

**Report to** Planning applications committee

**Item**

14 March 2019

**Report of** Head of planning services

**Subject** Application no 18/00962/F - St Peters Methodist Church  
Park Lane, Norwich, NR2 3EQ

**4(b)**

**Reason for referral** Objections

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<b>Ward:</b>	Nelson
<b>Case officer</b>	Maria Hammond - <a href="mailto:mariahammond@norwich.gov.uk">mariahammond@norwich.gov.uk</a>

<b>Development proposal</b>		
Change of use from D1 (place of worship) to C3 (dwelling houses). Demolition of modern extensions, removal of two trees, and general redevelopment of site to provide 20 new residential units and associated landscaping and parking.		
<b>Representations</b>		
Object	Comment	Support
53	1	0

<b>Main issues</b>	<b>Key considerations</b>
1	Principle of development: residential use and loss of community facility
2	Affordable housing provision
3	Design and heritage
4	Transport
5	Amenity
6	Flooding/drainage
<b>Expiry date</b>	18 March 2019
<b>Recommendation</b>	To: (1) approve subject to conditions and a section 106 agreement securing a contribution to affordable housing; (2) refuse if a satisfactory section 106 agreement is not completed within six months.

## The site and surroundings

1. The application concerns St Peters Methodist Church, a prominent and locally listed building within the Heigham Grove Conservation Area, and the associated church hall and Boys Brigade buildings which occupy a 0.15 hectare site at the junction of Park Lane and Avenue Road.
2. The local listing is as follows:

“1939. Buff brick with brown brick detail to windows. Designed by local architect Cecil Yelf in a simple but monumental style. Importance: Important community and landmark corner building in a style evocative of its time”.
3. The main Methodist church building is typical of the interwar 1930s style and is monumental in its scale, forming a landmark at the road junction. The adjacent church hall was formerly a Wesleyan Chapel and was built by Edward Boardman in 1894. It was completely refaced with modern buff brick in the 1960s and has a two storey flat roofed extension to the rear and infill extension joining it to the church. The Boys Brigade building shares some features with similar detailing to the original chapel as it was also built to Boardman designs in the early twentieth century. This single storey building fronts Avenue Road with a symmetrical elevation.
4. The surrounding area is characterised by Victorian terraces and houses and occupies sub area ‘H’ as identified within the Conservation Area Appraisal. This Appraisal identifies the main Methodist church as a significant local landmark and the position of this group of buildings at the junctions of Park Lane, Avenue Road, Mill Hill Road, Maida Vale and Portersfield Road with levels dropping towards the site from Unthank Road and The Avenues results in positive views towards this prominent site from many aspects.
5. The buildings are separated from the street frontage by landscaping, including two trees, and an historic dwarf wall and railings along Avenue Road and by car parking on the Park Lane frontage.
6. There is a significant change in levels across the site with the external ground levels dropping a full-storey in height from east to west.

## Constraints

7. St Peters Church is a locally listed building and the site is in the Heigham Grove Conservation Area. The site is also in a critical drainage catchment and parts of the site and surrounding area are at risk of surface water flooding in the 0.1%, 1% and 3.3% events.

## The proposal

8. The application seeks permission to demolish the modern extensions to the building, erect a two-storey extension to the existing two-storey flat-roofed extension at the rear of the church hall building and associated external alterations to facilitate the conversion to create 20 units of accommodation.
9. The proposed conversion would lead to the creation of the following size of units:

- One-bed flats x 6
  - Two-bed flats/maisonettes x 6
  - Three-bed flats/maisonettes x 6
  - Two-bed house (Boys Brigade) x 1
  - Four-bed flat/maisonette x 1
10. The application is the re-submission of an identical proposal first made in 2015 (15/01928/F). That application was refused in July 2017 for the following reasons.
  11. The proposal fails to meet the requirement for affordable housing either through on-site provision or through the provision of a commuted sum towards off-site provision of a level which has been independently assessed to be viable for the proposed scheme.
  12. Notwithstanding the fact that a five year land supply for housing cannot currently be demonstrated within the Norwich Policy Area, the shortfall in affordable housing provision associated with the proposal represents an adverse impact that would significantly and demonstrably outweigh the benefits of the proposal when assessed against the NPPF as a whole.
  13. The proposal therefore fails to represent sustainable development in the context of paragraph 14 of the National Planning Policy Framework and conflicts with the requirements of policy 4 of the Joint Core Strategy for Broadland, Norwich and South Norfolk (2011, amendments adopted 2014), policy DM33 of the Development Management Policies Local Plan 2014 and guidance within paragraph 50 of the National Planning Policy Framework.
  14. This refusal of permission was the subject of an appeal which was considered at a hearing held on the 8 August and resumed on 30 October 2018. A decision was issued by the Planning Inspectorate on 16 January 2019.
  15. The appeal was dismissed and the reason for this can be summarised as the absence of an appropriate mechanism to secure a reasonable off-site affordable housing contribution. This is explained further in the Case Assessment below and the Inspector's decision is appended to this report.
  16. The current application was submitted in June 2018 with updated costs information from the 2015 application. Determination of this application was held in abeyance until resolution of the appeal and since that was determined a revised viability assessment has been submitted and consulted on. This appraisal is based on the figures used, and agreed to by the Inspector, in the determination of the appeal.
  17. There have been no material changes to the circumstances of the site and its surroundings since the determination of the previous application in 2017.
  18. Two alternative outline proposals have been made: one for total demolition of all buildings on site and erection of up to ten new dwellings and one for demolition of all but the main church building and provision of up to ten new dwellings through conversion and new build (18/00503/O and 18/00504/O). Both these applications were considered by the Planning Committee in August 2018 and refused for

reasons including: harm to and loss of heritage assets, insufficient information and no provision for affordable housing.

## Summary information

Proposal	Key facts
<b>Scale</b>	
Total no. of dwellings	20
No. of affordable dwellings	The application proposes an off-site financial contribution of £167,172.
Total floorspace	1,853 square metres
No. of storeys	Church Hall and Methodist Church (four-storeys), Boys Brigade (1.5-storey)
Density	132 dwellings per ha.
<b>Appearance</b>	
Materials	Re-use of existing from demolition where possible, zinc standing seam cladding to new extensions, existing slate tiles to be re-used during re-roofing of all three buildings.
Energy and resource efficiency measures	PV panels on south facing roof of church hall building, heat recovery ventilation, upgrade of fabric of building to improve thermal efficiency.
<b>Transport matters</b>	
Vehicular access	As existing
No of car parking spaces	11
No of cycle parking spaces	34
Servicing arrangements	Mixture of communal and private refuse storage points. Management company to be responsible for putting out and bringing in communal bins for collection.

## Representations

- Advertised on site and in the press. Adjacent and neighbouring properties have been notified in writing. 53 letters of representation have been received citing the issues as summarised in the table below. Some representations have been received from groups of residents and there has been a re-consultation on the latest viability assessment so some individuals have made representations more

than once. All representations are available to view in full at <http://planning.norwich.gov.uk/online-applications/> by entering the application number.

