

Report for Resolution

Report to Planning Applications Committee
Date 3 July 2014
Report of Head of Planning Services
Subject 14/00527/U Castle Mall Norwich

Item
5(2)

SUMMARY

Description:	Change of use from retail units (Class A1), restaurants (Class A3), healthcare facility (Class D1), cinema (Class D2) and mall walkway to restaurants (Class A3), mall area seating and mall walkway at Level 4 (including areas of Levels 3 and 5).
Reason for consideration at Committee:	Objections and departure.
Recommendation:	Approve
Ward:	Mancroft
Contact Officer:	Mrs Caroline Dodden Planner 01603 212503
Valid Date:	15 April 2014
Applicant:	InfraRed UK Retail Nominees 3 Ltd and InfraRed UK Retail Nominees 4 Ltd.
Agent:	Miss Amy Jones

INTRODUCTION

The Site

Location and Context

1. Castle Mall is a multi-level retail shopping centre that was completed in 1993. It currently accommodates in excess of 350,000 sq ft of retail floor space, a cinema, a food court and a health centre as well as ancillary offices.
2. The application relates to the majority of level 4, which is accessed from Timberhill on the south side and Farmers Avenue on the north side. Small areas of level 3 and level 5 would also be included with the proposal.

Constraints

3. Castle Mall falls within the City Centre Conservation Area, the City Centre Leisure Area, the Area of Main Archaeological Interest and the Primary Retail Area.

Planning History

09/00012/U - Change of use from a restaurant (Class A3) to GP-led Health Centre (Class D1) at 115-117 Castle Mall (level 4). Approved at Planning Applications Committee February 2009

14/00528/U - Change of use from retail (Class A1) to healthcare facility (Class D1) at Unit LS5 (level 2). Pending consideration.

Equality and Diversity Issues

The loss of the health centre from a city centre location would have some impacts on specific groups who may find it difficult to get to facilities outside of the city centre. It should be noted that access issues related to the new proposal for a health centre (application 14/00528/F) also referred to this committee are dealt with in that report.

The Proposal

4. Change of use of level 4 (including areas of level 3 and 5) from a mix of four retail units (class A1), a health centre (class D1), a cinema kiosk (class D2) and mall walkway, including the reconfiguration of the existing restaurant uses to restaurants (class A3), mall seating and walkway.

Representations Received

5. Advertised on site and in the press. Adjacent and neighbouring properties have been notified in writing. To date in excess of 50 letters of representation have been received, including one from Small Fish strategy consultants, together citing the issues as summarised in the table below - paragraph 8.
6. A letter from the Chairman of Norwich Practices Limited (NPL, the operator of the exiting health centre) has been received stating that it is a major public asset, which over 85,000 local people used last year. The current site has a central location with easy pedestrian and ambulance access. The landlord has not yet offered alternative premises which are suitable or deliverable. Its closure would have a significant and detrimental impact on a large section of the local population who depend on the walk in centre and GP practice. The letter also refers to the NPPF and saved and emerging local plan policies stating that the application is contrary to policy.
7. Three petitions have been submitted by Norwich Practices Limited. An on-line petition containing approximately 400 names, a petition from patients containing approximately 1800 names and a further group of 45 patient names and comments as listed below. The petitions call for the Castle Mall to renew the lease for the health centre.

Issues Raised	Response
The Timberhill health centre is an invaluable service for the population of Norwich and its surrounding villages. Its closure would have severe impact on the people it serves, A & E and other health facilities.	Paragraphs 21-22
Norwich needs a health centre it doesn't need more restaurants.	Paragraphs 16 - 22
The costs in moving the health centre and converting unit LS5 will be very high and there is likely to be higher running costs as it is a larger unit.	Paragraphs 16 - 24
The existing position of the health centre is ideally located in the city centre with good accessibility for all.	Paragraphs 16-22
Castle Mall should focus their efforts on the existing food court to make this more obvious and accessible.	Paragraphs 16 -22
The proposal is contrary to paragraph 70 of the NPPF, saved policy AEC3 and emerging policy DM22.	Paragraphs 9-15, 19, 22
If planning permission is approved, a planning obligation should be sought to cover the relocation costs of the health centre.	Paragraphs 22 and 25

Letters of support

Eight letters of support from four commentators have been received, including letters from Norwich BID, the Castle Mall Centre Manager and the Norfolk Chamber of Commerce. The comments state that:

- The further investment in Castle Mall facilities will not only result in 120 new jobs but will help towards the significant regeneration of Timberhill, where the proposed restaurants would make best use of level 4, help support the cinema and generally boost the daytime and evening economy.
- We wish to see the health centre retained in the centre of Norwich and agree with Castle Mall that it is possible to do both - redevelop level 4 and have a new health centre. We support the on-going conversations between the private medical provider and Castle Mall.
- The alternative unit for the health centre would give them the additional space that they have asked for to deliver the services, which is more accessible for users being closer to the primary pedestrian routes within the mall.

