

Report to Planning Applications Committee

Item

13 October 2022

Report of Head of Planning & Regulatory Services

Subject Application no 22/00634/U St Marys Works, Duke Street,
Norwich

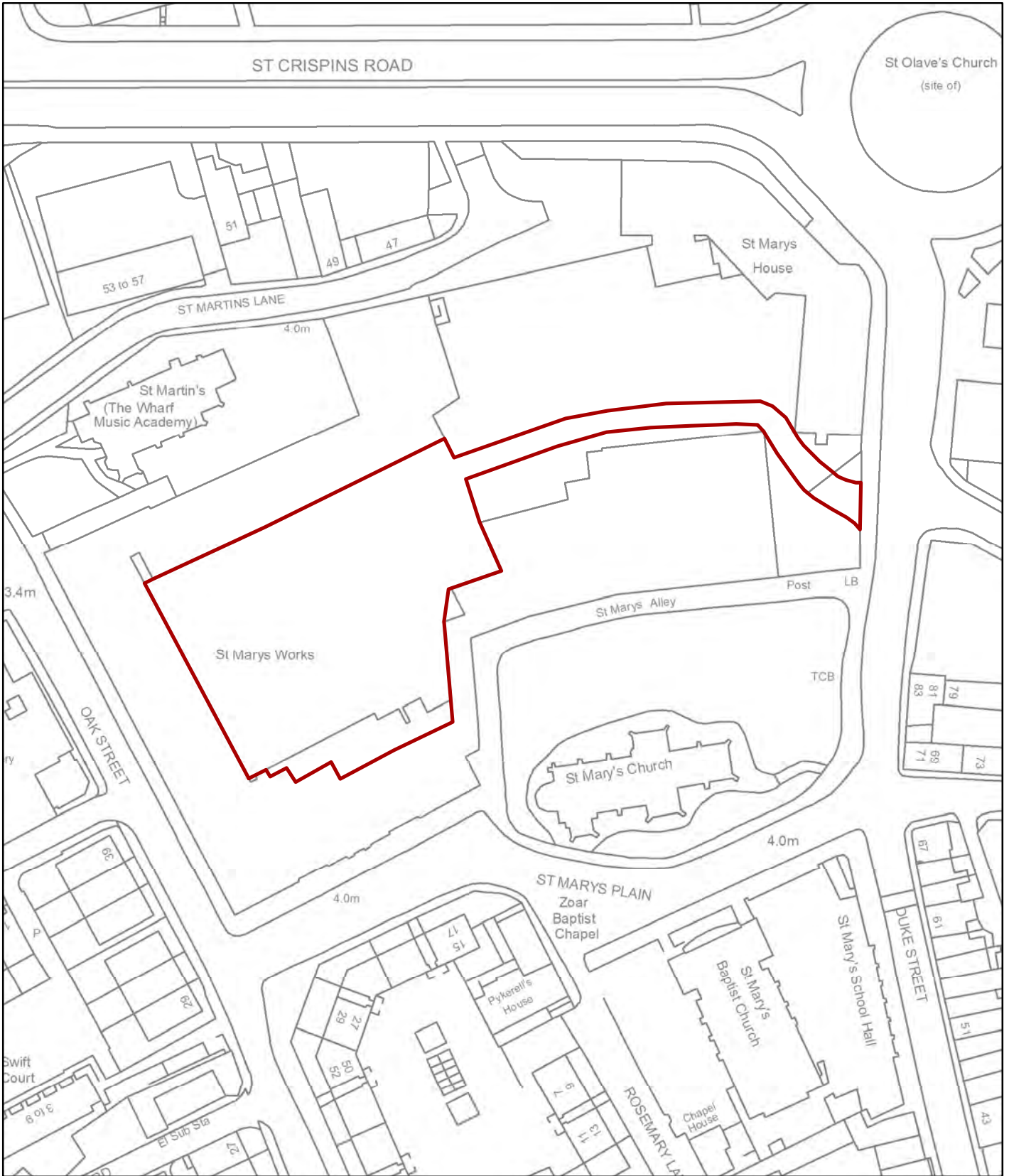
Reason for referral Objections

4a

Ward	Mancroft
Case officer	Maria Hammond mariahammond@norwich.gov.uk
Applicant	Afterdark Promotions

Development proposal		
Temporary change of use of the car park for use as an outdoor events venue/food market and retention of associated structures for a 3 year period.		
Representations		
Object	Comment	Support
5	1	6

