Committee name: Planning applications

Committee date: 13/11/2025

Report title: 20 Cowgate, Norwich, NR3 1SY

Report from: Executive Director of Climate and Environment

OPEN PUBLIC ITEM

Purpose:

To determine:

Application no:	**21/00182/F**
Site Address:	**20 Cowgate, Norwich, NR3 1SY**
Decision due by:	30/09/2025
Proposal:	Demolition of existing building and construction of 3.5 storey building to provide 15 no. one and two bedroom flats with associated works.
Key considerations:	Development plan policy changes since resolution to approve Viability and planning obligations Nature conservation – impact on protected sites
Ward:	Mancroft
Case Officer:	Sarah Hinchcliffe
Applicant/agent:	Kent Magill Ltd/A Squared architects
Reason at Committee:	Objections (original submission)

Recommendation:

It is recommended to approve the application for the reasons given in the report and subject to the planning conditions set out in paragraph 71 of this report and subject to satisfactory completion of a legal agreement, and grant planning permission.

The Site, Background and Proposal

1. The application site is located at the junction of Cowgate and Peacock Street and includes a two storey detached vacant building, last used as a public

house with residential flat above, known as 'The Blueberry Music House'. The building has been boarded up and hoarding erected around the exterior of the site to prevent trespass since its closure in 2019.

2. A planning application for redevelopment of the site and the construction of 15 no. one and two bedroom flats was received in early 2021 and reported to planning applications committee on 9 September 2021. The resolution of members at that committee was to approve the application and grant planning permission for the development proposed subject to the completion of a satisfactory legal agreement to include provision of affordable housing and subject to a number of planning conditions. The committee report and minutes of the meeting are attached at Appendix 1 and 2 of this report.

3. The required legal agreement has not been completed, and the decision has therefore not been issued.

4. Upon obtaining the resolution to approve in September 2021 works commenced on drafting the necessary S106 legal agreement to secure the affordable housing element of the proposals. The agreement was required to secure 3 affordable units on site. During initial legal searches an anomaly was found by the applicant in the title of the land, preventing initial progress with the drafting of the legal agreement and which took until September 2023 to resolve.

5. At the same time the applicant began discussions with local registered providers of affordable housing to ascertain interest in purchasing the on-site affordable units. Nine providers were approached and for reasons relating to the amount of units being too small to consider and issues with taking on leasehold properties as part of a larger block, no provider was willing to bid to take on the three units of affordable housing. It was agreed with officers at this point that a commuted sum could be provided by the applicant for provision of affordable housing off-site, as permitted and calculated within the councils Affordable Housing SPD 2019 which supplements Norwich Development Management Plan policy DM33.

6. Generally rising costs since 2021 and the added costs including those associated with providing nutrient neutrality mitigation as required since March 2022 necessitated the applicant to commission a review of the viability situation around the development. The results of the viability review have resulted in the applicant contacting the council to confirm that they are unable to deliver the development as set out in September 2021. Main issue 2 below covers this in more detail.

7. The applicant is now seeking the removal of the requirement to provide affordable housing either on site or off-site through a commuted sum, due to viability issues that have arisen around the development since the application was first presented to members in September 2021. In order to deliver development on the site as now proposed further consideration of those revised aspects relating to site viability requires consideration and determination by members.

8. With the exception of a minor internal layout change at ground floor level (as explained in paragraph 20, bullet 6) all other physical aspects of the development, including the number of residential units and the scale, form and appearance of the new building, layout and landscaping remain the same as

previously considered by members and accepted in principle. The full assessment of these issues is contained within the original committee report for development at the site contained in Appendix 1. There have been no changes to policy that would require the principle of these elements of the proposals to be revisited at this time.

Constraints

9. The site is subject to the following constraints/local plan designations;

- Protected public house – Policy DM22
- Locally listed building (non-designated heritage asset) – Policy DM9
- Norwich City Centre Conservation Area, Anglia Square Character Area (designated heritage asset) – Policy DM9
- Area of main archaeological interest – Policy DM9
- Northern City Centre Regeneration Area – Policy GNLP7.1 and DM5
- Large District Centre and City Centre Leisure Area – Policies DM18, DM20, DM23
- City centre parking area – Policy DM29

Relevant Planning History

10. The records held by the city council show the following planning history for the site.

Ref	Proposal	Decision	Date
16/00010/ACV	Nomination as an asset of community value.	APPR	21/10/2015 Lapsed in October 2020.