<b>Issues raised</b>	<b>Response</b>
Inappropriate affordable housing provision	See main issue 2
Detailed comments received on initial viability appraisal.	Not relevant to current proposal and explored at appeal.
Council was entirely right to enforce its affordable housing policy on application 15/01928/F. It is crucial that it robustly defends it against this aggressive attack on it within the new application. There are very significant risks to the Council in not robustly defending the JCS4 policy on this application. It would send a message to developers that the Council was weak and had backtracked on its previous position. This would have consequential effect of long-term loss of revenue for affordable housing as other developers saw a precedent to their advantage and bring reputation damage to the Council.	See main issue 2
The application must be appraised against the JCS policy compliant commuted sum, which provides a cap for developer contribution, based on real market values today.	See main issue 2
The Council should appoint consultants to independently review the viability assessment. Whilst the District Valuation Service may be able to provide an adequate assessment on simple cases, I don't consider they have the capacity to challenge applications of this sort where consultants have been paid considerable fees to make the applicant's case.	See main issue 2.  The District Valuation Service are independent and suitably qualified to undertake such a review, indeed they have extensive experience of doing so for numerous local authorities around the country.
The gross development value has been undervalued and the costs have been materially overstated.	See main issue 2
The grounds for refusal of the original proposal which was upheld by the Inspector on appeal that there are not enough affordable units is not addressed in these	See main issue 2

Issues raised	Response
new plans.	
Hope the Council won't let the developers get away without the legal percentage of social housing required by law, without their usual loopholes	See main issue 2 –provision for affordable housing is a policy requirement and the policy sets out how this is determined.
There are viable alternatives to the current proposals that will result in high quality and much more appropriate development of this site for housing.	The proposal in the submitted application is the scheme to be considered in determining this application.
Preference for alternative solutions.	The proposal in the submitted application is the scheme to be considered in determining this application.
Will the sale prices be commensurate with other starter homes and not with the price of other properties in the Golden Triangle?	See main issue 2 – an off-site contribution to affordable housing is proposed
20 units too many for site. Overcrowded. Too high density.	See main issue 3
Inappropriate to make the buildings even larger and more dominant. Building planned is four storey and out of context within an area of two storey buildings. Object to scale, height and massing.	See main issue 3
In the previous application the Council failed to take full and proper account of policies DM2 and DM3	See main issues 3 and 5
Existing drainage infrastructure already showing signs of stress. Proposed new dwellings would present a significant surge of demand beyond the system's current capacity. Antiquated sewerage was only designed to serve a church, not 43 extra properties	See main issue 6
Do not wish for two trees to be cut down	See table at paragraph 153
More greenery/green space is needed	See main issue 3
Inadequate parking. Will add to congestion to surrounding streets. Doesn't comply with UK government guidelines. No parking spaces for visitors, maintenance staff or deliveries.	See main issue 4.  There are no Government guidelines for parking standards, these are set locally and the scheme has been assessed

Issues raised	Response
	against the Local Plan requirements.
Proposed parking spaces will be dangerous to back out of. Visibility onto Avenue Road is very limited.	See main issue 4
Insensitive manner of parking layout will compromise the important Park Lane frontage, both visually and on grounds of road safety	See main issue 3
This is already a complicated junction, the convergence of 4 roads and is on an incline with restricted visibility. Inadequate consideration given to location at dangerous road junction. The developer should be required to carry out off-site improvements to the junction.	See main issue 4
Lack of proper locked bicycle storage protected from the weather.	See main issue 4
Unrealistic and impractical to expect everyone to cycle or walk everywhere	See main issues 1 and 4
Need provision for off-road storage of bins. Bin stores are likely to become smelly and a health hazard. Waste disposal has not been properly designed and bin requirements do not appear to have been appropriately accounted for.	See main issue 5
Reduction of light available to neighbouring houses and gardens. The prescription act of 1832 says that if you have had uninterrupted light for 20 years or more it can't be taken away. We would appreciate a visit for a light assessment as this has not been done.	See main issue 5 - Daylight/sunlight assessment submitted
Overlooking and loss of privacy to neighbouring houses and gardens	See main issue 5
Introduce noise to quiet back area. Visible and audible activity at side of church hall.	See main issue 5
Many of the units have minimal natural light and little view	See main issue 5
Intrusive noise, smells and disruption	See main issue 5

Issues raised	Response
All round balconies would overlook surrounding properties – not appropriate on this site, not in keeping. Balconies will cause noise disturbance	See main issue 5
The 'right of light' issue should be revised; reasons for refusal should be extended to cover unit CH9 which takes daylight from neighbouring properties. BRE guidance doesn't give a meaningful picture of the situation.	See main issue 5
The loss of light issues were not fully considered by Inspector Worden. This loss of light is due primarily to a single unit of the proposed 20, CH9. This would single-handedly increase the density and steal light from homes. Some problems could be mitigated by omitting unit CH9.	See main issue 5
Problems with daylight sunlight report data	See main issue 5
Very limited outdoor communal space and no garden space for children	See main issue 5
Ugly zinc extrusion for west end of church hall does not appear to enhance or mirror any of the current or original architecture	See main issue 3
Current buildings are of limited historic or architectural value	See main issue 3
It is a poor design and does not contribute to the area	See main issue 3
Lack of environmental vision	Noted
Total loss of amenity use on the site, without compensating value as well-thought out dwellings. No community amenity value. Church provided a service to the local community and we feel this should be preserved in some form.	See main issue 1
Flood protection measures will protect the new dwellings, existing housing in this area will not be similarly protected from the risk of flooding made very much worse. Sewage flooding will make existing homes uninhabitable.	See main issue 6



Issues raised	Response
The present soil drainage system is overloaded and represents a real soil flood danger to adjacent housing	See main issue 6
Quality of life and house price values would be negatively impacted for a considerable number of existing residents	The effect on house prices is not a material planning consideration
Lack of convenient amenities	See main issue 1
More one and two bedroom flats are not what are needed. There is a shortage of decent quality family housing. At present the area is a happy mix between student rentals and homeowners of all ages. This balance will be damaged by the influx of large numbers of single people. Possible occupation by students.	<p>A mix of dwelling sizes are proposed – see paragraph 10 above.</p> <p>The Council cannot exert control over who purchases the properties or who an owner may rent to in future.</p>
Object to the way developers appear to be wasting Council time with repeated requests	Not a material planning consideration to take into account in the determination of the application
No substantial changes to original unsuitable plans	Noted. The proposal is identical to application 15/01928/F, other than the proposed contribution to affordable housing.
Who is going to be responsible for the maintenance of the units communal areas?	A management company is proposed.
What provisions are being put in place regarding fire safety?	The development would be subject to the provisions of Building Regulations.
The City Council must act in accordance with the law and also respect the policy and purpose of relevant legislation. Failure to do so is illegal.	Section 38 (6) of the Planning and Compulsory Act 2004 requires applications to be determined in accordance the development plan, unless material considerations indicate otherwise. The relevant development plan policies and material considerations are addressed in the 'Assessment of Planning Considerations' section below.

## Consultation responses

20. 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

21. The modifications to the front of the church hall will be an improvement and will enhance what is an otherwise blank façade clad with modern brickwork and a modern extension that does little to respond to the street scene or the surrounding conservation area. The modifications will also take note from the previous historic Plan form and features. Therefore these modifications will be in line in terms of the NPPF paragraph 131 [paragraph 192 of NPPF 2019];

“In determining planning applications, local planning authorities should take account of: the desirability of new development making a positive contribution to local character and distinctiveness”.

22. And also paragraph 137 [paragraph 200 of NPPF 2019]; “Local planning authorities should look for opportunities for new development within Conservation Areas and World Heritage Sites and within the setting of heritage assets to enhance or better reveal their significance. Proposals that preserve those elements of the setting that make a positive contribution to or better reveal the significance of the asset should be treated favourably.”
23. There will be an element of less than substantial harm to the undesignated heritage asset as a result of the works and the subdivision of the internal spaces. However converting the building and providing it with a long term viable use will ensure that the assets are retained along with the contribution they make to the surrounding conservation area. Retaining the contribution that the assets make to the conservation area along with enhancement through improved design will provide benefits to the surrounding area and therefore benefit the general public. As demonstrated by the NPPF paragraphs 134 and 135 [paragraphs 196 and 197 of NPPF 2019];
24. Sometimes harm is necessary to enable change of use of the asset to its optimum viable use. The optimum viable use is either the sole viable use of the asset or, if there is more than one viable use, the use most consistent with its ongoing conservation. Enabling such a change of use can be a public benefit that outweighs the harm done.
25. While its optimum use would be one that the building was originally intended for this has shown not to be viable and after a lengthy marketing exercise no alternate community use for the buildings could be found.
26. Sufficient recording should be undertaken of the buildings before the development commences due to the extent of the works and the way the works will impact on the internal space of the church buildings.

## **Historic England**

27. Historic England has no objection to the application on heritage grounds, this might be an opportunity for the Council to review the proposals for the conversion of the church and in particular the treatment of the exterior and decorative features such as the stained glass. We consider the application meets the requirements of the NPPF, in particular paragraph numbers 6, 7 and 14. In determining this application you should bear in mind the statutory duty of section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 to pay special attention to the desirability of preserving or enhancing the character or appearance of conservation areas.