Main issues	Key considerations
1	Principle of use
2	Amenity
3	Transportation
4	Design and heritage
5	Flood risk
Expiry date	19 October 2022
Recommendation	Approve



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Planning Application No 22/00634/U
 Site Address St Mary's Works, Duke Street

Scale 1:1,000



NORWICH
 City Council
 PLANNING SERVICES



The site and surroundings

1. The application relates to an area of car parking and small area of building associated with the commercial buildings known as St Marys Works, off Duke Street to the north of the city centre.
2. The area included within the application site is the western-most section of car park, which is enclosed by 2-3 storey buildings to the north, south and west and a small section of the building on the southern side of this. The adjacent buildings are otherwise in a variety of commercial uses including gym and office. To the east is the remainder of the car park which stretches from the application site to Duke Street.
3. Beyond the commercial buildings, to the north is St Martins Lane which is occupied by a church, several commercial buildings and several residential dwellings. To the west is Oak Street which is predominantly residential but also includes a pub and a doctors' surgery.
4. To the south is St Mary's Plain, which accommodates two more churches and some residential dwellings. Duke Street is a busy one-way (northbound) traffic route out of the city, and at this point it is populated primarily by residential dwellings except for the offices located on the St Crispin's roundabout (one of which is undergoing conversion to student accommodation).

Constraints

5. The St Marys Works building is locally listed and lies within the Colegate character area of the City Centre Conservation Area and area of main archaeological interest.
6. Part of the site is within fluvial flood risk zone 2 and there is an isolated area at low risk of surface water flooding.
7. The site falls within the area for reduced parking within the city centre parking area.

Relevant planning history

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

Ref	Proposal	Decision	Date
13/01685/F	Construction of 8 No. two bedroom apartments on roof at second and third floors of former shoe factory building with access stairwells, demolition of single storey commercial extensions at rear of factory building and creation of car parking spaces. Change of use of existing first floor from D2 (assembly and leisure) to B1(a) (office).	WITHDN	18/02/2014
16/01950/O	Outline planning application to include the demolition of office/workshop buildings; part demolition/part retention, conversion and extension of St Mary's Works building	APPR	03/05/2018

Ref	Proposal	Decision	Date
	and redevelopment of the site to provide circa 151 residential units (Use Class C3); circa 4,365sqm office floor space (Use Class B1a); circa 3,164sqm hotel and ancillary restaurant facility (Use Class C1); circa 451sqm retail (Use Class A1/A3); circa 57sqm gallery space (A1/D1); circa 124 parking spaces and associated landscaping works (amended description and plans).		
19/00173/EIA1	EIA screening opinion for the demolition of office/workshop buildings; part demolition/part retention, conversion and extension of St Mary's Works building and redevelopment of the site to provide circa 151 residential units (Use Class C3); circa 4,365sqm office floor space (Use Class B1a); circa 3,164sqm hotel and ancillary restaurant facility (Use Class C1); circa 451sqm retail (Use Class A1/A3); circa 57sqm gallery space (A1/D1); circa 124 parking spaces and associated landscaping works.	EIANRQ	15/02/2019
19/00430/F	Demolition of office and workshop buildings and the redevelopment of the site together with the part demolition and conversion of the former Shoe Factory Building, to provide 152 residential units (Class C3), employment space (Class B1), a hotel and ancillary restaurant (Class C1), retail units (Class A1/A3), gallery and exhibition space (Class D1), car parking, landscaping and public realm improvements, access and associated works.	WITHDN	29/10/2019
21/00373/U	Temporary change of use of the car park for use as an outdoor events venue/food market for a 12 month period only.	APPR	19/05/2021
21/01154/D	Details of condition 5: Litter management scheme of previous permission 21/00373/U.	APPR	24/09/2021

The proposal

9. Permission is sought for a temporary change of use to an outdoor events venue/food market for a three year period. To date, this use has operated for a

temporary period in 2020 under permitted development rights and since May 2021 under planning permission 21/00373/U. This permission expired on 19th May 2022, subsequent to the submission of this application.