Representations

11. As this is not a new planning application itself but involves a technical change to the proposed content of the S106 agreement that is yet to be completed, this does not require public consultation.

Statutory and non-statutory consultees

Development Strategy (Norwich City Council)

Concludes that the reports submitted demonstrate that the scheme is currently not viable to deliver the required 3 units of affordable housing or any commuted sum.

Natural England
No objection subject to appropriate mitigation being secured.

Natural England is a statutory consultee on the appropriate assessment stage of the Habitats Regulations Assessment process. This advice should be taken as Natural England's formal representation on appropriate assessment given under regulation 63(3) of the Conservation of Habitats and Species Regulations 2017 (as amended).

With regard to European Sites, Natural England does not object to the granting of this permission subject to the advice given below.

Your appropriate assessments dated 16 September 2025, concludes that your authority is able to ascertain that the proposal will not result in adverse effects on the integrity of any of the European sites in question. Having considered the assessment, and the measures proposed to mitigate for all identified adverse effects that could potentially occur as a result of the proposal, Natural England advises that we concur with the assessment conclusions, providing that all mitigation measures are in line with the previously agreed strategies and appropriately secured in any planning permission given.

This advice is provided on the basis that all mitigation measures will be secured as planning conditions or obligations by your authority to ensure their strict and timely implementation for the full duration of the development. Your authority should be assured that proposed financial contribution rates are proportionate to the identified effects of the proposed development, suitably precautionary, and in line with the Retail Price Index, where relevant, for both Nutrient Neutrality and Recreational Disturbance.

Assessment of Planning Considerations

Relevant Development Plan Policies

12. **Greater Norwich Local Plan for Broadland, Norwich and South Norfolk adopted March 2024 (GNLP)**

    - GNLP1 Growth strategy
    - GNLP2 Sustainable Communities
    - GNLP3 Environmental Protection and Enhancement
    - GNLP5 Homes
    - GNLP7.1 Growth in the Norwich Urban Area, including the fringe parishes

13. **Norwich Development Management Policies Local Plan adopted December 2014**

    - DM1 Achieving and delivering sustainable development
    - DM2 Ensuring satisfactory living and working conditions
    - DM3 Delivering high quality design
    - DM12 Ensuring well-planned housing development
    - DM16 Supporting the needs of business
    - DM18 Promoting and supporting centres

- DM13 Communal development and multiple occupation
- DM33 Planning obligations and development viability

Other material considerations

14. **Relevant sections of the National Planning Policy Framework December-2024 (NPPF):**

    - NPPF2 Achieving sustainable development
    - NPPF4 Decision-making
    - NPPF7 Ensuring the vitality of town centres
    - NPPF8 Promoting healthy and safe communities
    - NPPF11 Making effective use of land
    - NPPF12 Achieving well-designed places

15. **Supplementary Planning Documents (SPD)**

    - Affordable Housing SPD, adopted July 2019

Case Assessment

16. 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 polices are detailed above. Material considerations include policies in the National Planning Policy Framework (NPPF), the council's 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. Policy framework changes since resolution to approve

17. Key policies and NPPF paragraphs – GNLP1, GNLP2, GNLP3, GNLP5, GNLP7.1, DM1, DM9 and DM22, NPPF section 2, 5, 9 and 11.

18. Since this application was considered and resolution to approve granted by planning applications committee in September 2021 there have been a number of policy framework changes. The Greater Norwich Local Plan (GNLP) was adopted in March 2024 and replaced the Joint Core Strategy for Broadland, Norwich and South Norfolk 2014 (JCS) in its entirety and therefore forms part of the development plan. A revised National Planning Policy Framework (NPPF) was produced in December 2024. In addition, since 2022 Norwich Over the Wensum Neighbourhood Forum has been formally designated by the Council and it is working towards the production of a neighbourhood plan for an area to the north of the River Wensum, including Anglia Square and the application site.

19. The changes introduced through the adoption of the GNLP introduce the following main additional considerations to the development proposed, together with commentary of the implications for this application:-

- Policy GNLP2 - make provision for accommodating technology-based services such as broadband, fibre optic networks, telecommunications and electric vehicle charging. Preference that all residential developments over 10 dwellings will provide 'Fibre to the Premises'. This can be secured by the use of a planning condition.