ASSESSMENT OF PLANNING CONSIDERATIONS

Relevant Planning Policies

National Planning Policy Framework:

- Statement 1 – Building a strong, competitive economy
- Statement 2 – Ensuring the vitality of town centres
- Statement 4 – Promoting sustainable transport
- Statement 8 – Promoting healthy communities

Relevant policies of the adopted Joint Core Strategy for Broadland, Norwich and South Norfolk 2014

- Policy 5 – The economy
- Policy 6 – Access and transportation
- Policy 7 – Supporting communities
- Policy 8 – Culture, leisure and entertainment
- Policy 11 – Norwich City Centre
- Policy 19 – The hierarchy of centres

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

- SHO10 - Changes of use in retail frontages in the Primary Retail Area
- SHO22 – Food and drink uses and conditions on hot food takeaways
- AEC3 – Loss of buildings for community use
- TRA6 - Parking standards - maxima
- TRA7 - Cycle parking standards
- TRA8 - Servicing provision

Other Material Considerations

Development Management Policies Development Plan Document – (April 2013)

- DM1 Achieving and delivering sustainable development
- DM18 Promoting and supporting centres
- DM20 Protecting and supporting city centre shopping
- DM22 Planning for and safeguarding community facilities
- DM23 Supporting and managing the evening and late night economy
- DM28 Encouraging sustainable travel

Written Ministerial Statement: Planning for Growth March 2011

Principle of Development

Procedural Matters Relating to the Development Plan and the NPPF

8. The Joint Core Strategy and Replacement Local Plan (RLP) have been adopted since the introduction of the Planning and Compulsory Purchase Act in 2004. With regard to paragraphs 211 and 215-216 of the National Planning Policy Framework (NPPF), both sets of policies have been subjected to a test of compliance with the NPPF. The 2014 JCS policies are considered compliant, but some of the 2004 RLP policies are considered to be only partially compliant with the NPPF, and as such those particular policies are given lesser weight in the assessment of this application. The Council has also reached submission stage of the emerging new Local Plan policies, and considers most of these to be wholly consistent with the NPPF. Where discrepancies or inconsistent policies relate to this application they are identified and discussed within the report; varying degrees of weight are apportioned as appropriate.

Policy Considerations

9. At the heart of the NPPF is a presumption in favour of sustainable development, which has three dimensions: economic, social and environmental, where the planning policies and decisions should be positive and promote competitive town centres.
10. Paragraph 70 of the NPPF states that planning policies and decisions should guard against the unnecessary loss of valued facilities and services, particularly where this would reduce the community's ability to meet its day-to-day needs.
11. Castle Mall is located within the Primary Retail Area, where there is a general presumption in favour of retail uses. Saved policy SHO10 deals with changes of use to non-retail uses to class A2 (financial and professional services) and A3 (restaurants and café's). Level 4 of Castle Mall does not form part of the defined retail frontage and the policy allows for additional café and restaurant (class A3) where they would have a beneficial effect on the vitality, viability and appearance of the area.
12. Emerging policy DM20 permits changes of use to A2, A3, A4 and A5 and other main town centre uses within defined primary and secondary retail areas
13. Saved Policy AEC3 states that development proposals leading to the loss or change of use of buildings in community use will only be permitted where it can be demonstrated that it is no longer suited for that use and that there is no viable alternative community use.
14. Emerging policy DM22 states that development resulting in the loss of an existing community facility will only be permitted where either adequate alternative provision exists or will be provided in an equally accessible or more accessible location within 800 metres walking distance or it can be demonstrated that the facility cannot be preserved and evidence of marketing the premises is provided.

