

**Report to:** Planning applications committee

**Item**

16 April 2015

**Report of:** Head of planning services

**4(F)**

**Subject:** Enforcement Case 14/00068/BPC/ENF–  
1 Cathedral Street Norwich, NR1 1LU

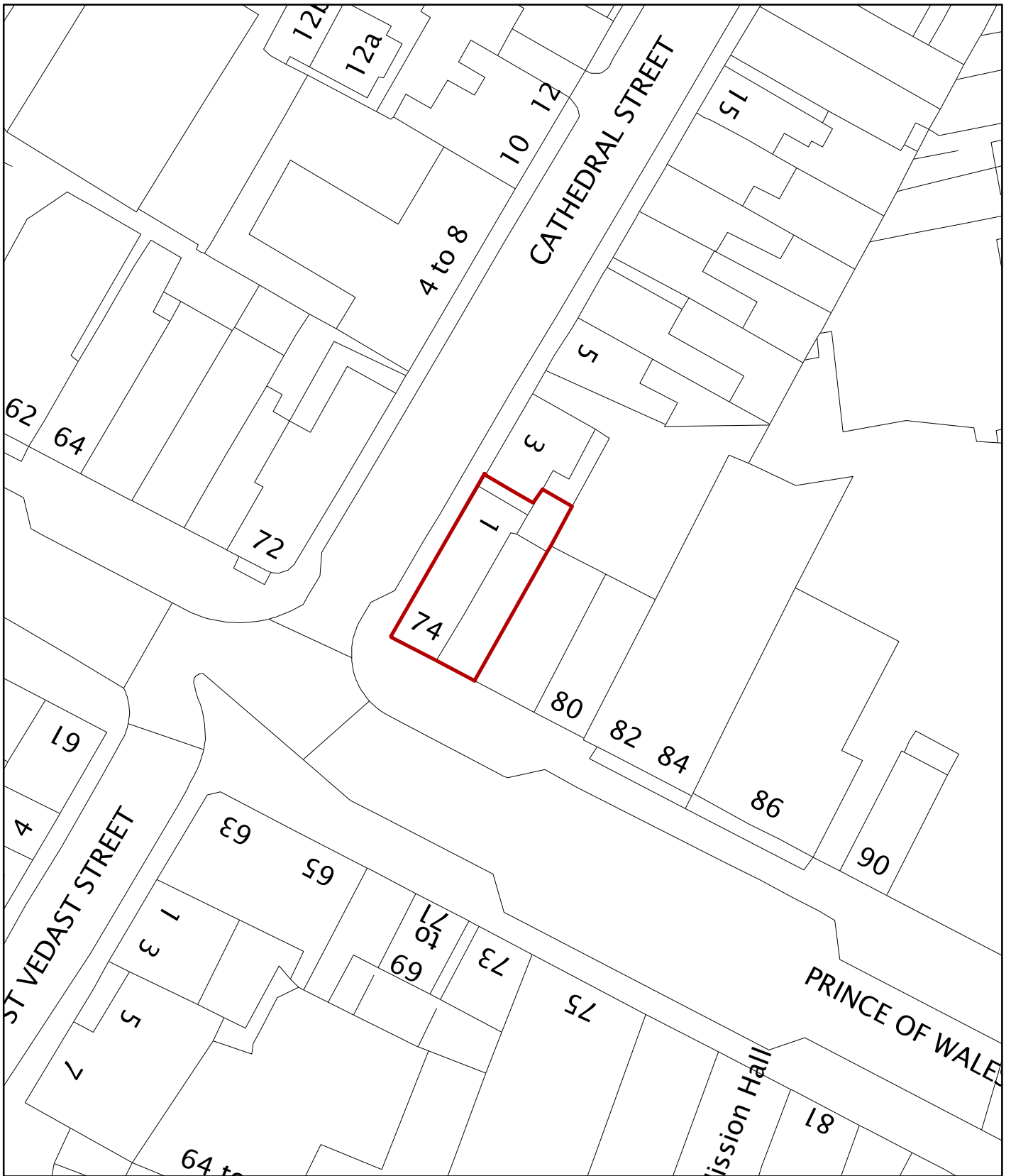
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Summary	
<b>Description:</b>	Change of use from Social Club (sui generis) use to residential (Class C3) use.
<b>Reason for consideration at Committee:</b>	Enforcement action recommended.
<b>Recommendation:</b>	Authorise enforcement action up to and including prosecution in order to secure the cessation of the unlawful residential (Class C3) use.
<b>Ward:</b>	Mancroft
<b>Contact Officer:</b>	Ali Pridmore