## **Norwich Society**

28. The Church is included in the local list for Heigham Grove, described as follows:
- St Peters Methodist Church 1939
  - Buff brick with brown brick detail to windows.
  - Designed by local architect Cecil Yelf in a simple but monumental style.
  - Importance: Important community and landmark corner building in a style evocative of its time.
29. We have consulted with the local residents' group who expressed the hope that the Norwich Society might reconsider our support for the local listing of St Peter's. The key passage above reads: 'Importance: Important community and landmark corner building in a style evocative of its time'. However now, with the loss of the church hall, the building has no value for the community. The committee which prepared the recommendations did not consider that the church itself had intrinsic architectural merit. In fact it is the residents' view that its size and position restricts street views, making the junction more dangerous because of the traffic, especially during the school run in the morning and afternoon collection.
30. We discussed both schemes at our committee, and concur with the views of the residents, i.e. we would not object to its removal from the local list and its demolition, if that achieved a better architectural solution for the site as a whole.
31. However we note that a new detail application has been submitted (18/00962/F) which is also based on retention of the church, and represents an improvement from the initial outline scheme (18/00504/O). The vertical split of the space into 3 and 4 storeys units gives unusual and attractive units, especially with the benefit of the voids and roof terraces. We would be happy to support this scheme if the developer is intending to retain the existing buildings.

## **Environmental protection**

32. Have reviewed the application and have no comments.

## **Highways (local)**

33. No objection on highway grounds, the proposed use and layout is acceptable.
34. Fundamentally the proposed use will have significantly less parking demand than the extant use as a place of worship. Objectors may be thinking of the former use of

the premises that had small congregations, for the purposes of this assessment we must consider the lawful planning use and its transport implications.

35. Due to the limitations of the site, there will be 10 [11] parking spaces, compared to 20 residential units. The council will not issue parking permits. The proposed parking spaces are in a similar layout to the extant parking spaces.
36. Given that streets in the immediate area of the site are subject to Controlled Parking Zone parking restrictions Mon to Sat 8am to 6.30pm, it will not be possible for residents of the site to leave their vehicle in the immediate proximity for prolonged periods. For visitors, these can make use of limited waiting bays in the locality or they can visit outside of CPZ hours.
37. Refuse storage appears satisfactory in principle. Cycle parking provision appears satisfactory in principle. A construction management plan will be required by condition in case hoardings, footway diversions etc. are required.
38. For vehicle access to the parking space for the dwelling on Avenue Road a dropped kerb/crossover will need to be constructed to strengthen the footway.

### **Landscape**

39. While private and communal amenity areas are restricted due to the nature of the site, the removal of a number of single storey extensions and the use of existing flat roofs to provide external terraces has maximised the space available. The layout of the amenity areas has been well thought through.
40. The external areas are cohesive, using different paving materials, railings and gates to define areas of uses and separate the public and private domain, with the proposed edgings of granite setts (and conservation kerb steps) providing continuity to the design.
41. The loss of two trees which have out-grown their location on the southern frontage is acceptable as their proposed replacement with of 5 No fastigate trees is more appropriate to the space available.
42. The outline landscape proposals are acceptable. A standard landscape condition should be applied requiring more detailed proposals to be submitted.

### **Norfolk historic environment service**

43. No comment.

### **Ecology**

44. The updated bat survey has the following updates of note;
  - Church: the 2018 survey confirms the results of the 2015 survey – a small number of bats use the building on an occasional building.
  - Church Hall: The level of bat use appears to have increased slightly from 2015, and still includes Brown long-eared bats (increased level of droppings under the ridge line of the lower loft). Access was gained to the upper loft level but no bat evidence was noted.
  - The results for the other buildings/areas inspected did not change.

- At least some of the buildings appear to be used, or at least cleaned on a regular basis.
45. The level of activity at the whole site is not considered to be significantly greater than it was in 2015. The buildings have been assessed as being of low value to roosting bat populations, likely compromised by the high level of street lighting.
  46. It is understood that the current proposal is for a change of use that does not require the level of demolition discussed within the bat Survey. Para 8.10 suggests that the Bat Low Impact Class Licence could be appropriate here. This is likely to remain a potential option, given that the site remains of low value and that the species identified are brown long eared bats and pipistrelle.
  47. I have assumed that para 9.7 remains true: the development does not affect the roof void of the Church although it will require re-roofing. It is planned that after these works, the bats are able to re-access the void. This will require access through the western grille to be maintained. As such the recommendations under 9.8-9.11 need to be part of the mitigation. Please advise if this is not the case.
  48. Mitigation/conditions are recommended.

### **Private sector housing**

49. Lower ground floor (flats CH1 and CH2). The egress from the bedroom to the front door involves going via the open plan kitchen. These rooms will require an emergency egress window. In the event of a fire the occupiers can exit via these windows.

### **Tree protection officer**

50. The loss of 2 Cat B trees is regrettable, however, their estimated remaining contribution of 20+ years, is a contribution that holds limited value, in terms of aesthetic appeal and seasonal variation. This application (seen purely from an arboricultural perspective) provides an opportunity to replace 2 trees of moderate quality, with at least 4 high quality, more attractive, young trees that will make a lasting contribution of at least 40 years.

### **Local Lead Flood Authority**

51. We object to this planning application in the absence of an acceptable Flood Risk Assessment (FRA) / Drainage Strategy relating to:

The development changing vulnerability categories from less (a community building) to More Vulnerable (Housing) is at risk of flooding from surface water. We request that it is demonstrated that these risks can be managed to remain safe for the lifetime. In particular regard to the two proposed dwellings with bedrooms at lower ground floor in the current Old School Room/Church Hall.

#### **Reason**

To prevent flooding in accordance with National Planning Policy Framework paragraph 103 and 109 by ensuring the satisfactory management of all sources of flood risk, storage and disposal of surface water from the site in a range of rainfall events to ensure the development is safe for its lifetime, does not increase the flood

risk elsewhere and surface water drainage system operates as designed for the lifetime of the development.

52. We will consider reviewing this objection if the following issues are adequately addressed.
  - Information to show that two proposed dwellings with bedrooms at lower ground floor in the current Old School Room/Church Hall have the risks managed and are safe for the lifetime of development. Whilst previous application at this site reassessed the layout for some of the flats to have safe refuge upstairs in the same property. It is not clear why these CH1, CH2 and CH3 cannot also be provided flood risk management considering they are also at risk of flooding at the 1% annual probability flood plus climate change flood event.
53. We have serious concerns over this development due to the change to a more vulnerable use as dwellings that are at risk of surface water flooding with no flood warning of any flood event. We note that the document provided by the Interesting Building Company dated 25/06/2018 implies that flood risk should only be considered up to 3.33% annual probability (1 in 30) flood event and that habitable accommodation has been moved away from these areas. The 1% (1 in 100) plus climate change is the required standard to consider flood risk in NPPF with regard to new / re – development.
54. We are still of the opinion that we would not support the conversion of the lower ground floor of the buildings to habitable accommodation which may flood to a depth 1m. This flooding could have the potential for rapid inundation during a storm and it would be difficult to consider it as “safe for the lifetime of development” in line with NPPF. We would suggest that this remains the same vulnerability as it is currently e.g. stores. It is unclear where the additional storage that could be investigated at a detailed stage would be within the site as the lowest part of the site are all at risk of flooding. Any drainage attenuation for this site in an area at risk of flooding, would need to show how this surface water storage will be maintained during the design flood event (considering surcharging locally).
55. We again request that your emergency planner is consulted and comment on new dwellings regarding hazards of a development which may have up to 1m deep of flood water on it. The FRA indicate that the buildings will be built with resistance and resilience for water up to 600mm (0.6m) deep. At water depths deeper than 600mm it is expected that water will spill into the dwellings flooding them up to 1m. We support that the applicant indicates that dwellings at risk of flooding will no longer be expected to be offered with full equality access measures. Anyone with impaired physical ability would be particularly vulnerable at this location. We can be available to discuss the current information with your emergency planner if they require.
56. We would like to highlight that Flood Re insurance is not available for houses built after 1 January 2009. This is to ensure that the risks of flooding are appropriately considered and mitigated at the planning stage. Thus, new developments are subject to risk reflective pricing, meaning those built without due consideration of flood risk may struggle to access affordable insurance. We advise the applicant that they fully consider the potential available finance and insurance for the future owners and / or tenants of the proposed dwellings

57. We would also advise that the although permeable surfacing proposed as possible mitigation for brownfield runoff can act the same as rainfall on greenfield land (so less prone to engineering issues next to buildings), we would suggest that any site specific engineering constraints e.g. subsidence and is considered by the designer. It may be that permeable surfacing will be under-drained but it is not clear from the current information submitted. It is also noted that Anglian Water consultation supplied with this application refers to the previous planning application for 20 dwellings and suggests that they need further information to agree to a connection to their drainage network. We agree that rates of 4.6l/s may be appropriate for this application considering that no buildings will be removed and existing connections will remain. We expect that any detailed design would clarify the existing runoff rate via existing discharge locations and limit these as close to greenfield as possible.
58. If you, the planning authority is minded to approve this application, we suggest that any conditions placed on the application reflect the outstanding information requires for the development with regard to the safety of occupants for the lifetime of development and surface water drainage design. We do not see that all of these issues can be achieved through conditions at this time but refer you to our letters on the previous application 15/01928/F (FWP/16/4/3243 dated 21 Sept 2016 and FWP/17/4/4617 dated 22 May 2017).

