Report to Planning applications committee

Item

10 January 2019

Report of Head of planning services

Subject Application no 18/00956/F - Magdalen Street,

4(a)

Reason for referral

Objection

Norwich

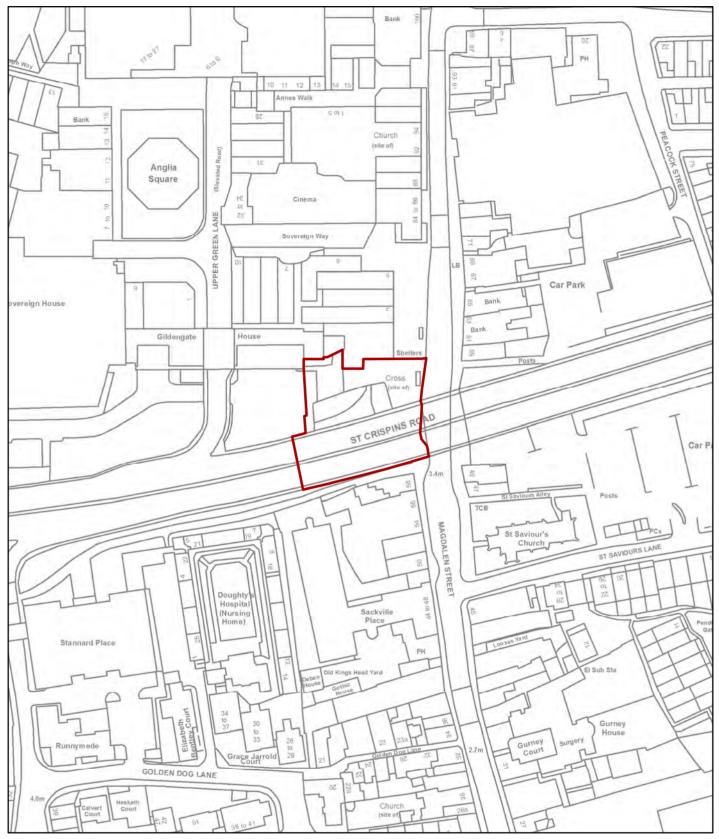
Ward:	Mancroft	
Case officer	Tracy Armitage - tracyarmitage@norwich.gov.uk	

Development proposal

Installation of pre-fabricated shipping containers to provide flexible commercial uses (Classes A1, A3, A4, A5, B1) at ground and first floor level with associated plant, event space, market stalls, toilets, ancillary management and storage facilities, with associated means of access, landscaping and other associated work, external stairs and a lift facilitating access to first floor and up to a first floor mezzanine level to 1-6 Sovereign Way, for a temporary period of 10 years.

Applicant			
Columbia Threadneedle			
Representations			
Object Comment Support			
4	-	1	

Main issues	Key considerations
1 Principle of development	Suitability of the site for development
2 Mix of uses	Scale of proposed main town centre uses
3 Design and heritage impact	Appearance and character of the development
	within the conservation area
4 Landscape and public realm	Appearance and character of the development
	within the conservation area
5 Amenity	Impact of the development on the amenity of
	residents living in the vicinity
6 Management and security	Crime and anti-social behaviour considerations
7 Flood risk and drainage	Surface water flooding
Expiry date	Extension of time agreed
Recommendation	Approve, subject to the imposition of planning
	conditions



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Planning Application No 18/00956/F

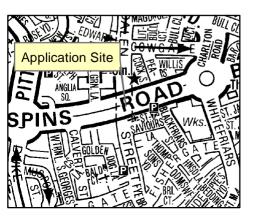
Area beneath the flyover

Site Address Magdalen Street

Scale 1:1,250







The site and surroundings

- 1. The application site is situated on the western side of Magdalen Street and comprises land both under and to the north of the St Crispins Road flyover. The site extends to approximately 0.16 hectare and predominantly comprises derelict open land used for car parking.
- 2. The surrounding area is predominately characterised by retail and other commercial uses. To the immediate north of the application site is Gildengate House, a 6-storey building with a ground floor service yard and car parking. Much of the building is currently occupied as artist studios. The service yard (west of the application site) caters for the occupants of Gildengate House as well as the shop units along Sovereign Way. Elephant Walk footway bounds the site to the south. Doughty's Hospital, a sheltered housing complex backs on to Elephant Walk. Additionally there are a number of residential flats above shops fronting Magdalen Street.

Constraints

- City Centre Conservation Area (Anglia Square character area)
- Listed buildings St Saviour's Church (grade I), Doughty's Hospital (grade II*), 47-49
 Magdalen Street (grade II) and 59, 65 Magdalen Street (locally listed)
- Anglia Square, Magdalen Street, St Augustine's Street Large District Centre
- Area of Archaeological Importance
- Flood zone 1
- Critical drainage area

Relevant planning history

3. No previous planning application for this site.

The proposal

- 4. The application seeks 10 year temporary planning consent for the siting of 19 pre-fabricated shipping containers. The containers collectively amount to a total floor area of 292 sqm, of which 266 sqm is proposed as lettable space for uses within the use classes A1, A3, A4, A5 and B1. The remaining 26 sqm of floorspace includes a public toilet and lobby area for an access lift. The lift provides access to a veranda proposed at roof level and to first floor containers which are proposed stacked above the containers beneath.
- 5. The containers are proposed distributed across the site, arranged to enclose a space from which customers would access the commercial units. In addition the space is intended to be multi-functional public space and includes landscape features, seating and space for events and market stalls.
- 6. It is stated in the submitted Planning Statement that the 'temporary nature of the proposal can be described as a 'meanwhile use' which refers to the short-term use of vacant and/or under-utilised spaces and transforming them into vibrant and innovative destinations, often acting as a signal of, or catalyst for, the wider improvement of an

area.' It is further stated that whilst 'separate from the redevelopment proposals for Anglia Square (LPA reference 18/00330/F) there is a clear interrelationship, and the temporary development will bridge the gap between that scheme (subject to the grant of planning permission) and Magdalen Street south of flyover.'