10. The use of the land provides a food market and seating areas for the consumption of food and drink on site. Food vendors operate from temporary structures on site or bring their own mobile units and change on a regular basis. Customers receive table service across the seating areas which are themed as a 'junkyard'. Background music is provided through an amplified sound system and there is no provision for live music or performances. There are up to 34 full-time equivalent staff employed here and the site has capacity for up to 630 customers.
11. The previous permission allowed the site to operate three days a week:
 - 16:00-22:00 on Fridays
 - 12:00-22:00 on Saturdays and Sundays
12. This application seeks permission to operate seven days a week in the following hours:
 - 12:00–22:30 Sunday to Wednesday
 - 12:00–23:00 Thursday to Saturday and Bank Holidays.
13. It is understood that seven day opening is proposed to enable flexibility for specific events and occasions. It is not intended to regularly operate seven days a week, however the application must be considered on the basis it could open all of the above hours.
14. There are existing structures across the site used for the provision of food, drink, facilities and covered seating areas. The application proposes retaining many of these as they exist for the duration of the permission, including: shipping containers used to house a bar, toilets, stores, office and food vendors and a large marquee used for seating. In addition, there are other structures currently on the site which the application seeks permission to either retain as they exist or to alter or replace over the duration of the permission to adapt to different events, themes and seasons. These include a further marquee, timber 'ski lodge', additional containers, a timber and plastic dome and timber hut.
15. As this operational development is included in the proposal, the application represents more than just a change of use of the land and cannot be determined under delegated powers due to the objections received.
16. The small section of the St Marys Works building is used to provide ancillary facilities.
17. Access is from Duke Street across the remaining area of car park and cycle parking has been provided within the site, but there is no car parking. Arrangements are in place for vendors to park by the entrance as needed.

Representations

18. Adjacent and neighbouring properties have been notified in writing. 12 letters of representation have been received citing the issues in objection and support as summarised in the table below.

Issues raised	Response
Noise impacts from amplified sound and people leaving venue, including late at night	See main issue 2
Creeping extension of activities on site	See main issue 1
Litter and unsociable habits on Duke Street, incidents of trespass and vandalism	See main issue 2
Residential area, wrong place for venue like this	See main issue 1
No/minimal noise pollution experienced	See main issue 2
Great addition to community, social space, good use of empty/wasted space	See main issue 1
Employment	See main issue 1
Green space would be more beneficial	The application as submitted must be determined.
Property devaluation	Not a material planning consideration
Compensation for early termination	Not relevant to planning
St Mary's area full of cars parking without permits	Unauthorised parking is enforceable by the Council but outside the remit of planning
Enforceable notice to cease and leave site must be condition if granted	Any permission granted would be subject to a condition allowing a temporary period only and for cessation of use and clearance of the site at the end of the permitted period.

Consultation responses

19. 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.

Environmental protection

20. Many of the complaints on this site were related to the early days of covid and a queuing system for entry, these have been overcome by less need for social distancing and a pre booked time for entry in two sittings.
21. The density of use has lowered and a dispersal policy reduces the impact from those leaving the site.
22. Late night visits have been made in the last year and the site has a better control of people coming and going from the site.
23. Music noise levels have been assessed at residential premises and found to be acceptable or inaudible.

24. Our department has no further conditions to add.

Food and safety

25. We visited on 23.9.22. Poor conditions regarding food hygiene were found associated with the Six Yard Bars. This included inadequate hand washing, dirt, poor maintenance, risk of contamination, poor pest proofing etc

26. We also have some general concerns regarding management of the wider site by After Dark Promotions, regarding health and safety, drainage, waste provision. Also about how visiting traders are managed in terms of gas safety. An email has been sent to the Fire Authority.

Highways

27. I have no objection to the proposed change of use for a three year period, the travel information plan is satisfactory and should be used to improve their customer information. Parking and access provision arrangements are satisfactory.

28. The extant provision of cycle parking is adequate and does not require expansion.

29. I have no recommended conditions to make.

Urban Conservation and Design

30. Thank you for consulting design and conservation, we do not propose to offer comments on the proposals. This should not be taken as indicating that the scheme is acceptable or otherwise; the application should be determined in accordance with the development plan, the NPPF where relevant and the duty upon the council to either preserve or enhance the character of the conservation area.

Norfolk police (architectural liaison)

31. I am encouraged by the comments within the Planning Statement in which the applicant demonstrates various ways they are seeking to protect residents' amenity, this assists in addressing concerns raised last year regarding some antisocial behaviour reports and is very much supported.

32. Unfortunately, outdoor venues can be vulnerable to crime, particularly opportunistic, therefore a certain amount of access/boundary control over the perimeter of the site will assist in guardianship. It is understood that for all days of operation, the Management Team will remain on the Site from 22:30 and the gates are locked and safely secured by 23:00. Any fence, wall, hedge or other boundary treatment in place should physically prevent climbing and or penetration into restricted parts of the site.