## Introduction

### The site

1. The site is located on the corner of Cathedral Street and Prince of Wales Road with the access to the upper floors of the property being from Cathedral Street. The premises are situated above Piccolos restaurant/takeaway, Bootleggers which is a shop and off licence and office accommodation. The property is three stories in height but this application relates only to the first and second floors of the premises. There is access to the rear of the property between 3 and 5 Cathedral Street.
2. The premise is locally listed and is situated within the City Centre Conservation Area. The site is situated within the City Centre Leisure Area but falls just outside of the Late Night Activity Zone.



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Planning Application No 14/00068/BPC/ENF

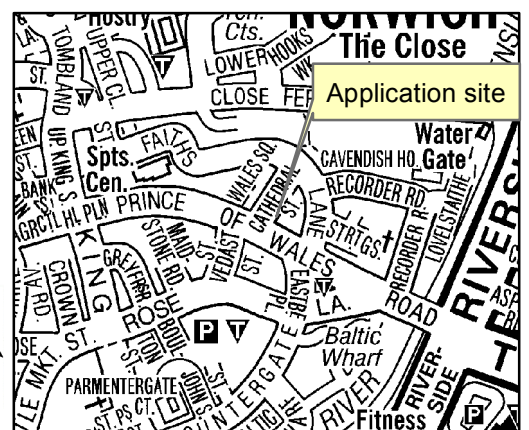
Site Address 1 Cathedral Street

Scale 1:500



**NORWICH**  
City Council

PLANNING SERVICES



## Relevant planning history

3. 12/00281/I - Informal enquiry submitted on the 7<sup>th</sup> February 2012 regarding a proposed change of use from office (class B1) use to social club (sui generis) use.
4. 12/00893/U – Application for permission to change the use of the premises from office (class B1) use to social club (sui generis) use which was granted by the local planning authority on the 3<sup>rd</sup> July 2012.
5. 14/00721/PDD – Application for prior approval to provide one four-bedroom flat at second floor level. The prior approval application would entail the change of use of the second floor from offices to residential use. The existing lawful use of the second floor of 1 Cathedral Street is as a social club (sui generis). As such the proposed development does not satisfy the criteria set out in Part 4, class J.1 (b) of the Town and Country Planning (General Permitted Development) (Amendment) (England) Order 2013 and application for approval was refused on the 14<sup>th</sup> July 2014.
6. 14/01245/F – Application for permission to change the use of the second floor from a social club (Class Sui Generis) to ancillary residential accommodation in connection with the existing social club at first floor level was refused under delegated powers on 3<sup>rd</sup> December 2014 for the following reasons:
  - a) The site is situated within the late night activity zone, where residential is not normally permitted. Although the applicant has requested that the accommodation is ancillary to the social club below, it is not considered that there is sufficient justification to allow an exception in this instance. The proposal is therefore considered to be contrary to policies DM12 and DM23 of the Norwich Development Management Policies Local Plan (adopted 2014).
  - b) The site is situated within the late night activity zone, where there is a significant amount of noise disturbance from road traffic and users of the late night economy. No evidence has been provided that satisfactory mitigation measures can be put in place to adequately reduce noise levels in order to provide satisfactory living conditions for future residents of the flat. The proposal is therefore considered to be contrary to policies DM2, DM11, DM12 and DM13 of the Norwich Development Management Policies Local Plan (adopted 2014).
  - c) The proposed refuse storage arrangements are not satisfactory to meet the needs of future residents of the flat due to the bin storage area not being accessible from the street which would necessitate black sack collections. This in turn could block the public highway and would therefore have transport and highway impacts. The development would therefore not accord to policy DM31 of the Norwich Development Management Policies Local Plan (adopted 2014).