Summary information

Proposal	Key facts	
Scale		
Nature of development	Total no. of 19 shipping containers	
Total floorspace	292sqm	
No. of storeys	1-2 storeys	
	Access to the first floor of existing retail premises fronting Magdalen Street (1-5 Sovereign Way) will be created from the upper level	
Uses		
Floorspace	Flexible use A1, A3, A4, A5 and B1.	
	Maximum 50% of the space (or 133 sqm) food and beverage uses.	
	Public toilets	
	Four permanent market pitches	
Openspace	Multi-functional entertainment space – including stage area, seating and landscaping	
Appearance		
Materials	40ft and 20ft 'High Bay' ISO shipping containers	
	Pre-fitted and adapted as 'Box shops'	
	All will have either fully glazed double doors or fixed glazed panels	
Colour	Painted finish – Red, dark grey and cream text	
Operation		
Trading hours	0700 – 21.30 Sun – Wed	
	07.00 - 22.30 Thurs - Sat	
Ancillary plant and	Required in relation to hot food uses	

equipment	
Transport matters	
No of car parking spaces	None
No of cycle parking spaces	Provision for 10
Servicing arrangements	Via rear service yard and direct from Magdalen Street

Representations

7. Advertised on site and in the press. Adjacent and neighbouring properties have been notified in writing. Five letters of representation have been received citing the issues as summarised in the table below. All representations are available to view in full at http://planning.norwich.gov.uk/online-applications/ by entering the application number.

Issues raised	Response
The development will result in unacceptable noise disturbance – impact on the amenity of local residents in particular elderly residents living close to the site	Main issue 5
Impact of lighting from the site on residents living in the vicinity of the site	Main issue 5
Events and proposed drinking establishments will result in an increase in anti-social behaviour	Main issue 5 and 6
Design is unacceptable and fails to reflect the local vernacular and the history of the area	Main issue 3
Proposed food premises will have an adverse impact on existing businesses on Magdalen Street	Main issue 2
Insufficient space created for large festival events	The proposal includes an open space which can be used flexibility for a wide range of events. The space includes a an upper level and can be enlarged by removing tables and bench seating
Impact on archaeology	See 'other issues'
Proposes public toilets should include baby changing and disabled facilities	At the time of writing the report this has been raised with the applicant.

Consultation responses

8. Consultation responses are summarised below the full responses are available to view at http://planning.norwich.gov.uk/online-applications/ by entering the application number.

Design and conservation

- 9. The space underneath Magdalen Street flyover has been a neglected void cutting a tear in the heart of the street ever since the flyover was built. It looks ugly and affects the perception of street users who are less likely to venture north beyond the flyover.
- 10. The council has attempted to make better use of the land in the past but all attempts have failed. One important reason for this is the difficulty of creating a successful space with necessary service access when using only the land owned by the council directly underneath the flyover. The present proposal extends beyond the council's land to include land to the north owned by Colombia Threadneedle, which creates the opportunity for an ambitious project that will transform the quality of the space.
- 11. The proposal cleverly deploys repurposed shipping containers to create a memorable and uncompromisingly urban setting for socialising, eating, drinking and buying local products. The two storey elements create a sense of overlooking and theatre in the space, the graphics help to cement its identity as a youthful and lively place and the lighting will give the space a delightful feel at night.
- 12. By bringing life and colour to a neglected space it will enhance the character of the conservation area. The development will be within the setting of listed buildings at 47-49 Magdalen Street and St Saviour's Church, which are almost opposite the site. The setting is seriously harmed currently by the empty spaces under the flyover that strand 47-19 Magdalen Street as a remnant of the street between the church and the flyover. By filling one side of the street it will help to re-establish street continuity and will hopefully stimulate the improvement of the space on the east side of the street too. Although the proposal is bold and modern this is the necessary and inevitable consequence of the need to physically fit the immediate surroundings under the flyover and will not detract from the listed buildings.

English Heritage

13. Supported as a temporary development: This application concerns an area of presently unused land below and adjacent to St Crispin's Road flyover, an elevated section of the 1960s inner ring road that passes through the medieval centre of Norwich. That period of development also saw the creation of Anglia Square, a large retail, leisure and office complex which is immediately adjacent to the application site. Anglia Square has been the subject of plans for wholesale redevelopment for many years during which time the City Council have encouraged prospective developers to bring the land under and next to the flyover into the development brief.