33. Recommendations for security alarms, doors and windows, CCTV, outdoor furniture and bins, containers and lighting.

34. With the imminent introduction of the Protect Duty/Martyn's Law, all businesses working within publicly accessible places should be aware their responsibilities and produce a Counter Terrorism Response plan.

Assessment of planning considerations

Relevant development plan policies

35. **Joint Core Strategy for Broadland, Norwich and South Norfolk adopted March 2011 amendments adopted Jan. 2014 (JCS)**
- JCS1 Addressing climate change and protecting environmental assets
 - JCS2 Promoting good design
 - JCS5 The economy
 - JCS6 Access and transportation
 - JCS11 Norwich city centre
36. **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
 - DM23 Supporting and managing the evening and late night economy
 - 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

37. **Relevant sections of the National Planning Policy Framework July 2021 (NPPF):**
- NPPF2 Achieving sustainable development
 - NPPF4 Decision-making
 - NPPF7 Ensuring the vitality of town centres
 - NPPF9 Promoting sustainable transport
 - NPPF11 Making effective use of land
 - NPPF12 Achieving well-designed places
 - NPPF14 Meeting the challenge of climate change, flooding and coastal change
 - NPPF16 Conserving and enhancing the historic environment
38. **Emerging Greater Norwich Local Plan**
- Policy GNLP3054: Site at St Mary's Works and St Mary's House

Case Assessment

39. 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 policies are detailed above. Material considerations include policies in the National Planning Policy 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

40. Key policies and NPPF paragraphs – JCS8, DM18, DM23 and DM29, NPPF sections 7, 8, 9 and 11
41. The assessment of the principle of this proposal largely remains the same as when the previous temporary permission was considered: the loss of this under-used car is acceptable and the requirements of a site for the proposed temporary use (large open hard-surfaced area with vehicular access) mean it is not necessary to apply the sequential test to justify the location which is within the city centre, but outside the defined leisure area.
42. Section 11 of the NPPF supports the effective use of land and, in particular, under-utilised land. In this case, an under-used car park is proposed for a use that generates employment and economic activity with visitors to the site potentially also patronising other local businesses. The use is therefore considered to result in economic benefits and to support the vitality and viability of the city centre in accordance with Policy DM18.
43. For clarity, the proposal is a leisure and hospitality use, but not classified as a 'late night use' as opening beyond midnight is not proposed.
44. Objections refer to this as a residential area and consider the proposed use to be unsuitable here. However, the buildings immediately surrounding the car park are in a mix of commercial uses and the wider area is not exclusively residential. There is also concern that this application represents a creeping extension of activities on site, but the only proposed change from the existing operation is the additional days and longer hours. The activities on site would remain as previously.
45. Consideration needs to be given to the fact the application is seeking a second temporary permission for a longer period and also to any changes to the development plan and material considerations since the previous permission was issued.
46. Planning Practice Guidance (a material consideration) advises that temporary permissions may be appropriate in particular circumstances, including where 'meanwhile uses' are proposed. It goes on to advise that it will rarely be justifiable to grant a second temporary permission. It suggests that further permissions should either be granted permanently or refused if there is clear justification to do so.
47. In this case, a second temporary period proposed and is for a significantly longer period of three years.
48. The site is subject to a proposed site allocation in the emerging Greater Norwich Local Plan (GNLP) for a comprehensive mixed use development. In the preparation of this Plan, the land owner has indicated that a planning application for this redevelopment would be prepared during the proposed three year temporary period. Given that the Plan is still subject to examination, the allocation attracts limited weight in the determination of this application. However, it is not considered

unreasonable that proposals for this large and complex site would take some time to prepare and for any permission that may be granted to be implemented on site.

49. It would be inappropriate to grant a permanent permission as this would likely compromise the delivery of the emerging allocation, However, allowing a temporary 'meanwhile use' of the land is beneficial in comparison to it being vacant or under-utilised pending redevelopment. Given the time involved in preparing an application and implementing any permission, it is not considered the proposed three year period would compromise delivery of the site allocation. The applicant should note that upon adoption of the GNLP and with regard to the Planning Practice Guidance, it is unlikely that any further temporary permission would be granted on expiry of the proposed three years and the site owner is instead encouraged to pursue a comprehensive redevelopment.
50. Other than the incorporation of a small section of the St Marys Works building in the site area, there have been no other changes in the material considerations of the site or those relevant to the principle of the proposal and it is considered that continuing the use for a further temporary period of three years is acceptable.
51. It is noted that the previous permission lapsed in May 2022 and the site has continued to operate without permission since then. As officers have been considering this application to continue the use since then, it has not been considered expedient to take any enforcement action.

