

## Planning Applications Committee: 9 December 2021

### Updates to reports

**Application:** 21/00821/F

**Address:** Surface car park, Rose Lane, Norwich

**Item no:** 4(a)

**Pages:** 19-46

Seven further letters of objection received raising the following points:

- The planning balance should give greater weight to site-specific policies than more strategic ones, not least because the site-specific policies must be consistent with strategic and area-wide policies to be sound.

*Planning officer response: It is considered that sufficient weight has been given to the site specific polices and as set out within the report, the proposal is not considered to conflict with the ability to deliver the site allocation in the medium-long term.*

- The Council has identified a shortfall of office space and is considering applying Article 4 directions to prevent further loss of offices. This is a further reason why land allocated for offices should not be used for fast food and drinking uses.
- *Planning officer response: The Article 4 direction is aimed at protecting existing office buildings and not the delivery of new land for offices. Notwithstanding this, a temporary permission would not prevent the future use of the site for offices.*
- Planning officers have stated that a departure from policy is justified on the basis that the proposal is temporary. However, objectors have learnt that the Council as landowner has entered into a 10-year lease with the applicants. This is not short term and therefore the basis for departing from the policy is not acceptable.
- *Planning officer response: The Council's arrangements as landowner are separate to its function as Local Planning Authority and there is no obligation to grant permission to accord with any lease arrangements. The Council's lease arrangements have not been considered as part of the planning assessment process.*
- The Council as a public authority have a duty to promote and develop the site more quickly than later on in the plan period.
- *Planning officer response: There is no requirement under the planning system for the Council to develop land more quickly than other landowners.*

- The information provided by the applicant is not of a sufficient detail and there is an overreliance on planning conditions, contrary to government guidance.
- *Planning officer response: In consultation with the Environmental Protection Team we consider that the level of information provided by the applicant is acceptable, and that the conditions proposed are comprehensive and fit for purpose.*
- The management plan does not contain sufficient information on policies and procedures as would be expected and does not deal with off-site impacts.

*Planning officer response: The management plan is considered sufficient for the scale and type of development proposed. It is indicative of what would be provided and a condition is still proposed to secure further detail.*

- No proposals have been advanced to deal with anti-terrorism measures.
- *Planning officer response: This matter would be dealt with by condition.*
- Concern at lack of action taken about rooftop gardens which makes residents sceptical about how The Block would be dealt with.
- *Planning officer response: In discussion with Environmental Protection, officers have engaged with the operators of Rooftop Gardens which has resulted in sound barriers being installed and a reduction in noise complaints. Officers have also objected to Temporary Events Notices for Rooftop Gardens due to concerns around noise.*
- Failure to assess impact on residents living at higher levels within nearby blocks.
- *Planning officer response: The Environmental protection officer is satisfied with the level of noise of assessment provided.*
- The sale of food products for consumption away from the premises should be prohibited due the impact of delivery drivers on the local area.
- *Planning officer response: We agree and a condition is recommended to deal with this.*
- It is unacceptable that the venue should open later on Thursdays when Friday is a school day.
- *Planning officer response: The proposed opening times are considered acceptable.*
- The proposed timings are inconsistent with restrictions placed on a similar venue, Junkyard Market, which is required to close at 22.00 hours.

- *Planning officer response: The proposal is for a venue which would be fully enclosed within a building, in comparison to Junkyard Market which is an open-air venue which is less able to contain noise.*
- There are no detailed proposals to address smell which could impact local residents.
- *Planning officer response: Condition no. 15 requires the developer to provide full details of extraction equipment and flues to ensure no harm is caused through odours.*
- Concern that new information was withheld and problems with the website made it difficult for people to register comments.
- *Planning officer response: Information was not withheld. There was a short delay between the Council receiving further information and this being published on the Council's website and people being notified due to the time needed to administer this process. We are aware of problems with people being able to add comments on the Council's website. As soon as we were made aware of these, they were rectified. The notification letter sent to neighbours as part of the reconsultation indicates that representations can also be made in writing. Given that the Council has received 7 additional representations on the new information, it is not considered that the public's ability to comment has been prejudiced to any significant degree by any issues with the website.*
- The Police as a statutory consultee have not been given sufficient time to respond to the new information as required by the legislation.

*Planning officer response: The police are not a statutory consultee for this type of application.*

- People on Maidstone Road and Greyfriars Road were not notified about the application so have not been included in the decision making.