- 14. This is an aim Historic England very much support. The flyover has a significant impact on historic Magdalen Street. Although it does not physically divide the two parts of the Street in the way surface sections of the inner ring road have other historic routes the space under it is an unused and quite unappealing strip of ground which discourages pedestrians from venturing further from the city centre. A positive use of this space which would link the two parts of the Street, even for the temporary period proposed by this application, is therefore to be encouraged.
- 15. The proposed development would feature a mixture of retail and event space formed by pre-fabricated containers on two levels with lift and stair access to an upper deck. As a permanent solution this is perhaps not a design which reflects the historic character of the surrounding conservation area but as an initiative to show how an initially unappealing space can be brought into positive use it is to be supported, providing it would not constrain options for the future redevelopment of the wider Anglia Square site in a way which would be appropriate to the conservation of the historic environment

Environmental protection

16. No objection subject to the imposition of conditions controlling hours of operation and noise mitigation measures.

Highways (local)

17. No objection. The site is located adjacent to the proposed redevelopment site of Anglia Square that functions as a Large District Centre, its location on Magdalen Street affords a high degree of accessibility by bus, walk and cycle modes of travel. As part of the Transforming Cities Fund, the bus stops on either side of the road are planned to form a 'mobility hub' where interchange with new express buses and local buses are intended to improve public transport services, the new bus network is planned for implementation within five years from now, which will further enhance the sustainability of the site in terms of travel choices. Should trips by car be necessary, local car parks are available nearby. The site is also on the Pedalway cycle routes via Magdalen Street, the provision of cycle stands is welcome. Conditions are recommended: Construction Management Plan.

Highways (strategic)

18. No objection.

Norfolk historic environment service

19. The applicants are proposing an attenuation tank so a Programme of Archaeological Mitigatory Work is required. Recommend imposition of standard condition.

Norwich Society

20. We support this initiative and hope it will be of benefit to the local community.

Norfolk police (architectural liaison)

21. The plans provide a novel and interesting use of space. This positive initiative is encouraged but the site will need to be firmly managed so that the space doesn't attract undesirable/anti-social behaviour.

Assessment of planning considerations

Relevant development plan policies

- 22. Joint Core Strategy for Broadland, Norwich and South Norfolk adopted March 2011 amendments adopted Jan. 2014 (JCS)
 - JCS2 Promoting good design
 - JCS5 The economy
 - JCS6 Access and transportation
 - JCS7 Supporting communities
 - JCS8 Culture, leisure and entertainment
 - JCS11 Norwich city centre
 - JCS19 The hierarchy of centres
- 23. Norwich Development Management Policies Local Plan adopted Dec. 2014 (DM Plan)
 - DM1 Achieving and delivering sustainable development
 - DM2 Ensuring satisfactory living and working conditions
 - DM3 Delivering high quality design
 - DM5 Planning effectively for flood resilience
 - DM9 Safeguarding Norwich's heritage
 - DM11 Protecting against environmental hazards
 - DM18 Promoting and supporting centres
 - DM21 Protecting and supporting district and local centres
 - DM23 Supporting and managing the evening and late night economy
 - DM24 Managing the impacts of hot food takeaways
 - DM28 Encouraging sustainable travel
 - DM29 Managing car parking demand in the city centre
 - DM30 Access and highway safety
 - DM31 Car parking and servicing

Other material considerations

- 24. Relevant sections of the Revised National Planning Policy Framework 2018 (NPPF):
 - 2 Achieving sustainable development
 - 6 Building a strong, competitive economy
 - 7 Ensuring the vitality of town centres
 - 8 Promoting healthy and safe communities
 - 9 Promoting sustainable transport
 - 11 Achieving well designed spaces
 - 14 Meeting the challenge of climate change, flooding and coastal change
 - 16 Conserving and enhancing the historic environment

- 25. Planning Documents
 - Anglia Square Planning Guidance Note (2017) (ASPGN)

Case Assessment

26. 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 Framework (NPPF), the Councils 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: Principle of development

- 27. Key policies and NPPF sections JCS 11 and ASPGN.
- 28. The area underneath the flyover comprises vacant, underutilised land which blights the local street scene and the appearance and character of the city centre conservation area. The enhancement of this area for the benefit of local residents is a long-standing aspiration of the city council. The land provides the opportunity to improve the appearance and function of this part of the Large District Centre and to reconnect both ends of Magdalen Street through the provision of an active use. Such benefits would positively support policy 11 of the JCS and the achievement of identified regeneration objectives for the Northern City Centre.
- 29. The land beneath the flyover is owned by Norwich City Council. Norfolk County Council, as highway authority, own the flyover bridge structure itself. There are substantial safeguarding restrictions associated with the flyover which act to constrain permanent development on this land. These restrictions include the requirement to allow access to the flyover for both general and emergency repair and for no development/ feature to be attached to the structure.
- 30. Many ideas have been proposed for use of the area under the flyover over past years, ranging from provision of an active frontage by infilling the space with buildings, provision of market stalls, a landscaped open space with seating and interactive lighting, and use as an open air cinema. The Northern City Centre Area Action Plan (NCCAAP) proposed that the area under the flyover to the west of Magdalen Street be landscaped up to the buildings of Anglia Square with provision for some market style stalls to be located here. Planning permission granted in 2013 (planning ref: 11/00160/F) for the redevelopment of Anglia Square made provision for a commuted sum to improve the area under the flyover to the west of Magdalen Street through enhancements to the public realm and inclusion of an element of informal open space. Furthermore planning application 18/00330/F proposing the comprehensive mixed use development of Anglia Square (considered by Planning Applications Committee 6 December 2018 resolution to approve) includes a similar S106 requirement.

