Section 106 Agreement. Whilst there are sound planning related reasons for requiring the road to be built, it is not within the role of planning to establish any financial arrangements between

owners for rights of access. Consequently, it is recommended that the planning obligations are revised to remove the need to secure an arrangement for future vehicular access to the adjoining site at 124 Barrack Street. Instead, a planning condition will be used to ensure the link could be provided as shown in the plans, by preventing the land at the end of the access road from being used for any means other than to safeguard future access to the adjoining land. This would not require construction of a specific section of link road, but would prevent that piece of land being used or sold off for any other use.

RECOMMENDATIONS

(a) to APPROVE PLANNING PERMISSION subject to the completion of a satisfactory Section 106 Agreement by 28 February 2009 to include the provision of contributions to child play space, and the following planning conditions:

- (1) commencement of development within 3 years;
- (2) details of boundary treatments including walls, fences;
- (3) submission of samples and details of materials of external materials;
- (4) provision and retention of access road and car parking prior to first occupation, to ensure the appropriate car parking layout and a means to make available a suitable access to the adjacent site, the land for which shall not be used for any other use;
- (5) submission of details of cycle parking and storage;
- (6) provision and retention of cycle parking;
- (7) details of landscaping scheme;
- (8) maintenance of landscaping;
- (9) sound insulation to habitable rooms facing Barrack Street and Anchor Close;
- (10) investigation and treatment of any site contamination;
- (11) the development shall be constructed with a minimum finished floor level;
- (12) prior to development, a scheme for flood proofing measures shall be agreed and the development shall be carried out in accordance with the plans;
- (13) a flood evacuation plan shall be submitted and agreed;
- (14) prior to development, a surface water drainage scheme shall be approved.

With the following REASONS FOR APPROVAL:

The proposal will result in the satisfactory redevelopment of this commercial site and will enhance the visual and residential amenities of the area. Subject to the requirements of the conditions, the proposal will safeguard and enhance highway conditions on Barrack Street. Subject to the legal agreement, the proposal would contribute to the provision of children's play space in the area. As such, and subject to conditions, the proposal would comply with Policies HBE12, EP22, EMP3, HOU13, SR7, TRA6, TRA7 and TRA18 of the City of Norwich Replacement Local Plan, Adopted 2004.

(b) to REFUSE PLANNING PERMISSION: Where a satisfactory S106 agreement is not completed prior to 28 February 2009 that delegated authority be given to the Head of Planning and Regeneration Services to refuse planning permission, with the following REASON FOR REFUSAL:

In the absence of a legal agreement or undertaking relating to the provision of children's play space contributions the proposal is contrary to saved policy SR7 of the adopted City of Norwich Replacement Local Plan, Adopted 2004.

Appendix 1

Planning Applications Committee

Section B

14 /12 /2006

Agenda Number: B

Section/Area: O

Case Officer: John Andrews

Ward: Thorpe Hamlet

Valid Date: 14/09/2006

Application Number: 06/00964/F

Application Address:

126 - 128 Barrack Street
Norwich
Norfolk
NR3 1TL

Proposal: Demolition of existing buildings and construction of 15 dwellings : 13 No. 2-bed flats, 1 No. 3-bed flat, and 1 No. 3-bed maisonette with 15 parking spaces and associated amenity space.

Agent: Lucas Hickman Smith
Garden House
Browick Road
Wymondham
Norfolk
NR18 0QW

Applicant: Craig Davies And Robert
Farmer
Inner Link Motor Company
126 - 128 Barrack Street
Norwich
NR3 1TL

THE SITE

This application relates to a site on the northwest corner of the junction of Barrack Street and Anchor Close. The site is currently used for car servicing and repairs and as a taxi office. There is an existing two storey brick building that fronts the junction of Barrack Street and Anchor Close and a number of single storey out buildings to the rear. The site slopes up from south to north.

To the north of the site does exist single storey residential development. On the opposite side of Anchor Close are two storey flats and on the opposite side of Barrack Street there are three storey flats. To the west is a two storey detached building in commercial use.

PLANNING HISTORY

An application (05/00962/F) for the demolition of existing buildings and construction of 18 no. 1 bed flats and 3 no. 2 bed flats with 12 parking spaces and associated amenity space submitted in October 2005 was subsequently withdrawn.

In May 2006, an application (06/00254/F) for the erection of 20 flats on the site with 16 parking spaces was refused planning permission on a number of grounds, including scale, massing and design, poor pedestrian and cycle access and lack of amenity space.