- d) The proposed external cycle storage facilities are not easily accessible and insufficient details are provided of the internal cycle storage facilities. As such the Council is not satisfied that the proposal will provide three covered and secured cycle storage spaces. The proposal would therefore not accord to policy DM31 of the Norwich Development Management Policies Local Plan (adopted 2014).
- e) The proposal does not provide satisfactory external amenity space for future residents of the site. The proposal would therefore not accord to policy DM2 of the Norwich Development Management Policies Local Plan (adopted 2014).

## **Purpose**

- 7. This report relates to the unauthorised change of use of 1 Cathedral Street from Social Club (sui generis) use to Residential (Class C3) use.
- 8. As the current change of use from Social Club (sui generis) use to Residential (Class C3) use does not have planning permission and the change of use has occurred within the last four years and is therefore not immune from enforcement action the change of use is a breach of planning control and is therefore unlawful.
- 9. The leaseholder of 1 Cathedral Street has been informed the current residential (Class C3) use is a breach of planning control and was asked to cease the unauthorised use or to apply for retrospective planning permission which the leaseholder was advised might not be supported. An application for retrospective planning permission has been received, determined and subsequently refused by the local planning authority. Unfortunately the unauthorised use has continued.
- 10. Authority is sought from the Planning Applications Committee for enforcement action to secure the removal of the unauthorised residential (Class C3) use. Enforcement action to include direct action and prosecution if necessary.

## **Breach**

- 11. The change of use from social club (sui generis) use to residential (Class C3) use does not fall within the same use class and the change is not permitted under the Town and Country Planning (Use Classes) Order 1987 (as amended).
- 12. The change of use from social club (sui generis) use to residential (Class C3) use is a material change of use for which planning permission would be required under section 171A(1) of the Town and Country Planning Act 1990 (as amended by the Planning and Compensation Act 1991). A planning application has been received, determined and refused by the local planning authority and an appeal by the applicant to the Secretary of State has not been received.
- 13. It appears to Norwich City Council that the above breach of planning control has occurred within the last four years and is not therefore

immune from enforcement action. The current unauthorised use is not an appropriate use of the land which is currently causing significant harm to the local amenity, in terms of the depositing of household waste onto the private car park at the rear of 1 Cathedral Street and is not providing satisfactory living conditions for the residents of the flat. The Council do not consider that planning permission should be given because planning conditions could not overcome these objections.

## **Policies and Planning Assessment**

### **Relevant Planning Policies**

#### **National Planning Policy Framework March 2012 (NPPF):**

- NPPF0 Achieving sustainable development
- NPPF6 Delivering a wide choice of high quality homes
- NPPF7 Requiring good design
- NPPF11 Conserving and enhancing the natural environment
- NPPF12 Conserving and enhancing the historic environment

#### **Joint Core Strategy for Broadland, Norwich and South Norfolk adopted March 2011 amendments adopted Jan. 2014 (JCS)**

- JCS1 Addressing climate change and protecting environmental assets
- JCS2 Promoting good design
- JCS4 Housing delivery
- JCS9 Strategy for growth in the Norwich policy area
- JCS11 Norwich city centre
- JCS20 Implementation

#### **Norwich Development Management Policies Local Plan adopted Dec. 2014 (DM Plan)**

- DM1 Achieving and delivering sustainable development
- DM2 Ensuring satisfactory living and working conditions
- DM3 Delivering high quality design
- DM9 Safeguarding Norwich's heritage
- DM11 Protecting against environmental hazards
- DM12 Ensuring well-planned housing development
- DM13 Communal development and multiple occupation
- DM23 Supporting and managing the evening and late night economy
- DM31 Car parking and servicing
- DM32 Encouraging car free and low car housing