- 31. The Anglia Square Planning Guidance Note (ASPGN) (adopted March 2017) indicates that the development of the wider Anglia Square should facilitate the enhancement of land under the flyover to the west of Magdalen Street and detailed exploration of an appropriate scheme will be necessary. The ASPGN states a scheme should deliver a high quality urban environment in this area which will benefit the businesses in Anglia Square and the local community, ensuring a vibrant use for this space which reflects the character of the local area.
- 32. The proposed scheme includes Norwich City Council owned land and adjacent privately owned land to the north. The development is being promoted and would be funded by Columbia Threadneedle, the owners of the Anglia Square Shopping Centre. The development is proposed to be self-funding over the 10 year life of the project. The applicant has indicated in the submitted Planning Statement that:

'Whilst separate from the redevelopment proposals for Anglia Square (LPA reference 18/00330/F) there is a clear inter-relationship [with that development], and the temporary development will bridge the gap between that scheme (subject to the grant of planning permission) and Magdalen Street south of [the] flyover... The temporary development will provide an exciting 'meanwhile use' at a vacant and under-utilised site, whilst the Anglia Square redevelopment proposals are brought forward (subject to the grant of planning permission). The proposal will revitalise the area where Magdalen Street passes under the St Crispin's Road flyover; offering adaptable units and multi-functional entertainment space, generating activity and providing unique opportunities for local businesses and groups.'

33. A scheme which secures the enhancement of this area and delivers benefits to both the local community and district centre would meet a long standing objective of the council and as such would be positively supported.

Main issue 2: Proposed mix of uses.

- 34. Key policies and NPPF section: JCS19, DM18, NPPF section 7
- The application proposes a total of 266 sqm. of flexible commercial floorspace for 35. use within classes A1, A3, A4, A5 and B1. Such uses are defined by the NPPF as main town centre uses. Policy DM18 is permissive of such uses within designated centres which form the hierarchy of centres defined by JCS 19. The site lies within the boundary of the Anglia Square, Magdalen Street and St Augustine's Street large district centre where main town centre uses of a scale appropriate to the centre's position within the hierarchy are acceptable. By virtue of the total quantum of commercial floorspace and the size of the individual 'box shops', the scale of proposed main town centre uses is considered appropriate to the character and function of this large district centre location. Furthermore the size and format of the container units will create commercial floorspace likely to be well suited to independent retailers and small scale existing and startup businesses. Such commercial premises and businesses would be complementary to the existing centre and support wider regeneration objectives for the northern city centre by creating opportunities for business and employment growth.
- 36. In the accompanying Planning Statement it is stated that the applicant will work proactively with existing businesses, the local community and Norwich City Council to attract as many 'local tenants' to the scheme as possible. In the event of

planning permission being approved it is recommended that a planning condition be imposed requiring a lettings strategy to be agreed with the local planning authority which seeks to positively support the use of floorspace by small scale businesses and retailers, including start-ups.

- 37. It is proposed that up to 50% of the floorspace would be for food and drink uses. This is a relatively high percentage and limits the number of units that would be available for A1 retailing and workspace. However, the applicant has indicated that additional pop up market stalls would be available for traders and that this level of provision is considered necessary to both support the viability of the scheme and to promote the function of the location as a socialising space during both the daytime and evening.
- 38. The proposed public realm/events space is a significant element of the concept. The area under the flyover has in the past been used by the community, including as a venue for the Magdalen Street festival. The layout of the scheme seeks to create a semi-permanent outdoor space which can be used for a wide range of uses including: by businesses (top up and seasonal market stalls), by the public as a covered seating area and for public events and activities. The food and beverage uses are proposed to promote dwell time and generate a level of activity which will create vibrancy. The applicant has stated that the 'scheme will provide a hub for the local community to engage with and enjoy'. There is reference to a regular events programme being developed which will be implemented by the applicant's event management team. It is stated that the programme will be largely influenced by local demand and ideas from the community. The emerging programme includes reference to: 'low level' activities (i.e. Sunday Brunch Club, sunrise workout, yoga classes, school holiday kids workshops); festivals (i.e. Vegan, Chinese New Year, Oktoberfest); markets (i.e. artisan and Christmas) and performance/live screenings (Open mic comedy nights, summer screenings). This range of events has the scope to benefit both the local community and the existing local businesses on Magdalen Street through raising the profile of the location and drawing additional visitors to the district centre.
- 39. On this basis, the flexibility being sought for up to 50% of the commercial floorspace to be used for food and beverages uses is considered acceptable. However, in order to promote the balanced and mixed use function of this location it is considered necessary to restrict the amount of floorspace that could be occupied by A4 uses (public houses, wine bars or other drinking establishments). A high proportion of bars would establish this location as an outdoor drinking venue and shift the character of the development from a mixed community hub to night time leisure. This would not meet the broader aspirations for this location and would raise concerns over the impact of the development on the character and amenity of the area. Therefore in the event of planning permission being approved it is recommended that a planning condition be imposed limiting A4 uses to no more than 20% of the floorspace and to no more than two of the proposed container units.
- 40. Subject to the conditions referred to in para 36 and 39 it is considered that the development in terms of mix of uses and function will positively support the vitality and viability of the Anglia Square, Magdalen Street and St Augustine's Street large district centre.

