

**PLANNING COMMITTEE – 24 AUGUST 2016**

**APPLICATION NO DC/16/2784/RG3**

**LOCATION**

Former Council Offices  
Mariners Street  
Lowestoft  
Suffolk

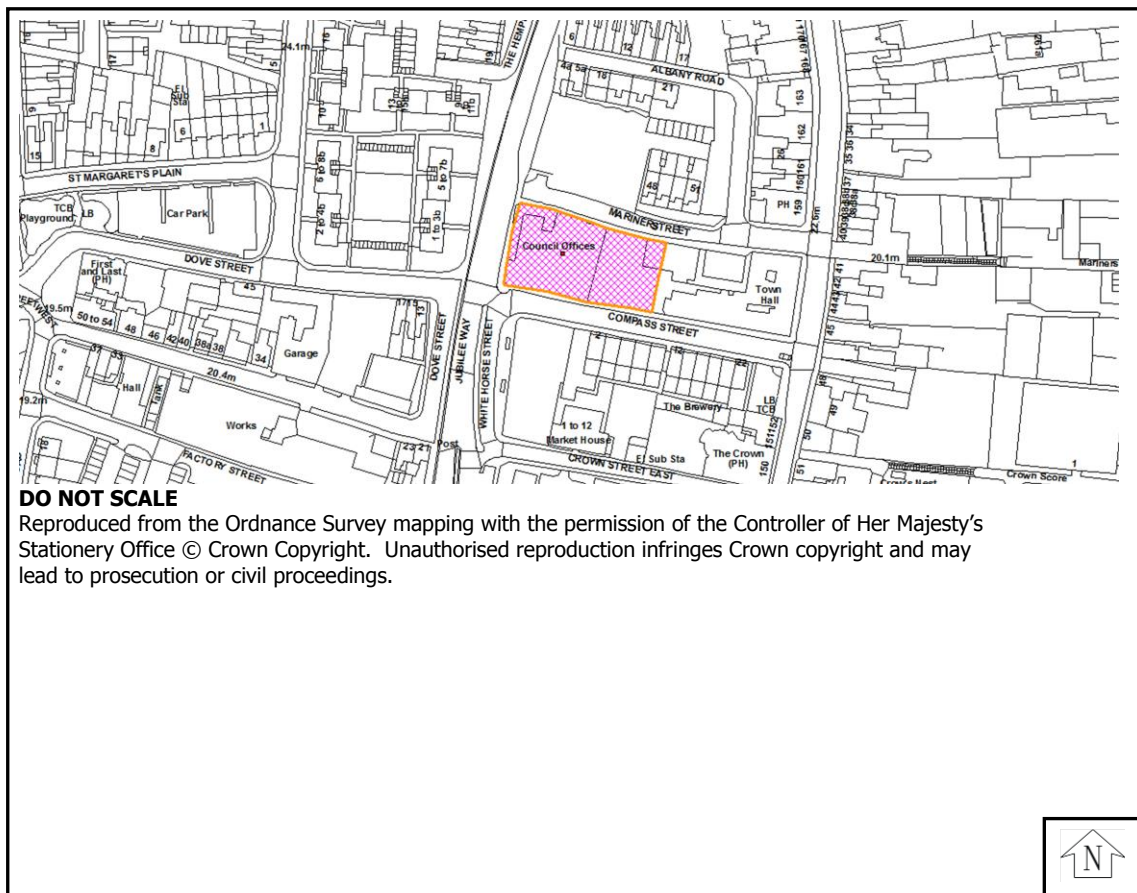
**EXPIRY DATE** 8<sup>th</sup> September 2016.

**APPLICATION TYPE** Full

**APPLICANT** Waveney District Council

**PARISH**

**PROPOSAL** Change of Use from B1 office and ancillary car parking to allow the construction and operation of an A3 restaurant with ancillary A5 takeaway



**SUMMARY**

- 1.1 This application proposes a restaurant and drive-thru take-away on Council owned land to the rear of the Town Hall. The site forms part of a larger area that is allocated for redevelopment under Policy LOW 3. Some new affordable housing has already been built in the area and this application now provides an opportunity to realise some of the commercial elements of LOW 3.

- 1.2 The Town Hall is a listed building and the site is adjacent to the North Lowestoft Conservation Area. The proposal would also see the demolition of the Coopers building, a non-designated heritage asset. Detailed consideration has been given to the impact the proposal would have on these heritage assets, as required by the NPPF.
- 1.3 The proposal will attract people back to the area for the first time since the Council offices were vacated, which will be of benefit to local businesses along the High Street. There are currently no other proposals for the site and it is considered that to leave the site vacant for a further (indefinite) period would not be in the best interests of the site or the area generally. Redevelopment of the site could encourage proposals for the conversion/re-use of the Town Hall to come forward.
- 1.4 Having regard to all the issues it is considered that, on balance, the benefits of the scheme outweigh the adverse impacts and the recommendation is for approval.

## **SITE DESCRIPTION**

- 2.1 The site is situated between Mariners Street to the north, Compass Street to the south and the A12 Jubilee Way to the west. Immediately to the east is the Town Hall, a Grade II listed building located on the High Street. The Town Hall is located within the North Lowestoft Conservation Area, the boundary of which runs to the immediate west (rear of the Town Hall). Consequently the application site and buildings located on it are outside the Conservation Area boundary. The Town Hall and associated structures are currently vacant.
- 2.2 Within the site are a number of former office buildings associated with the Town Hall. Adjacent to the Town Hall are single and two storey flat roofed prefabricated office buildings dating from the 1970's. In the south western part of the site to the corner of Compass Street and Jubilee Way is a two storey building dating from 1873 known as the Cooper's Building. There is another two storey building fronting Mariners Street of mid to late nineteenth century date that was likely used in conjunction with the Coopers building. Both buildings were converted to offices when single and two storey office buildings were constructed around them in the 1980's.
- 2.3 The site covers an area of approximately 0.21ha and is located near the northern end of the High Street, the most historic part of the town. The High Street alone has 36 grade II listed buildings, one grade II\* listed building and 23 locally listed buildings. Along the High Street there is a wide range of traditional, independent retail shops.
- 2.4 To the south of the site is a block of 12 no. flats at Market House on Crown Street and a terrace of 11 recently build houses on Compass Street. At the western end of Compass Street 8 no. terraced houses are currently under construction. To the north is a terrace of 4 no houses on Mariners Street and the former Council car park.