### **Justification for enforcement**

14. The principal reasons why the current unauthorised change of use would not be supported is that the site is adjacent to the late night activity zone where future residents of the site would be exposed to an unacceptable level of noise due to road traffic and users of the late night economy. No evidence has been provided that satisfactory mitigation measures can be put in place to adequately reduce noise levels in order to provide satisfactory living conditions for future residents of the flat. Furthermore the proposed refuse storage arrangements are not satisfactory to meet the needs of future residents of the flat due to the bin storage area not being accessible from the street which would necessitate black sack collections. This in turn could

block the public highway and would therefore have transport and highway impacts. In addition the cycle storage facilities are not easily accessible and the proposal does not provide satisfactory external amenity space for future residents of the site. The development would therefore not accord to policies DM2, DM11, DM12, DM13, DM23 and DM31 of the Norwich Development Management Policies Local Plan (adopted 2014).

15. Several attempts have been made in negotiating with the leaseholder 1 Cathedral Street in ceasing the unauthorised use but to no avail. An application for prior approval was received by the local planning authority but the proposed development did not satisfy the criteria set out in Part 4, class J.1 (b) of the Town and Country Planning (General Permitted Development) (Amendment) (England) Order 2013 and application for approval was refused. An application for the change of use was subsequently submitted but this was also refused for the reasons outlined above.
16. The delegated officer report for the refused consent is appended for information.

### **Equality and diversity Issues**

17. The Human Rights Act 1998 came into effect on 2nd October 2000. In so far as its provisions are relevant:
  - (a) Article 1 of the First Protocol (the peaceful enjoyment of one's possessions), is relevant in this case. Parliament has delegated to the Council the responsibility to take enforcement action when it is seen to be expedient and in the public interest. The requirement to secure the removal of the unauthorised building works in the interests of amenity is proportionate to the breach in question.
  - (b) Article 6: the right to a fair hearing is relevant to the extent that the recipient of the enforcement notice and any other interested party ought to be allowed to address the Committee as necessary. This could be in person, through a representative or in writing.

### **Conclusions**

18. It is considered that the current unauthorised residential (Class C3) use is not considered acceptable. The likelihood of noise disturbance to residents of the flat from the operation of businesses within the night-time economy and from road traffic is considered unacceptable and waste storage and collection arrangements would be inadequate.
19. It is therefore necessary to ask for authorisation from the Planning Applications Committee to ensure the cessation of the unauthorised residential (Class C3) use and therefore remedy the breach of planning control.

## **Recommendations**

20. Authorise enforcement action to secure the cessation of the unauthorised residential (Class C3) use including the taking of direct action, including prosecution, if necessary.

## Norwich City Council Planning Services

### Officer report – Application ref: 14/01245/F

<b>Site address:</b>	1 Cathedral Street Norwich NR1 1LU
<b>Proposal:</b>	Change of use of second floor from social club (Class Sui Generis) to ancillary residential accommodation in connection with the existing social club at first floor level.
<b>Ward:</b>	Thorpe Hamlet
<b>Case officer:</b>	Mrs Joy Brown - Joybrown@norwich.gov.uk
<b>Expiry date:</b>	10 December 2014
<b>Recommendation:</b>	Refuse

### The site and surroundings

1. The site is located on the corner of Cathedral Street and Prince of Wales Road with the access to the upper floors of the property being from Cathedral Street. The premises is situated above Piccolos pizza, kebab and fried chicken restaurant/takeaway. The property is three storey but this application relates only to the second floor of the premises. There is access to the rear of the property between 3 and 5 Cathedral Street.
2. The site is within the city centre and is situated in close proximity to a number of town centre uses. This includes a number of bars, nightclubs and hot food takeaways on Prince of Wales Road. There are residential dwellinghouses on Cathedral Street.

### Constraints

3. The premises is locally listed and is situated within the City Centre Conservation Area. The site is situated within the City Centre Leisure Area and the Late Night Activity Zone.

### Relevant planning history

4.