- Policy GNLP3 - all residential development will address the potential visitor pressure caused by residents of the development that would detrimentally impact on sites protected under the Habitats Regulations through payment of a contribution towards the cost of mitigation measures at the protected sites, and provision or enhancement of adequate green infrastructure on site or nearby. This can be dealt with by securing a legal undertaking to secure payment of the RAMS (Recreational Impact Avoidance and Mitigation) tariff per dwelling prior to first occupation of the development.

- Policy GNLP3 - within the catchments of the River Wensum Special Area of Conservation (SAC), The Broads SAC and the Broadland Ramsar, residential development that results in an increase in the level of overnight stays must mitigate impacts on water quality due to increased nitrogen and phosphorous loading, ensuring no adverse effect on the integrity of these designated Habitats sites. This can be dealt with by securing sufficient nutrient mitigation measures or credits to mitigate the impacts of the development prior to any planning consent being issued.

- Policy GNLP3 - development will deliver net biodiversity gain by on or off-site provision to achieve at least a 10% gain compared to the existing situation. However, as the application was originally submitted before mandatory net gain requirements 10% statutory net gain does not apply. Therefore, the test of the NPPF paragraph 187(d) requirement of 'providing net gains for biodiversity' should be applied. The governments Planning Practice Guidance has clarified that 'decision makers should not give weight to local policy which requires biodiversity gains for types of development which would be exempt under the statutory framework'. However, as reported previously the development provides clear biodiversity enhancement in this hard urban environment through the landscaping proposals and introduction of integrated swift boxes to support this declining priority species, which is now specifically supported in paragraph 187(d) of the NPPF.

- Policy GNLP5 - affordable housing requirement within the city centre area is at least 28%, or where relevant the applicant can demonstrate that particular circumstances justify the need for a viability assessment at decision-making stage. The previous JCS requirement was 30% provision but similarly could be reduced if a development was proven to be unviable. The required policy requirement for affordable housing provision on this site remains little changed however when considering the reduced provision and applying Vacant Building Credit. There still

remains a requirement for 3no. on-site affordable housing dwellings where viable.

- Policy GNLP5 - proposals for major housing development are required to provide at least 20% of homes to Building Regulations M4(2) Accessible and Adaptable Dwellings standards, or any successor. The applicant has confirmed that through a minor adjustment to the internal layouts of the ground floor unit's compliance with the relevant Building Regulations standard will result in a 26% provision against this policy. Amended plans have been provided to reflect this minor change and no external changes to the proposed building are required.

- Policy GNLP7.1 – Norwich and the fringe parishes will be the area's major focus for jobs, homes and service development. Development sites in the Northern City Centre will promote major regeneration and redevelopment to support neighbourhood renewal. The redevelopment of Anglia Square will be the catalyst for change and investment in the wider Northern City Centre strategic regeneration area. This reinstates the importance of regeneration in this part of the north city where provisions had fallen away in the JCS.

20. The changes to the NPPF were quite far reaching in some subject areas, however not all changes are relevant to the proposed development in this location. Specific to the proposals at the application site, changes to paragraph 125 which requires substantial weight to be given to the value of using suitable brownfield land within settlements for homes, now has the added emphasis of requiring such proposals to be '*approved unless substantial harm would be caused*'.

21. In addition, paragraph 73 of the NPPF highlights the important contribution that small and medium sized sites such as this can make to meeting the housing requirements of an area. Amendments to this paragraph recognise specifically that these types of site '*are essential for Small and Medium Enterprise housebuilders to deliver new homes*' who can often build out such sites relatively quickly. This adds to the emphasis already in place through this paragraph of the NPPF of supporting the development of windfall sites such as this and suggests giving '*great weight to the benefits of using suitable sites within existing settlements for homes'*.

22. More significantly, changes to the standard methodology for calculating housing need brought about by changes to the NPPF, together with delays as a result of nutrient neutrality has resulted in increased housing need requirements. The housing need for Greater Norwich has increased since the production of the GNLP, and nutrient neutrality has resulted in the short term reduction in the supply of sites with planning permission for housing.

23. The result is that Norwich City Council is currently unable to demonstrate a five-year housing land supply as required by the National Planning Policy Framework (NPPF). This engages the presumption in favour of sustainable development, as outlined in paragraph 11(d) of the NPPF. In such circumstances, planning permission should be granted unless:

i. the application of policies in this NPPF that protect areas or assets of particular importance provides a strong reason for refusing the development proposed; or

ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole, having particular regard to key policies for directing development to sustainable locations, making effective use of land, securing well-designed places and providing affordable homes, individually or in combination.