Proposed changes of use of four retail units (class A1) and cinema kiosk (D1 class) to restaurant uses (class A3)

15. The proposal form part of an on-going programme of investment in Castle Mall shopping centre. Recent improvements include the upgrading of the existing food court, which largely supports the daytime function of the mall.
16. Level 4 is an important level within the mall as it provides pedestrian connections from Timberhill and Farmers Avenue, which also creates an internal street between the two locations. These entrances also provide two of the main access points to the cinema above.
17. The aim of the proposal is to reinvigorate and consolidate level 4 of Castle Mall, where many of the units have been vacant for a number of years, by creating a restaurant quarter that would seek to enhance the evening economy and support the existing cinema located on level 5. The proposed development complements the wider regeneration of the Westlegate/ Timberhill area and changes planned to traffic routes and the public realm through the St.Stephen's Outline Masterplan. Collectively, these proposals should increase the quality of linkages between this part of Castle Mall and other parts of the city centre core retail area.
18. Castle Mall was designed and built for retail and leisure uses. Level 4 of Castle Mall does not form part of the defined retail frontage and as such, saved policy SHO10 and emerging policy DM20 permit restaurant (class A3) uses. Therefore, the proposed changes of use of all the level 4 units' accord with the saved and emerging local retail policies, provided a condition is attached to restrict opening hours in line with other restaurants within the city centre leisure area, where they are permitted to be open until midnight.
19. It should be noted that, although indicative drawings have been submitted, the physical internal works required to create the different restaurant units do not require planning approval and so do not form part of this planning application.

Proposed change of use from a health centre (class D1) to restaurant use (class A3)

20. It is extremely clear from the representations received that both the GP surgery and walk-in facility that make up the Timberhill health centre perform a highly valued function to the local community within the city centre.
21. In the absence of a requirement for the alternative provision of the health centre in the city centre, the change of use of the health centre to a restaurant use is contrary to saved policy AEC3 and emerging policy DM22 to protect community facilities. However, it is considered that material considerations exist which suggest that an exception from this policy may be justified. In particular it should be noted that:
- the existence of a walk in health centre in the City Centre is entirely driven by a central contract with the NHS which secures provision of these services free at the point of use;
 - the health centre only occupies part of level 4 of Castle Mall, where many other retail units have been vacant for long periods. It is not realistic to suggest that the remainder of the proposal could be delivered with the health centre retained in situ. Therefore retention of the health centre in its current location effectively prejudices the wider revitalisation and investment in the shopping centre; and
 - there are clearly a range of alternative premises (both within and outside of Castle Mall Shopping Centre) that could meet the need for a health centre should an appropriate contract be provided. The unit on level 2 of Castle Mall which is the subject of application ref 14/00528/U is only one example of where this provision could be made.

Local Finance Considerations

There are no direct financial considerations as a result of the proposal but it is hoped that new businesses will be attracted to the currently vacant units within the Mall which would result in payments of business rates, and that footfall within Castle Mall will increase with benefits to the local economy.

Conclusions

22. In planning terms, the principle of the proposed changes of use to provide a restaurant quarter (class A3) on level 4 and areas of levels 3 and 5 of Castle Mall accords with national guidance and local planning policy in relation to retail uses within primary retail areas. The proposal would help revitalise long term vacant units, which is likely to boost the daytime and evening economies and complement current regeneration within the area.
23. Notwithstanding the degree of conflict with saved policy AEC3 and emerging policy DM22, it is considered that in the light of the material considerations referred to in para 22, any attempt to formally link the two applications either by refusing this application on the grounds of loss of a community facility or requiring the provision of the health centre in a new location prior to implementation of the proposal on level 4 (whether by 'Grampian' condition or legal agreement) is not appropriate as it would be unlikely to be upheld on appeal if challenged and may not be considered lawful.
24. There are commercial negotiations ongoing between NHS England and Norwich Practices Limited (NPL) about the nature of any contract extension for the provision of health services in the city centre and also between NPL and Castle Mall (and potentially other landlords) about potential locations for the provision of these services. These are commercial negotiations with which the planning system should not seek to interfere.
25. Therefore, it is recommended to approve the application subject to the conditions listed below.