THE PROPOSAL

It is proposed to demolish the existing buildings on the site and to erect 15 flats contained within two blocks. The block at the front would be three storey and the block at the rear would be two storey. To the rear of the flats would be 15 car parking spaces, accessed off Anchor Close. (5 of the parking spaces would occupy part of the ground floor of the two storey building, together with secure cycle storage and a bin store). The external design of the main building has been amended following discussions, with the elevations incorporating red facing brick, painted render and untreated larch cladding. The buildings would have black clay pantiles.

CONSULTATIONS

Environment Agency: Awaiting response with respect to Flood Risk Assessment

Environmental Health: Recommend conditions with regard to investigation and treatment of any contamination, and sound insulation of flats.

Neighbours: No response

Norfolk County Council Highways: No strategic highway objections, but if consent granted, would wish to see condition restricting construction traffic access to Anchor Street

Norwich Society: With respect to original scheme, poor impact on Barrack Street, a heavy brooding building with mean fenestration. Awaiting comments with respect to revised elevations.

PLANNING CONSIDERATIONS

Relevant Replacement Local Plan Policies

HBE12 – High quality of design, with special attention to height, scale, massing and form of development.

EP9 – Development of noise sensitive uses

EP12 – Development in other areas at risk of flooding
EP22 – High standard of amenity for residential occupiers
EMP3 – Protection of small business units and land reserved for their development
HOU13 – Proposals for new housing development on other sites
SR7 – Provision of children's equipped play space to serve development
TRA6 – Parking standards - maxima
TRA7 – Cycle parking standards
TRA18 – Major road network

Principle of Development

The site is currently in commercial use and operating as a small business. Policy EMP3 has a presumption in favour of retention of existing small business units unless certain criteria can be demonstrated. Although the application is not accompanied by any supporting case that demonstrates compliance with the exception criteria, it is considered that the principle of residential development can be supported, given the environmental impact of the existing uses.

Layout, Design and Appearance

The footprint of the main building reflects both the position of the existing building on the site and the form of existing corner flat developments in the immediate vicinity. It is considered that the scheme would have an adequate landscaped frontage to provide an appropriate setting for the building and to safeguard residents from activity on Barrack Street. The two storey building on Anchor Close would respect the scale of development on this street.

The treatment of the elevations of the corner block has been amended to take into account its prominent position and to positively contribute to the street scene. The building would have a simple roof form, but punctuated by passive stack ventilators.

Residential Amenity

The proposal makes adequate provision for private amenity space for the residents, with a landscaped rear courtyard, separate from the rear car parking. The flats would, of course, need to be insulated from road traffic noise.

Highways and Parking

Vehicle access to the site would be from Anchor Close and not from Barrack Street. This arrangement accords with Policy TRA18.

Off street parking is provided on the basis of one space per unit, which is acceptable in this location. Secure cycle storage is also provided.

The proposal would also enable access to provided to the adjoining site at 124 Barrack Street, should this site be brought forward for development, but this would need to be secured by means of a legal agreement.

Other Environmental Issues

Possible contamination on the site would need to be investigated and taken account of prior to any residential development. A small part of the site is within the 1 in 1000 years flood risk area, and comments with respect to the Flood Risk Assessment are awaited.

Planning Obligation Requirements

Policy SR7 of the City of Norwich Replacement Local Plan 2004 requires that housing schemes containing 10 or more child bed spaces should make provision for children's play space. The development proposed would create 17 childbed spaces, and this case a commuted sum, currently £17,255 would be requested.

Also, as mentioned above, the possible future formation of a vehicular access to No. 124 Barrack Street should be secured through this site, thereby ensuring an improvement to highway safety and to avoid an unsatisfactory piecemeal form of development on the current application site.