Protected areas and assets referred to in paragraph 11(d)(i) include, but are not limited to, habitats sites, designated Sites of Special Scientific Interest and designated heritage assets (as outlined in footnote 7 of the NPPF).

24. In this case, the proposal seeks to meet its obligations under the Habitats Regulations in relation to GIRAMS and nutrient neutrality through securing mitigation, which will be covered in more detail later in the assessment under main issue 3.

25. The following sections of this report provide an assessment of the proposal against existing planning policy, guidance and other material considerations, only insofar as matters that have changed since the initial consideration of the application by members in September 2021. The Conclusion will determine whether in terms of heritage impact there is a strong reason for refusing the development under paragraph 11(d)(i). Where this is not the case the Conclusion goes on to set out an overview of the benefits and harmful impacts identified through the assessment, including in the context of sustainable development as set out in the NPPF with reference to the three dimensions (economic role, social role and environmental). This informs the planning balance, which paragraph 11(d) requires to be 'tilted' in favour of sustainable development.

26. At a local level the Norwich Over the Wensum Neighbourhood Plan is still in the process of being drafted and amended and will require public consultation, examination and a referendum before adoption as policy. Although weight cannot be attributed to the document due to its early stages it is noted that the neighbourhood forum has identified key planning aims including to support high quality and sustainable regeneration, including development of brownfield sites and heritage-led economic development.

27. In summary, since the application was originally considered by members the changing policy situation across all levels has further emphasised the focus on approving development on brownfield sites unless it would cause substantial harm.

28. A limited level of less than substantial harm to a designated heritage asset was previously outweighed by the benefits of the proposed development, as set out in the original report to planning applications committee in September 2021 (main issue 2). Therefore, the focus for the purpose of this report is whether the revision being sought by the applicant to not make any affordable housing provision can be accepted and whether it amounts to a substantial level of harm that would significantly and demonstrably outweigh the benefits associated with the development. The conclusions around this are revisited and form part of the planning balance as set out in the concluding section of this report. There have been no policy changes that would require wider aspects of the development detail to be reconsidered.

Main Issue 2. Viability and planning obligations

29. Key policies and NPPF paragraphs – GNLP5, DM33, NPPF section 4 and 5.

30. Policy GNLP5 requires a development of this scale and in this location to deliver 28% of the new dwellings as affordable housing. On the basis of 14 net additional dwellings and taking into account a discount for vacant building credit this equates to 3 units. The policy allows for the proportion of affordable housing sought to be amended at planning application stage where it can be demonstrated that particular circumstances justify the need for a viability assessment.

31. Adding to this, the NPPF at paragraph 59 states that '*it is up to the applicant to demonstrate whether particular circumstances justify the need for a viability assessment at the application stage*'. It is over four years since the application was last presented to planning applications committee for consideration and delays as set out earlier in this report, have presented a very different situation financially to that at the time of initial consideration by members of the committee. The circumstances and the policy clearly justify the applicant reviewing the position of financial viability of the development and approaching the local planning authority in this way.

32. As a brownfield site containing a building that requires demolition there are abnormal costs associated with redevelopment that immediately start to impact on viability. Added to this over the last few years there are added planning obligations amounting to an additional £84,960 for nutrient neutrality mitigation and over £4,000 RAMS tariff payment. Development costs have also risen due to build cost inflation, while house prices in the area are declining which has increasingly undermined the financial feasibility of the development.

33. An independent viability report has been completed on behalf of the applicant by suitably qualified professionals dated September 2025. The viability report has been carried out in accordance with the RICS "Assessing viability in planning under the National Planning Policy Framework for England (December 2024)", the RICS Professional Statement 'Financial Viability in Planning: Conduct and Reporting (May 2019) and the requirements of the latest Planning Practice Guidance.

34. The report has been considered by officers and is found to make reasonable assumptions around;

    - sales values (based on specific local evidence of sales of similar types of new build development and existing modern/refurbished developments in the vicinity of the site),

    - build costs (based on industry standard Building Cost Information Service Construction Data (BCIS) to obtain average build costs which are then adjusted for Norfolk,

    - abnormal costs - archaeology, based on considerable archaeological potential = £20,000; demolition = £35,000 and nutrient neutrality = £84,960 (although this is now a standard cost associated with all qualifying developments the issue of nutrient neutrality was not relevant to Norwich at the time of initial consideration in September 2021 and

therefore can be considered an abnormal cost to the development in this instance).