Main issue 2: Amenity

52. Key policies and NPPF paragraphs – DM2, DM11, NPPF paragraphs 8, 127 and 185.
53. The objections to the application largely relate to noise, anti-social behaviour and littering resulting from the use. It is noted some representations in support state there are no issues with noise.

Noise

54. The previous application was supported by a noise assessment which concluded that music and ambient sound had no impact on the local community. A further survey has been undertaken in support of the current application which recorded sound in four locations on streets around the site on a Saturday of a Bank Holiday weekend in April between 14:00 and 22:00. This is said to have been the busiest day so far in 2022.
55. The survey found that local road traffic noise was dominant and music from the venue was only audible in the evening in breaks in traffic or at a level below that of the traffic. Accordingly, the report concludes that it is not expected noise emissions from the site would give rise to complaints. It also notes that the music amplification system is configured to control noise emissions and they consider the site to be well managed in terms of noise control.
56. Objections do identify that noise from amplified sound has been experienced. In addition, it is noted that since the previous permission was granted Environmental Protection have received complaints from two individuals relating to incidents on six specific dates and one referring to noise each weekend. Environmental Protection officers have visited the site and are satisfied that music noise levels are well

managed and acceptable or inaudible at residential premises and do not recommend any conditions are necessary to manage this should permission be granted.

57. Some of the objections and complaints also refer to noise from people leaving the site which is a matter that the noise survey does not specifically address. During covid restrictions various measures were in place to manage numbers, sittings and distancing which staff monitored and managed.
58. As these restrictions no longer apply, the problems arising from customers queuing to enter at a designated time and all leaving at once have diminished. Customers can now come and go at various periods and do not all leave *en masse* at closing time, dispersing movements around the site over a longer period each evening.
59. Although monitoring and managing customer movements in the interests of covid is no longer required, it is proposed to maintain marshalling procedures half an hour either side of closing times to manage taxi movements and provide surveillance of incidents of noise and disturbance in the area. This would typically consist of marshalls at the gate only but be increased to include four marshalls at strategic locations in the vicinity when management identify a heightened presence is necessary (e.g. peak times on weekend evenings). A log book of incidents and complaints is maintained to inform reviews of necessary procedures and a Resident Action Plan is in place to receive and respond to feedback and complaints.
60. Environmental Protection have observed that the site has developed to better manage people coming and going late at night since it first opened and do not recommend any additional measures are necessary to make the proposal acceptable in this respect.

Anti-social behaviour

61. Objections and complaints have also identified incidents of anti-social behaviour around the site late at night, including vomiting, urinating, trespass and vandalism. It is not possible to directly attribute these incidents to customers from the application site and it is noted there are public houses and other venues in the surrounding area.
62. Monitoring and enforcement of the behaviour of individuals and any incidences of criminal activity is not a matter for the planning system. It is, however, necessary for planning to promote safe places and ensure crime and disorder or the fear of such do not undermine quality of life. It is considered that the provision of marshalls to observe and respond to any noise and disturbance from customers leaving the site is an appropriate and proportionate way for the applicants to manage the behaviour of customers as they leave the site in the interests of protecting the amenity and well-being of the area and its residents. Norfolk Police support the use of the measures proposed to assist in addressing anti-social behaviour. The submitted Site Management Strategy which details the arrangements for marshalling should be secured by condition to ensure the established good practice continues for the duration of the permission.

Litter

63. Litter resulting from the site has also been cited as a concern. The previous permission was subject to a condition which required agreement of and subsequent compliance with a scheme to manage litter. This was submitted and approved in October 2021 (21/01154/D) and, as well as on-site waste management, it details routes for nightly litter picking on surrounding streets. It is considered that this has adequately managed litter to date and a condition should ensure continuing compliance.
64. It should also be noted that there is an extensive legislative regime beyond the remit of planning to manage and enforce littering.

Structures

65. The site is enclosed on three sides by substantial buildings which mitigate any amenity impacts of the proposed structures on the surrounding area and it is not considered their presence affects the amenity of the commercial occupiers of these buildings.
66. The external lighting within and on structures and strung across the site is not considered to cause any harm to amenity.

