



**Planning applications committee**

**10:00 to 14:00**

**11 November 2021**

Present: Councillors Driver (chair), Bogelein, Carlo (substitute for Councillor Grahame), Champion, Everett, Giles, Lubbock, Maxwell, Peek, Sands (M), Stutely and Thomas

Apologies: Councillors Button (vice chair) and Grahame

**1. Declarations of interests**

There were no declarations of interest.

**2. Minutes**

**RESOLVED** to approve the accuracy of the minutes of the meeting held on 14 October 2021.

**3. Applications 20/01263/F – King Street Stores, King Street and 20/01582/L – King Street Stores, King Street**

The planning team leader (case officer) presented the report with the aid of plans and slides and referred members to the supplementary report of updates to reports, which was circulated at the meeting and available on the council's website and contained minor corrections to the report.

The committee was addressed by a member of the public and local members for Thorpe Hamlet, Councillors Haynes and Price, who outlined their objections to the proposed scheme calling for its refusal, which included: the removal of the 6 Lime trees and loss of biodiversity in the context of climate change; that the scheme could be redesigned to achieve the same number of dwellings by taller buildings along the river and retain the trees; that the trees were subject to a tree protection order and contributed to the character of the area; that the removal of the trees was contrary to local planning policies DM7 and DM3, and resulted in the loss of the beneficial impacts of green infrastructure relating to air quality and surface water drainage; pointing out that buildings at this end of the street could be pushed back from the street and the trees retained; and that the provision of affordable housing off site led to stigma against social housing tenants. Members were also advised that over 460

residents had signed a petition to retain these mature trees which were considered an important part of King Street and local biodiversity, that could not be replaced. The council's ecology officer and tree officer had objected. The ward councillors also considered that CC8, the site allocation plan for this site, should be reviewed as the requirement to build to the edge of the site requiring the removal of the trees was out of date given recent changes to the National Planning Policy Framework (NPPF).

The agent spoke on behalf of the applicant in support of the proposed development at King Street Stores, a redundant site, and explained how it met the objectives of the site allocation plan, CC8. The proposal would deliver 20 dwellings and included the retention of the locally listed warehouse, which was the preferred option to extending the riverside walk on this side of the river. The historic building line could not be achieved if the trees were retained. The applicants would provide a comprehensive landscaping plan which included bat boxes and other measures as required. The proposal to provide biodiversity offsetting would be sought as near the site as possible. The scheme had the support of Historic England, the Norwich Society and the council's design and conservation officer, and there had been no objections from the statutory consultees. The application was policy compliant in relation to affordable housing, with onsite provision or offsite to the value of around £400,000. The applicant owned the site and was committed to delivering the scheme on this brownfield site in accordance with local planning policies and the site allocation plan.

The area development manager referred to the report and explained that this application had been assessed against the local development plan with the site specific policy being considered alongside development management policies. It was not in the power of the committee to amend local planning policy. The site specific allocation for this site did not seek to retain the trees.

During discussion the planning team leader and the area development manager referred to the report and answered members' questions. Members were advised that the wall along King Street was the remains of a former brewery. The trees were self-seeded and categorised, with A being the healthiest, as 5 trees as B and 1 tree as C, and were growing in what would have been the inside of the brewery. The trees had to be removed in order for this specific proposal to be developed. The area development manager explained that members had to have regard to the local development plan, the NPPF and other policies and pointed out that this site specific policy was similar to the one in the emerging Greater Norwich Development Plan. In assessing the application against the site specific policy, the retention of the warehouse, which was mentioned in the text, had been balanced against extending the riverside walk on this side of the river which was impractical because of the other buildings (Waterfront and Wensum Lodge) and had taken into account the riverside walk across the river, accessible by the Novi Sad Friendship bridge.

Discussion ensued on the practicality of providing 20 dwellings on the site by denser development along the river, within the locally listed warehouse and replacing the proposed town houses on the riverbank. A member also suggested that the car parking be removed by making the development car free which would provide more greenspace on the site and space to provide the policy compliant 20 dwellings, whilst retaining the trees. Members were reminded that the committee needed to determine the proposal before them.