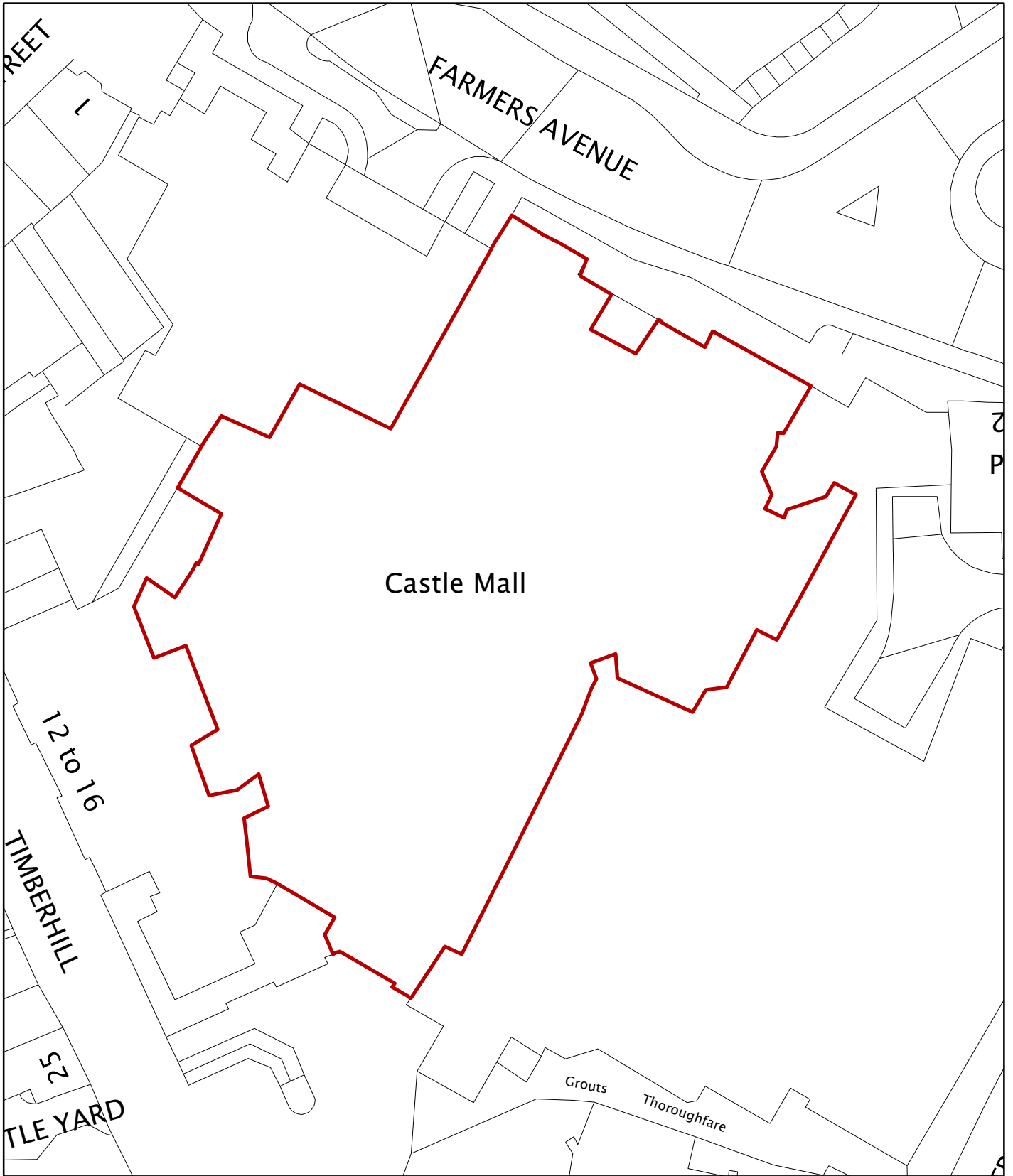
RECOMMENDATIONS

To approve Application No 14/00527/U and grant planning permission, subject to the following conditions:-

1. Commencement of development within three years
2. Development in accordance with approved plans and drawings
3. Submission of details of plant and machinery
4. Submission of details of extract ventilation
5. Closed to the public between the hours of 00:00 hours and 07:00 hours on any day

Article 31(1)(cc) statement

The local planning authority in making its decision has had due regard to paragraph 187 of the National Planning Policy Framework as well as the development plan, national planning policy and other material considerations and has approved the application subject to the appropriate conditions and for the reasons outlined in the officers report.



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Planning Application No 14/00527/U

Site Address Castle Mall Level 4
and parts of levels 3 and 5

Scale 1:500



NORWICH
City Council

PLANNING SERVICES