*Planning officer response: It is Council policy to notify in writing the occupiers of all properties within 10m of the application boundary. These properties are further away than 10m and therefore would not have received a letter. However, in accordance with Council policy the application was also advertised by site notice and within the local newspaper.*

- The other examples provided by the developer in Saudi Arabia and Shoreditch are not in residential areas.

*Planning officer response: The proposal has been assessed on its own merits and no reference has been made to developments elsewhere in consideration of the proposal.*

*The following comments have already been dealt with in the committee report:*

- Concerns about current impact of nearby bars and nightclubs, which will be increased by this proposal.
- Concerns about noise and anti-social behaviour, in favour of the area being redeveloped but this is not the right use.
- Concerns about impact on side streets and alleys such as Music House Lane, where anti-social behaviour already occurs connected to night-time hospitality industry.
- Object to loud poorly built structure less than 100m from my home. Concern that people won't be able to open their windows, increased stress and anxiety.

One additional letter of support received raising the following point:

- Wish to reaffirm my support for this proposal.

**The recommendation remains the same as set out on the agenda report with an additional condition recommended to restrict the sale of takeaway food and drink from the premises.**

#### **Extract of the Updates Report (11 November 2021)**

*The following comments were summarised in the supplementary report on updates to reports to the committee on 11 November 2021 and have been reproduced below. These comments were taken into consideration when assessing the application in the revised report to the committee (9 December 2021).*

#### **Further correspondence received (1):**

Letter from a noise consultant on behalf of an objector disagreeing with the findings of the applicants Noise Impact Assessment for the reasons set out below.

**\*\*NB.** The response to this from the Council's Public Protection Officer is set out in italics below each comment**\*\***:

- The proposed development would appear to contravene local planning policy.

*This is not within the remit of the Public Protection Team and therefore no comment will be provided. [Senior Planning Officer comment: the principle of development is dealt with in the officer report].*

- The potential change of character in the noise environment is not considered. *The NIA discusses the impact of amplified music and people noise on the area.*
- The survey was over the weekend only, for reasons which are not explained.

*The survey was carried out from Friday 24- Monday 27 September- this is considered to be an appropriate length of time.*

- There are no observations from the noise survey or discussion of the sources which currently dictate the noise environment. The context is therefore unclear.

*The Noise Impact Assessment mentions that the noise environment (especially at P1) is dominated by road traffic noise from Rose Lane. The Public Protection Team's local knowledge of the area supports the assumption that road traffic is the most prominent source.*

- The survey results for position P2 indicate either very low road traffic levels or the presence of nearby plant, but no discussion or observations are provided. Observations were not provided in the NIA.

*Local knowledge and site visits indicate the presence of road traffic noise from Rose Lane. No plant equipment has been identified near P2.*

- Attended measurements were only over an hour and are of limited obvious use. Attended measurements are generally short-term sound measurements.

*The duration of this attended measurement is considered to be acceptable.*

- It is unclear whether the  $\pm 3$  dB accuracy margin for both INSUL and CadnaA software were included in the predictions and how this might affect the results.

*There is always a degree of uncertainty/ margin of error in all acoustic modelling and predictions. These uncertainties are considered acceptable by the Public Protection team.*

- The speech noise predictions and assessments are based on source data and spectra for children's voices. This underestimates low-frequency noise.

*This is a valid observation and there is a degree of uncertainty with all predictions of this nature and therefore margins for error. The Council has requested a robust Noise Management Plan to ensure the site is effectively managed. If successful, this application will be being granted temporary permission- failure to appropriately managed the site, including people noise, may result in an extension not being granted.*

- Even with this under-estimation, the speech noise assessments identify external noise levels 8 dB above the WHO criteria for 'moderate annoyance'.

*The Council has requested a robust Noise Management Plan to ensure the site is effectively managed. If successful, this application will be being granted temporary permission- failure to appropriately managed the site, including people noise, may result in extensions not being granted.*

- The speech noise assessments ignore the potential impact of maximum noise levels in the late evening (on the basis that WHO guidelines start at 23:00hrs). This could underestimate the potential impact of noise from people leaving site.

*The proposed development will close at 22:30 Sunday-Wednesday; therefore, all customers should vacate the site before 23:00 on these days. The applicant is proposing a later finish of 23:00 Thursday- Saturday. As mentioned above, a Noise Management Plan is to be submitted for approval by the Public Protection Team to ensure noise disturbance is mitigated, particularly in regard to people vacating the site.*

- The spectral limits adopted for music noise assessments assume equivalence with the Rooftop Gardens dining area, without any justification.