- finance rates and other fees used are in line with what is being observed in the current market.

35. A headline summary of the appraisal is as follows;

- Benchmark Land Value (BLV) = £260,000 (existing use value, plus premium to encourage the site to come forward for development).

- Gross Development Value (GDV) = £3,180,000.

- Build Costs = £1,982,370 (based on £1,794 per square metre), plus additional costs associated with fees (legal, professional and finance), contingency, and CIL amount to Gross Development Costs.

- Residual Land Value (RLV) *Subtract development costs (including profit) from projected sales values of the completed project* = negative £76,311 (negative £425,983 with affordable housing commuted sum), allowing for 15% developer profit as set out in the councils Affordable Housing SPD.

36. The report concludes that given that the RLV for the scheme with affordable housing provision generates a deficit against the BLV, the scheme is not considered commercially viable in planning viability terms.

37. A sensitivity analysis shows how the development would need to alter to achieve a residual land value in line with benchmark land value when providing the required amount of affordable housing. This shows that even when the revenue increases by 15% and construction rate/build costs decreases by 15%, the scheme does not become economically viable in planning terms, generating a residual land value at only £184,899, which is less than the BLV and thus gives no incentive to develop the land.

38. The applicant has given consideration as to modifications that could be made to the development proposals to improve viability and allow the delivery of affordable housing. The addition of a further storey to increase the number of flats from 15 to 18 is not a viable option. Any such attempts to create greater value from the site by increasing the amount of development/number of residential units on the site should be considered in the context of the site's prominent location in a conservation area. Looking back to the very beginning of the submission of the planning application almost five years ago, the initial proposals for the site included 23 units within a larger scale building. The bulk, height and roof form required significant reduction (also reducing unit numbers) through officer negotiations in order to secure a form of development that reintroduced a building of appropriate scale and design quality to this location so as not to detract attention from adjacent heritage assets or negatively impact on the traditional, historic character and appearance of the conservation area.

39. Even though the development with no affordable provision is also shown within the viability report to not be viable, shown by a negative residual land value, the applicant has confirmed that he is willing to deliver the scheme due to the time and expenditure already put into the project. In its current form the proposed development of 15 units will deliver a mix of 1 and 2 bedroom flats

which in itself represents the more affordable end of the range of market dwelling types and represents an important part of the housing mix required in central regeneration areas such as this.

40. The viability of the development has been considered and accepted by the Council's Development Strategy Manager who concludes that the viability information demonstrates that the scheme is currently not viable to deliver the required three units of affordable housing or any commuted sum.

41. Paragraph 59 of the NPPF and Development Plan policy DM33 allow for viability assessments to be taken into account when considering the application of planning obligations on a scheme. It has been satisfactorily demonstrated that the proposal could not viably deliver any affordable housing provision. In accordance with the councils Affordable Housing SPD a section 106 agreement should, include provision for re-assessment of the viability position and payment of an off-site contribution for affordable housing provision should market conditions improve and this become viable.

42. It is therefore recommended that an affordable housing viability review clause is included in the Section 106 agreement (in line with the Council's current Affordable Housing Supplementary Planning Document). The review clause is intended to encourage redevelopment in a timely manner and to limit the chances of economic circumstances changing over time and would require:-

    - Review of viability if no commencement of the permission has occurred within 12 months of the decision being issued; or

    - If commencement has occurred within 12 months of the decision being issued but where there has been no occupation within 36 months be utilised to review the viability of the development at these specified points.

Main Issue 3. Nature conservation – Impact on protected sites

43. Key policies and NPPF paragraphs – GNLP3, NPPF section 15.

Nutrient neutrality

44. In accordance with Natural England's guidance on nutrient neutrality, the proposed development falls within the Broads Special Area of Conservation (SAC) catchment and has the potential to contribute to increased nitrate and phosphate loading. To mitigate this impact, the applicant has provided information which confirms that they are looking to secure credits through Norfolk Environmental Credits to offset the development's nutrient output, ensuring no adverse effect on the integrity of the Broads SAC.

45. Norwich City Council, as the competent authority, has reviewed the submitted evidence and completed a Habitats Regulation Assessment which has been referred to Natural England for consultation. Natural England do not object to the proposals subject to appropriate mitigation being secured. A summary of their response can be seen in the consultations section above or in full on the council's public access website.