Members sought advice that the tree preservation order on the Lime trees was a material planning consideration. Members were also advised of the changes to the NPPF introduced in July 2021, which promoted the use of street trees and mitigation and adaptation measures to address climate change.

In reply to a member's question, the area development manager said that it did not make sense to put aside a site specific policy in favour of other development management policies. The planning team leader confirmed that the proposal was policy compliant for the provision of affordable housing taking into account that there was a vacant building on the site and as such there was no requirement to revisit the affordable housing provision at a later date.

Members were advised that the agent had been aware that other interested parties wanted to retain the trees but there was no policy requirement to retain these trees.

(The committee adjourned for a short break to mark Armistice Day and reconvened with all members listed as present above at 11:15)

The chair moved and Councillor Maxwell seconded the recommendations as set out in the report.

During discussion members expressed concern about the loss of the trees and that the recent changes to the NPPF indicated that trees should be retained wherever possible, with greater emphasis on street trees, biodiversity and climate change adaptation and mitigation. Members considered that there was no justification to remove the 6 mature Lime trees from this site which were considered to enhance the character of the area. A member commented on the loss of natural habitat of insects and birds from the loss of these trees, and that the provision of bat boxes defeated the object if there was no food for them. The UK had the most depleted biodiversity in Europe. The Environment Act and the NPPF meant that greater weight should be given in the emerging local plan. The trees appeared to be well spaced and not self seeded.

The planning policy team leader reiterated that the affordable housing element of this scheme was policy compliant because the vacant building on the site (the warehouse) had been taken into consideration. Members were also advised that although the police had suggested a gate to the site, it was not part of the proposals.

Councillor Driver explained that he supported the application as the site had been vacant for a long time. The trees had not been there when the brewery was in operation and had self-seeded within the walls of the derelict building, and he took into consideration that this scheme provided much needed housing for people.

Members were advised that the guidance in the NPPF, on biodiversity net gain and credits, advocated a hierarchy from the avoidance of the loss of trees, followed by onsite compensation and then the use of biodiversity credits. The use of biodiversity credits was therefore not contrary to the policy but was the last option in the hierarchy.

A member pointed out that the historic building line should be considered in context in this part of King Street and that not every space should be built on as green

spaces were necessary. The site could provide 20 dwellings with more one and two bed apartments by minimising the car parking provision.

The chair and Councillor Maxwell then withdrew the motion to approve the applications at this point.

Councillor Bogelein moved and Councillor Lubbock seconded that the application be refused on the grounds of loss of the trees would result in loss of amenity to the character of the King Street streetscape and character of the area, given the great weight that the NPPF (July 2021) gives in relation to street trees, biodiversity and mitigation and adaptation measures to address climate change, which had been introduced since CC8 the site allocation policy had been adopted in 2014; and that it was not possible to provide biodiversity mitigation on site for the loss of the trees.

The committee discussed the reasons for refusing application no 20/01263/F with the area development manager, and on being moved to the vote it was:

**RESOLVED**, with 11 members voting in favour (Councillors Peek, Giles, Everett, Bogelein, Maxwell, Carlo, Champion, Lubbock, Stutely, Thomas and Sands) and 1 member voting against (Councillor Driver) to refuse application no 20/01263/F King Street Stores, King Street on the grounds that the removal of the 6 Lime Trees was contrary to paragraph 131 of the NPPF which had been introduced in July 2021 and since the approval of the site specific policy CC8 (2014) placing greater emphasis on the retention of existing trees and the affect that it would have on the amenity and character of this part of King Street, and that the loss of the trees would result in biodiversity loss which could not be provided on site in accordance with the NPPF and planning policy guidance, and to ask the head of planning and regulatory services to provide the reasons for refusal in planning policy terms.

