

Planning Applications Committee: 8 October 2020

Updates to reports

Application: 19/00911/F

Address: Bartram Mowers, Bluebell Road

Item no: 5(a)

Pages:

Correction:

Paragraph 100: Paragraph references should read 122-134

Paragraph 116: Reference to no gable end windows. The east elevation of the proposed apartment block contains no habitable room or ancillary windows to any flats. Within a recessed link between the two gables there is a single window on each floor (glazed door on the ground floor) providing daylight to the communal access corridor.

Application: 20/00741/VC

Address: Mary Chapman Court, Duke Street

Item no: 4(b)

Pages: 63-74

A further consultation response has been received from Norfolk County Council Highways:

- 1) The Local Planning Authority (LPA) doesn't control the highway asset, and any object on the highway requires the consent of the Local Highway Authority (LHA) – as is the case for any other landowner
- 2) The requirement to install planters by a planning condition fails the test of reasonableness and enforceability for conditions as stated in the NPPF and the test for Grampian conditions – therefore compliance with the condition is not possible
- 3) Any unauthorised object on the highway such as a planter can be subject to enforcement action to remove them by the highway authority
- 4) The highway authority is unable to license planters on the highway installed by a developer; it's a third party asset – but we can if they are owned by the district council
- 5) If there was a need to gain access to utilities underground (which appears to have been the reason that street trees were not feasible), the planters would need to be moved, at the cost of the LHA – and they may not necessarily be reinstated.
- 6) The LHA does not wish these planters to become part of the highway asset if they were donated as part of the s278 agreement for the other highway works; the LHA does not want to have this additional maintenance liability.

Therefore for the reasons given above, we must restate our view as the highway authority, that we do not give our consent for planters to be installed on the highway

in this location on Duke Street and that we object to the variation of condition to facilitate the planters.

We appreciate that there is a desire to improve the streetscene, but that street trees in this location were not feasible due to utilities. Notwithstanding that there is a Local Plan policy for street trees, this does not in our view empower the LPA to impose highway obstructions against the advice of the LHA.

The highway service is operating on barely enough staff and resources to maintain the highway asset, and don't want unnecessary complications to deal with.

Officer response:

Regarding the reasonableness/enforceability of the condition, there is a planning policy (DM7) that requires the provision of street trees so it is entirely reasonable to attach a condition that requires them and the LPA can enforce against the applicant if the conditions are not complied with, so the condition is also enforceable. It should be noted that we have recently taken a similar approach to provision of trees in planters, moveable by forklift, outside Pablo Fanque House on All Saints Green and there was no issue from the Local Highways Authority in that case..

The applicant has clarified the following:

- 1) NUA will own the planters, and the necessary licenses will be obtained through the S278 highways agreement.
- 2) The planters are designed to be movable via forklift.
- 3) NUA will maintain the planters.
- 4) NUA will be responsible for replacing the trees if they fail.

In this instance we're considering the approved street trees vs the proposed planters, and there are also cycle racks either side and in between the proposed planters. The likelihood is small of there being an emergency leak in the exact location of the planters, and if that were to happen either the utility company or NUA should be able to provide a forklift. Further, local policy DM7 requires street trees on schemes like this, and this particular development involves the building line being brought closer to Duke Street, at some height, and trees are therefore required in this location to soften the elevation and enhance the street scene.

It should also be noted that the LHA is not objecting on highway safety grounds only on the basis that they do not wish to maintain or manage the planters.

The officer recommendation therefore remains to approve as per the committee report.