Main issue 3: Design and heritage impact

- 41. Key policies and NPPF paragraphs JCS2, DM3, DM9, NPPF sections 11 and 16
- 42. The application site is located with the City Centre Conservation Area and forms a part of the street setting of a number of statutory and non-statutory listed buildings. The design and conservation manager has commented "that the space underneath Magdalen Street flyover has been a neglected void cutting a tear in the heart of the street ever since the flyover was built. It looks ugly and affects the perception of street users who are less likely to venture north beyond the flyover".'
- 43. The scheme includes the resurfacing of the site and the placement and stacking of repurposed shipping containers. The visual effect is an uncompromising urban development and one which contrasts with the surrounding historic townscape. The upended container (serving as a lift shaft to the upper floors), the forward projection of a container over the street and the use of limited but bold colour paint pallet, will act to accentuate this contrast still further. The scheme will be transformative both during the daytime and at night when lighting is proposed illumining the containers, the enclosed space and the flyover super structure.
- 44. The shipping containers are positioned to enclosure outdoor shared space. Entry to this space will be possible via four access points, two from Elephant Walk and two from Magdalen Street. This creates a high degree of permeability enabling pedestrians to enter and pass through the site. With the exception of one shipping container fronting Magdalen Street, access to all other units and the public toilets will be from within this space. This approach has the advantage of focusing activity within the enclosed space promoting lively and positive use of this shared space. Furthermore it provides the opportunity for access to be managed in the evening and prevented overnight. The ability to restrict access at certain times of the day is considered necessary to effectively manage anti-social behaviour. Therefore although the design approach has the disadvantage of to some degree disconnecting the proposed shared space from the street, this approach is considered justified.
- 45. Notwithstanding this, it is considered necessary to ensure a high degree of physical and functional connection between the development and use of Magdalen Street by shoppers and the wider community. It is important that the space should feel public and not become partitioned and exclusive to the customers of the development. It is therefore recommended that in the event of planning permission being approved that planning conditions by imposed requiring unrestricted access during the daytime, and the agreement of a strategy relating to the terms of use of the space. The latter should positively promote the use of the outdoor area as a public space and its use for community events and activities.
- 46. The design and conservation manager has commented that the two storey elements create a sense of overlooking and theatre in the space, the graphics help to cement its identity as a youthful and lively place. By bringing life and colour to a neglected space it will enhance the character of the conservation area. The development will be within the setting of listed buildings at 47-49 Magdalen Street and St Saviour's Church, which are almost opposite the site. Currently the setting of these heritage assets is harmed by the empty spaces under the flyover. By filling one side of the street it will help to re-establish street continuity and potentially provide the stimulus

for the improvement of the space on the east side of the street. Although the proposal is bold and modern, the design approach is considered an acceptable response to the constraints imposed by the site and the necessity for a temporary form of development. Both Historic England and the Norwich Society are supportive of the scheme as a temporary form of development of the site. Historic England have commented that 'as an initiative to show how an initially unappealing space can be brought into positive use it is to be supported.' They further advise that as a temporary installation they do not consider it would result in harm to the significance of the conservation area.

Main issue 4: Landscaping and open space

- 47. Key policies and NPPF sections DM3, DM8, NPPF section 11.
- 48. The proposals include a public realm scheme. The existing aggregate surface under the flyover is relatively flat except for a few local areas of ponding. These will be smoothed out and surfaced with tarmac which will be painted with a number of bold graphic overlays.
- 49. Soft landscaping is proposed in locations which will receive good sunlight and rainwater. Planters are proposed along the Elephant Walk boundary and in the sector of the site to the north of the flyover structure at both ground floor and upper level. The Design and Access statement indicates that the proposed planting would include 70:30 split between perennials and evergreens giving year round interest. Multi-stem Paper Bark Maple trees (Acer griseum) are proposed at ground floor level.
- 50. Street furniture is proposed and intended to emulate the 'rough and ready', semi industrial nature of the scheme so that a robust suite of furniture elements requires minimal maintenance or upkeep. The furniture suite includes handrails / balustrading powder coated matt black, bespoke long tables and benches constructed from timber scaffold planks. It is proposed that galvanised steel 'eurobin' type bins will be used for refuse collection within the site and opaque water butts will be utilised for tree planters.
- 51. The public realm proposals include a comprehensive lighting scheme. This comprises suspended festoon lighting (zig zagging across the open area); linear lighting to define particular features; red wash lighting to accentuate the up-ended container; and projector lighting to illuminate the underside of the flyover structure. The lighting intensity of each has been specified to minimise light spill and ingress to neighbouring properties. The highway authority has raised no objection to the lighting levels proposed.
- 52. The proposed landscape approach is considered acceptable. The hard and soft landscaping proposals along with the lighting scheme, will create significant visual interest and contribute to the distinctive urban character of the development.