46. As the competent authority, Norwich City Council have determined the quotation provided by Norfolk Environmental Credits aligns with the number of

credits required for the site, as illustrated in Stage 4 of the Norfolk Budget Calculator. This is deemed suitable at this stage to refer the application to planning applications committee for consideration and a resolution to determine. However, a decision will not be issued until the applicant demonstrates that mitigation credits have been purchased in full, thus demonstrating that the application is nutrient neutral at the point of granting consent. This is therefore compliant with the requirements of Natural England.

Green Infrastructure and Recreational impact Avoidance and Mitigation Strategy (GIRAMS)

47. GIRAMS is a county-wide strategy designed to mitigate the recreational impacts of new residential development on protected habitats across Norfolk. It ensures compliance with the Conservation of Habitats and Species Regulations 2017 by funding measures that manage visitor pressure on sensitive sites. All qualifying developments are required to contribute a set tariff per dwelling, which supports the delivery of green infrastructure and visitor management initiatives. The Council is applying this tariff in line with adopted policy GNLP3. The RAMS tariff will be secured under the terms of a legal agreement which will be completed upon resolution to determine by members at committee.

Other matters

48. The following matters have been assessed and considered satisfactory and in accordance with relevant development plan policies, subject to appropriate conditions and mitigation: protected species, biodiversity.

49. The applicant's ecologist has provided an update to the preliminary bat roost assessment carried out in February 2021 which assesses the potential for use of the building by roosting bats. The updated report carried out in June 2025 finds that the recommendations of the original report remain valid. Although the pantile roof provides some gaps and cavities that could provide roost sites for bats the very limiting urban location of the site has not changed which is the fundamental limitation to the likelihood of bats roosting in the building or being present in the area.

50. The recommendations for enhancement remain valid and appropriate for the urban environment and the development lends itself well to the installation of swift boxes, further supported by paragraph 187(d) of the NPPF. Eight to ten swift nest bricks/boxes would provide valuable nesting opportunities for swifts and house sparrows. The provision of these biodiversity enhancement measures can be secured by planning condition.

Equalities and diversity issues

51. There are no significant equality or diversity issues.

52. In considering this planning application due regard has been had to the public sector equality duty (PSED) under Section 149 of the Equality Act 2010, which means that the Council must have due regard to the need (in discharging its functions) to put an end to unlawful behaviour that is banned by the Equality Act, including discrimination, harassment and victimisation and to advance equality of opportunity and foster good relations between people who have a protected characteristic and those who do not.

S106 Obligations

53. A satisfactory legal agreement will be required to include provision of an affordable housing viability review clause as set out in the Norwich City Council: Affordable Housing SPD 2019 and payment of the RAMS tariff.

Local finance considerations

54. Under Section 70(2) of the Town and Country Planning Act 1990 the council is required when determining planning applications to have regard to any local finance considerations, so far as material to the application. Local finance considerations are defined as a government grant or the Community Infrastructure Levy. Whether or not a local finance consideration is material to a particular decision will depend on whether it could help to make the development acceptable in planning terms. It would not be appropriate to make a decision on the potential for the development to raise money for a local authority.

55. The application is liable to pay the Community Infrastructure Levy. In this case local finance considerations are not considered to be material to the case.

Human Rights Act 1998

56. Officers have considered the implications of the Human Rights Act 1998 in reaching a recommendation to approve this application. They consider that the interference with the human rights of the applicant under Article 8/Article 1 of Protocol 1 is justifiable and proportionate for the protection of the rights and freedom of others or the control of his/her property in this way is in accordance with the general interest.

Section 17 of the Crime and Disorder Act 1998.

57. Officers have considered, with due regard, the likely effect of the proposal on the need to reduce crime and disorder as part of the determination of this application, in accordance with section 17 of the Crime and Disorder Act 1998. In reaching a recommendation to grant planning permission, officers consider that the proposal will not undermine crime prevention or the promotion of community.

Planning Balance and Conclusion

58. In undertaking the planning balance and in the absence of a five year land supply, it is necessary to first determine whether paragraph 11d)i. applies and whether policies in the NPPF that protect areas or assets of particular importance provide a strong reason for refusing the development proposed.

59. In accordance with paragraphs 192 -195 of the NPPF the impact of the development on sites protected under the Habitats Regulations will be satisfactorily mitigated through the securing of: credits to make the development nutrient neutral; and mitigation to address potential increased visitor pressure.