### **Emergency Planning Manager**

59. I note the LLFA and Anglian Water have raised a number of concerns regarding the flood risk assessment and risk of surface water flooding. I have no additional comments to add.

### **Anglian Water**

60. The foul drainage from this development is in the catchment of Whitlingham Trowse Water Recycling Centre that will have available capacity for these flows. In accordance with our previous response under reference: 27861, we can confirm the sewerage system at present has available capacity for these flows via a gravity discharge regime. If the developer wishes to connect to our sewerage network they should serve notice under Section 106 of the Water Industry Act 1991. We will then advise them of the most suitable point of connection.
61. The preferred method of surface water disposal would be to a sustainable drainage system (SuDS) with connection to sewer seen as the last option. Building Regulations (part H) on Drainage and Waste Disposal for England includes a surface water drainage hierarchy, with infiltration on site as the preferred disposal option, followed by discharge to watercourse and then connection to a sewer.
62. The surface water strategy/flood risk assessment submitted with the planning application relevant to Anglian Water is unacceptable. Evidence has been provided to show that the surface water hierarchy has been followed as stipulated in Building Regulations Part H. However, no trial pit logs from the infiltration tests have been provided at this time in accordance with the Building Regulations Part H.
63. The final surface discharge rate must also meet our minimum self-cleansing discharge rate of 5.0 l/s. We would therefore recommend that the applicant needs to consult with Anglian Water. We request that the agreed strategy is reflected in the planning approval.

64. Anglian Water would therefore recommend the following planning condition if the Local Planning Authority is mindful to grant planning

### **Police Architectural Liaison Officer**

65. Refer to previous letter of 03/02/2016 (summarised):

- (1) Parking – To reduce the opportunity for Crime and Disorder there should be good levels of natural surveillance across the development.
- (2) Amenity Space – Due to the height of the windows there will be limited opportunity for natural surveillance over the amenity space between the Church and Church Hall. Communal/seating areas such as this have the potential to generate crime and anti-social behaviour; they must be designed with due regard for natural surveillance and should not immediately abut residential buildings.
- (3) Dwelling identification – Clear naming and/or numbering of properties will be essential to assist visitors, postal workers and the attendance of emergency services.
- (4) Communal entrances – To prevent unrestricted access into buildings secure doorsets and access control systems should be used on all communal entrances. Trade release buttons must not be used.
- (5) Cycle Parking - Cycle parking should be located in secure rooms or in areas with good levels of natural surveillance.
- (6) Secured by Design (SBD) – Secured by Design is a national crime prevention initiative based upon the principles of "*designing out crime*" and incorporates the latest security standards to address emerging criminal methods of attack.
- (7) *Section 17 of The Crime and Disorder Act (1998) places a duty on the Police and local authorities, (including in their role as planning authorities), to do all they reasonably can to prevent crime and disorder in its area including anti-social and other behaviour adversely affecting the local environment.*

66. In addition, I would ask the developer to consider:

Mail delivery - Communal mail delivery should be considered by the applicant to enable security of mail yet not compromise security access into the building.

Lighting of footpaths/amenity space – Footpaths that are to include lighting should be lit to the relevant levels as defined in BS 5489:2013. It is important that the landscape architect and lighting engineer coordinate their plans to avoid conflict between lighting and vegetation.

## **Assessment of planning considerations**

### **Relevant development plan policies**

67. **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
- JCS3 Energy and water
- JCS4 Housing delivery
- JCS5 The economy
- JCS6 Access and transportation



- JCS7 Supporting communities
- JCS11 Norwich city centre
- JCS12 The remainder of the Norwich urban area including the fringe parishes
- JCS20 Implementation

**68. 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
- DM4 Providing for renewable and low carbon energy
- DM5 Planning effectively for flood resilience
- DM6 Protecting and enhancing the natural environment
- DM7 Trees and development
- DM9 Safeguarding Norwich's heritage
- DM11 Protecting against environmental hazards
- DM12 Ensuring well-planned housing development
- DM13 Communal development and multiple occupation
- DM28 Encouraging sustainable travel
- DM30 Access and highway safety
- DM31 Car parking and servicing
- DM32 Encouraging car free and low car housing
- DM33 Planning obligations and development viability

**Other material considerations**

**69. Relevant sections of the National Planning Policy Framework February 2019 (NPPF):**

- NPPF2 Achieving sustainable development
- NPPF5 Delivering a sufficient supply of homes
- NPPF8 Promoting healthy and safe communities
- NPPF9 Promoting sustainable transport
- NPPF12 Achieving well-designed places
- NPPF14 Meeting the challenge of climate change, flooding and coastal change
- NPPF15 Conserving and enhancing the natural environment
- NPPF16 Conserving and enhancing the historic environment

Planning Practice Guidance

Planning (Listed Buildings and Conservation Areas) Act 1990

**70. Supplementary Planning Documents (SPD)**

Affordable housing SPD adopted March 2015

Trees, development and landscape SPD adopted June 2016

## **Case Assessment**

71. 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.
72. It should be noted that since the determination of the 2015 application, the National Planning Policy Framework has been revised twice: in July 2018 prior to the determination of the appeal and again in February 2019, subsequent to the appeal decision. The July 2018 revisions included amended provisions regarding affordable housing and these were addressed by all parties during the appeal and the Inspector's decision was made in accordance with this version. This application must be considered in accordance with the February 2019 version; however the revisions within this do not make any significant changes in relation to the appeal proposal (as they principally relate to methods for calculating housing need).
73. When considering this application, Members should be mindful that the 2015 application was refused for one reason: the absence of a reasonable affordable housing contribution. Prior to the committee's resolution to refuse that application, it had been presented to the planning applications committee recommended for approval but deferred for a site visit and further consideration of flood risk matters which were subsequently satisfactorily resolved. In considering and determining the appeal, the Inspector focused on the main issue of the affordable housing contribution but also gave due consideration to the other issues covered below. As noted above, the only material changes since the determination of the previous application to take into account in the assessment of this application are the revisions to the NPPF. The site and its surroundings are as they were at the time of the determination of the 2015 application and subsequent appeal and there have been no changes to the adopted development plan.

### **Main issue 1: Principle of development**

#### **Principle of new residential development**

74. Key policies and NPPF paragraphs – DM12, DM13, NPPF section 5
75. The 2018 and 2019 revisions to the NPPF maintain an emphasis on significantly boosting the supply of homes. In accordance with Policies JCS4 and DM12, this site, in an accessible location well supported by a range of local services and facilities and within walking distance of the city centre, is appropriate in principle for new housing, subject to the considerations below.
76. The proposal would provide a range of dwelling sizes, catering for different needs and reflecting the mixed demographic of the surrounding area.

#### **Principle of loss of community use**

77. Key policies and NPPF paragraphs – DM22, NPPF paragraph 92

78. Services at the Methodist church ceased in 2013 following a dwindling congregation which rendered the operation of the site as a church to be considered non-viable. The property was extensively marketed as a church/community hall with potential for other uses over a period of nine months and this process is documented in a statement provided by a chartered surveyor.
79. Policy DM22 seeks to protect community facilities and only permits their loss in identified circumstances. It is considered that the application demonstrates these circumstances apply here and, in the determination of the appeal, the Inspector supported this conclusion. The loss of the community use is therefore justified.