Ref	Proposal	Decision	Date
12/00839/U	Change of use of first and second floors from office (Class B1a) to social club	APPR	03/07/2012



	(Class Sui Generis).		
14/00721/PDD	Change of use of second floor from offices (Class B1) to residential to provide 1 No. flat (Class C3).	REGPD	14/07/2014

## The proposal

5. The application seeks full planning permission to provide 1 no flat (1 no four bed unit). This would entail the change of use of the second floor from a social club (sui generis) to residential use (use class C3). The first floor will remain as a social club. Access to the second floor is through the social club. The applicant has submitted a supporting statement with the application which sets out that the residential accommodation will be solely for employees who work in the social club.

## Summary information

Proposal	Key facts
<b>Scale</b>	
Total no. of dwellings	1
No. of affordable dwellings	0
Total floorspace to be changed	87 sq m
<b>Operation</b>	
Opening hours	Under planning application 12/00839/U, the social club cannot be open between the hours of 03:00am and 10:00am on any day.
<b>Transport matters</b>	
No of car parking spaces	0
No of cycle parking spaces	Not known although space is to be provided externally and internally
Servicing arrangements	Bins to be stored within rear external area

## Representations

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

Issues raised	Response
The proposal will result in substandard residential accommodation located in the heart of the late night activity area.	See main issues 1, 2 and 3.

## Consultation responses

7. Consultation responses are summarised below the full responses are available to view at <http://planning.norwich.gov.uk/online-applications/> by entering the application number

### Environmental protection

8. There would be a significant amount of noise from road traffic and human based noise so there would be a need for some protection to be built into the fabric of the building. This would include passive or mechanical ventilation and secondary glazing. Fresh air would need to be drawn in from the rear courtyard due to the building being locally listed. A noise impact assessment would also be necessary and include appropriate mitigation measures to ensure a reasonable level of acoustic protection. There is also concern regarding the proper storage of household waste.

### Highways (local)

9. Comments same as for application 14/00721/PDD. The proposed development is suitable in principle however there are a number of substantive matters that require resolution to make this acceptable. This is the lack of cycle parking on site and the lack of adequate communal refuse storage. Therefore object to the proposal.

## Assessment of planning considerations

### Relevant development plan policies

10. **Joint Core Strategy for Broadland, Norwich and South Norfolk adopted March 2011 amendments adopted Jan. 2014 (JCS)**
- JCS1 Addressing climate change and protecting environmental assets
  - JCS2 Promoting good design
  - JCS4 Housing delivery
  - JCS9 Strategy for growth in the Norwich policy area

- JCS11 Norwich city centre
- JCS20 Implementation

**11. Norwich Development Management Policies Local Plan adopted Dec. 2014 (DM Plan)**

- DM1 Achieving and delivering sustainable development
- DM2 Ensuring satisfactory living and working conditions
- DM3 Delivering high quality design
- DM9 Safeguarding Norwich's heritage
- DM11 Protecting against environmental hazards
- DM12 Ensuring well-planned housing development
- DM13 Communal development and multiple occupation
- DM23 Supporting and managing the evening and late night economy
- DM31 Car parking and servicing
- DM32 Encouraging car free and low car housing

**Other material considerations**

**12. Relevant sections of the National Planning Policy Framework March 2012 (NPPF):**

- NPPF0 Achieving sustainable development
- NPPF6 Delivering a wide choice of high quality homes
- NPPF7 Requiring good design
- NPPF11 Conserving and enhancing the natural environment
- NPPF12 Conserving and enhancing the historic environment

**Case Assessment**

13. Planning law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. Relevant development plan policies are detailed above. Material considerations include policies in the National Planning Framework (NPPF), the Councils standing duties, other policy documents and guidance detailed above and any other matters referred to specifically in the assessment below. The following paragraphs provide an assessment of the main planning issues in this case against relevant policies and material considerations.