*The relevance of this comment is unclear. It should be noted that condition NO9 (which relates to spectral levels of amplified music) has been applied. This is a standardised condition and is applied to the majority of applications that the Public Protection Team are consulted on which involve amplified music.*

- Absolute music noise limits in accordance with 'The Code' are adopted but it is unclear which events this would apply to (and would be limited to 12 a year).

*The applicants have been informed that, if they are successful in their application, Condition NO9 supersedes the 'Code of Practice on Environmental Noise Control at Concerts' (The Noise Council 1995). Therefore, the levels stated in condition NO9 cannot be exceeded.*

- The music noise breakout assessment assumes that external doors would stay closed during events. This emphasises a need for acoustic lobbies.

*The application has been given standardised condition NO11 which requires an inner lobby for noise attenuation purposes.*

- The 'typical noise spectrum' for music noise was significantly modified at low frequencies to comply with the adopted criteria based on the current building proposals. We consider the assumed reduced low-frequency noise levels to be unrealistic and unrealisable in practice. If realistic music noise spectra were used this would result in external noise levels well above the adopted criteria.

*Condition NO9 states the spectral levels the applicant is required to meet. Therefore, it is in the interest of the applicant to ensure the fabric of the building is sufficiently able to contain the noise levels they require. Regardless of the nature of the building, the applicant will be required to meet the levels stated in NO9. The venue will also be required to use a noise limiter which will be set by the Public Protection Team.*

- The music noise assessment for louder events (in accordance with 'The Code') is based on the same modified spectrum, so the same conclusion would apply.

*The applicants have been informed that, if they are successful in their application, Condition NO9 supersedes the 'Code of Practice on Environmental Noise Control at*

*Concerts' (The Noise Council 1995). Therefore, the levels stated in condition NO9 cannot be exceeded.*

- There is discussion of potential enhancements to the building fabric but these are not assessed. We consider that masonry constructions would be required.

*Condition NO9 states the spectral levels the applicant is required to meet. Therefore, it is in the interest of the applicant to ensure the fabric of the building is sufficiently able to contain the noise levels they require. Regardless of the nature of the building, the applicant will be required to meet the levels stated in NO9. The venue will also be required to use a noise limiter which will be set by the Public Protection Team.*

- The principles of the qualitative delivery/servicing assessment are reasonable, but this would need to be carefully managed in terms of frequency and timings.

*Delivery times should be conditioned to ensure all deliveries take place during daytime hours.*

- Plant noise limits are proposed according to BS 4142. This is appropriate, but the limits could be challenging to achieve and should be controlled by condition.

*The following conditions have been applied to the application:*

*NO6 (sound insulation of plant equipment)*

*NO10 (details of plant equipment to be submitted to the Local Authority)*

*NO3 (requiring anti-vibration mountings)*

### **Further correspondence received (2):**

Letter from objector making the following points:

- These housing blocks are social housing with many people placed here with health problems, myself included. I do not think it's acceptable that person's living in this area should have their daily living noise levels raised by an outdoor music venue.
- How can a sound proof fence have any effect on windows above the fence line, ie, 1st, 2nd, 3rd and 4th floor of the blocks.
- If the council gives this the go ahead are they prepared to rehouse those who have been affected by all the negative impacts of this business venture?
- Are the council prepared to take action and shut it down if the negative impacts are far worse than what is being predicted?

Response from Senior Planning Officer:

- The amenity and noise impacts are fully covered within the officer report, including details of mitigation and conditions to control noise. The proposal is

for an indoor venue and noise mitigation will therefore be primarily from sound insulation of the building and rather than the fence, the details of which will be controlled by condition. References to the sound proof fence within the application applied to the earlier proposal for outdoor activities, which have since been removed from the application.

- If the applicant fails to comply with the planning conditions then the Council has the power to take enforcement action.
- The matter raised regarding rehousing individuals is not a planning matter.

**Additional condition recommended:**

No trade deliveries or collections, including trade waste or clinical waste shall take place outside of the hours 07.30 – 18.00 hours on any day.

---

**Application: 21/00804/O**

**Address: Clarence House, 6 Clarence Road, Norwich, NR1 1HH**

**Item no: 4(b)**

**Pages: 47-66**

One further piece of correspondence received from a resident, who previously objected, which says that the revised plans are a vast improvement, but they remain concerned about disruption that would be caused by construction noise.

*Planning officer response: Construction noise cannot be used as a reason to refuse planning permission. However, it is possible to use conditions to allow greater control over the construction process, which could be considered at reserved matters stage.*