

### Conservation of Habitats and Species Regulations 2017 Assessment of implications for European sites: section 63(1)

#### Description of proposal:

Application 18/00330/F - Redevelopment of Anglia Square:

*Hybrid (part full/part outline) application on site of 4.51 ha for demolition and clearance of all buildings and structures except Gildengate House and the phased, comprehensive redevelopment of the site with 7 buildings and refurbished Gildengate House for a maximum of 1,250 residential dwellings (Use Class C3); 11,350 sq m hotel (Use Class C1); 9,850 sq m ground floor flexible retail, services, food and drink and non-residential institution floorspace (Use Classes A1/A2/A3/A4/D1/Sui Generis (bookmakers and/or nail bars, up to 550 sqm)) within ranges specified in the Retail Strategy Report; 1,150 sq m ground floor flexible commercial floorspace (Use Classes A1/A2/A3/A4/B1/D1), service yards, cycle and refuse stores, plant rooms and other ancillary space; up to 3,400 sq m cinema (Use Class D2); 1,300 sqm place of worship (Use Class D1); and multi-storey car park (public element: 600 car spaces, 24 motorcycle spaces), with associated new and amended means of access, closure of existing means of access, widening of footways, formation of service/taxi/car club/bus stop laybys and other associated highway works on all boundaries, maximum of 950 car parking spaces for Use Classes C1 / C3 / B1 / D1, (of which maximum of 40 spaces for C1/B1/D1), hard and soft landscaping of public open spaces comprising 2 streets and 2 squares for pedestrians and cyclists, other landscaping, service infrastructure and other associated work; (all floor areas given as maximum gross external area); comprising; **Full planning permission** on 1.78 ha of the site for demolition and clearance of all buildings and structures, erection of 2 buildings for 428 residential dwellings (Use Class C3) (Blocks A and part E (tower only)), and within Block A, for 4,420 sqm ground floor flexible retail, services, food and drink and non-residential institution floorspace (Use Classes A1/A2/A3/A4/D1/Sui Generis (bookmakers and/or nail bars, up to a maximum of 550 sqm within entire scheme)) within ranges specified in the Retail Strategy Report, 380 sq m ground floor flexible commercial floorspace (Use Classes A1/A2/A3/A4/B1/D1), service yard, cycle and refuse stores, plant rooms, other ancillary space and multi-storey car park (public element: 600 car spaces, 24 motorcycle spaces), with associated new and amended means of access, closure of existing means of access, widening of footways, formation of service/taxi/car club/bus stop laybys and other associated highway works on Magdalen Street and Edward Street, 333 covered car parking spaces for Use Class C3, hard and soft landscaping of public open spaces comprising 2 streets and 2 squares for pedestrians and cyclists, other landscaping, service infrastructure and other associated works; (all floor areas given as maximum gross external area); and*

**Outline planning permission** on 2.73 ha of the site, with all matters reserved, for demolition and clearance of all buildings and structures except Gildengate House, erection of 6 buildings (Blocks B – H, with Block E to incorporate tower with full planning permission) and refurbishment and change of use from Use Class B1(a) to C3 of Gildengate House, (Block J), for a maximum of 822 residential dwellings (Use Class C3), 11,350 sq m hotel (Use Class C1), 5,430 sq m ground floor flexible retail, services, food and drink and non-residential institution floorspace (Use Classes A1/A2/A3/A4/D1/Sui Generis (bookmakers and/or nail bars, up to a maximum of 550

*sqm within entire scheme)) within ranges specified in the Retail Strategy Report, 770 sq m ground floor flexible commercial floorspace (Use Classes A1/A2/A3/A4/B1/D1), service yard, cycle and refuse stores, plant rooms and other ancillary space, up to 3,400 sqm cinema (Use Class D2), with associated means of access, widening of footways, formation of service/taxi/car club laybys and other associated highway works on New Botolph Street, Pitt Street and St Crispins Road, a maximum of 617 car parking spaces for C1 / C3 / B1 / D1 , of which circa 603 covered (with a maximum of 40 for C1/B1/D1), and circa 14 open for C3 (on west side of Edward Street), landscaping, service infrastructure and other associated works; and 1,300 sqm place of worship (Use Class D1) on north side of Edward Street with associated on-site car parking and landscaping; (all means of access reserved; all floor areas given as maximum gross external area).*

### **Stage 1 - HRA screening including a judgement of Likely Significant Effects**

The proposal constitutes a large scale housing project.

The Greater Norwich Joint Core Strategy (JCS) was adopted in March 2011 with amendments adopted in January 2014. The Appropriate Assessment (AA) of the JCS highlighted the need for consideration of hydrological impacts on Natura 2000 sites<sup>1</sup>; and identified the need for green infrastructure (GI) provision to mitigate potential in-combination and cumulative effects associated with recreation impacts on international sites resulting from the JCS growth proposals. The principle being that if attractive GI is available close to new homes, residents will use that for their regular day-to-day recreation rather than visiting Natura 2000 sites.

The AA highlighted some areas of uncertainty regarding potential in combination and cumulative effects associated with growth and tourism (together with other issues) because of the dependence on the effectiveness and implementation of mitigation measures and actions required to avoid adverse impact on site integrity. The mitigation measures suggested were:

- The implementation of green infrastructure developments
- The allocation of greenspace to protect specific natural assets and designated sites to be implemented through area action plans (AAP).

The application site is neither within the boundary of a designated site nor within a buffer area identified by Natural England within which development is likely to affect designated sites. However, during the EIA screening exercise Natural England advised that the development may potentially impact on designated sites comprising of The Broads SAC, Broadland SPA and Broadland Ramsar site as a result of recreational disturbance due to in combination impacts with other housing development.

