

Report for Resolution

Report to Planning Applications Committee
Date 19 July 2012
Report of Head of Planning Services
Subject 12/01120/VC Land and buildings on the north east side of King Street, Norwich

Item
5(5)

SUMMARY

Description:	Removal of Condition 9 of planning permission (App. No. 04/00274/F) for the provision of moorings and amendment of the S106 agreement associated with 04/00274/F to remove the requirement for provision of public access to the River.
Reason for consideration at Committee:	Objection
Recommendation:	Approve
Ward:	Thorpe Hamlet
Contact Officer:	Mark Brown Senior Planning Officer 01603 212505
Valid Date:	19th May 2012
Applicant:	P. J. Livesey Country Homes (Eastern) Ltd.
Agent:	P. J. Livesey Country Homes (Eastern) Ltd.

INTRODUCTION

The Site

Location and Context

1. The site is located to the east of King Street between Carrow Bridge and Novi Sad Bridge and is the Read Mills Development which comprises the flatted residential blocks of The Malt House, New Half Moon Yard, New Ferry Yard, Albion Mill, Spooners Wharf and Cannon Wharf. The River Wensum runs to the east of the site and forms part of the Broads. The site is located within the Norwich City Centre Conservation Area.

Planning History

2. **04/00273/L** – Demolition of non-listed buildings and alterations to former mill buildings and 213 King Street for conversion to residential use – Listed Building and Conservation Area Consent Approved 29 October 2004.
3. **04/00274/F** – Conversion of former flour mills and redevelopment of site to provide 160 residential apartments and restaurant (Class A3) with associated car parking and landscaping – Approved 30 June 2005.
4. **10/01696/D** – Application to discharge the details of condition 9 of 04/00274/F for the provision of moorings – Approved 29 October 2010.

Equality and Diversity Issues

5. There are no significant equality or diversity issues.

The Proposal & Background

6. There are two elements to the proposal as detailed below:

- .6.1. Condition 9 of permission 04/00274/F requires the provision of moorings on the river frontage prior to first occupation of the development in accordance with details to be first agreed with the Local Planning Authority. The application seeks removal of this condition. The condition reads:
 - Prior to the first occupation of the development mooring provision shall be provided on the river frontage in accordance with a scheme to be first submitted to and approved by the Council as Local Planning Authority and shall thereafter be permanently retained.

The moorings have not been provided and details were not agreed prior to first occupation. However, an application was submitted to agree the details in 2010 (10/01696/D). This solution involved provision of two pairs of mooring posts set between 1-1.5m from the west bank for demasting sail boats before passing the bridge. The mooring posts were 110m apart one 50m south of Novi-Sad Bridge and one 40m north of Carrow Bridge. The moorings were for short stay moorings with no overnight mooring and offered no access to the river bank.

Subsequent to this approval the applicant wished to explore an alternative solution whereby boats would moor up to the riverbank for demasting purposes. Such a solution was discussed with the Broads Authority who indicated that this would be acceptable subject to certain improvements to the riverbank at the two mooring locations. The solution was discussed but not formally agreed with officers who indicated that such a solution would work so long as the security of private parts of the development was achieved. The two mooring locations were in areas of narrow river bank adjacent to private basement parking areas where unauthorised access to the bank would be undesirable. Railings were subsequently discussed and erected to provide security, however this resulted in further security concerns being raised by residents of the development. These concerns related to potential unauthorised access to balconies from railings below as well as noise and disturbance from moored boats. As a result the applicants have now sought the removal of the condition.

- .6.2. The second aspect of the proposal is to remove a requirement of the S106 agreement to provide public access to the river front at two locations. The specific requirement is not to occupy more than 140 dwellings until the areas of public access to river frontage have been constructed and lit to the council's agreement, to maintain them and provide public access to them. The areas in question are indicated in the plan attached to this report.

Representations Received

7. Advertised on site and in the press. Adjacent and neighbouring properties have been notified in writing.
8. 5 letters of objection have been received citing the issues as summarised in the table

below.

