

Report to Planning applications committee
Date 14 March 2013
Report of Head of planning services
Subject 12/02156/F Rear of 135 - 137 King Street Norwich NR1
1QH

Item
5(7)

SUMMARY

Description:	'Retrospective Change of use of derelict industrial land to smoking area and garden in association with Sui Generis nightclub use at 139-141 King Street (The Waterfront)'.	
Reason for consideration at Committee:	Objection	
Recommendation:	Approve with conditions	
Ward:	Thorpe Hamlet	
Contact Officer:	Miss Sarah Platt	Planning Officer - Development Management 01603 212500
Valid Date:	8th January 2013	
Applicant:	Mr Nicholas Rayns	
Agent:	Mr Nicholas Rayns	

INTRODUCTION

The Site

Location and Context

1. The application site forms a small area of land 15.2m by 21.3m (approx) adjacent to the River Wensum on the western bank. The land is used in association with the adjacent nightclub premise at 135-137 King Street; The Waterfront, as a garden area for smoking purposes following the changes to the Licensing regulations allowing smoking indoors.
2. The site was previously derelict land but has since been landscaped providing a grassed area, an open sided shelter (9m by 3m) and picnic benches. There is some lighting on site.
3. The wider area sits within the City Centre Conservation Area and has a number of largely vacant large scale buildings. There are several schemes for housing being brought forward in this area and wider regeneration proposals are being developed under the South City Centre regeneration project. The site is not widely visible from King Street, precluded by the 2m high fence that has been erected to secure the site, however it is widely visible from the other side of the river.
4. The site is within the area of Standing Archaeological Remains, flood zone 2 and is identified as providing a section of the riverside walk under saved policy SR11.

Planning History

5. There is no relevant planning history to this area of land.

Equality and Diversity Issues

There are no significant equality or diversity issues.

The Proposal

6. The application seeks retrospective planning permission for the change of use of the land from derelict industrial land to a smoking garden in association with the adjacent nightclub use (Sui Generis).

Representations Received

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

8.

Issues Raised	Response
The noise created as a result of the use of this area of land is unacceptably loud and continues on until the early hours of the morning.	Paragraphs 19 & 20
The noise from the nightclub is too loud, the doors are left open and there are vibrations.	Paragraphs 19 & 20
The new garden blocks off part of the area of and reserved for the riverside walk. This is unnecessary and goes against council policy. The need is understood and the works done are of a high standard, however, a riverside walk could be incorporated now.	Paragraphs 17 & 18
There used to be a public garden here where local people could sit and watch the river. This retrospective change of use should not be allowed.	Paragraphs 17 & 18

Consultation Responses

9. Norfolk Police – No objections

10. Tree Officer – No objections

11. Broads Authority – No objections. The change of use would not have any detrimental impact on the character or setting of the Broads. After visiting the site the change of use is considered to have had a positive impact on the appearance of the area and the setting of the River Wensum. It would be helpful if the applicants can be persuaded to work with the City Council to provide a riverside

walk.

12. Environmental Health - The use of the land as a smoking area and garden associated with the nightclub use gives some cause for concern. We have received complaints of occasional noise disturbance from human noise from large numbers of persons in the area described above. This type of noise disturbance is not easily dealt with other than by a review of the premises license which very few people who are affected wish to undertake. In principle, a discrete and strictly managed smoking area would be appropriate for such a venue but this must be balanced by the need to reduce and control any noise disturbance due to noisy patrons outside. Ideally, the use of the outside area should be restricted after 23:00 hours to 07:00 hours (the night-time hours) so that persons may use the shelter only after this time which will restrict both the numbers of persons congregating outside and also to restrict / control where they are likely to be. Between 07:00 hours and 23:00 hours the use of the garden area is allowed in full.

ASSESSMENT OF PLANNING CONSIDERATIONS

Relevant Planning Policies

National Planning Policy Framework:

- Statement 7 – Requiring good design
- Statement 11 – Conserving and enhancing the natural environment
- Statement 12 - Conserving and enhancing the historic environment

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

- Policy 1 – Addressing climate change and protecting environmental assets
- Policy 2 – Promoting good design
- Policy 18 – The Broads
- Policy 20 - Implementation

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

- NE9 - Comprehensive landscaping scheme and tree planting
- HBE2 – Protection of standing remains in Cathedral Precinct and other priority areas
- HBE8 - Development in Conservation Areas
- HBE12 - High quality of design in new developments
- EP22 - High standard of amenity for residential occupiers
- SR11 – Riverside Walks – agreement with developers to provide / maintain

Supplementary Planning Documents and Guidance

- City Centre Conservation Area Appraisal (September 2007)

Other Material Considerations

- The Localism Act 2011 – s143 Local Finance Considerations

Design

13. The land was previously used for industrial purposes and has been derelict for a number of years. Council photographs dating back to 2006 show the site as derelict and works being undertaken to install the railings which still abut the river. The applicant was advised back in 2008 before the works were undertaken that planning permission was required and it is unfortunate that an application was not

made at this time. However, the works which have been done to this area of land represent a significant improvement and the use of the land in association with the adjacent premise will mean that the future maintenance of this land is secured.