Main issue 5: Amenity

53. Key policies and NPPF paragraphs – DM2, DM11, NPPF section 11.

- 54. Policy DM2 seeks to protect neighbouring occupiers from development which would have an unacceptable impact on amenity levels. Noise, light and odour are included within the scope of the policy. As referred to in para 38 of the report a significant feature of the proposal is the creation of an outdoor space capable of being used throughout the day and evening for a range of activities and events. These activities will draw members of public to this location and the range of events proposed would at times include the production of audio sound. Furthermore A3 and A5 uses are proposed within the range of uses sought and as such hot food would be produced on the site.
- 55. The application site is located within a large district centre and the surrounding area is characterised by a mix of land uses. Included within the mix are residential properties, in particular a sheltered housing scheme which backs on to Elephant Walk (Doughty's Almshouses) as well as residential properties, above commercial premises located on Magdalen Street. A representation to the application has been received from the charitable trust providing services at Doughty's Almshouses. They raise concerns that evening music events would have an unacceptable impact on the ability of the elderly residents to enjoy a peaceful night sleep.
- 56. In relation to noise, the applicant has provided additional information relating to hours of use of the box park and the likely type and frequency of events. In terms of hours, the application seeks core opening trading hours of 7am to 9.30pm Sunday Wednesday and 7am to 10.30pm Thursday to Saturday. An Environmental Noise Assessment has been submitted and a Noise Propagation Assessment undertaken. These reports include an assessment of current background noise levels in the vicinity of the site, predicted noise levels associated with the proposed range of events and the likely audible level of noise in the location of closest residential properties.
- 57. The noise assessments have established that existing daytime background noise levels in the vicinity of the site are relatively high due largely to the volume and type of vehicles (i.e. including buses) using adjacent roads (Magdalen Street and the inner ring road). During these times when background levels are high, noise generated from within the site would be substantially masked, reducing the risk of noise disturbance of the wider area. During the evening, traffic flows along both Magdalen Street and the ring road reduce, at these times back ground noise levels are less constant and lower. Given the mix of uses in the locality of the site and the proximity of residential occupiers the site is considered unsuitable as a location for an established outdoor music and entertainment venue, hosting regular acts and performances into the late evening. This would create an unacceptable risk in terms of noise being generated at a level and frequency that would cause nuisance and disturbance to local residents.
- 58. The applicants have indicated that it is not the intention to promote the location as a drinking /entertainment venue. They have stated that for most of the year the focus of the outdoor area programme would be day time events. However, they have indicated that they would wish to promote more frequent evening events during the summer months (i.e. open mic nights, summer film screenings) and at certain times of the year i.e. bonfire night and New Year's Eve. They have also indicated they are seeking the flexibility for back ground music to be played. To facilitate these uses the submitted Noise Assessment suggests a number of mitigation measures including: the use of acoustic barriers; the use of a sound system which distributes

- sound across the space by using a series of small speakers; and the use of sound system noise limiters.
- 59. In terms of supporting the function of the district centre and the expansion of leisure opportunities, it is considered beneficial to allow some flexibility for the proposed outdoor area to be used for a range of uses and at different times of the day. The applicant has indicated agreement to the imposition of a condition which would require, unless otherwise agreed by the council, events and the use of the amplified sound system to end no later than 9.30pm. The council's Environmental Protection Officer has reviewed the noise reports and the proposed mitigation measures. He has indicated that subject to the use of the space being firmly managed in the manner proposed, noise levels would be of a level to not have an unacceptable impact on the amenity of neighbouring residents.
- 60. In terms of odour, the applicants have submitted an extraction strategy for the site. This relates to containers to the north of the flyover which would be reserved for food uses. The strategy includes the fitting of individual kitchen extract system along with individual ducts which run in parallel to the rear of the containers. The Environmental Protection Officer has indicated that the details are considered satisfactory and recommends in the event of planning permission being approved a condition requiring the provision and maintenance of the system to ensure that odour and fumes are satisfactorily managed.

Main issue 6: Site management and security

- 61. Key policies and NPPF sections: DM3, NPPF section 11.
- 62. DM3 requires developments to be designed to minimise opportunities for crime, disorder and anti-social behaviour.
- 63. Crime data provided by Norfolk Constabulary indicates that Anglia Square and Magdalen Street present as two of three hotspots for the area. Recorded incidents include shop lifting and violence against person offences. Intelligence relating to drug possession and supply has doubled in 2017-2018. The Norfolk Constabulary have indicated that new and positive initiatives for this site are to be encouraged but that the space will require very firm management to ensure that the risk of criminal and antisocial behaviour is minimised. Their response to the application includes reference to the management/security of the space at all times of the day; lighting and the use of vandal proof materials.
- 64. It is stated in the Supporting Planning Statement submitted with the application that the proposed site layout and number/location of entrances has been heavily influenced by the site management strategy and security considerations. It is proposed that during the day time, access to the site will be possible through four access points, allowing the public to freely enter and pass through the site. After 6pm it is proposed that access will be restricted to the one primary access from Magdalen Street, allowing for closer monitoring. When the box park premises are closed it is proposed that the perimeter of the site will be secured preventing access into the open area.