**Main issue 1: Principle of development**

14. Key policies and NPPF paragraphs – DM12, DM13, DM23, NPPF paragraphs 49 and 14.
15. The proposal will provide one additional flat which would contribute towards Norwich's five year land supply.
16. The proposal is for residential accommodation within the late night activity zone. As such policies DM12, DM13 and DM23 are of particular relevance. Policy DM12 sets out the circumstances whereby residential development will not be permitted. Bullet point three of this policy sets out residential development whether by new build or conversion will be permitted except where it: 'is within or immediately adjacent to the Late Night Activity Zone'.
17. Policy DM23 also states the following: 'Where permission is required, residential and other noise-sensitive uses will not be permitted either within this area, or outside the area in premises where the impact of noise from late night entertainment uses (including direct impact from structural transmission) is shown to have an unacceptable harmful impact on living and/or working conditions for future occupants.'
18. Bearing in mind the above policies the principle of the conversion of the second floor of 1 Cathedral Street to residential accommodation would be contrary to the adopted local plan.
19. The applicant has however set out within their supporting statement that the proposed residential use will be for workers of the social club only and in their opinion as the social club has permission to stay open until 3am, the workers are part of the late night activity zone. They also go on to say that the workers in the social club need accommodation close by, not just for convenience but also for the security of the club when it is closed.
20. Although it would be possible to tie the residential use to the social club below; this is not something which is particularly common with the urban area of Norwich and could also be something that is difficult to enforce. Tying residential to another use is much more common in rural areas. For example within farming communities there is often a lack of suitable accommodation for local farm workers and therefore there is sometimes a justified need to provide residential accommodation in a location where it would not otherwise be permitted but with a condition tying it to the agricultural use. Furthermore within rural areas as well as a lack of suitable accommodation in close proximity to agricultural holdings, it is necessary for workers to work unsociable and long hours to look after livestock or to milk cows for example and this necessitates the need for worker to be in close proximity to the agricultural holding.
21. It is considered that this application is not akin to the above examples and having considered the applicant's statement, it is not considered that there is sufficient justification to allow residential contrary to local plan policies. The site is within a sustainable city centre location and this means that

there is other suitable residential accommodation within walking or cycling distance of the social club which would offer workers more peace, quiet and privacy during the hours and days when they are not contracted to work. Furthermore although there is some justification that having people living on site will provide security, there are other means of doing this and in this particular instance it would appear that the site is already covered by CCTV. Therefore taking into consideration the above it is not considered that the benefits of allow people to live on the site outweighs the harm that would be caused by allowing residential accommodation in the late night activity zone (where there is potential for it to create unacceptable living conditions for future occupants). As such it is considered that the principle of residential (tied or not tied to the social club) is not acceptable.

## **Main issue 2: Amenity**

22. Key policies and NPPF paragraphs – DM2, DM11, DM23, NPPF paragraphs 9 and 17.
23. The application proposes residential (a noise sensitive use) within the late night activity zone and therefore the impact of noise from late night entertainment uses upon future residents of the site needs to be carefully considered. No noise impact assessment has been submitted as part of the application.
24. With the submitted planning supporting statement the applicant has suggested that the residential accommodation will be used solely by employees of the social club and as such they are part of the late night economy. In this case, the social club has consent to open until 3am. Notwithstanding the above, it should however be noted that many of the clubs within the late night activity zone have consent to open until 4am and others which have been in use for many years have no restrictions.
25. The Council therefore has significant concerns for a number of reasons. Firstly although it would be possible to condition that the residential shall only be used by employees of the social club, it would not be possible to control the days in which employees used the residential accommodation. Therefore it is likely that employees could use the site on days in which they are not contracted to work. On these days it would be reasonable to expect workers to get a good night sleep without noise disturbance from the social club below.
26. Of more concern however is noise from Prince of Wales Road itself. Bedrooms 3 and 4 of the proposed flat front onto Prince of Wales Road and these windows are currently single glazed sash windows. Even if these rooms were used by workers who finished their shift at 3am, the likelihood is that there would be noise disturbance from outside until at least 5am. Without a noise impact assessment it is difficult to have a full understanding of existing noise levels and whether there are any suitable mitigation measures. However due to the building being local listed and situated within a conservation area, suitable mitigation measure may be difficult to achieve. For example mechanical ventilation would need to draw fresh air from the

rear courtyard and not the front or side elevation and it would not be acceptable to replace the existing sash windows.