(Reasons for refusal as subsequently provided by the head of planning and regulatory services:

1. Notwithstanding that the site that is the subject of this application is allocated for residential development by policy CC8 of the Norwich Site Allocations and Site Specific Policies Local Plan (2014), the application scheme involves the loss of trees along King Street which is not supported by amendments to the National Planning Policy Framework (NPPF) introduced in July 2021. In determining the application, the Local Planning Authority (LPA) has attached weight to the amended NPPF as a material planning consideration.

Paragraph 131 of the NPPF (2021) recognises the importance of trees and their contribution to the character and quality of urban environments. Paragraph 131 of the NPPF goes on to recognise the ability of trees to mitigate and adapt to climate change.

The proposal, involving the loss of existing trees, would harm the visual amenity and sense of enclosure on King Street and this harm has not been suitably compensated for on site. The loss of these trees also negatively impacts on the city's ability to address climate change mitigation and adaptation. As such the development as proposed is contrary to paragraph 131 of the NPPF 2021.

2. Notwithstanding that the site that is the subject of this application is allocated for residential development by policy CC8 of the Norwich Site Allocations and Site Specific Policies Local Plan (2014), the application scheme involves an on-site loss of biodiversity that is not supported by amendments to the National Planning Policy Framework (NPPF) introduced in July 2021. In determining the application, the Local Planning Authority (LPA) has attached weight to the amended NPPF as a material planning consideration.

Paragraph 174(d) of the National Planning Policy Framework (2021) states that decisions should contribute to and enhance the natural and local environment by providing net gains for biodiversity. Paragraph 180(a) of the National Planning Policy Framework (2021) states that a mitigation hierarchy should be followed (avoidance, mitigation and compensation).

The mitigation for the loss of biodiversity as a result of the proposal, which includes in excess of a 10% net gain, is proposed via the purchase of biodiversity credits for off-site compensation. In adopting this approach, the proposal has not followed the hierarchy set out in the NPPF and as such the development as proposed is contrary to paragraphs 174 and 180 of the NPPF 2021.)

(Application no 20/01582/L – King Street Stores, King Street, was not determined and will be referred to the next committee meeting for a decision.)

#### **4. Application no 21/00821/F, Surface Car Park, Rose Lane**

(Councillor Everett left the meeting during this item.)

The senior planner (case officer) presented the report with plans and slides. He referred to the supplementary report of updates to reports which was circulated at the meeting and available on the council's website, and included a summary of an independent noise assessment provided by one of the objectors and the response from the environmental protection officer; a further letter from a representative objecting to the proposal on noise and amenity grounds, and the senior planner's response; and a proposal for an additional condition to restrict trade deliveries and collections outside the hours of 07.30 – 18.00 hours on any day. Members were advised that the applicant had agreed to remove all outside activities from the proposal to address residents' concerns about noise.

The committee was addressed by a representative of an adjacent apartment building and local members for Thorpe Hamlet ward, Councillors Haynes and Price, speaking on behalf of local residents on their objections to the planning application. This included: concern that the proposal was contrary to the site specific policy CC4; that the environment protection officer had not adequately addressed 18 of the issues raised in the independent noise assessment (as summarised in the supplementary report); that the proposal was for mixed use and this was a council owned site, which had been vacant for 20 years, and should be brought forward for development rather than allowing this temporary use; the site was not suitable for leisure use as it was primarily in a residential area of the city centre; that there would be noise and antisocial behaviour from people leaving the venue and it would exacerbate existing antisocial behaviour problems in the area; deliveries to the venue would exacerbate traffic issues surrounding pick up and drop off times for the Charles Darwin primary

school and the use of shipping containers was detrimental to the character and amenity of the area and the additional lighting on the site would contribute to light pollution.

The applicant (who had stepped in for a colleague at short notice) commented on the work to prepare this application for a venue which would provide good quality food and beverages, a stage for local DJs and performers and a boost to the local economy by creating 200 new jobs, revitalising this vacant site. The applicants had worked in partnership with stakeholders and taken the residents' views into consideration, amending the application to remove all of the outside activities. A lobby had been introduced to prevent noise bleed from the building from the exterior door. The main report outlined the benefits of this temporary use on the site.