RECOMMENDATION

Subject to no adverse comments from the Environment Agency,

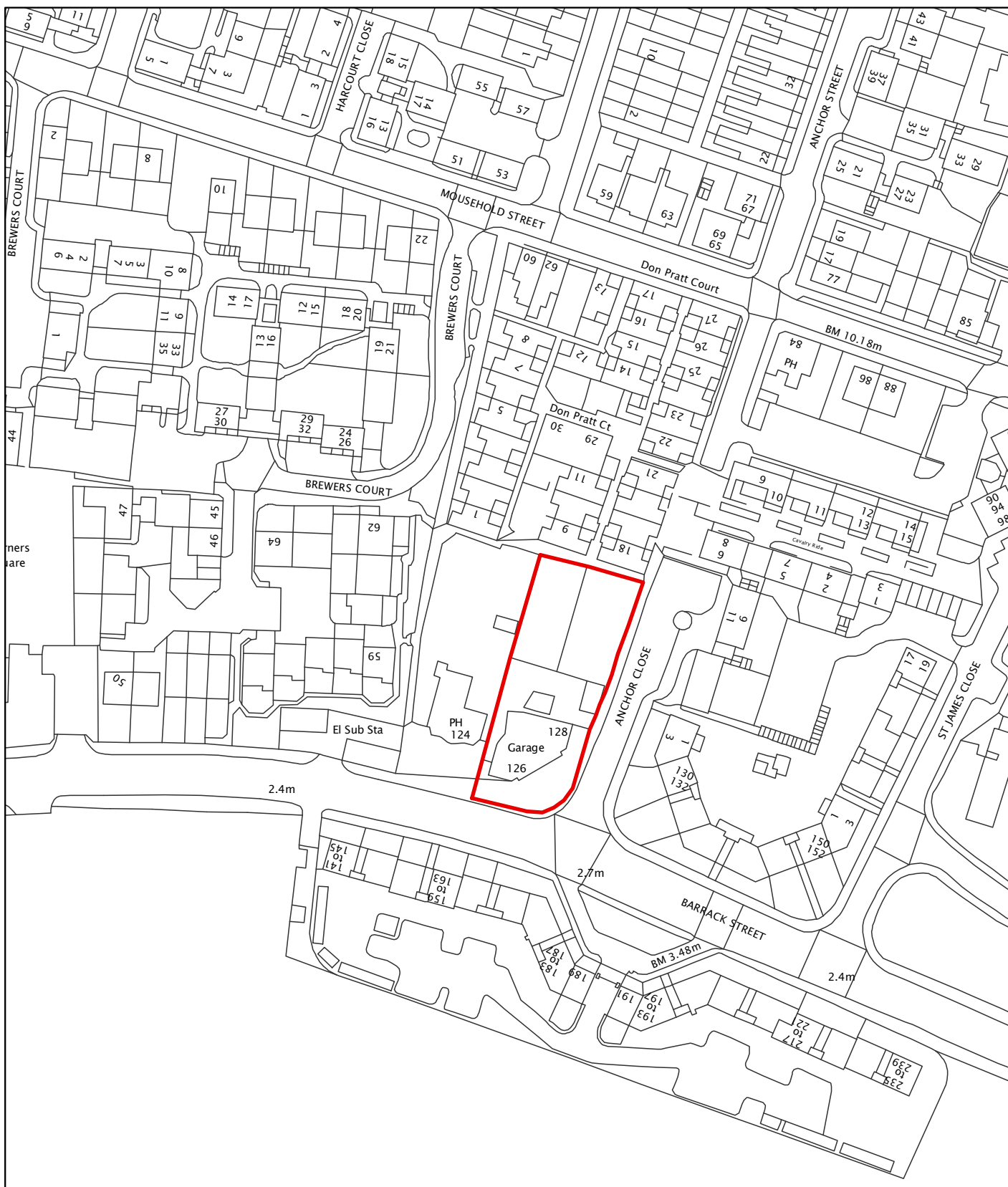
- (1) AGREE the principle of the development
- (2) DEFER and subject to the completion of a Section 106 Agreement relating to: (a) a commuted payment towards the provision of children's play space, and
- (b) the securing of future vehicular access to the adjoining site at 124 Barrack Street,

DELEGATE APPROVAL to the Strategic Director Regeneration and Development, the planning permission being subject to the following conditions, together with any conditions recommended by the Environment Agency:

- (1) Commencement of development within 3 years
- (2) Details of boundary walls, fences, etc.
- (3) Submission of sample/ details of materials
- (4) Provision of access and car parking
- (5) Provision and retention of cycle storage
- (6) Details of landscaping
- (7) Maintenance of landscaping
- (8) Sound insulation to habitable rooms facing Barrack Street and Anchor Close
- (9) Investigation and treatment of any contamination

REASONS FOR APPROVAL

The proposal will result in the satisfactory redevelopment of this commercial site and will enhance the visual and residential amenities of the area. Subject to the requirements of the conditions and legal agreement, the proposal will safeguard and enhance highway conditions on Barrack Street. Subject also to the legal agreement, the proposal would contribute to the provision of children's play space in the area. As such, and subject to conditions, the proposal would comply with Policies HBE12, EP9, EP12, EP22, EMP3, HOU13, SR7, TRA6, TRA7 and TRA18 of the City of Norwich Replacement Local Plan Adopted Version, November 2004.



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Planning Application No- 06/00964/F

Site Address - 126-128 Barrack Street, Norwich

Scale - 1:1250



NORWICH
City Council

DIRECTORATE OF REGENERATION
AND DEVELOPMENT