Extended hours

67. The objections and complaints which have been received are based on experience of the existing Friday-Sunday opening and 22:00 closure.
68. The proposal to extend this to a seven day a week operation from 12:00 to 22:30/23:00 would result in additional impacts throughout the week, including when adjacent commercial buildings are occupied and later into the night when residential neighbours would be more affected.
69. The applicant has advised that they do not intend to regularly open to the full extent of the proposed hours, but they are proposing this to provide flexibility outside their regular weekend opening. However, the application does need to be considered on the basis that it could operate consistently across all these hours.
70. Based on experience of the existing operations and how the site has been managed, Environmental Protection have no objection to the proposed hours. On the basis they are satisfied there would be no noise or other harmful amenity impacts that would be unacceptable or contrary to Policies DM2 and DM11, the extended hours are considered reasonable. It is necessary to condition compliance with these opening hours to ensure the activities and intensity of use does not increase any further in the interests of protecting amenity and in accordance with Policies DM2, DM11 and DM23.

Summary

71. It is appreciated that amenity is a significant concern for local residents and the content of the objections to this application must be taken into account.
72. Environmental Protection have responded to previous complaints and monitored activity on and around the site since it first opened. They are satisfied that the site

now operates in a way which does not give rise to any harmful amenity impacts that could be considered unacceptable with regard to Policies DM2 and DM11 over the existing or proposed extended opening days and hours. Conditions to ensure compliance with the submitted Site Management Strategy that includes marshalling procedures, the proposed opening hours and the litter management plan are considered necessary to ensure there are no unacceptable amenity impacts.

73. As previously, should any noise complaints be made, these can be investigated and any necessary enforcement action taken by Environmental Protection.
74. The applicant is reminded of the need to comply with food hygiene and other health and safety regulations. It is noted the Council's Environmental Health officers have visited and raised concerns in these respects. There is not considered to be any inherent issue with the development proposed that would prohibit compliance with the necessary regulations and that improved management and operational practices are required, which are beyond the remit of planning. Informative notes on any permission that may be granted can remind the applicant of their responsibilities.

Main issue 3: Transport

75. Key policies and NPPF paragraphs – JCS6, DM28, DM30, DM31, NPPF paragraphs 8, 102-111.
76. The existing access arrangements and on-site cycle parking are acceptable. An existing travel information plan promotes sustainable travel and continued compliance with this and retention of the cycle parking should be secured by condition.
77. In this area of the city, it is appropriate for there to be no customer car parking and there is ample public parking nearby. It is noted there is some concern about customers parking in permit zones and, if this occurs, it can be managed through parking enforcement.
78. Cars or taxis dropping off customers can pull into the site so as not to obstruct traffic on Duke Street and marshalls manage this around closing time.

Main issue 4: Design and heritage

79. Key policies and NPPF paragraphs – JCS2, DM3 and DM9, NPPF paragraphs 124-132 and 184-202
80. Sections 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 place a statutory duty on the local authority to have special regard to the desirability of preserving listed buildings or their setting or any features of special architectural or historic interest which they possess and to pay special attention to the desirability of preserving or enhancing the character or appearance of conservation areas. Case law (specifically *Barnwell Manor Wind Energy Ltd v East Northamptonshire DC* [2014]) has held that this means that considerable importance and weight must be given to the desirability of preserving the setting of listed buildings and conservation areas when carrying out the balancing exercise.
81. The existing structures on site are temporary in terms of both their appearance and their attachment to the ground. As they are quite substantial in scale individually

and cumulatively, have already been on site for over a year and are proposed to remain for a further three years, these are considered to constitute operational development that should be covered by the permission sought here.

82. The temporary and ad hoc appearance of these structures fits the aesthetic of the Junkyard Market but would not be considered acceptable on a permanent basis in design or heritage terms within the Conservation Area and adjacent to a locally listed building. Within the context of the venue and given that they are largely enclosed by the adjacent buildings and screened from longer views, it is not considered that they cause any substantial harm to heritage assets or the visual amenity of the local area. The use of part of the locally listed St Marys Works building does not result in any direct harm to this heritage asset.
83. There are public benefits from the proposal in terms of making use of the land and generating employment and economic activity which outweigh this temporary, low level harm. The structures can all be removed upon cessation of the use without causing any permanent harm or damage.
84. The applicant wishes to retain some flexibility to alter or replace four identified structures over the duration of the permission. This is not considered unreasonable to allow the venue to adapt to different seasons, themes and events. It is suggested that alterations and replacements of these identified structures should be allowed providing they do not exceed the maximum dimensions of each of the existing and their purpose remains related to the events venue and food market. The 'ski lodge' covered seating area is the largest of these existing structures and measures 4.8 metres high, 15 metres wide and 18 metres deep. Any alteration or replacement of an existing structure that exceeds its maximum parameters would require written agreement or express planning permission, allowing the LPA to maintain some control in this relatively sensitive heritage setting.
85. A condition to manage the temporary time limit should ensure all structures are cleared from the site on cessation of the use.