The senior planner and area development manager referred to the report and presentation and explained that the temporary use would not prevent the long term policy objectives for the development of the site and was only a small part of CC4. The environmental protection officer's recommended controls were so strict that these would override issues identified in the independent noise assessment, including the use of a noise limiter, and there was a full range of conditions recommended which could be enforced. There were other venues in Rose Lane and the vicinity, with people coming and going, in that area. The applicant would be required to provide a management plan. Although not part of the application site, the applicant was willing to support bringing the community garden back into use. The site had previously been a car park and storage depot for the council. The use of the site for a temporary entertainment venue could act as a deterrent for antisocial behaviour on this site. Members were also advised that the fabric of the building would have additional noise insulation.

The senior planner and the area development manager referred to the report and answered members' questions. This included questions on the methodology of the noise assessment provided by the applicant and the concerns raised in regard to the use of "children's voices" within the noise modelling and background noise. Members were advised that the environmental protection officer was satisfied that the noise mitigation and controls in place would prevent noise from the venue affecting residential amenity. If there was a detrimental impact a temporary stop notice could be served. The venue would also be subject to licensing legislation. Enforcement for any breaches in the planning conditions would be prioritised because of the impact on people's living conditions. The applicant would be expected to provide specifications of lighting levels for external lights on the site to ensure that there was not an impact on residents. It was not proposed to add lighting to the footpath adjacent to the site.

Members were advised that the location of the building on the site had taken into consideration the best location away from offices and residential accommodation given the constraints of the variance in levels and the unused toilet facilities on the site. The applicant had applied for a 9 months' temporary use of the site but this had been amended by officers to a more standard 12 month period. This could be extended subject to a further planning application and that the site was not ready to be brought forward for development for mixed and residential use as set out in CC4. Members were advised that the development was acceptable in the conservation area because it was temporary and would not affect the long term policy objectives. Members were advised that the smoking area was outside but no drinking was

allowed and this would be included in the management plan for the venue. Security staff from the venue would patrol the footpath and act as a deterrent to antisocial behaviour. There would be a construction management plan during this phase and no operation on site during unsocial hours. Members noted that the other venues in the area including the Rooftop Gardens operated until 23:00. Members were advised that the building had been assessed for safety from terrorist attacks and barriers were being considered. Emergency procedures would be covered by the management plan.

The chair moved and Councillor Maxwell seconded the recommendations as set out in the report.

During discussion members commented on the application. Members expressed concern because they were uncertain about the impact of noise on residential amenity arising from this proposal and needed further information on the noise assessment and mitigation measures before the application could be determined. It was noted that the venue would also be subject to licensing regulations. Members were concerned about the operation of the outside smoking area and whether this would lead to noise detrimental to residential amenity.

A member by way of explanation to a comment made earlier in the meeting by one of the ward councillors, referred to the committee's terms of reference and confirmed that it did have the authority to determine planning applications on either city council land or submitted by the council (as set out in the council's constitution.)

A member commented that the site should be developed in accordance with policy. The residents' concerns about noise and the value of residential amenity should be taken into consideration and an alternative site should be considered for this proposal. There was already antisocial behaviour in the area. The use of shipping containers would be an eyesore in the conservation area. Other members commented on concerns about noise from other venues in the area and St Mary's Works where a similar temporary use was in place. Members considered that they had a lack of information on the noise assessment before determining this application.

The chair spoke in support of the application and said that the temporary proposal would not prevent housing being developed on this site in the future.

Councillor Giles moved and Councillor Maxwell seconded that the committee deferred further consideration of this application to allow members to question the environmental protection officer on the noise assessments and related issues.

A member said that the planning application was finely balanced but that further information on the construction of the building and noise attenuation would be helpful.