A number of documents have been submitted by the applicant. These include:

- ES - Chapter 4: Ecology (SEI Chapter 4)
- Appendix 12.1 Ecology information to inform AA

- Appendix SEI 12.1 Dog licence data
- Note of Clarification – dated Nov 2018

These documents include: a description of relevant designated sites, features and conservation objectives.

Natural England in their response to the first round of consultation on this application indicated that insufficient evidence had been submitted to enable this council to ascertain that the proposal will not result in adverse effects on the integrity (from recreational disturbance) of the sites in question, when considered in combination with other new housing proposals. Natural England's response highlighted that designated Natura 2000 sites within the area (e.g. Norfolk coast, Broads and the Brecks) are under increasing recreational and disturbance pressure, referencing research Panter *et al* (2016) Visitor Surveys at European Protected Sites across Norfolk during 2015 and 2016, Footprint Ecology. This report describes the link between new housing development and a rise in access to designated sites, it explains that "*increased recreation places increasing demands on the management of the European sites and can cause impacts to the designated interest features.*" Key findings of the report include that for the sites surveyed there would be a predicted increase of 14% in access by Norfolk residents as a result of new housing during the current plan period. For these sites the primary recreational activity was dog walking (41%) and walking (26%). For the designated sites in the Broads the impacts identified relate to disturbance caused to breeding /wintering/passage birds, trampling/erosion; eutrophication and contamination.

Following Natural England's response the applicant submitted further information relating to predicted levels of dog ownership within the proposed development and further clarification regarding open space and recreational opportunities available to new residents. This included an audit of parks and open spaces within walking distance/short drive from the site as well details of green infrastructure projects identified in the Greater Norwich Infrastructure Plan 2018 (GNIP). The GNIP supports the delivery of growth identified in the JCS and identifies a number of schemes to contribute to the protection and enhancement of the strategic green infrastructure network. The information submitted by the applicant predicts a very low level of dog ownership within the development and indicates that owners wishing to dog walk, or just walk, would have access to a wide range of recreational options thereby not relying on visits to European sites. Furthermore, they point to Habitats Regulations Assessments of the emerging Greater Norwich Local Plan Issues and Options and the Strategy for Sustainable Tourism which indicate that the more sensitive habitats are not easily accessible and that 'gateway' areas are well managed. On this basis they conclude that owing to the development and its location, it is not considered that there would be any likely significant effects on the integrity of The Broads SAC, Broadland SPA and Broadland Ramsar site, the River Wensum SAC or their component Sites of Special Scientific Interest (SSSIs) when the project is considered alone (i.e. impacts would be de minimis) and that there is no requirement for mitigation or compensation measures associated with the proposed development. In addition they conclude that such an effect could not then contribute to a significant in-combination effect when considered with other plans. It

is stated in para 6.11.13 of the Note of Clarification, significant effects are not likely to arise as a result of the proposed development, even when considered in the context of cumulative residential development that is approved, proposed on allocated sites or potentially to be allocated in the Greater Norwich Plan. They further indicate that the measures set out in the GNIP relating to the provision of green infrastructure are planned and in the process of delivery, and that these measures will mitigate the impact of new development across the Greater Norwich area on the European sites when considered in combination.

Natural England's advice is that in combination effects cannot be screened out simply because a project alone has no likely significant effect. This would not accord with the legislation which requires the likely significant effects of a project to be considered alone or in combination with other plans or projects. Natural England have considered this supplementary material and have advised without suitable mitigation being secured, that it is not possible to conclude that the proposal is unlikely to result in significant effects on the European sites in question in combination with other new housing proposals. This is because they contend there will be in combination effects with other allocated housing sites in the Greater Norwich Joint Core Strategy (JCS) (as evidenced in the HRA for the JCS and subsequently reflected in local spatial plan policies). They acknowledge that the likely effects from the development alone are not likely to be significant but in combination with other new development there is a likely significant effect which could affect Natura 2000 sites in the Broads.

**Stage 1 Q. Are there Likely Significant Effects? Yes, there is an in-combination effect and mitigation has not been secured or is uncertain**

## **Stage 2 – Appropriate Assessment**

At AA stage, subject to inclusion of satisfactory mitigation, which may involve both on-site and off-site measures, it may be possible to ascertain that a proposal will not adversely affect the integrity of the designated site. Where there is an adverse effect or the effect is uncertain, then conditions or planning obligations may be used to enable it to be ascertained that the proposal would not adversely affect the integrity of the site. Permission may then be granted subject to the conditions or obligation identified.

In making a judgement one effect account has been taken of green infrastructure measures in the GNIP which have been specifically identified to deliver enhanced local recreational opportunities within Norwich. These include schemes to enhance walking routes leading out of the city, in particular Marriott's Way and the Riverside Walk, which provide access to the countryside and the Norfolk Trails network. These schemes will provide suitable and appropriate recreational opportunities for people, including dog walkers. Natural England have advised that 'by making a proportionate contribution to the existing off-site GI and local GI initiatives ... would help to reduce the effects of recreational pressures on Natura 2000 sites further afield.'

GI initiatives identified in the GNIP are funded through pooled CIL. Therefore within the greater Norwich area, all housing developments make a proportionate

contribution to the delivery of these GI projects through the payment CIL. This provides the framework through which the requirements of JCS1 are met. Natural England have indicated that securing a proportionate contribution from this development would enable the council to conclude no adverse effect on Natura 2000 sites, in combination with other JCS allocations. Having had regard to this advice it is considered necessary for such a contribution to be secured in order to satisfy the requirements of the AA. This normally would be through the payment of CIL but in the event of this development being subject to CIL relief, it will be necessary to secure a contribution through a S106 Obligation (see para).

**Stage 2 Q Are there Adverse Impacts on Site Integrity? NO, mitigation secured**