## **Main issue 2: Affordable housing viability**

80. Key policies and NPPF paragraphs – JCS4, DM33, NPPF paragraph 62-64.
81. As the principle of residential development of the site is considered acceptable and the scheme proposes more than ten dwellings (threshold revised by paragraph 63 of the NPPF 2018 and 2019), it is necessary in accordance with Policy JCS4 for the development to provide for affordable housing. This policy seeks to secure 33% affordable homes on this scale of development, unless it can be demonstrated that to do so would render the development unviable in prevailing market conditions.
82. The 2015 application was refused because it could not be agreed what commuted sum the development could viably contribute. Over the course of the consideration of that application, revised viability assessments were undertaken and at the time of determination the applicants were offering a commuted sum of £371,800 (or provision of three affordable dwellings on-site – 15% provision). However, officers, in consultation with the District Valuation Service (DVS) considered the scheme to be viable with a contribution of £507,108 (in lieu of the provision of seven affordable dwellings on site – 35% provision). The difference in these figures resulted from disagreement on some of the calculations and assumptions used by the parties – principally, the applicants contested the cost model used by the DVS and did not consider the impact upon values from the integration of private and social housing had been taken into account.
83. Accordingly the two parties could not come to an agreement on the viability calculations and the applicants were not prepared to pay the commuted sum which officers considered viable and necessary. On this basis, the failure of the development to make appropriate provision for affordable housing led to officers making a recommendation for refusal which members resolved to support.
84. The applicants exercised their right of appeal during the course of which the appellants submitted updated viability information which included a cost plan prepared by a quantity surveyor, this made an offer of an affordable housing commuted sum of £3,980. Following a review of the council's detailed submissions as part of the appeal and particularly those relating to land value the appellants revised their offer to £167,172. Therefore by the time of the final hearing session in October 2018 the parties had come to agreement on all but two of the nine issues initially in dispute: the split of leasehold/freehold properties and cashflow arrangements. This resulted in a difference of £38,362 between the £205,534 that the Council considered appropriate and the £167,172 offered by the appellants.

85. Changes in market conditions, detailed cost appraisals by quantity surveyors (for both the appellant and the Council) and revised guidance in the Planning Practice Guidance (PPG) published in July 2018 on standardised inputs into viability assessments account for a large part of the changes from the figures considered in July 2017 when the application was determined, e.g. the appellant's benchmark land value was originally £825,000 but the PPG advocates a standardised 'Existing use value plus' methodology and the parties agreed a benchmark land value of £630,000 on this basis. Costs however increased significantly following the review by quantity surveyors from £1.9m to £2.7m.
86. In determining the appeal, the Inspector considered these two outstanding matters, but also the wider viability issues, including those raised by the July 2018 revisions to the NPPF and third party representations pertaining to these.
87. One of the more significant revisions the July 2018 NPPF introduced was to place greater emphasis on assessing development viability at plan making stage, rather than decision stage (paragraph 57). Policies JCS4 and DM33 make provision for the proportion of affordable housing to be reduced on applications where it is demonstrated that the site cannot viably provide a policy compliant level and the 2015 application was considered on this basis. At appeal the council took account of the revisions to the NPPF but contended the site's circumstances (historic buildings, brownfield site, mix of conversion and new build) meant it remained appropriate to consider viability at decision stage, rather than assuming the 33% policy requirement would be viable. The appellants did not contest this but third parties did make representations to the contrary and considered that, in accordance with paragraph 57 of the revised NPPF, the development should provide 33% affordable housing in accordance with JCS4 and no regard should be had to the submitted viability assessment as the appellants had not demonstrated there were particular circumstances to justify it. The Inspector took account of the representations by all parties on this matter and concluded that, due to the circumstances of the site and proposal (as identified by the council) and the need for a bespoke approach to viability as demonstrated by the detailed nature of the submitted assessment prepared by specialist costs consultants, it is "entirely appropriate to consider the requirements of Policy JCS4 on this proposal in the context of a specific viability assessment". The appeal was therefore determined on this basis and it is also considered appropriate for this application to be considered on the basis of the submitted viability assessment.
88. The Inspector also accepted that it is appropriate to secure a commuted sum in lieu of on-site provision in this case due to the small numbers involved, location and reluctance of registered providers to manage on-site units here.
89. Another change introduced by the 2018 revised NPPF was the expectation that applications proposing ten or more dwellings should provide at least 10% of the homes for affordable home ownership as part of the affordable housing provision (paragraph 64). Exceptions to this are identified and in representations on the appeal the Council identified that securing the maximum reasonable financial contribution for use to provide affordable or socially rented housing off site would best help meet the particular need for affordable housing in Norwich. The Inspector had regard to these material considerations and concluded that making a contribution to affordable rented homes would not conflict with paragraph 64 which sets out an expectation, rather than a requirement, with regards affordable ownership.

90. Therefore, having considered the implications of the revisions to the NPPF on the provision of affordable housing for this development, the only outstanding matters for the Inspector to consider were those where the two parties disagreed: the leasehold/freehold split and cashflow arrangements.
91. The council's assessment of viability assumed all 20 dwellings would be leasehold on the basis this would be the best way to manage this heritage building, however the appellant's assumed 12 would be leasehold and eight would be freehold. This difference in ownership affects the amount of ground rental income the scheme would generate. There is no standardised method for approaching this issue in viability assessment and the appellants contended that there were structural, legislative and commercial reasons for their approach which the Inspector was persuaded by and determined that ultimately the decision rests with the developer and would be made on a commercial basis. He also noted that there would be no planning control over the ultimate split between the two tenures. The Inspector therefore accepted the leasehold/freehold split and consequent ground rent income.
92. The Council and appellant's cashflow assessments differed by one month in the costs and receipts windows, resulting in a £5,000 difference in the contribution that could be made to affordable housing. The Inspector did not consider the appellant's assumptions to be unreasonable, noting the uncertainties in the construction of this major building project on a constrained site in a residential area. The appellant's values were therefore adopted by the Inspector.
93. The Inspector was satisfied that the other values and assumptions which had been agreed by the two parties between submission of the appeal and the final hearing were reasonable and, having also taken into account third party representations, he concluded that the appellant's figure of £167,172 was the maximum reasonable financial contribution for affordable housing. This application proposes this figure on the basis of the final viability assessment submitted in respect of the appeal as supported by the Inspector.
94. In order to secure this commuted sum, a Section 106 agreement is necessary. A Section 106 is a bilateral agreement by which all parties to it (landowner, local planning authority and any other parties with an interest in the land) are bound by the specified provisions. In advance of the final hearing session, an agreement had been prepared and signed by the appellant's and the council (subject to agreement on the contribution to be made). As the appellants do not yet own the site, it was also necessary for the freeholder, the Trustees for the Methodist Church, to sign the agreement and for the Trustees, or their successors in title, to be bound by its provisions. Prior to signing, the Trustees required amendments to the agreement which the council considered would present a risk that the payment of the affordable housing contribution would not be enforceable should the Trustees themselves implement the planning permission. The council were not, therefore, prepared to sign this amended agreement.
95. As an alternative means of securing payment of the affordable housing contribution, the appellants submitted a unilateral undertaking (UU) to the Inspector. The Inspector considered whether the council could rely on this to secure the contribution and concluded that the wording used would not bind the current freeholder of the land and thus not also their successor in title (intended to be the appellants); it would therefore not be enforceable. The undertaking also assumed that the appellants would, as intended, buy the site, and undertake the

development. However, there was no binding provision on any other party who may buy the site instead. The Inspector therefore concluded that he was “not satisfied the submitted UU would make the necessary provision for off-site affordable housing contributions”. In the absence of any means of securing this provision, the Inspector concluded the development would not accord with Policies JCS4 and DM33, the NPPF or PPG.