Issues Raised	Response
The agreement is an integral part of the vision promoted by the Norwich Society to realise the potential of the river by citizens and tourists.	See paragraphs 19-23
The implementation of the S106 agreement would present a more attractive frontage to the river and enhance local facilities.	See paragraph 27
If approved it would create a precedent for future developments on the river.	See paragraphs 24-26
The provision of moorings is necessary to meet current and future demands in the City.	See paragraphs 13-18
Public access should not be denied solely on the grounds of hypothetical anti-social behaviour.	See paragraphs 19-23
It would serve as a pedestrian and cycle way to enable people to get to work and access leisure activities.	A riverside walk was never secured on the site. See paragraph 22
Residents should have access to as much of the river as possible.	See paragraphs 19-23
Consent may not have been granted originally if the provisions had not been in the S106 agreement and the arguments made by the applicant for removal were evident at the time of the original application and should have been made then.	This may be the case, however the current application has been made and the necessity of the condition and parts of the S106 agreement in question must be considered and weighed against current development plan policy and other material considerations.

9. 12 letters of support have been received making the following comments:

- The areas of public access are likely to be locations of anti-social behaviour and noise disturbance.
- The proposals will improve the security of the area.
- The proposals would prevent litter and misuse of the area.
- The S106 agreement did not provide for a public walkway along the frontage
- The areas are extremely poorly located as a viewing points.
- There are plenty of places where boats can moor up for short times in the vicinity, without being in close proximity to people's homes.
- Wider public access to the river frontage is not secured (as some objectors appear to believe).
- The proposals would not create a precedent for other sites.
- The mooring are demasting moorings only.
- The viewing points provide no useful addition to the river and there are far greater and better walks along the river.
- There is already access to the side and under Novi-Sad bridge which creates problems of anti-social behaviour.

- There are already problems with residential boats mooring on the other side of the river for long periods creating noise disturbance.
10. One letter of comment has been received suggesting that the public access provisions were of token significance only.
11. Thorpe Hamlet Councillors – Thorpe Hamlet Councillors (Cllrs Grahame, Henderson and Price) object to the application. We represent residents in Thorpe Hamlet, including the gated Cannon Wharf and Reed Mill community, and I am sympathetic to their concerns. It's important that we as a council act promptly on any incidents of crime or anti-social behaviour, as well as taking reasonable steps to reduce these.

However, while some residents would consider retrospectively changing the planning conditions a reasonable measure, most do not, for a number of reasons including the bigger local picture of access to and from the river frontage, as supported by Norwich River Parkway document, the Norwich Society and other commentators the message that this sends to everyone on the seriousness of planning conditions in general the general precedent that one can change the conditions on which one moved into an area, e.g. relating to parking, pets, signage, the specific precedent that access to public amenities, such as the river, can be denied to the public.

If a gated community whose planning permission requires public access can exclude the public from the amenity they overlook, other groups would also find it easier to do so, and the public amenity of living in a river city would be reduced for all our residents, visitors and associated businesses.

We believe that the river is an important and under developed asset for residents and tourists alike, and boats and moorings are an important part of its offer. Many residents appreciate this, not least because boat residents nearby are known to have pulled people and dogs out of the river, and to have made their respective sites safer, perhaps reducing the need for other security measures.

While access close to one's property may initially seem alarming, as part of the bigger picture, a populated area is safer than an emptier one, it is empty streets, not well used streets that most people choose to avoid.

An attractively maintained area encourages people both to visit and to look after it, and the river has natural attractiveness that many people would like to see enhanced. This cannot happen if people who live near each stretch are able to exclude others and prevent the city developing its river parkway aspirations.

We need to set a precedent that will apply along the river, that people who live by the river are as entitled to the peaceful enjoyment of their homes as anyone else, but not to prevent peaceful enjoyment of the river by others.