Main issue 5: Flood risk

86. Key policies and NPPF paragraphs – JCS1, DM5, NPPF paragraphs 155-165.
87. Part of the site is within fluvial flood risk zone 2 and there is a separate, isolated area at a low risk of surface water flooding.
88. In accordance with Planning Practice Guidance, the proposed use is classified as 'less vulnerable' to flooding and the 'medium probability' fluvial risk and low surface water risk are confined to small portions of the site. This is a temporary use proposal that would not operate 24/7 and only uses temporary structures. The development would not increase the risk of flooding on or off site, but users would potentially be exposed to the risk.
89. It is considered appropriate to take a proportionate approach to flood risk and manage any risk to property and people with a flood response plan that should be agreed by condition.

90. Assessment of Impacts under the Conservation of Habitats & Species Regulations 2017 (as amended)

Site Affected: (a) Broads SAC/Broadland Ramsar
(b) River Wensum SAC

Potential effect: (a) Increased nitrogen and phosphorus loading
(b) Increased phosphorous loading

The application represents a 'proposal or project' under the above regulations. Before deciding whether approval can be granted, the Council as a competent authority must determine whether or not the proposal is likely, either on its own or in combination with other projects, to have any likely significant effects upon the Broads & Wensum SACs, and if so, whether or not those effects can be mitigated against.

The Council's assessment is set out below and is based on advice contained in the letter from Natural England to LPA Chief Executives and Heads of Planning dated 16th March 2022.

(a) Broads SAC/Broadland Ramsar

- i. Does the plan or project create a source of water pollution or have an impact on water quality (e.g. alters dilution)? AND
- ii. Is the plan or project within the hydrological catchment of a habitats site which includes interest features that are sensitive to the water quality impacts from the plan or project?

Answer: NO

The proposal does not:-

- Result in an increase in overnight accommodation in the catchment area of the SAC;
- By virtue of its scale, draw any significant number of people into the catchment area of the SAC. The applicant has provided data on the number of customers over the past 12 months and where they have visited on. Whilst some customers have visited from outside the SAC catchment, on the basis of this evidence, it is not considered the expanded use would attract such numbers of people into the catchment that it would result in an increase in nutrients flowing from the site.
- Result in additional or unusual pollution to surface water as a result of processes forming part of the proposal.

Consequently, the proposal would not result in an increase in nutrients flowing into the SAC in the form of either nitrogen or phosphorous.

Conclusion: It is not necessary to carry out an assessment under the Habitats regs.

(b) River Wensum SAC

- i. Does the plan or project create a source of water pollution or have an impact on water quality (e.g. alters dilution)? AND
- ii. Is the plan or project within the hydrological catchment of a habitats site which includes interest features that are sensitive to the water quality impacts from the plan or project?

Answer: NO

The proposal does not:-

- Result in an increase in overnight accommodation in the catchment area of the SAC;
- By virtue of its scale, draw any significant number of people into the catchment area of the SAC. The applicant has provided data on the number of customers over the past 12 months and where they have visited on. Whilst some customers have visited from outside the SAC catchment, on the basis of this evidence, it is not considered the expanded use would attract such numbers of people into the catchment that it would result in an increase in nutrients flowing from the site.
- Result in additional or unusual pollution to surface water as a result of processes forming part of the proposal.

In addition, the discharge for the relevant WwTW is downstream of the SAC.

Consequently, the proposal would not result in an increase in nutrients flowing into the SAC in the form of either nitrogen or phosphorous.

Conclusion: It is not necessary to carry out an assessment under the Habitats regs.

Equalities and diversity issues

91. There are no equality or diversity issues.

Local finance considerations

92. 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. In this case local finance considerations are not considered to be material to the case.