60. In relation to designated heritage assets to which paragraph 11d)i. also applies, the proposal was previously judged not to result in substantial harm to the significance of any designated heritage asset as identified in the original

committee report, found at Appendix 1. Less than substantial harm has previously been identified at more limited levels to the significance of the city centre conservation area, Anglia Square character area, as a result of the demolition of the existing building on the site, which is a locally identified, non-designated heritage asset. This part of the city centre conservation area is identified within the associated character appraisal as being of low significance and of very poor townscape quality as a result of bomb damage due to the Second World War. The site also forms part of a negative vista along Cowgate to Magdalen Street

61. Paragraph 212 of the NPPF requires great weight to be given to the conservation of designated heritage assets; the more important the asset, the greater the weight should be. Paragraph 213 of the NPPF states any harm to, or loss of, the significance of a designated heritage asset (including from development within its setting) requires clear and convincing justification. In accordance with paragraph 215 of the NPPF this identified limited level of less than substantial harm in this case has previously been weighed against the public benefits of the proposal which include: removal of prominent surface car parking on this focal corner site and reintroduction of a new building of sufficient scale and design quality to provide a greater presence and stronger street frontage along historical building lines, which will reinforce the historic character and appearance of this part of the conservation area character area in a way that the existing building in its recessive position, overshadowed by the monolithic overbearing adjacent buildings is not able to. The conclusion around these benefits remains unaltered as a result of these revised proposals. The provision of market and affordable housing was also stated as part of the original heritage balance as being a public benefit. Although the affordable housing element no longer forms part of these revised proposals it remains officer opinion that the public benefits of provision of general housing on this site even without the affordable element remain sufficient in scale given the emphasis on such matters in the NPPF, to outweigh the identified limited levels of less than substantial heritage harm.

62. It therefore remains the conclusion that the public benefits outweigh the limited level of harm to the designated heritage asset. There is no strong reason for refusing the development on this ground nor on the grounds of impact on protected areas, therefore paragraph 11d) and the presumption in favour of sustainable development applies.

63. Although the Council cannot demonstrate a five-year supply of housing, at 4.85 years, the shortfall is minor. However, it remains the case that paragraph 11 d)ii of the NPPF requires planning permission to be granted unless *any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF taken as a whole, having particular regard to key policies for directing development to sustainable locations, making effective use of land, securing well-designed places and providing affordable homes, individually or in combination.* In terms of the overarching objectives of sustainable development as defined in the NPPF, many of the economic and social benefits of the development overlap. The public benefits associated with the development of this small, sustainably located, brownfield, windfall site and the associated provision of jobs during construction can help small and medium enterprise developers/housebuilders to deliver development more quickly. Paragraph 73 of the NPPF recognises the important contribution that small sites can make to meeting the housing

requirements of an area and supports the development of windfall sites through requiring great weight to be given to the benefits of using suitable sites such as this within an existing settlement for the provision of homes. Such a site also contributes to the balanced range of development sites which forms part of the growth strategy for the GNLP as set out within policy GNLP1 and which would support the attainment of the economic objective.

64. The delivery of general needs market housing on this site will contribute to local housing supply while regenerating a derelict highly sustainable brownfield site with the potential to then stimulate and encourage further regeneration and support wider neighbourhood renewal within the northern city area around the Anglia Square redevelopment as supported by policy GNLP7.1. Paragraph 129 of the NPPF also promotes such regeneration and change which makes efficient use of land to secure well designed, attractive and healthy places. The provision of 14 additional homes (net), consisting of smaller scale 1 and 2 bedroom units of which 26% will meet 'accessible and adaptable dwelling' standards is supported by policy GNLP5 and will provide a small but equally important positive contribution to the identified shortfall in the housing land supply, providing both social and economic benefits.

65. The amendments to the proposals necessitated by the situation around the viability of the development result in affordable housing no longer being a part of the proposals. The delivery of a mix of tenures to include affordable housing is an important part of the housing mix of a major development, however the lack of affordable housing provision has been justified through detailed viability information, an approach which is permitted by both the NPPF and policy GNLP5. The lack of affordable housing as part of the housing mix provided, will however result in some reduction in the weight to be given to the delivery of housing due to the more limited mix and lack of affordable options. However, even if a decision maker was to reduce the weight to be given to the benefit of housing provision from substantial to more moderate benefit due to there being no affordable housing element, it remains officer opinion that this would still amount to a positive benefit that would need to be considered alongside other benefits of the development proposals.