Consultation Responses

12. **Broads Authority** – The requirement to provide layby moorings arose as the development has resulted in the loss of demasting / layby moorings along this stretch of river. Demasting / layby moorings are considered an essential requirement for safe navigation of the river, particularly up and downstream of obstructions such as bridges.

The Broads Authority has met with the developer in this instance, discussed a number of

proposals and has demonstrated flexibility in both the number and type of moorings which are required. It is not considered that any of the various alternatives discussed are disproportionately onerous and it is the case that recent development along the Wensum in Norwich has provided layby / demasting moorings (for example the new 'Peter's Bridge').

Consequently, the Broads Authority would strongly object to the granting of approval of this application to remove condition 9 of consent 04/00274/F.

The application also seeks amendments to the s106 agreement which accompanied the consent, specifically to remove the requirement for provision of public access to the River. The principle reasons for the request to remove public access to the river appears to be resident's fears regarding the potential noise and security concerns related to the use of these areas.

The Broads Authority considers these areas of public access important public assets which enable the public to view the river and adjoining cityscape from a number of vantage points. The two areas of public space are modest and situated at either end of the development; given this position and scale it is not considered that the areas represent any significant erosion of residents privacy or amenity, and any potential issues relating to anti-social behaviour could be adequately addressed through appropriate management and monitoring of the area. The removal of these areas of public space – the only public access to the river in this block - would have the effect of total canalisation and hemming in of the river corridor and is not something which the Broads Authority can support. Consequently, the Broads Authority wish to strongly object to the variation of the s106 agreement.

ASSESSMENT OF PLANNING CONSIDERATIONS

Relevant Planning Policies

National Planning Policy Framework (NPPF):

- 4 – Promoting sustainable transport
- 7 – Requiring good design
- 8 – Promoting Healthy Communities
- 12 – Conserving and enhancing the historic environment

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

- T4 – Urban transport
- T9 – Walking, cycling and other non-motorised transport
- NR1 – Norwich Key Centre for Development and Change

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

- 2 – Promoting Good Design
- 18 – The Broads
- 20 – Implementation

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

- HBE8 – Conservation Areas
- EP22 – High Standard of Amenity
- TVA3 – Waterborne Tourism and Visitor Moorings

Supplementary Planning Documents and Guidance

Green Links and Riverside Walks adopted December 2006

Mooring Provision

13. Saved local plan policy TVA3 sets out the requirements for riverside moorings. The policy requires development with a frontage onto the River to be designed to take advantage of the opportunities for access by river craft. In particular the policy sets out a requirement for provision of public moorings and appropriate bankside access at Cannon Wharf within 50m of Novi-Sad Bridge. Policy 18 of the JCS also details that particular regard should be applied to maintaining and enhancing the recreational and navigational use of the Broads.
14. The Broads Authority made representations to the original application 04/00274/F consistent with the above seeking a lay by mooring at Cannon Wharf.
15. The design of the approved scheme 04/00274/F did not provide for moorings with bankside access in its design. Condition 9 was imposed which required moorings to be provided and details to be agreed prior to first occupation. The condition did not specifically require bankside access. The details were not agreed prior to occupation, however given the details could have had implications for the design of the proposals there is an argument that the condition should have required details to be agreed prior to commencement.
16. Mooring details were agreed at a latter stage of the development as detailed at paragraph 6.1. The solution involved mooring posts set off the bank for demasting, with no bankside access. This would allow a boat to remast after navigating under the bridge then travel 110m before demasting to navigate the other bridge. Given the short distance and close proximity of the bridges, it is considered questionable how many boats would do this and not simply navigate both bridges before remasting. The moorings would also provide a safe location for a boat to wait whilst another boat navigates the bridge. It is relevant to note that there is existing mooring provision on the opposite side of the river at corporation quay.
17. The benefit the moorings provide in river navigation terms needs to be weighed against other considerations such as amenity. A number of residents of the development have raised concern over the moorings suggesting that they are likely to lead to noise disturbance and misuse, quoting former problems with existing moorings on the opposite side of the river. It is also relevant to note that the failure to agree details prior to occupation means that residents of the development would not have necessarily been aware of how moorings may affect them prior to moving into the development. Alternative solutions for mooring provision on the bankside (although without public access to the wider bankside) have also raised security concerns over potential for unauthorised access to private parts of the development. It is understood that there have been problems with disturbance from use of moorings on the opposite side of the river in the past and this should be considered in the light of EP22 which seeks a high standard of amenity for residential properties.
18. Provision of good quality short term public moorings is clearly an important policy objective for riverside development in the Norwich Area to support the tourism and navigation objectives of the Broads and to integrate the River into the development of the City. In this