- 65. The applicant has confirmed that it is proposed that the scheme will be managed by a dedicated on-site manager who would be part of the wider team currently running the existing Anglia Square centre. Their duties and responsibilities will include:
 - Tenant liaison
 - Controlling tenant behaviour on-site
 - Security contractor liaison
 - Cleaning contractor liaison
 - Ensuring the site opens and closes on time
 - Health and safety, fire and other regulation compliance
- 66. The applicant proposes that after 6pm and for larger daytime events the site will have dedicated security.
- 67. The height and design of the perimeter fence has been specified to minimise the risk of unauthorised access to the site. Furthermore the siting of the first floor shipping containers has had regard to the possibility of access being gained from the flyover. The street furniture has been specified to be robust and the lighting scheme will allow for clear visibility across the site.
- 68. On this basis it is considered that the design of the scheme has sought to satisfactorily minimise opportunities for crime, disorder and anti-social behaviour. It is recommended that in the event of planning permission being approved proposed management arrangements for the site are secured through the imposition of a planning condition.

Main issue 7: Flood risk and drainage

- 69. Key policies and NPPF sections JCS1, DM5, NPPF section 11.
- 70. The site is currently open and undeveloped and comprises areas of hard standing and loose gravel. Around half on the application site is covered by the flyover structure and therefore sheltered from rainfall. It is proposed that the entire site would be surfaced using asphalt. The draft drainage strategy indicates that the site is unlikely to be suitable for an infiltration system given expected level of ground water and the proximity of the site to the flyover structure and foundations. It is therefore proposed that runoff from the asphalt would be stored in an underground attenuation tank, located to the north of the flyover, before discharging into the public sewer. The attenuation tank has been sized to achieve a 40% betterment.
- 71. The site is located entirely within Flood Zone 1 and therefore deemed to be at a low risk of fluvial and tidal flooding.
- 72. The site is in a Critical Drainage Area. The Flood Risk from Surface Water mapping indicates that the risk of surface water flooding is medium/high. This is most likely due to the presence of the Dalymond ditch, a "lost" river which is likely to have been incorporated into the public sewer networks. A Flood Risk Assessment has been submitted with the application. This indicates that the surface water flow path from Anglia Square to the west and from Magdalen Street to the east converge at the application site, due to the low-lying land beneath the flyover, before flowing south. The existing site is therefore prone to surface water flooding due to water passing through the site and this risk will continue. Depending on the scale of the flood

event the depth of flooding on the site would range from 0.22m (1: 30 event) to depth exceeding 1.0m in an extreme event (1:100 + 40% climate change). In these extreme events, water depth would be categorised as significant and hazardous. The applicant has indicated that given the temporary nature of the development and the need to provide reasonable access to the shipping containers that it is not considered feasible to raise the containers above flood level. However, the flood risk assessment recommends a number of mitigation measures, including:

- Boundary fences / gates to allow water to continue to pass through the site
- The fitting of attenuation tank alarm systems which would be triggered when tanks fill to 60% of their capacity.
- Externally fitted flood warning sensors triggered when flood water reaches 0.15m above ground level.
- Public evacuation procedure in the event of an alarm being triggered
- Fittings and fixtures of the commercial units to be specified having regard to flood resilience.
- 73. Given the scale and temporary duration of the development these mitigation measures are considered acceptable. In this case flood risk needs to be balanced against the benefits of promoting the active use of this empty and unattractive site. In the event of planning permission approved it is recommended that drainage details and flood mitigation measures are secured through the imposition of planning conditions.

Other issues:

Contamination

74. There is some risk that the area may be subject to localised pockets of contamination. A planning condition is recommended to address this risk.

Archaeology

75. The site lies within the defined area of archaeological interest. Historic Environment Services have recommended that imposition of standard archaeological conditions requiring a Programme of Archaeological Mitigatory Work.

Compliance with other relevant development plan policies

76. A number of development plan policies include key targets for matters such as parking provision and energy efficiency. The table below indicates the outcome of the officer assessment in relation to these matters.

Requirement	Relevant policy	Compliance
Cycle storage	DM31	Yes subject to condition
Car parking provision	DM31	Not applicable

Requirement	Relevant policy	Compliance
Refuse Storage/servicing	DM31	Yes subject to condition

Equalities and diversity issues

77. There are no significant equality or diversity issues.

Local finance considerations

- 78. 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.
- 79. 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.
- 80. In this case local finance considerations are not considered to be material to the case.

Conclusion

81. The development is in accordance with the requirements of the National Planning Policy Framework and the Development Plan, and it has been concluded that there are no material considerations that indicate it should be determined otherwise. The proposal constitutes a novel and beneficial form of development. The development supports the achievement of a number of planning objectives by: improving the appearance of an neglected and highly visible part of the conservation area; supporting the viability and vitality of the large district centre through establishing a distinctive/ new destination and improving the opportunities for improved leisure and social interaction within this part of the northern city centre.

Recommendation

To approve application no. 18/00956/F - Magdalen Street Norwich and grant planning permission subject to the following conditions:

- 1. Temporary time limit 10 years;
- 2. Remediation Plan scheme for the site following the cessation of the temporary use.
- 3. In accordance with plans;
- 4. Prior to commencement requirement for Archaeological Mitigation Strategy:
- 5. Prior to commencement detailed surface water drainage scheme;
- 6. Stop work if unknown contamination found:
- 7. Agreement of detailed landscape scheme hard, soft and features;
- 8. Full details: noise mitigation measures (to include site sound system/noise limiter;
- 9. Full details: flood mitigation including evacuation plan;

- 10. Provision of extraction scheme maintenance/management arrangements to be secured:
- 11. Site management plan to be agreed to include detailed site management/ maintenance arrangements of the public realm and structures; public access arrangements; leasing strategy; community access arrangement; site security and management; events strategy.
- 12. Limit 50 % of total floorspace for food and beverage uses: A4 limit 20% no more than two containers;
- 13. Trading hours Sun to Wed 07:00 21:30; Thurs to Sat 07:00 22.30;
- 14. No entertainment/event /use of amplified sound system after 21:30 on any day;
- 15. Flexibility for up to 12 later events a year with the prior written approval of the local planning authority;
- 16. Provision of public cycle parking.