Conclusion

93. The application seeks permission for a further three year period to operate an existing events venue and food market..
94. As a 'meanwhile use' of an under-utilised area of land within the city centre which is proposed to be allocated for redevelopment in the emerging GNLP, there is no policy objection to the principle of the proposal, providing it is for three years only.
95. The existing operation has previously given rise to complaint and objections have been received on the basis of harm to residential amenity. Environmental Protection have found there to be no unacceptable impacts from amplified sound and that procedures in place to manage noise and behaviour from customers exiting the site late at night are satisfactory. These procedures can be secured by condition to ensure they continue to protect residential amenity for the duration of the temporary permission. The proposed extended opening hours are not considered to give rise to any unacceptable additional amenity impacts and should be managed by condition.
96. Existing temporary structures are proposed to be retained – some as they currently exist and others with some alteration/replacement within the maximum parameters of existing. In the context of the development and on a temporary basis only, these are considered to be acceptable and not to cause any harm to heritage assets that is not outweighed by the public benefits of the proposal.
97. Subject to conditions, there are no unacceptable highway, flood risk or other impacts.
98. The development is therefore considered to be 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.

Recommendation

To approve application 22/00634/U St Marys Works, Duke Street, Norwich and grant planning permission subject to the following conditions:

1. Three year temporary time limit and cessation of use and clearance of all structures at end of permission;
2. In accordance with plans;
3. Flood response plan to submitted within three months for agreement;
4. Compliance with Site Management Strategy;
5. Compliance with scheme for litter management;
6. Compliance with travel information plan;
7. Retention of cycle parking;
8. Retention, alteration or replacement of four identified structures within identified maximum parameters (largest to be no more than 4.8m high, 15m wide and 18m deep) for duration of permission, unless otherwise agreed.

Informative Notes

1. The applicant is advised to contact the Council for advice on food hygiene and safety.
2. The applicant is reminded to secure compliance with health, safety and other regulations required for the operation of an event venue and food market.

Permanent / Temporary Structures

There are presently 24no. structures on the Site that mostly relate to seating and food / drink vendors. Using the Site Plan submitted as part of the application, an 'Annotated Structures Plan' (not to scale) has been prepared to indicate 'permanent' and temporary structures (i.e., 'permanent' structures are not likely to change throughout the lifetime of the permission). All structures are marked by a coloured dot. A red dot indicates a 'permanent' structure. A green dot identifies a temporary structure. A full list of all structures is provided below.

Permanent Structures

- **Food Vendors (Appendix 1)**
3x square-shaped pergolas; 3.5 (height), 3m (width), 3m (depth).
- **Drinks Vendors, located northwest of the bicycle parking (Appendix 2)**
3x recycled shipping containers; 2.5m (height), 6m (width), 2.4m (depth).
- **Food Vendors, located southwest of Ski Lodge (Appendix 3)**
3x recycled shipping containers; 2.5m (height), 6m (width), 2.4m (depth).

- Toilet Block, located at southeast corner (Appendix 4)**
1x recycled shipping container; 2.6m (height), 9.8m (width), 3m (depth).
- Covered Seating Area, located north of the Dome (Appendix 5)**
2x square-shaped pergolas; 7.5m (height, at central peak), 10m (width), 10m (depth).
- Site Office, located east of Covered Seating Area* (Appendix 6)**
1x recycled shipping container; 2.4m (height; total height of both shipping containers stacked is 4.8m), 6.7m (width), 3m (depth).
*there is another recycled shipping container placed on top of the Site Office which is in place as part of the set design and principally serves aesthetic purposes; 2.5m (height), 6m (width), 2.4m (depth).
- Cleaning Store, located northeast of Covered Seating Area* (Appendix 7)**
1x recycled shipping container; 2.5m (height; total height of both shipping containers stacked is 5m), 6m (width), 2.4m (depth)
*there is another recycled shipping container placed on top of the Cleaning Store which is in place as part of the set design and principally serves aesthetic purposes: 2.5m (height); 6m (width); 2.4m (depth).



Figure 1. Annotated Structures Plan. Do not scale from this drawing. Please refer to drawing reference 3666-00-002 (Site Plan) submitted as part of the application for completeness.

Temporary Structures

- **Covered Seating Area, located north of Ski Lodge (Appendix 8)**
1x large pergola; 5m (height, at apex), 12m (width), 18m (depth).

- **Ski Lodge, located southwest of Dome* (Appendix 9)**
4.8m (height), 15m (width), 18m (depth).

*included as part of the structural composition of the Sky Lodge are 6x recycled shipping containers that are all of equal dimensions; 2x either side and 2x to the rear. All recycled shipping containers measure 2.5m (height), 6m (width), 2.4m (depth). At the time the Ski Lodge is removed from Site, the 6x recycled shipping containers will be removed with it.

- **Dome, located northeast of Ski Lodge (Appendix 10)**
10m (diameter), 4.8m (height).

- **Wooden hut, located north of the Toilet Block (Appendix 11)**
2.1m (height, at apex), 3m (width), 2.1m (depth).