

Report for Resolution

Report to Planning Applications Committee
Date 19th July 2012
Report of Head of Planning Services
Subject 12/00961/F Car Park Rear Of 5 - 11 Cathedral Street
Norwich

Item
5(9)

SUMMARY

Description:	Erection of 2 No. two bedroom dwellings.
Reason for consideration at Committee:	Objection
Recommendation:	Refuse
Ward:	Thorpe Hamlet
Contact Officer:	Miss Sarah Platt Senior Planning Officer - Development Management 01603 212500
Valid Date:	27th April 2012
Applicant:	Building Partnerships Ltd
Agent:	Mr Neil Macnab

INTRODUCTION

The Site

Location and Context

1. The application site is the rear of properties fronting Prince of Wales Road, Cathedral Street and St Faiths Lane. It is currently used for parking to the rear of business premises and residential dwellings. It is accessed by car from Cathedral Street via an entrance adjacent to number 5 and on foot from a pedestrian footpath between numbers 20 and 22 St Faiths Lane.
2. To the south of the site is the rear elevation of Uber & Unique nightclub (formerly Mercy) and Rocco's restaurant and bar. There is approximately a 15m high red brick blank elevation with plant and machinery associated with the club building situated at second floor level and partially over sailing the application site. To the east lie the rear elevations of residential dwellings, some of which are within the applicant's ownership, at 16-24 St Faiths Lane. The site was originally parking in association with the offices at 16-24 St Faiths Lane. When the offices were converted to residential use in 2008/2009 the rear gardens were created. The remaining land, the subject of this application was left outside the new residential units boundaries to allow for parking for residents in this area. This land remains as informal parking. To the north and west lie the rear elevations of a mix of offices and residential dwellings fronting Cathedral Street. There are believed to be private rights of way across the application site by all surrounding properties.
3. Within the wider area the site is within the City Centre Conservation Area and the Prince of Wales Road Character Area. All the surrounding buildings fronting Cathedral Street and St Faiths Lane are locally listed. The front elevation of the buildings fronting Prince of Wales

Road are locally listed also, however, the rear extensions are not.

Constraints

4. Within the City Centre Conservation Area. Within Flood Zone 1.

Topography

5. The site is flat.

Planning History

Application number 11/00800/F sought planning permission for the 'Erection of 2 No. three bedroom dwellings. After discussions between the applicant, Planning Officers and Environmental Health Officers the application was withdrawn in June 2011.

For clarity, the plant and machinery to the rear of Uber & Unique nightclub has the benefit of planning permission under application reference **4/1991/0417** - Condition no. 2: Details of alterations to the entrance to the basement; Condition no. 5: Details of plant and machinery and Condition no. 6: Details of extract ventilation and fume extraction system for previous permission 4900817/U "Change of use from offices/storage to wine bar and kitchen (Class A3)". (RD - 21/11/1991)

Equality and Diversity Issues

There are no significant equality or diversity issues.

The Proposal

6. The application seeks the erection of 2no. two bedroomed dwellings with associated bin and cycle storage and amenity areas.

Representations Received

7. Advertised on site and in the press. Adjacent and neighbouring properties have been notified in writing. 8 letters of representation have been received; 6 in support of the application and 2 objecting citing the issues as summarised in the table below.

8.

Issues Raised	Response
There will be a detrimental impact on the amenity of properties to the west with increased overlooking and loss of privacy.	Paragraph 23-28
Vehicle manoeuvring will be compromised and the cars which currently use this area to park in will be forced onto the streets.	Paragraph 29
The amenity of the occupiers is severely compromised with no outlook and poor light given the building is north facing.	Paragraphs 23-28
Noise will be a significant issue and the submitted noise survey is inadequate to assess the full impact, especially given it was	Paragraphs 17-22

undertaken at a time when the club was shut.	
Little consideration has been given to the potential noise issues and arising amenity issues that will result from this development being in direct conflict with the uses in the immediate locality. The noise survey was undertaken at a time when the club was not operating fully and is therefore inadequate. The NPPF states clearly that health should not be impacted upon negatively; these proposals would give rise to such health impacts.	Paragraphs 17-22
Supporting comments	
Providing sufficient space is retained for vehicle turning the proposed dwellings will have a positive impact.	Paragraph 36
The area has long been used by late night revellers for anti-social behaviour. The proposed use will provide overlooking and activity deterring such behaviour in the future.	Paragraph 36
This proposal will reduce car movements in the area and is welcomed.	Paragraph 36
The design has greatly improved from the previous submission and will further improve this area once built.	Paragraph 36
Norwich Society – This is a very tight design for 2 north-facing dwellings with no amenity space	Paragraphs 23-28