case however it is considered that the original design failed to properly incorporate such provision into its design and it is considered that the solutions now being investigated do not offer such significant benefits in terms of navigation and public access to outweigh the amenity concerns of nearby residents. In the specific circumstances of this case, it is therefore not considered that the condition can be considered necessary.

Public Access to the River Frontage

19. Local plan policy SR11 requires developments with a river frontage to provide for a riverside walk and indeed provision for a riverside walk has been secured on numerous other developments along the river in Norwich. In this case a riverside walk was not secured as part of the original scheme. The reasons given in the committee report for this are the restricted width between King Street and the River, the changing levels of the quay headings and the proximity of listed buildings to the river frontage meaning that it was impossible to provide a riverside walk without extending into the River.
20. Public access was however secured to two areas at either end of the development via the S106 agreement. One area is located adjacent to Carrow Bridge and is accessed via King Street down a path to the side of the bridge and down a series of steps. The other is adjacent to Novi-Sad bridge and accessed from underneath the bridge by an existing public path to the north of the bridge.
21. The NPPF supports developments which promote opportunities for members of the community to come into contact with each other, for safe and accessible environments where crime and disorder and the fear of crime and disorder do not undermine quality of life or community cohesion and safe and accessible development with clear and legible pedestrian routes providing high quality public space.
22. In this case it is not considered that the areas would provide or could be made to provide high quality public space. Access to the spaces is poor. Neither the spaces nor the accesses to them are well overlooked, the access points are not particularly legible and do not provide any link to a permeable network of public routes. The accesses would not link in to any surrounding riverside walk or provide wider pedestrian or cycle connections. Public spaces need to be active to avoid misuse and given the poor access routes to the areas and their location at the foot of bridges, it is not considered that they would likely be particularly well used and indeed are therefore prone to misuse.
23. Having regard to JCS policy 2 and guidance within the NPPF on designing out crime and the provision of public spaces as well as the Councils duties under S17 of the Crime and Disorder Act, it is considered that the design and security of the scheme and the surrounding area would be improved by the removal of the requirement. It is not considered that the two areas of public access would bring about any significant public benefit and as such it is not considered that their provision can be considered a necessary part of the S106 agreement.

Precedent

24. Concern has been raised that the removal of the condition and requirements of the S106 agreement would set a precedent for future riverside developments. With regard to the riverside walk there were clear exceptions outlined in the original committee report as to why in this specific case a riverside walk could not be secured on this site. These being the close proximity of the listed buildings to the river, combined with the limited width of the

site and changes in the levels of quay heading. Such a combination of issues is unlikely to be present on other riverside development sites.

25. With regard to the moorings, these were not incorporated into the original design and were sought by condition. In hindsight the imposition of a condition has not worked as it is extremely difficult to successfully and retrospectively incorporate moorings into a scheme. This case shows the importance of ensuring that moorings and public access to them are designed as an integral part of the development at formal planning application stage.
26. In addition to the above the committee resolution for the development was given in October 2004 before the formal adoption of the Local Plan. Since then the joint core strategy and the SPD on green links and riverside walks have been adopted.

Impact on Wider Area

27. The removal of the need for moorings and the public access areas should not have a significant impact on the appearance of the scheme. The main differences would be the absence of mooring signage and benches within the public access areas. As such it is not considered that the proposals would have any significant impact on the character or appearance of the Broads or surrounding Conservation Area.