66. Finally, the incorporation of measures to support protected species through integrated swift nest boxes within the building along with limited micro landscaping elements in this hard urban environment provides an enhancement of local biodiversity given the site baseline conditions and meets with the environmental objectives of sustainable development and is supported by Development Plan policy DM6 and paragraph 187(d) of the NPPF.

67. With regard to the particular key policies set out in para. 11d ii, this is a highly sustainable brownfield site and the application proposes well designed new homes, which meet an identified housing need. Paragraph 125 c) of the NPPF states decision makers should give substantial weight to the use of brownfield sites for new homes unless substantial harm would be caused. Harmful impacts have previously been identified in the form of the loss of a community public house, which has previously been justified against the criteria set out within Development Plan policy DM22. Impacts on the amenity of existing neighbouring occupiers due to the increased height of the new building was also previously considered to represent a low level of harm when considered against Development Plan policies DM2, DM12 and DM13. These are matters that were previously considered and accepted by members in 2021 and the

changes to the proposals presented within this report in no way impact on these considerations in principle. However, none of these impacts have been judged to cause substantial harm nor are they considered sufficiently adverse to significantly and demonstrably outweigh the identified benefits that the development would deliver.

68. In conclusion, it is therefore officer opinion that the lack of affordable housing provision within the revised submission would not amount to adverse impacts which would significantly and demonstrably outweigh the benefits when assessed against the NPPF as a whole. Neither would the justified lack of affordable housing provision provide a clear reason for refusal of the development at a time when the council is not able to demonstrate a five year housing land supply.

69. A review mechanism as set out in the Affordable Housing SPD that supports Development Plan policy DM33 will provide for a viability review and this will be secured by legal agreement to ensure further review of viability if development does not take place in the short term.

70. When applying the tilted balance between the benefits and harms summarised in the above paragraphs the benefits of the scheme are considered to outweigh the harm and result in the proposal being considered acceptable subject to conditions, the purchase of nutrient credits and a S106 agreement to secure an affordable housing review mechanism and GIRAMS mitigation.

Recommendation

71. (1) To approve application no. 21/00182/F - 20 Cowgate Norwich NR3 1SY and grant planning permission subject to the completion of satisfactory legal agreement(s) to include provision of;

    - an affordable housing viability review clause and
    - payment of a RAMS tariff upon first occupation of the development

    and subject to receipt of confirmation of purchase of nutrient neutrality mitigation credits specific to the impacts of the development prior to any decision being issued.

    and subject to the following conditions: (as previously considered and agreed by members in September 2021), plus the additional conditions emphasised in **bold**:

    1. Standard time limit;
    2. In accordance with plans;
    3. Materials to be agreed;
    4. Landscaping scheme to be agreed;
    5. Scheme for on-site foul drainage works to be agreed;
    6. Surface water drainage scheme to be agreed;
    7. Arboricultural supervision within RPA;
    8. Arboricultural works to facilitate development;
    9. Works in accordance with submitted tree documents;
    10. Archaeological investigations to be agreed;
    11. 10% energy requirement measures to be agreed;
    12. Water efficiency measures to be agreed;

13. Integrated swift boxes to be installed and made available for use prior to first occupation;
14. Off site highways works (footway reconstruction to Cowgate and Peacock Street, no-entry restriction signage reconfigured, drop crossing for refuse access and reinstatement of parking signage and line as necessary) to be agreed;
15. All highway works to roads and footways to be carried out before final occupation;
16. No overhanging/obstruction of highway land (by gutters/facias/ gates/doors or ground floor windows);
17. Scheme for parking of cycles and storage of bins to be agreed;
18. Details of on-site construction worker parking to be agreed;
19. Construction traffic management plan (CTMP) including construction traffic access route to be agreed;
20. During construction all traffic to comply with CTMP;
21. Traffic Regulation Order for amending waiting restrictions on Cowgate to be promoted;
22. **No demolition to take place until a contract for redevelopment is made.**
23. **Details of the provision of fibre broadband to the premises to be agreed.**
24. **20% of the dwellings to meet M4(2) accessibility standard.**

Informatives:

- Noise nuisance investigations with mitigation in place.
- Construction working hours
- Works to public highway require agreement with Norfolk County Council.
- New dwellings no on-street parking permit entitlement.
- Extant waiting restrictions and traffic management require further assessment.
- Protected species awareness
- **Biodiversity Gain Plan not required**

Appendices: Two

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