Consultation Responses

9. Natural England – No comments
10. The Environment Agency – No comments received. This Consultee has not formally responded to the consultation, however they responded on the previously withdrawn application (11/00800/F) with no objections.
11. Natural Areas Officer – This site has little biodiversity interest. That said, a nest box could be installed on each dwelling if approval is granted. A condition should be attached accordingly.
12. Local Highway Authority – No objections in principle. The rear yards for bin and cycle storage are inconveniently situated, especially with no direct access, so therefore unlikely to be used but this is not sufficient to sustain a transport objection.
13. Environmental Health – The measures required to mitigate the potential noise issues would be sufficient to render this a poor development in terms of living conditions and amenity (see para 22 for more detail).
14. Heritage Environment Service – A brief was provided by the Heritage Environment Service for borehole analysis of the site. This brief has not been followed and so the resulting assessment as submitted with the application is of a poor quality. The report as submitted needs to detail why the brief was not adhered to and the implications of the

unapproved methodology for the interpretation of the significance of the heritage assets on site. Until such a report is submitted the impact cannot be fully judged.

15. Internal Consultees – Comments of all Consultees internal to regeneration and development can be found on the website.

ASSESSMENT OF PLANNING CONSIDERATIONS

Relevant Planning Policies

National Planning Policy Framework (NPPF):

Statement 4 – Promoting sustainable transport
Statement 6 – Delivering a wide choice of high quality homes
Statement 7 – Requiring good design
Statement 8 – Promoting healthy communities
Statement 10 – Meeting the challenge of climate change, flooding and coastal change
Statement 11 – Conserving and enhancing the natural environment
Statement 12 - Conserving and enhancing the historic environment

Relevant policies of the adopted East of England Plan Regional Spatial Strategy 2008

SS1 - Achieving Sustainable Development
T14 - Parking
ENV6 - The Historic Environment
ENV7 - Quality in the Built Environment
WM6 - Waste Management in Development
WAT1 – Water Efficiency

Relevant policies of the adopted Joint Core Strategy for Broadland, Norwich and South Norfolk 2011

Policy 2 – Promoting good design
Policy 3 – Energy and water
Policy 6 – Access and transportation
Policy 4 – Housing delivery

Relevant saved policies of the adopted City of Norwich Replacement Local Plan 2004

NE9 - Comprehensive landscaping scheme and tree planting
HBE3 – Archaeology assessment in Area of Main Archaeological Interest
HBE8 - Development in Conservation Areas
HBE12 - High quality of design in new developments
EP10 – Noise protection between different uses
EP18 - High standard of energy efficiency in new developments
EP22 - High standard of amenity for residential occupiers
HOU2 – Residential adjacent to Late Night uses
HOU13 – Proposals for new housing development on other sites
AEC1 – Major art and entertainment facilities – location and sequential test
TRA6 - Parking standards - maxima
TRA8 - Servicing provision
TRA7 - Cycle parking standards

Supplementary Planning Documents and Guidance

City Centre Conservation Area Appraisal (September 2007)

Principle of Development

Land Use Policy Considerations

16. The National Planning Policy Framework (NPPF) encourages the use of brownfield land for development (paragraph 111) providing that it is not of a high environmental value. However, saved local plan policies HOU13 and HOU2 apply to this application and several of the criteria required to ensure proposals are acceptable are not considered to be met. Whilst this is a highly sustainable location with excellent links to public transport and within the city centre, the proposed dwellings are not considered to provide sufficient private defensible amenity areas.

Amenity

Noise and Disturbance

17. The main issue with this application is that of noise and disturbance to future occupiers from the adjacent and surrounding uses. Within 1.5m of the rear elevation of the proposed dwellings is the rear elevation of Uber and Unique Nightclub. There is also some plant and machinery overhanging the application site which serves the nightclub. Saved policy HOU2 is explicit in that housing development adjacent to or within the Late Night Activity Zone (LNAZ) will not be considered acceptable. Whilst the application site is not within the LNAZ, it is within 1.5m of the rear elevation of Norwich's biggest nightclub which can currently operate from 10:00hrs until 05:00hrs the following morning. There are no restrictions on hours of operation or music levels under either Planning or Licensing Legislation for this venue. There are a plethora of residential dwellings within the immediate vicinity of the application site and whilst these exist, the introduction of more residential properties into an area where late night activities such as nightclubs and bars are prevalent is not considered acceptable due to noise and disturbance issues.
18. A Noise Impact Assessment has been submitted with the application which whilst undertaken when the nightclub was shut has outlined methods undertaken (the use of pink noise) to measure expected noise levels from music within the nightclub and has used previously undertaken noise assessments (carried out when the club was in full operation) to ascertain the sounds levels of the plant and machinery.
19. The Environmental Health Officer has commented as follows:

I have looked at the proposed application and have concerns regarding the likely impact of noise on the proposed dwellings. This is likely to be in the form of low level music noise and also noise from the plant/machinery associated with Mercy Nightclub which will be only a few feet from the dwellings.