Re-imposition of Conditions

28. As the variation if granted would grant a new consent for the site there is a need to consider the re-imposition of conditions on the original consent. The majority of conditions on the original consent have been fully discharged with the exception of conditions 3, 7 and 8 which relate to landscaping and boundary treatments. A condition should also be imposed to secure the ongoing retention of forecourt car parking, cycle parking and refuse storage areas in line with the requirements of the original conditions.

Conclusions

29. Provision of good quality short term public moorings is clearly an important policy objective for riverside development in the Norwich Area to support the tourism and navigation objectives of the Broads and to integrate the river into the development of the City. In this case however it is considered that the original design failed to properly incorporate such provision into its original design and it is considered that the solutions now being investigated do not offer such significant benefits in terms of navigation and public access to outweigh the amenity concerns of nearby residents. In the specific circumstances of this case, it is therefore not considered that the condition can be considered necessary.
30. It is not considered that the public access areas provide or could be made to provide high quality public space. Access to the spaces is poor. Neither the spaces nor the accesses to them are well overlooked, the access points are not particularly legible and do not provide any link to a permeable network of public routes. The accesses would not link in to any surrounding riverside walk or provide wider pedestrian or cycle connections. Public spaces need to be active to avoid misuse and given the poor access routes to the areas and their location at the foot of bridges it is not considered that they would likely be particularly well used and indeed are therefore prone to misuse.
31. Having regard to JCS policy 2 and guidance within the NPPF on designing out crime and the provision of public spaces as well as the Councils duties under S17 of the Crime and

Disorder Act it is considered that the design and security of the scheme and the surrounding area would be improved by the removal of the requirement. It is not considered that the two areas of public access would bring about any significant public benefit and as such it is not considered that their provision can be considered a necessary part of the S106 agreement.

RECOMMENDATIONS

To approve:-

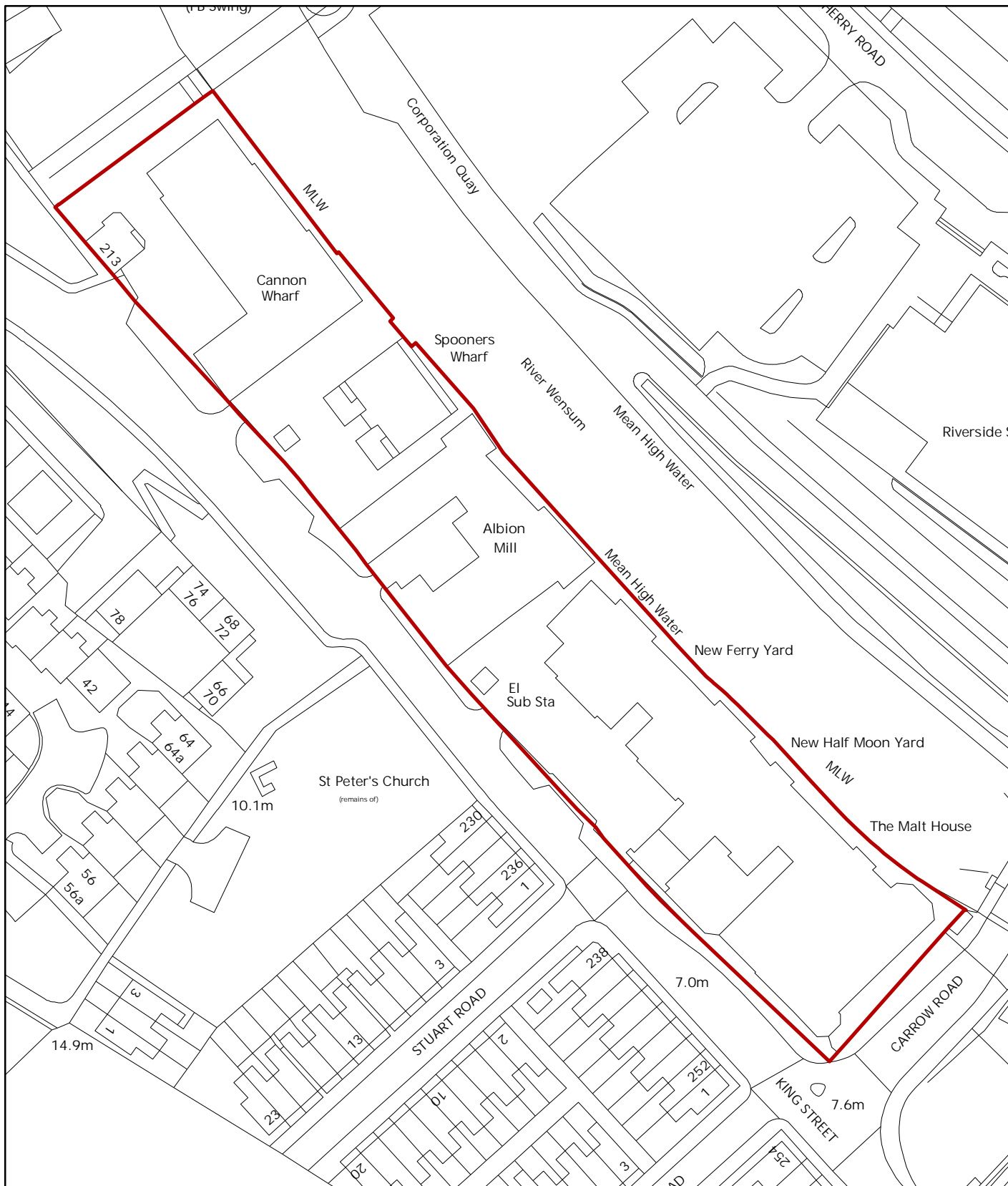
(1) the variation of condition application for the removal of condition 9, application No (12/01120/VC Land and buildings on the north east side of King Street, Norwich) and grant planning permission, subject to the following conditions:-