**RESOLVED**, with 9 members voting in favour (Councillors Peek, Giles, Bogelein, Maxwell, Carlo, Champion, Stutely, Sands and Thomas) and two members voting against (Councillors Driver and Lubbock) to defer further consideration of application 21/00821/F Surface Car Park, Rose Lane to the next meeting, as members considered that they needed further information on noise assessments and the

opportunity to question the environmental protection officer before they could determine this application.

Councillor Stutely then moved and Councillor Bogelein seconded that the committee conducted a site visit and on being put to the vote with 5 members voting in favour and 6 members voting against, the motion was lost.

## **5. Application no 21/00646/F – Fieldgate, Town Close Road, Norwich NR2 2NB**

The planner (case officer) presented the report with the aid of plans and slides. He referred to the supplementary report of updates to reports which corrected errors in the report in relation to paragraph 3, correcting the reference to 12 and 13 Town Close Road (not 15); paragraph 9 correcting the sentence to read ‘remodelling of the existing 4 bedroom bungalow into a larger 4 bedroom house’ and paragraph 11, inserting information about the height of the glazed section (raising it from 5.1m to 5.8m. The supplementary report also contained a summary of the two additional letters of representation after publication of the agenda, increasing the total number of letters to the second scheme to 13, and raising issues relating to design and heritage issues which were addressed in the main report. The applicant had also submitted a landscaping plan which would need to be assessed and therefore the proposed condition 4 was unchanged.

A resident, speaking on behalf of 21 other residents, addressed the committee outlining their opposition to the proposal, which included that the recommendation for approval was inconsistent with a decision made in respect of 1A Town Close Road in 2015: that the proposal for a two storey dwelling would change the character of the area; that the proposed garage would extend beyond the building line; that the proposal was contrary to policy DM9; the use of glass in the proposal was excessive and the landscaping plan for additional planting to screen it from the view of the adjacent house did not mitigate concerns of overlooking and light pollution; and that the design of the proposed extension was incompatible with the design and character of the semi-detached houses at nos 12 and 13 Town Close Road. Members were asked not to approve this application which would have an impact on the residential amenity of Town Close which was a unique area of the city and to consider a site visit before determining the application.

The applicant addressed the committee in support of the application. This reapplication had followed engagement with the planning officers to improve the proposal, which provided an improvement to the built form and was more cohesive to the setting of the adjacent listed buildings, would be built of high quality materials, with additional screening to lessen its impact and energy efficient. The applicant was considering a ground sourced heat pump to reduce gas consumption in future. The new building would be more fitting to the character of the area.

(The chair invited the agent to address the committee, who declined.)

The planner explained that 1A Town Close was closer to Newmarket Road and in an elevated position, therefore a second storey would be more prominent on the streetscene than the proposed development of this application.

The chair moved and Councillor Maxwell seconded the recommendations as set out in the report.

Discussion ensued in which members considered the planning application.

A member said that he appreciated the design and the use of glass to join the two buildings.

Those members who were minded to vote against the proposal took into consideration the objections from the other residents regarding the design of the proposed dwelling. Members considered that the design was incompatible with the neighbouring heritage and listed buildings of the conservation area. A member suggested that the screening provided by existing trees would be limited in winter months because of the lack of leaves.

A member sought reassurance that the planting around the garage would be maintained. The planning team leader explained that the trees planted under the screening plan would be protected for five years to ensure that the trees had become established, after that these trees would have protection because of being in a conservation area.

**RESOLVED**, with 6 members voting in favour (Councillors Peek, Giles, Maxwell, Sands, Thomas and Driver), 3 members voting against (Councillors Carlo, Lubbock and Stutely) and 2 members abstaining (Councillors Bogelein and Champion) to approve application no. 21/00646/F – Fieldgate, Town Close Road, Norwich NR2 2NB and grant planning permission subject to the following conditions:

1. Standard time limit;
2. In accordance with plans;
3. Details of materials;
4. Screening plan.

Informative notes:

1. SHC09 adapted – benefit of reworking vehicle crossover to standard asphalt.
2. Works to the highway require separate consent.

CHAIR