The westernmost of the 2 dwellings will be placed approx 1.5 metres from the rear wall of the nightclub and will be even closer to the plant / machinery as this overhangs the proposed site slightly. This plant/machinery is located at the level of the bedrooms and has the potential to be a major source of nuisance to the occupiers.

The main part of the nightclub, which is the part immediately adjacent to the application site, is currently closed for refurbishment, but my understanding is that it is due to open again in a matter of weeks [following the writing of these comments this area of the nightclub has subsequently re-opened 27th June 2012]. Unfortunately due to the closure, the applicant has been unable to provide an accurate depiction of the acoustic environment at the location.

The acoustic consultant employed by the applicant has however managed to estimate the noise levels generated by the air conditioning plant adjacent to the proposed development, using as a base measurements taken in the area during 2009. The estimation is that the noise level from the plant will be in excess of 70dBA at the rear of the proposed development.

Also the acoustic consultant has been unable to quantify the level of music noise that will affect the environment when the club is again running. From my own experience I am aware

that the music from the club is audible in the area but is unlikely to be significant enough to be heard inside the proposed dwellings. It is likely though that a low frequency bass beat will be audible in the rear courtyard/garden areas of the properties.

The music noise however is the lesser issue, as the environment at the rear of the proposed development will be dominated by the plant noise. The World Health Organisation's Guidelines on Community Noise suggests that in outside areas noise at a level of 50dBA is likely to cause moderate annoyance and at 55dBA may cause serious annoyance. This would mean that as the noise in the outside amenity areas to the rear will be over 70dBA, these areas would effectively be unusable.

This excessive noise also limits the layout of the habitable rooms in the development as the WHO Guidelines suggests that sleep disturbance may be caused when windows are partially open and noise levels outside exceed 45dBA.

In order to provide adequate protection very effective acoustic mitigation on the glazing specification will be required. It also means that the windows on the south and west facades of the building will need to be non-opening with separate mechanical ventilation provided throughout, to ensure that the properties can be adequately ventilated without the need to open windows.

Consideration also needs to be given to the potential impact on the business of the nightclub. If complaints were received regarding the noise levels in the rear garden area or noise in the habitable rooms if windows were openable on the closest facades to the club, then it is highly likely that this would be deemed a statutory nuisance, and abatement notices would have to be served on the nightclub.

It is my opinion that the proposed dwellings are too close to the nightclub to allow an adequate standard of living for the occupiers, in relation to the impact of noise from the nightclub, in particular the proximity of the plant/machinery to the bedroom areas and also leaves the nightclub business far to open to formal action to abate the nuisance once occupiers move into the proposed dwellings.

20. The NPPF states in paragraph 123 that 'planning decisions should aim to avoid noise from giving rise to significant adverse impacts on health and quality of life'. Whilst it is considered that the noise issues could be mitigated through the use of conditions requiring all windows on the south and west elevations to be triple glazed, non-opening mechanically ventilated windows, the resulting living conditions would be so poor for future occupiers so as to render the proposals unacceptable. The only openable and clear glazed windows on the property face north. All others are either non-openable or obscure glazed.
21. In addition, whilst the noise issues could be mitigated to the habitable rooms, the noise levels within the amenity areas surrounding the property, in particular the areas to the rear, would be in excess of World Health Organisation Guidelines (WHO) for serious annoyance, thereby rendering them unusable when the nightclub's plant and machinery is in operation.
22. Therefore the proposals are considered to be contrary to the objectives of statement 11 of the NPPF and saved policy EP22 of the local plan.

Design

23. Albeit this site is within the City Centre Conservation Area, its position is relatively secluded and so a more contemporary design approach has been used and which is considered acceptable. However, this is a very constrained site and as a result the layout and orientation of the dwellings has suffered. The NPPF states in paragraph 58 that developments should 'function well and add to the overall quality of the area' and 'create attractive and comfortable places to live, work and visit'. The proposed building is orientated facing north. Large windows to the front elevation have been used to introduce as much light as possible to the living areas of the dwellings but it is considered that these

dwellings will still receive limited natural daylight in the main habitable rooms with stairwells, bathrooms having very limited natural lighting levels. Despite these larger windows to the front north facing elevation it is not considered that there will be a significant loss of privacy to the rear habitable rooms of properties fronting Cathedral Street. The properties are orientated facing away from one another, not directly opposite and there is a substantial area of land between them.