14. A shelter has been erected from timber and is set close to the existing adjacent building. This shelter measures circa 9m by 3m. The roof is tiled in slate to match the existing building and the sides remain open to meet Licensing Regulations for smoking shelters. The landscaping works to the land comprise grassed areas, Marshalls paving and some minor planting.
15. Given the poor state of the land previously and the works which have been done to improve the appearance of the site the change of use is considered acceptable. There is not considered to be any detrimental impact on the wider Conservation Area or the setting of the Broads as a result of these proposals, rather a visual enhancement of the area is considered to have occurred.
16. There are elements of the scheme which are not ideal. The planting is minimal and more could be done to improve the appearance of the boundary treatment, particularly from the river view. As such, conditions are recommended on any permission granted to require further planting against the boundary fence and maintenance of all landscaping to ensure the visual appearance of the development for future years.

Policy Considerations

17. The application site is designated under saved policy SR11 to provide part of the Riverside walk. The area of land is owned by Norwich City Council and NPS Norwich is preparing an Unprotected Lease under the 1954 Landlord and Tenant Act. In this lease a break clause is to be written in to ensure that the City Council can take back the land (in part or in whole) to provide the riverside walk with a 3 month notice period to the current tenant. This will secure the Council's ability to provide the riverside walk at any point in the future with this lessee or any future lessee.
18. Given that there are no immediate proposals to being forward the riverside walk at this point on the river frontage, the Unprotected Lease is considered an expedient way forward, enabling the land to be used by the occupier of the adjacent premises and ensuring the maintenance of the land in the immediate future.

Impact on Living Conditions

Noise and Disturbance

19. Concerns have been raised with regards to the noise and disturbance as a result of this development. The use of the site for purposes of smoking in association with the adjacent nightclub has been in operation for approximately 2 years. During this time 3no. complaints have been made to Environmental Health with regard to noise nuisance as a result of the garden area, and all by the same complainant. This does not include complaints made about the licensed premises.
20. In order to ensure that noise to nearby properties is reduced, a condition restricting the hours of use of the garden is proposed to be imposed on any approval granted. Whilst this would be more appropriately done under the License for the premises, the License as currently granted does not restrict the hours of use of this garden area. As such, it is proposed to restrict the hours of use of the open garden areas to not be used after 23:00hrs or before 07:00hrs on any day. All activity after 23:00hrs must take place under the shelter as shown on the drawings submitted with the application and access to the wider garden area is to be restricted by a physical barrier in order to ensure all persons remain underneath the smoking shelter. If activity is restricted to underneath the shelter then the number of people in the garden at any one time will be significantly reduced and noise will be reduced to

some extent by the roof of the structure.

Environmental Issues

Flood Risk

21. The application site is within flood zone 2 where more vulnerable uses are considered acceptable. A Flood Risk Assessment has been undertaken and appropriate evacuation measures outlined in the assessment in the event of a flood. In addition, the standing advice from the Environment Agency has been taken into account in the physical works to the site, the land level has not been reduced, porous surface used and no new structures added which would increase flood potential elsewhere. The proposals are therefore considered to be acceptable and in accordance with the NPPF.

Archaeology

22. The application site is within the area of standing remains as identified on the city centre proposals map and under saved policy HBE2 of the local plan. The works have already taken place but given the minor disturbance to the ground as a result the proposals are not considered to have compromised any potential remains.

Local Finance Considerations

23. The Localism Act 2011 amended S70 of The Town and Country Planning Act 1990 to require local planning authorities to have regard to local finance considerations in the determination of planning applications, alongside the development plan and other material considerations.

24. There are no arising local financial considerations as a result of these proposals.

Conclusions

25. Subject to compliance with conditions the use of this area of land is considered to be an enhancement to the visual amenity of the area and the Broads. The land was previously used for industrial purposes and has been derelict for a number of years. However, the works which have been done to this area of land represent a significant improvement and the use of the land in association with the adjacent premise will mean that the future maintenance of this land is secured and the signing of a lease including a break clause will ensure that at any point in the future the City Council can take control of the land and install the riverside walk. Therefore the proposals are considered to be in accordance with the objectives of the NPPF, policies 1, 2, 18 and 20 of the Joint Core Strategy for Broadland, Norwich and South Norfolk (March 2011) and saved policies NE9, HBE2, HBE8, HBE12, EP22 and SR11 of the City of Norwich Replacement Local Plan (Adopted Version November 2004).

RECOMMENDATIONS

Recommended to approve application 12/01256/F The Waterfront, 135-137 King Street, and grant planning permission subject to the following conditions:

- 1) In accordance with the drawings submitted
- 2) Hours of use of garden area and smoking shelter (not before 07:00hrs or after 23:00hrs on any day)
- 3) No amplified or acoustic sound in any of the garden areas on any day or at any time.

4) Planting and planting maintenance details to be submitted within 3 months of the date of permission.