27. The Council therefore has no evidence to suggest that the proposal will provide satisfactory living conditions for future residents of the site and the likelihood is that future residents would suffer from significant noise disturbance until at least 5am from people using Prince of Wales Road.
28. In addition to noise concerns, the Council also has concerns that no details of external amenity space have been provided as part of the proposal. Although there is a small area of outside space, if this was to be used for the provision of bin and cycle storage, this would be of detriment to the provision of a suitable external private space for the enjoyment of future residents. Therefore it is considered that the proposal does not satisfy the requirements of policy DM2 of the local plan.

### **Main issue 3: Transport**

29. Key policies and NPPF paragraphs – JCS6, DM28, DM30, DM31, NPPF paragraphs 17 and 39.
30. The site is situated within the city centre with future residents having good access to public transport, the cycle network, car club vehicles and city centre car parks. As such a car free development is considered acceptable in this instance. An informative should however be added to any future permission notifying the applicant that the development will not be eligible for on street parking permits.
31. With regards to cycle storage provision, it is not clear from the information submitted exactly where bikes will be stored externally or internally within the building. From the officer's site visit it would appear that the external area does not have level access and unless a structure was proposed it would not be covered or secured. An internal store would also necessitate the need for bikes to be taken upstairs. As such it is not considered that the proposal satisfies the requirements of the local plan as it has not been demonstrated that the site can provide three accessible covered and secured cycle spaces.
32. With regards to bin storage, although an area is indicated on the site plan for refuse storage this is not accessible from the street and it is also uncertain whether it is accessible from the proposed second floor flat. This would therefore necessitate black sack collections which would be highly undesirable and could result in the relatively narrow pavements becoming blocked by black sacks which in turn would impact upon the public highway. For a development of this size provision should be made for 1 x 240 litre bin for non recyclable waste, 1 x 240 litre bin for recyclable waste and 1 x food caddy.

### **Compliance with other relevant development plan policies**

33. A number of development plan policies include key targets for matters such as parking provision and energy efficiency. The table below indicates the outcome of the officer assessment in relation to these matters.

<b>Requirement</b>	<b>Relevant policy</b>	<b>Compliance</b>
Cycle storage	DM31	<b>No – see main issue 3</b>
Car parking provision	DM31	<b>Yes</b>
Refuse Storage/servicing	DM31	<b>No – see main issue 3</b>

### **Equalities and diversity issues**

34. There are no significant equality or diversity issues.

### **Local finance considerations**

35. Under Section 143 of the Localism Act the council is required when determining planning applications to have regard to any local finance considerations, so far as material to the application. The benefits from the finance contributions for the council however must be weighed against the above planning issues.
36. This development would generate a New Homes Bonus grant. In this case the financial considerations are relatively limited and therefore limited weight should be given to them.

## **Conclusion**

37. The site is situated within the late night activity zone where residential is not normally permitted. Even if the residential use was tied to the social club use below and solely used by employees of the social club, it is considered that the noise disturbance from both the social club itself and from users of the wider late night economy would provide an unsatisfactory living condition for future residents of the flat. Furthermore the proposal does not provide adequate bin and cycle storage or external amenity space. The development is therefore contrary to the requirements of the National Planning Policy Framework and the Development Plan and the recommendation is therefore one of refusal.

## **Recommendation**

The recommendation is to refuse the application for the reasons outline below and expanded upon in the above report:

- 1) The site is situated within the late night activity zone, where residential is not normally permitted. Although the applicant has requested that the

accommodation is ancillary to the social club below, it is not considered that there is sufficient justification to allow an exception in this instance. The proposal is therefore considered to be contrary to policies DM12 and DM23 of the Norwich Development Management Policies Local Plan (adopted 2014).