96. Therefore, whilst the Inspector had agreed with the appellants’ viability assessment and concluded that £167,172 is the maximum reasonable contribution this development could make to off-site affordable housing, the absence of an appropriate mechanism to secure this was the reason for the appeal being dismissed.
97. This current planning application was originally proposed with a affordable housing commuted sum of £3,980 which has subsequently been revised to an offer of £167,172 consistent with that considered to be the maximum reasonable contribution by the planning Inspector. It is appreciated that representations have been made on this application which consider the contribution to be insufficient and urge the Council to secure the full 33% JCS4 requirement. However, given the Inspector’s analysis and conclusions, officers do not dispute the content of the assessment or that this is the maximum reasonable contribution the development can make. If the payment of this contribution can be secured by appropriate means with this planning application, then the development must be considered acceptable in this respect.
98. The failure to execute an appropriate Section 106 agreement was because the Trustees of the Methodist Church, as current freeholders, must be a party to it and insisted on amendments which the Council could not agree to. Prior to the Trustees involvement, the council and applicants had both signed an agreement acceptable to both parties. To overcome the issue which caused the dismissal of the appeal and obviate the need for the Trustees to be a party to the agreement, the applicants intend to purchase the site and sign an agreement once the sale is complete. They do, however, require the comfort of a resolution to grant planning permission prior to exchanging contracts. This approach is not unacceptable but it is recognised there may be a time delay associated with and accordingly the resolution below seeks to manage the timescale for completion of an agreement. In principle, the alternative of negotiating an agreement which is acceptable to all parties, including the Trustees, also remains a viable option.
99. In summary, it is considered necessary for this development to make a viable contribution to off-site affordable housing and a Planning Inspector has concluded that the maximum reasonable sum is £167,172. The appeal failed due to the absence of an appropriate mechanism to secure this payment. Officers are satisfied that approval of this planning application can be subject to an appropriate agreement and, on the matter of securing an appropriate affordable housing contribution (which was the sole reason for refusal of the 2015 application and dismissal of the appeal), the proposal is considered acceptable.

## **Main issue 2: Design and heritage**

100. Key policies and NPPF paragraphs – JCS2, DM3, DM9, NPPF sections 12 and 16

The application site occupies a prominent position in the Heigham Grove Conservation Area and the locally listed buildings are considered to make a positive contribution to it; an assessment which the Inspector supported. The Planning (Listed Buildings and Conservation Areas) Act 1990 requires that special attention is paid to the desirability of preserving or enhancing the character or appearance of such areas and the DM9 and the NPPF also seek to retain the significance of locally listed buildings (non-designated heritage assets) and protect them from loss or harm.

101. Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 places a statutory duty on the local authority 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 conservation areas when carrying out the balancing exercise.
102. Applications 18/00503/O and 18/00504/O proposed varying levels of demolition of the existing buildings. Representations on those applications and this one have suggested clearance of the buildings and redevelopment with housing would be a preferable option, however the loss of a non-designated heritage asset and harm it would cause to the Conservation Area was considered unacceptable and contributed to the refusal of the two demolition schemes.
103. Whilst this conversion scheme would result in the loss of the community use of the buildings which contributes to their heritage value, a new residential use is considered likely to be one which secures their optimum viable use and long term conservation. Sub-division to achieve this will not be without harm to the internal character, but is unavoidable given the nature, layout and scale of the buildings.
104. In terms of design, the proposal includes the removal of harmful extensions, retention/relocation of key features and alterations which are considered to strike a balance between achieving a functional residential conversion and preserving the historic character of the buildings. The most significant visual change would be the addition of a two storey extension over the existing two storey flat roof at the rear of the church hall. In scale and form this has been designed to read as a subservient later addition to the host building and provide some coherence to this rear elevation. Use of a contrasting zinc material reinforces the appearance as a later and more contemporary addition whilst complementing the original ecclesiastical buildings. The amenity impacts of this extension are considered below, but it is considered appropriate in design. Representations have raised concern about whether four storeys is appropriate here, however the proposed extension is a relatively minor addition and no higher than the existing buildings on site.
105. The potential to reveal the original Boardman façade of the church hall, rebuilding of the church porch, relocation of stained glass and preservation of key artefacts for heritage interpretation should all be secured by condition to protect the significance of heritage assets and balance against the harm caused by some alterations necessary to facilitate the conversion.
106. Whilst parking would be retained on the Park Lane frontage, a landscaping scheme offers an opportunity to improve the appearance of this area in the streetscene and secure appropriate treatment of boundaries and amenity spaces. Secured by

Design principles are proposed to be followed and those details can be considered by condition.

107. Many representations have raised concern about the density and overcrowding of development. This is considered to be a reasonably high density scheme which can be achieved without significant detriment to the historic character of the area in accordance with criterion (e) of Policy DM3. The amenity impacts are considered below.
108. In summary, it is recognised that the proposal would result in less than substantial harm to the undesignated heritage asset as a result of the internal and external alterations necessary to facilitate the conversion and the loss of the community use. However, in accordance with paragraph 197 of the NPPF, a balanced judgement should be made in such cases and it is considered that conversion would retain the positive contribution the site makes to the Conservation Area. There are also benefits with regards the restoration and preservation of historic features and artefacts and the provision of 20 dwellings to the city's housing need is a further public benefit weighing in favour of the proposal against the less than substantial harm to the designated and non-designated heritage assets.
109. At appeal, the Inspector considered the development would "retain the principal and architectural features of the key buildings on the site", "respect the architectural and historical merit of the property and I consider would not be harmful to its character and appearance" and "preserve and enhance the character and appearance of the Conservation Area". The proposal is therefore considered acceptable in design and heritage terms, subject to conditions, in accordance with Policies DM3, DM9, paragraphs 193, 196, 197 and 199 of the NPPF and section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

#### **Main issue 4: Transport**

110. Key policies and NPPF paragraphs – JCS6, DM28, DM30, DM31, NPPF section 9
111. Parking, traffic and highway safety are significant concerns raised in the representations.
112. The site is in a highly accessible location adjacent to a defined local centre, within walking distance of the city centre, approximately 220 metres from high frequency bus stops, in proximity to several Car Club spaces and on the Pink Pedalway for cyclists. Therefore, whilst the development would provide 11 parking spaces for 20 dwellings the site is considered appropriate for low car and car-free housing in accordance with Policy DM32. Residents would be aware of the availability, or otherwise, of parking spaces prior to purchase or rent and ample cycle storage is proposed to promote more sustainable travel. Ten of the parking spaces would make use of the existing area of seven spaces on the Park Lane frontage that would be extended by removal of extensions to the church hall and be of not unacceptable dimensions. The Inspector noted the highly accessible location in a controlled parking zone and considered "the proposed car parking provision would be acceptable and would accord with Policy DM32 of the DMP Plan".
113. The new dwellings would not be eligible for on-street parking spaces in the controlled parking zone and the existing restrictions are considered adequate to



protect parking in the surrounding area. Short stay bays in proximity to the site can meet the needs of deliveries and visitors whilst a construction method statement including arrangements for deliveries and parking is proposed to be agreed by condition to manage this during the development phase.

114. With regards traffic generation, the site has an existing lawful use as a place of worship and whilst the use has been low level and the congregation small in recent years, the site could attract much higher levels of traffic (and parking demand). Relative to this, the traffic associated with the proposal would be low and is not considered to result in significant impacts to the surrounding area.
115. The junction between Park Lane and Avenue Road, which has a speed table and 20mph limit, does not have any inherent accident problem and given that the proposal would only marginally increase on-site parking it is not considered to present any significant harm to highway safety. The Inspector considered this matter and representations made by third parties in this respect, including at a site visit, and concluded "I have no evidence before me that the proposed development would cause harm to highway safety". Accordingly, it is not considered necessary or reasonable to require this development to deliver improvements to the junction.
116. The details of secure, covered cycle storage can be secured by condition as can refuse storage which the plans and proposed management strategy indicate can be satisfactorily provided for without detriment to amenity, highway safety or the convenience of collection.

#### **Main issue 5: Amenity**

117. Key policies and NPPF paragraphs – DM2, DM11, NPPF paragraphs 127 and 178-182
118. The impact on the amenity of neighbouring properties and standard of amenity for future occupiers are significant considerations in this densely populated urban area with adjacent dwellings in close proximity, particularly on the north and west boundaries. They are considerations which have been raised throughout representations on this and the previous application and were taken into account by the Inspector, including during a site visit to several of the neighbouring properties.