24. Further to pre-application discussions amendments have been made to the architectural design of the dwellings and whilst these are broadly considered acceptable a few minor alterations could be made to improve the design further: achieving a more symmetrical roof form, altering the eaves height and pitch, and amending the roof materials proposed. It is not felt necessary at this time to detail these further in this report as the recommendation is for refusal and there are significant other issues which would still outweigh the benefits of amending the design of the scheme.
25. The external areas to the front and rear of the properties fail to work to the benefit of the proposed dwellings or future occupiers. The rear storage area is not accessible from inside the dwellings, and even if it were accessible, it is completely overshadowed by the 15m high rear elevation of the adjacent building and the 8m rear elevation of the dwelling itself. In addition, the space is only 1.5m wide at its widest point for one of the dwellings and 2.5m wide for the other. The layout plan shows this area as used for storage of bins and bicycles which would leave little if any space for 'amenity' purposes.
26. The amenity areas to the front of the dwellings (3sqm per dwelling) are not considered to be of a sufficient size, private or defensible, forming part of a right of way for residents of the properties fronting St Faiths Lane to Cathedral Street. There is no demarcation other than paving of the spaces and no screening and has the two car parking spaces immediately adjacent. It is also widely overlooked from rear windows on properties fronting both St Faiths Lane and Cathedral Street.
27. The east elevation of the proposed dwellings is only 5.5-6m away from the rear elevations of properties fronting St Faiths Lane and as a result it is considered that these new dwellings will have a significant overshadowing and overbearing impact on the residential amenity of the properties fronting St Faiths Lane. All windows on the east elevation are proposed to be obscure glazed so as to avoid loss of privacy but this in turn has a negative impact on the living conditions of future occupiers of the proposed dwellings with no outlook being afforded in an east, west or southerly direction.
28. The proposals are therefore not considered to constitute good design but rather reflect poor quality living accommodation with reduced natural light and poor outlook. In addition, the amenity area provision is very poor being neither private and defensible, or easily accessible. The storage area to the rear is particularly substandard being surrounded by high walls with virtually no natural light. The proposals are considered to be contrary to policy 2 of the JCS, and saved policies HBE12, HOU13 and EP22 of the local plan.

Transport and Access

Vehicular Access

29. The access from Cathedral Street is somewhat constrained but the use of the existing access is considered acceptable given the lack of alternatives. There is sufficient space within the site for vehicular turning and it is a positive outcome of the scheme that vehicle movements will be reduced in this area.

Car Parking

30. 1 car parking space per dwelling is being provided which meets the maximum requirements as outlined in Appendix 4 of the local plan and is therefore considered acceptable.

Cycling Parking and Servicing

31. The proposed bin and cycle stores being located to the rear of the proposed dwellings are

unlikely to be used, especially considering that there is no direct access to this area from inside the dwelling. However, it is considered that the provision is acceptable and whilst the proposed location and accessibility could be reconsidered, this is not sufficient to warrant a refusal of the application.

Local Finance Considerations

32. Whilst this scheme would attract New Homes Bonus for the creation of two dwellings, the poor living conditions resulting from noise mitigation measures, poor outlook as a result of the orientation and proximity to neighbouring properties, lack of high quality, useable, private and defensible amenity provision, and high probability of noise nuisance are considered to outweigh the income that would be achieved as a result.

Other material considerations

33. An archaeological assessment has been submitted with the application following a brief having been issued by the Heritage Environment Service. The proposed dwellings are proposed on the site of the Franciscan Monastery of Greyfriars, dating back to 1226. The brief outlined a specific method of borehole investigation in order to achieve the maximum quantity and quality of data possible. However, the borehole investigations have not been performed in accordance with the brief and no explanation of why or how this may have impacted on the results of the investigation has been provided in the subsequent report. It is therefore considered that inadequate archaeological investigation has been carried out in order to fully assess the acceptability of the proposals. As such the proposals are considered to be contrary to the objective of statement 12 of the NPPF and saved local plan policy HBE3.
34. The site is within the boundary of a recently extended Air Quality Management Area which, when formally declared, would cover the whole of the city centre. This does not mean that air quality is necessarily poor within the vicinity of the site or in the centre as a whole, but rather that the site falls within a wider area in which there may be potential for particular concentrations of airborne pollutants arising in one locality ("hot spots") due to traffic congestion or other factors. Saved policy EP6 of the local plan states that where an Air Quality Management Area has been declared, development which may have an impact on air quality will be required to take account of the action plan for that area. The impacts on air quality have been found to be small enough not to cause a detrimental impact on future residents. Whilst this is considered acceptable, the issues with the application are still considered to outweigh this consideration.