Article 35(2) statement

The local planning authority in making its decision has had due regard to paragraph 38 of the National Planning Policy Framework as well as the development plan, national planning policy and other material considerations, following negotiations with the applicant and subsequent amendments the application has been approved subject to appropriate conditions and for the reasons outlined in the officer report.



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NOTES

Key

- Retail Container Unit
- Elevator Asphalt surface
- 2.4m high timber slat boundary fence
 Paper Bark Maple trees in raised planters
- Long benches and seating Floor graphics
- Staircase Flyover Structural column

- Location for temporary market stalls Stage made from timber scaffold planks Gildengate House Service Yard
- Galvanised steel 'Armco' vehicle barrier and 2.4m steel perimeter fence Under the Flyover back of house service and
- storage area Shrub planting in raised timber planters Existing footpath surface retained WC's

- Timber plank terrace Steel Pergola over terrace
- Catenary Lighting

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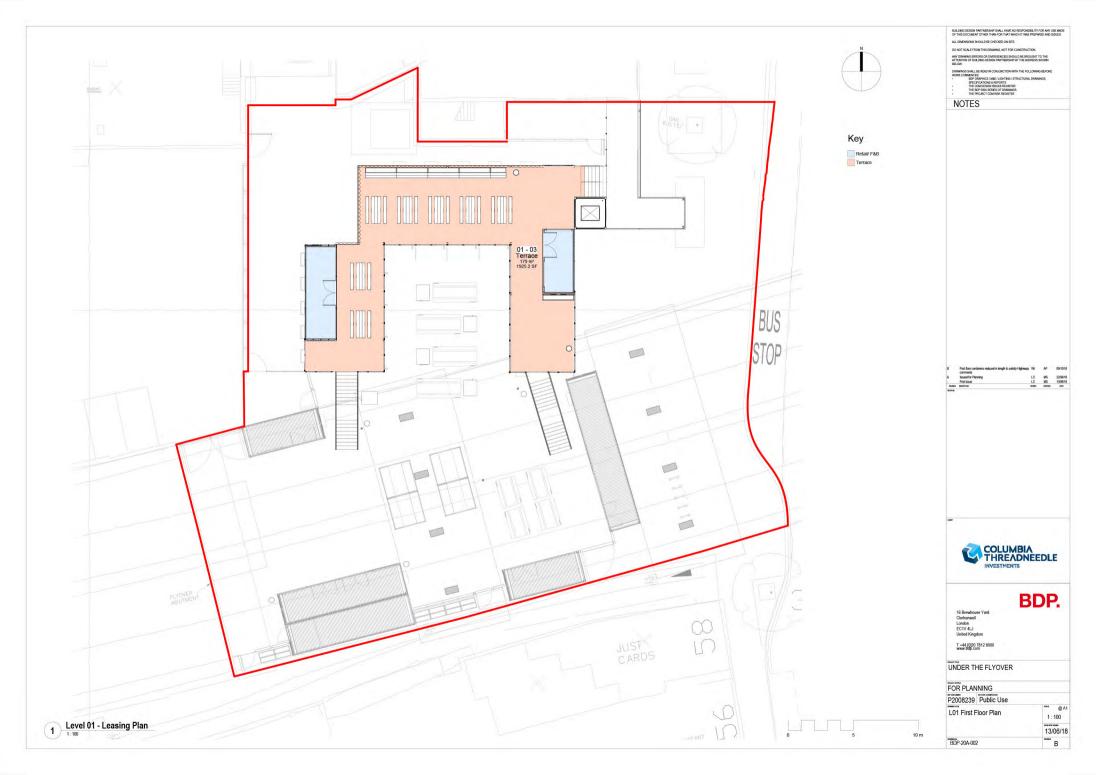
UNDER THE FLYOVER

FOR PLANNING
P2008239 Public Use

PR Masterplan - Combined Floors

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Proposed Section E-E



Proposed Section F- F

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- RAL 7012)
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 Lift
 Projecting shop signage. Metal. (Basalt Grey RAL 7012)
 Water container.
 Pergola terrace structure. Steel I beams. (Basalt Grey RAL 7012) with red graphic applied.





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UNDER THE FLYOVER

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Proposed Section C-C



Proposed Section D-D (2)

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Water container.
Pergola terrace structure. Steel I beams. (Basalt Grey RAL 7012) with red graphic applied. 0 0 COLUMBIA BDP. 16 Brewhouse Yard Clerkenwell London EC1V 4LJ United Kingdom T +44 [0]20 7812 8000 www.bdp.com UNDER THE FLYOVER P2008239 Public Use @ A1 Sections Sheet 2 1:100

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