Informatives:

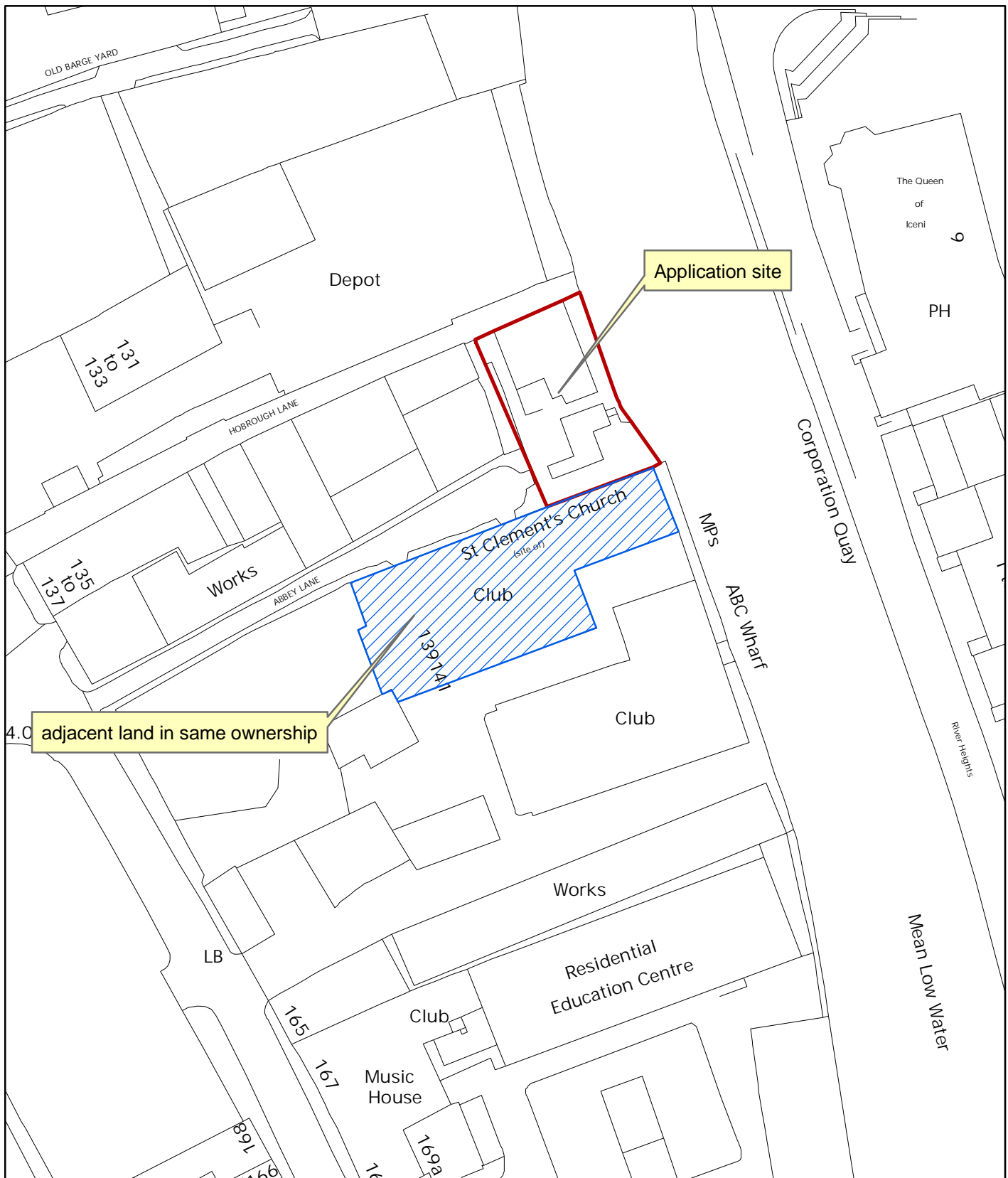
- 1) The applicant is reminded of Condition 33 of Annex 2 and Condition 1 of Annex 3 of their premises licence which states that all doors and windows on the premises must be kept closed when amplified music is being played.

Reasons for Approval:

Subject to compliance with conditions the use of this area of land is considered to be an enhancement to the visual amenity of the area and the Broads. The land was previously used for industrial purposes and has been derelict for a number of years. However, the works which have been done to this area of land represent a significant improvement and the use of the land in association with the adjacent premise will mean that the future maintenance of this land is secured and the signing of a lease including a break clause will ensure that at any point in the future the City Council can take control of the land and install the riverside walk. Therefore the proposals are considered to be in accordance with the objectives of the NPPF, policies 1, 2, 18 and 20 of the Joint Core Strategy for Broadland, Norwich and South Norfolk (March 2011) and saved policies NE9, HBE2, HBE8, HBE12, EP22 and SR11 of the City of Norwich Replacement Local Plan (Adopted Version November 2004).

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 appropriate conditions and for the reasons outlined above.



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Planning Application No 12/02156/F
 Site Address Rear of 135-137 King Street
 Scale 1:750



NORWICH
 City Council

PLANNING SERVICES