Conclusions

35. In addition to the principle of housing being unacceptable in this location; the poor levels of amenity space and resulting poor quality of living accommodation as a result of noise mitigation measures the proposal is not considered to result in a high quality well designed scheme and is considered to be contrary to the objectives of the NPPF and saved local plan policies.
36. Several comments in support of the application proposals have been received. Whilst it is accepted that as a result of the proposed development (through passive surveillance by prospective residents) instances of crime and disorder and anti-social behaviour may well be reduced, and that vehicle movements in the area may also be reduced, the arising poor living conditions and noise pollution potential are of such a significant level so as to outweigh the positive benefits of the scheme proposals. There are also other physical measures other than redevelopment of the site that could be put in place, such as gates, which would help prevent antisocial behaviour at the site.
37. Given the significant noise issues for this site and the overarching policy direction away

from residential development, subject to design, access and all other material considerations, an alternative form of development should be investigated for this city centre location.

RECOMMENDATIONS

Recommended to REFUSE planning permission for application number 12/00961/F at the car park to the rear of 5-11 Cathedral Street, Norwich for the following reason(s):-

- 1) Whilst it is considered that the noise issues arising from the operation of the plant and machinery attached to the adjacent building could be mitigated through the use of conditions requiring all windows on the south and west elevations to be triple glazed, non-opening mechanically ventilated windows, the resulting living conditions for future occupiers would be so poor so as to render the proposals unacceptable. The only openable and clear glazed windows on the property face north. All others are either non-openable or obscure glazed. In addition, whilst these noise issues could be mitigated to the habitable rooms, the noise levels within the amenity areas surrounding the property, in particular the areas to the rear, would be in excess of World Health Organisation Guidelines (WHO) for serious annoyance thereby rendering them unusable when the nightclub's plant and machinery is in operation. Therefore the proposals are considered to be contrary to the objectives of the National Planning Policy Framework and saved policy EP22 of the City of Norwich replacement Local Plan (Adopted Version November 2004).
- 2) The proposals are not considered to constitute good design but rather reflect poor quality living accommodation with limited natural light and poor outlook. In addition, the amenity area provision is very poor being neither private and defensible, or easily accessible. The amenity area to the rear is particularly substandard being surrounded by high walls with virtually no natural light. The proposals are therefore considered to be contrary to the National Planning Policy Framework, policy 2 of the Joint Core Strategy for Broadland, Norwich and South Norfolk (March 2011), policies ENV6 and ENV7 of the East of England Plan (Amy 2008) and saved policies HBE12, HOU13 and EP22 of the City of Norwich replacement Local Plan (Adopted Version November 2004).
- 3) The archaeological borehole investigations have not been undertaken in accordance with the brief supplied by the Heritage Environment Service and no explanation of why or how this may have impacted on the results of the investigation has been provided in the subsequent report. It is therefore considered that inadequate archaeological investigation has been carried out in order to fully assess the acceptability of the proposals. As such the proposals are considered to be contrary to the objectives of the National Planning Policy Framework and saved policy HBE3 of the City of Norwich replacement Local Plan (Adopted Version November 2004).





LOCATION PLAN 1:1250

27 APR 2012

Organisational Development
26 APR 2012
Planning Reception

REV	DATE	DESCRIPTION	DRAWN	CHECKED BY
G	17.04.12	notes added	nm	nm
F	04.04.12	Roof revised to previous design	pg	nm
E	23.09.11	Roof amended	rb	nm
D	08.09.11	Updated to reflect plans & show roof	rb	nm
C	20.04.11	Updated to reflect plans	rb	nm
B	22.03.11	Boundary line amended	nm	nm
A	15.02.11	Boundary line and building layout amended	rb	nm

CF

PLANNING

Chaplin Farrant Limited

51 Yarmouth Road
Norwich
NR7 0ET
Tel: 01603 700000
Fax: 01603 700001
office@chaplinfarrant.com
www.chaplinfarrant.com

Also at:
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Building Partnership

5-11 Cathedral St, Norwich

Location & Proposed Site Plan

4092

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Jan 11

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as shown

nm

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PROPOSED SITE PLAN, CATHEDRAL STREET, NORWICH. 1:200