#### **Impact on neighbouring amenity**

##### **Overlooking/loss of privacy and overbearing/over-dominant building**

119. By virtue of introducing new floors and rooms behind existing windows, providing new windows and extending the existing church hall building, there would be greater opportunities for overlooking than at present. This is most likely from the upper floors of the church hall looking north to 79 Park Lane and from the side and rear windows of the proposed extension to the rear gardens of dwellings on Avenue Road and Doris Road.
120. To minimise this, the application proposes: obscure glazing to upper floor windows with potential for overlooking; the lower roof lights are over voids and upper roof lights are high level within the rooms and pitched away from the neighbouring property; recessed windows are proposed on the west elevation of the extension; and, other windows are not full height. These measures along with screening by existing features and the oblique angle of some views would reduce the potential

for overlooking and loss of privacy. Regard should also be had to the tight knit environment of neighbouring properties and their gardens as overlooking of rear gardens already occurs from upper floor windows of surrounding dwellings.

121. Upper floor external terraces are proposed to the church and Boys Brigade buildings and the combination of screening measures and distance to neighbouring properties would avoid any harm from overlooking to the surrounding area.
122. The siting and form of the two storey extension and stairwell are such that the height of the existing flat roof nearest the boundary with 79 Park Lane would not be extended and the new roofs would pitch away from this neighbouring dwelling. It is not therefore considered there would be any significant harm from a sense of overbearing.
123. The Inspector considered that “the design of the proposed development would avoid any material loss of outlook or sense of overbearing to the occupants of adjacent properties”. Subject to agreeing the details of obscure glazing, window recesses, openings configurations and terrace parapets and glazed balustrades, it is not considered the development would result in any unacceptable overlooking or loss of privacy that would be contrary to Policy DM2.

### **Loss of light/overshadowing**

124. As with the 2015 application, a Daylight/Sunlight Assessment has been submitted to assess the impact of the extensions and has been produced by a consultant engineer based on BRE guidance and methodologies. This was subject to a high level of scrutiny on the previous application and at appeal. During the Inspector’s site visit he visited 77 and 79 Park Lane and 4 and 6 Doris Road and went into some of the rooms concerned.
125. The assessment is based on the Vertical Sky Component (VSC) (the amount of skylight reaching a window) and the Annual Probable Sunlight Hours (APSH). BRE guidance establishes a 27% VSC value signifies adequate levels of natural daylight and where levels are below 27%, any reduction caused by development should be kept to a minimum and should not be less than 0.8 times its former value. No windows would fall below 0.8 times their former VSC value as a result of the proposal. The Inspector noted that “this would mean that occupants would be unlikely to notice a difference in terms of daylight levels”.
126. The BRE guide recommends that main habitable rooms should receive at least 25% of the APSH and considers three factors to assess whether sunlight availability may be adversely affected. These are if the centre of the affected window: receives less than 25% of APSH, or less than 5% of APSH annual probable sunlight hours between 21st September and 21st March; and, receives less than 0.8 times its former sunlight hours during either period; and, the overall annual loss is greater than 4% of APSH.
127. The assessment concludes that although the development will result in a loss of direct sunlight to windows in neighbouring properties, none of the windows included in the study fail all three BRE criteria. By BRE standards therefore, the proposed development would not have a significantly harmful impact upon the direct sunlight reaching neighbouring properties. Windows affected include those to a wet room, hallway and study/bedroom at 79 Park Lane, to a kitchen at 6 Doris Road and an

unidentified room at 10 Doris Road. Whilst some of these windows would experience reductions in APSH that represent large proportions, they are from relatively low existing baseline positions.

128. It is noted that some representations suggest that the BRE guidelines do not form a meaningful assessment of the matter and that the Inspector did not give the matter full consideration in the appeal. Whilst it was not a reason for refusal of the 2015 application and thus not the main focus of the appeal, the Inspector did hear extensive representations on this matter and visited affected properties to observe the situation. In considering this aspect of the assessment, the Inspector concluded “none of the windows would fail all three BRE criteria as a result of the proposal and therefore in accordance with BRE standards, I consider that the proposal would not have a significantly harmful impact upon neighbouring properties”.
129. Inaccuracies and errors in the assessment were raised on the original application and addressed. A representation on this application received subsequent to the appeal decision has raised an additional matter highlighting that the data supporting the assessment identifies that the Vertical Sky Component figures for three affected windows would increase as a result of the development – i.e. they would receive more skylight. Given that the proposal is to build an extension which is likely to obstruct light, this appears counter intuitive. The consultant has considered this point and confirmed that these increases were noted when the results were first obtained and that they are correct. The analysis was conducted using industry-standard software and apparently the software’s calculation algorithms can result in negligibly small variations in output results. The increases are from 11.42 to 11.72%, 23.99 to 24.27% and 22.30 to 22.45%. The existing VSC figures are therefore all below the 27% standard. As a figure of 0.8 times, or difference of 20%, is used to indicate where there would be a noticeable difference in daylight levels, these minor changes are considered to be negligible. It should also be noted that these figures affect three of 74 windows tested and the application must be considered in the context of the overall assessment and amenity matters as a whole. There will always be a margin of error when using such technical models and, taking into account the consultant’s explanation and the negligible difference in figures, the assessment is considered sufficiently sound to inform the determination of this application.
130. With regard to external areas, an overshadowing study demonstrating there would be a minor increase in overshadowing to rear gardens of 6 and 8 Doris Road and 79 Park Lane but not to any significantly harmful degree.
131. In concluding the matter of daylight/sunlight, the Inspector said: “On the basis of the evidence before me, I consider that there would be no material harm to living conditions of the occupants of neighbouring properties with regard to daylight and sunlight as a result of the proposal”. The proposal is therefore considered acceptable in this respect in accordance with Policy DM2.

### **Noise/smell/activity disturbances**

132. Relative to the existing lawful use, the development would not result in significant numbers of people on site at any one time and thus not generate the same level of activity. External terraces would locate some of this activity in more exposed positions, however due to the buffering by existing buildings, distances between

dwellings and context of surrounding gardens, it is not considered these would result in any significant harm to residential amenity.

133. Use of a communal passage along the side of the church hall adjacent to the boundary with 79 Park Lane would increase activity in this area of the site but not to such a level that is considered harmful to neighbouring amenity and this can be further mitigated with landscape improvements to this boundary to be agreed by condition through a landscaping scheme.
134. The siting of the bin stores is not considered result in any harm to neighbouring properties and the detailed design to be agreed by condition can ensure these do not result in any nuisance.
135. Amenity impacts during construction on this tight site in a residential area can be satisfactorily managed by agreeing a construction method statement by condition.

### **Amenity of future occupants**

136. The majority of the proposed dwellings would satisfy internal space standards, however three units would not – most significantly by 7 square metres. Given the constraints of converting an historic building and the fact the majority of units would comply with or exceed standards, the development as a whole is considered acceptable in this respect. Whilst the main habitable rooms in all units are well served by windows to provided adequate daylight, several units would have limited outlook due to the tightknit nature of the existing buildings on site and those surrounding it. This would be apparent to occupiers prior to purchasing or renting a property here and it would be balanced against the benefit of living in a development of unusual character, otherwise offering a high standard of amenity in an urban area.
137. Opportunities to provide outdoor amenity space on site are limited, however it is considered the scheme makes the most effective use of the space available whilst respecting neighbouring amenity and the heritage value of the site. Seven units would have their own external terraces whilst communal spaces would also be provided. Although these are limited in size and outlook, a landscaping scheme to be agreed by condition can maximise the quality of these spaces and enhance the soft landscaping of the site. The site is also in proximity to Heigham Park and Chapelfield Gardens which provide high quality public outdoor spaces within walking distance.
138. To mitigate noise from the road junction, noise attenuation measures are considered necessary for those units closest to it.