- 2) The site is situated within the late night activity zone, where there is a significant amount of noise disturbance from road traffic and users of the late night economy. No evidence has been provided that satisfactory mitigation measures can be put in place to adequately reduce noise levels in order to provide satisfactory living conditions for future residents of the flat. The proposal is therefore considered to be contrary to policies DM2, DM11, DM12 and DM13 of the Norwich Development Management Policies Local Plan (adopted 2014).
- 3) The proposed refuse storage arrangements are not satisfactory to meet the needs of future residents of the flat due to the bin storage area not being accessible from the street which would necessitate black sack collections. This in turn could block the public highway and would therefore have transport and highway impacts. The development would therefore not accord to policy DM31 of the Norwich Development Management Policies Local Plan (adopted 2014).
- 4) The proposed external cycle storage facilities are not easily accessible and insufficient details are provided of the internal cycle storage facilities. As such the Council is not satisfied that the proposal will provide three covered and secured cycle storage spaces. The proposal would therefore not accord to policy DM31 of the Norwich Development Management Policies Local Plan (adopted 2014).
- 5) The proposal does not provide satisfactory external amenity space for future residents of the site. The proposal would therefore not accord to policy DM2 of the Norwich Development Management Policies Local Plan (adopted 2014).

**Article 31(1)(cc)**

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. The proposal in question is not considered to be acceptable for the reasons outlined above.



## STANDING DUTIES

**In assessing the merits of the proposals and reaching the recommendation made for each application, due regard has been given to the following duties.**

### **Equality Act 2010**

It is unlawful to discriminate against, harass or victimise a person when providing a service or when exercising a public function. Prohibited conduct includes direct discrimination, indirect discrimination, harassment and victimisation and discrimination arising from a disability (treating a person unfavourably as a result of their disability, not because of the disability itself). Direct discrimination occurs where the reason for a person being treated less favourably than another is because of a protected characteristic.

The introduction of the general equality duties under this Act in April 2011 requires that the Council must in the exercise of its functions, have due regard to the need to:

- Eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by this Act.
  - Advance equality of opportunity between people who share a relevant protected characteristic and those who do not.
  - Foster good relations between people who share a relevant protected characteristic and those who do not.

The relevant protected characteristics are: age; disability; gender reassignment; pregnancy and maternity; race; religion or belief; sex; sexual orientation. The council must in the exercise of its functions have due regard to the need to eliminate unlawful discrimination against someone due to their marriage or civil partnership status but the other aims of advancing equality and fostering good relations do not apply.

### **Crime and Disorder Act, 1998 (S17)**

- (1) Without prejudice to any other obligation imposed on it, it shall be the duty of each authority to which this section applies to exercise its various functions with due regard to the likely effect of the exercise of those functions on, and the need to do all that it reasonably can to prevent, crime and disorder in its area.
- (2) This section applies to a local authority, a joint authority, a police authority, a National Park authority and the Broads Authority.

### **Natural Environment & Rural Communities Act 2006 (S40)**

- (1) Every public authority must, on exercising its functions, have regard, so far as is consistent with the proper exercise of those functions, to the purpose of conserving biodiversity.

### **Planning Act 2008 (S183)**

- (1) Every Planning Authority should have regard to the desirability of achieving good design

### **Human Rights Act 1998 – this incorporates the rights of the European Convention on Human Rights into UK Law - Article 8 – Right to Respect for Private and Family Life**

- (1) Everyone has the right to respect for his private and family life, his home and his correspondence.
- (2) There shall be no interference by a public authority with the exercise of his right except such as in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the rights and freedoms of others.
- (3) A local authority is prohibited from acting in a way which is incompatible with any of the human rights described by the European Convention on Human Rights unless legislation makes this unavoidable.
- (4) Article 8 is a qualified right and where interference of the right can be justified there will be no breach of Article 8.

### **Planning (Listed Buildings and Conservation Areas) Act 1990 (S66(1) and S72)**

- (1) In considering whether to grant planning permission for development which affects a listed building or its setting, the local planning authority or, as the case may be, the Secretary of State shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.

## APPENDIX 1

- (2) In the exercise, with respect to any buildings or other land in a conservation area, of any functions under or by virtue of [the Planning Acts] special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area.
- (3) The Court of Appeal has held that this means considerable importance and weight must be given to the desirability of preserving the setting of listed buildings and conservation areas when carrying out the balancing exercise. Furthermore, less than substantial harm having been identified does not amount to a less than substantial objection to the grant of planning permission.