1. Remaining boundary treatments to be agreed and provided;
2. Remaining landscaping works to be agreed and provided;
3. Trees and plants which die within 5 years to be replaced;
4. Retention of forecourt, car parking, cycle parking and refuse storage areas.

(Reasons for approval: The decision has been made with particular regard to policies T4, T9 and NR1 of the adopted East of England Plan Regional Spatial Strategy 2008, policies 2, 18 and 20 of the adopted Joint Core Strategy for Broadland, Norwich and South Norfolk 2011, saved policies HBE8, EP22, TVA3 and SR11 of the adopted City of Norwich Replacement Local Plan 2004, the National Planning Policy Framework and other material considerations.

Provision of good quality short term public moorings is an important policy objective for riverside development in the Norwich Area to support the tourism and navigation objectives of the Broads and to integrate the River into the development of the City. In this case however it is considered that the original design failed to properly incorporate such provision into its original design and it is considered that the solutions now being investigated do not offer such significant benefits in terms of navigation and public access to outweigh the amenity concerns of nearby residents. In the specific circumstances of this case, it is therefore not considered that the condition can be considered necessary.)

(2) the variation of the S106 agreement to remove the requirements for the provision of the public access areas.



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Planning Application No 12/01120/VC

Site Address

Land and Buildings on the North East side of King Street

Scale

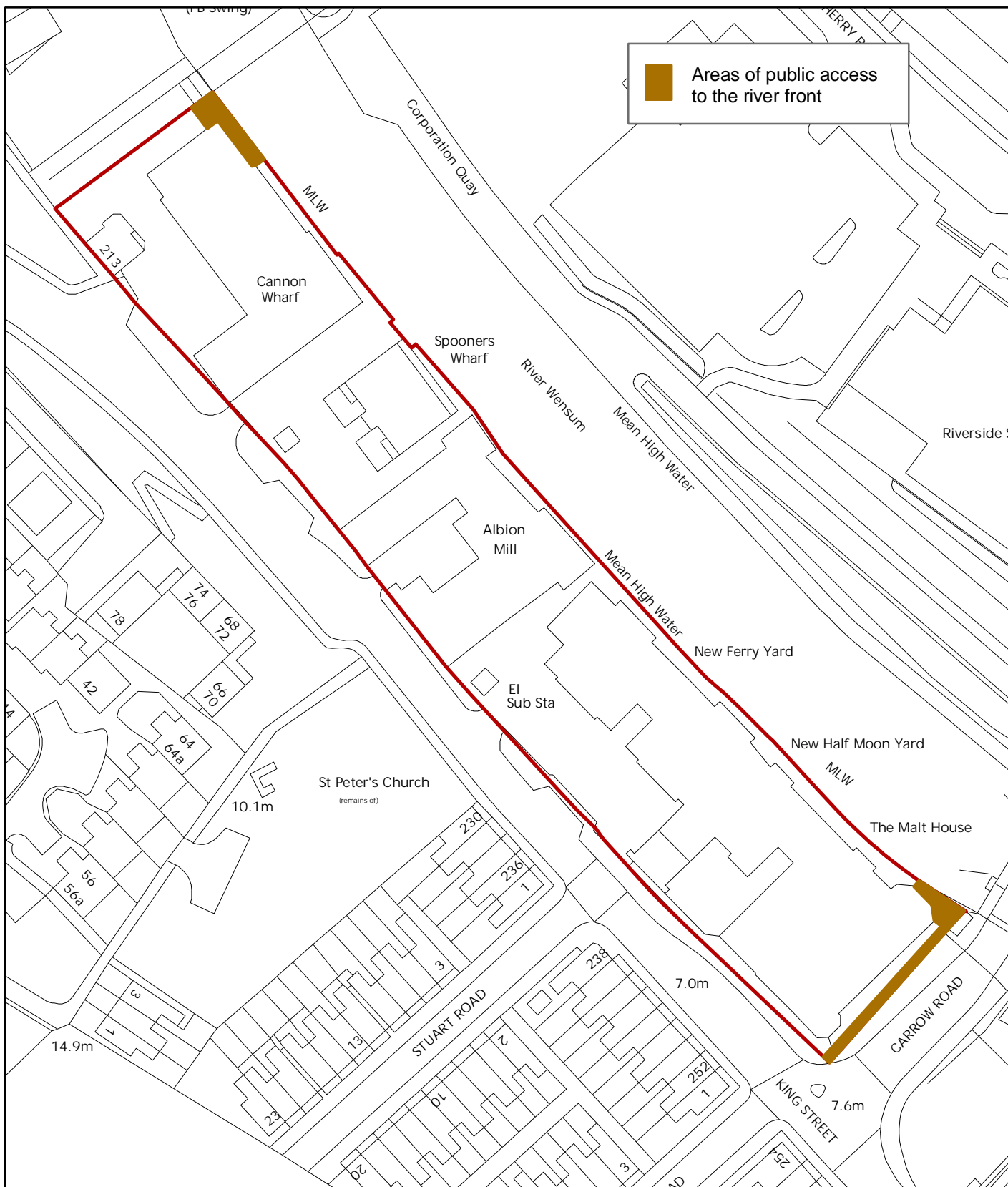
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Planning Application No 12/01120/VC

Site Address Land and Buildings on the North East side of King Street

Scale 1:1,002



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+4.200 Lower Ground
Floor Level

~~TC~~~~FD~~

~~1800 New Footpath~~

~~R32700~~

5400

New Kerb line

Ent. into
Undercover
Carpark

~~PO'S~~

Existing Permitted
Parking Areas

Existing Kerb
line retained

WM

~~Finish of footpath
refurbishment.~~ $\circ RS$

Extent of Public Access

Benchs, type
to be agreed

~~New barrier to match
other side of river~~

PUBLIC
VIEWING AREA

Existing Steps to be retained.

New Wall _____

Timber

LP^o TL^o

SC EC

New Footpath

LP

TP TCE TC