### **Main issue 8: Flood risk and drainage**

139. Key policies and NPPF paragraphs – JCS1, DM5, NPPF section 14
140. The risk of surface water flooding to the site was considered extensively in the determination of the 2015 application. Whilst the LLFA maintained an objection, officers were satisfied the risk could be satisfactorily managed by conditions.
141. The same flood risk information has been submitted in respect of this application and the LLFA have maintained on their objection on the following ground:

- The development changing vulnerability categories from less (a community building) to More Vulnerable (Housing) is at risk of flooding from surface water. We request that it is demonstrated that these risks can be managed to remain safe for the lifetime. In particular regard to the two proposed dwellings with bedrooms at lower ground floor in the current Old School Room/Church Hall.
142. The site is at risk of inundation from surface water flooding in the lower portion of the site to the west and the LLFA consider, in accordance with paragraph 155, that the risk should be avoided altogether and that the lower ground floor should be maintained as storage, rather than habitable accommodation.
143. Amendments to the 2015 application which have been re-submitted with this application gave the two storey units at risk safe access and egress and a place of refuge at upper levels. Three units in the lower ground floor of the church hall (CH1, CH2 and CH3) are on a single storey and additional measures are proposed to all units at risk, including the provision of flood resistance measures up to 600mm above ground level and resilience measures up to 1 metre above ground level. The LLFA have identified that, in the event of permission being granted, a condition securing these measures would be appropriate.
144. It is accepted that the development would introduce more vulnerable development into an area of flood risk, however weight is attached to the fact that this represents a small number of flats in the context of the overall development and regard is had to the pre-existing lawful use of the building and the extensive flood mitigation measures proposed. Whilst, as a conversion proposal, it is not necessary for the development to pass the Sequential Test which seeks to steer development to areas with the lowest risk of flooding, the sequential approach has been applied as far as possible within the site with resilience and resistance measures to mitigate the residual risk. In considering the matter of flood risk to the development, the Inspector concluded "I am satisfied that with such measures secured, the proposal would not cause harm to the living conditions of future occupants with regard to flood risk".
145. At present, virtually the whole application site is covered by impermeable surfaces and the development includes areas of demolition and the provision of permeable surfacing and soft landscaping to improve the drainage capacity of the site. Due to the need for a 10 metre separating distance it will not be possible to install soakaways. However, it is proposed to undertake a survey to determine the potential for on-site storage and the potential to reduce out-flow. Given the above measures the proposal would have a positive impact in reducing surface water flooding in the surrounding area in accordance with policy DM5. Both Anglian Water and the LLFA have identified that a condition concerning the surface water drainage design would be necessary should the application be approved.
146. At appeal, the Inspector noted this is an existing developed site and is impermeable. He went on to say: "I consider that if the appeal were to be allowed, then subject to the imposition of a condition requiring a detailed surface water drainage to be submitted to and approved by the Council, and then implemented, the proposal would be acceptable in terms of impact on overall flood risk".
147. It is appreciated that there have been incidences of surface water flooding locally and that representations on this application have attributed this to an overloaded sewerage system. Representations have identified that whilst the proposed

dwellings at risk would be provided with resilience and resistance measures, those existing neighbouring dwellings at risk would not. As considered above, the surface water drainage of the site can be considered by condition, including agreeing any discharge rate to the surface water sewer with Anglian Water and receiving their confirmation that it would not increase flood risk downstream as a result of the development.

148. With regards foul sewerage, Anglian Water have confirmed that the system has capacity for the proposed development. The Inspector had regard to this and commented that he considered “that the proposal would not place unacceptable pressure on the sewerage network”.

### **Compliance with other relevant development plan policies**

149. 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.

<b>Requirement</b>	<b>Relevant policy</b>	<b>Compliance</b>
Energy efficiency	JCS 1 & 3 DM3	Yes subject to condition
Water efficiency	JCS 1 & 3	Yes subject to condition
Trees	DM7	Yes subject to condition. The scheme involves the loss of two trees on the Avenue Road frontage. These have limited value and longevity and the development offers an opportunity to secure appropriate re-planting as part of a landscaping scheme to maintain an attractive frontage to Avenue Road and enhance the biodiversity value of the site.
Biodiversity	JCS1, DM6, NPPF section 15	Yes, subject to condition. A Bat Survey has found continued use of the roof by bats and a suitable roof void can be retained with other enhancements secured by condition.
Contamination	DM11 NPPF paragraphs 178-182	The developer is advised that any asbestos encountered on the site, either as part of the existing buildings or as fill material, should be handled and disposed of as per current Government guidelines and regulations.

### **Equalities and diversity issues**

150. It is noted that the three units in the lower ground floor of the church hall would not have a safe refuge above levels of flood risk and would not therefore be suitable for more vulnerable residents. Given the restrictions on the building and value in bringing it back into viable use, the lack of disabled provision is considered to be acceptable in this instance.

## **S106 Obligations**

151. As identified above, a Section 106 agreement is required to secure an off-site contribution to affordable housing. This is necessary to make the development acceptable, directly related to the development and the viability assessment demonstrates that this is fairly and reasonably related in scale and kind to this housing development in accordance with paragraph 56 of the NPPF, section 122 of Part 11 of the Community Infrastructure Levy Regulations 2010 and Policy DM33.

## **Local finance considerations**

152. 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.
153. 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.
154. In this case local finance considerations are not considered to be material to the case.

## **Conclusion**

155. This application is identical to a previous proposal which was refused planning permission and dismissed on appeal. The sole reason for the refusal of permission was the failure to agree an appropriate affordable housing contribution and whilst the appeal process established what is considered the maximum reasonable contribution the development could viably make, no enforceable means of securing this was available to the Inspector.
156. Since the determination of the appeal, there have been no material changes to the circumstances of the site, development plan or other material considerations. This application has been assessed above in light of the representations made on it and these raise no substantial new issues which alter the previous assessment of the proposal. Members should be aware of this and the consequent risks to the Council should they be minded to refuse the application for reasons which were previously considered acceptable by the council/Inspector and this decision be subsequently appealed.
157. It is appreciated this is a sensitive and constrained site occupying a prominent position in a densely occupied area. The proposal is considered to secure the conservation and viable use of locally listed buildings and contribute to local housing need whilst having no unacceptable impacts on amenity, transport and flood risk, subject to the imposition of suitable conditions.
158. The necessary contribution to affordable housing can be secured with an appropriate Section 106 agreement. Whilst the applicants were not able to get all required parties to sign a mutually acceptable agreement previously, they propose

to overcome this by proceeding with the purchase of the site prior to signing an agreement. The recommendation below ensures this is not an open ended process and seeks to bring the long-standing uncertainty over the development of this site to a conclusion for all those affected.

159. 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.

## Recommendation

To:

- (1) approve application no. 18/00962/F - St Peters Methodist Church Park Lane Norwich NR2 3EQ and grant planning permission subject to the completion of a satisfactory legal agreement to include provision of affordable housing and subject to the following conditions:
1. Standard time limit;
  2. In accordance with plans;
  3. Phasing condition;
  4. Operations in accordance with bat mitigation measures and enhancements to be agreed
  5. Construction method statement
  6. Internal and external photographic record
  7. Detailed surface water drainage scheme to be agreed
  8. Method statement for demolition of structures attached to church hall and for repair and reinstatement of façade to be agreed
  9. Structural survey of porch to church and method statement for restoration/rebuilding to be agreed
  10. Materials and details of alterations and extensions to be agreed
  11. Hard and soft landscaping scheme to be agreed
  12. Scheme for 10% energy requirements from renewable or low carbon sources to be agreed
  13. Heritage interpretation scheme to be agreed
  14. Noise attenuation to units C2, C5, C7, C8, CH7 and CH8
  15. Water efficiency
  16. Refuse storage and collection to be managed as proposed in Design and Access Statement
- (2) where a satisfactory legal agreement is not completed within six months of the date of this committee meeting (or such further period as may be agreed between the head of planning services, in consultation with the chair of the planning applications committee), to refuse application no. 18/00962/F - St Peters Methodist Church Park Lane Norwich NR2 3EQ for the following reason:
1. The proposal fails to secure provision of an appropriate off-site contribution to affordable housing. The proposal is therefore contrary to Policy 4 of the adopted Joint Core Strategy for Broadland, Norwich and South Norfolk (2011, amendments adopted 2014), Policy DM33 of the adopted Development Management Policies Local Plan (2014) and paragraph 63 of the National Planning Policy Framework (2019).