## **PROPOSAL**

- 3.1 The proposed development is an A3 restaurant with ancillary A5 take-away to be occupied by Burger King and includes the following works:
  - The construction of a single storey 'drive-thru' restaurant of approximately 175sqm gross floor area, with an internal area of approximately 75sqm for customers and service, and 100sqm for back of house functions including service yard. The

proposed restaurant has seating for 50 customers and contains 3 no. customer order points.

- Provision of pedestrian access from Mariners Street and Compass Street; and provision of vehicular access in a one-way system with vehicles entering from Compass Street and exiting to Mariners Street.
- 19 no. car parking spaces, inclusive of 2 no. disabled car parking spaces, and 2 no. for staff as well as standing for 7 no. bicycles.
- Erection of traffic control signage & height restrictor.
- Landscaping proposals including hard and soft landscaping and boundary treatments
- Lighting proposals including standard lights illuminating the site and car park
- Building mounted and free standing signage.

3.2 With regards to hard and soft landscaping the following is proposed:

- The northern, western and southern boundaries of the site will be planted with low maintenance ornamental shrubbery, with added medium height evergreen hedge to the northern and southern boundaries
- Fastigate trees are proposed along the northern and southern boundary
- A 2m high buff coloured brick wall at each of the northern and southern corners and flanking a railing on a brickwork plinth in two separate sections along the western boundary of the site facing the A12. The walls are proposed to be capped with a moulded coping stone feature reflecting similar detailing in the Town Hall façade. The railing will have regulation spaced rods and ball finials and painted gloss black.
- Recessed walls are proposed on each corner at the northern and southern end of the site facing the A12 to receive advertising on three panels.

3.3 The materials proposed for the walls of the restaurant include brick slips and composite shiplap panels. The face of the canopy at the takeaway window is metallic silver and there is a red ribbed metal band with LED lighting under the roofline. Windows and doors are proposed in satin black grey with glass.

3.4 Access for vehicles to the restaurant will be via a one way system with traffic entering on Compass Street and exiting Mariners Street. From the A12 Jubilee Way, only traffic heading south will be able to enter the site. Junction improvements are proposed so that traffic heading north on Jubilee Way is prevented from entering the site. If heading north on the A12, traffic must travel past the restaurant and turn right at the roundabout some 320m distance to re-enter the A12 heading south again in order to come to the site. There would be no access to the site by vehicle from High Street as Compass Street is a one way street.

3.5 The proposed restaurant / takeaway is a single storey building with a flat roof and is proposed to be open from 7 a.m. to 11 p.m. seven days a week. The application states that as many as 25 full-time equivalent jobs could be provided.

3.6 In addition to the submitted plans the planning application is supported by the following documents:

- Planning and Design and Access Statement
- Heritage and Context Appraisal
- Transport Statement
- Sound Assessment
- Archaeological Evaluation Written Scheme of Investigation
- Landscape Management and Maintenance Plan

- 3.7 It should be noted that a separate application has been submitted in respect of the proposed illuminated signage (DC/16/2787/RG3). There is also a separate Prior Notification application in respect of the demolition of the buildings on the site (DC/16/2733/DEM and a separate outline application for the redevelopment of the Council car park on Mariners Street (DC/16/2786/RG3).

## **CONSULTATIONS/COMMENTS**

**Neighbour Consultation/representations:** 19 neighbouring properties were notified of the application.

- 4.1 One representation has been received on the grounds the proposal is not very in keeping with the historic end of the town and is to the detriment of residents and businesses in the area.

### **Consultees**

4.2 **Suffolk County Council Highways:**

Notice is hereby given that the County Council as Highway Authority recommends that any permission which that Planning Authority may give should include the conditions shown below:

1 AL 2

Condition: No part of the development shall be commenced until details of the proposed access (including the position of any gates to be erected and visibility splays provided) have been submitted to and approved in writing by the Local Planning Authority. The approved access shall be laid out and constructed in its entirety prior to the occupation of the property.

Thereafter the access shall be retained in its approved form.

Reason: To ensure that the access is designed and constructed to an appropriate specification and made available for use at an appropriate time in the interests of highway safety.

2 B2

Condition: Before the development is commenced details of the areas to be provided for storage of Refuse/Recycling bins shall be submitted to and approved in writing by the Local Planning Authority.

The approved scheme shall be carried out in its entirety before the development is brought into use and shall be retained thereafter for no other purpose.

Reason: To ensure that refuse recycling bins are not stored on the highway causing obstruction and dangers for other users.

3 P 1

Condition: The use shall not commence until the area(s) within the site shown on Drawing No. 15-12-24-03 Rev P3 for the purposes of [LOADING, UNLOADING,] manoeuvring and parking of vehicles has been provided and thereafter that area(s) shall be retained and used for no other purposes.

Reason: To ensure that sufficient space for the on site parking of vehicles is provided and maintained in order to ensure the provision of adequate on-site space for the parking and manoeuvring of vehicles where on-street parking and manoeuvring would be detrimental to highway safety to users of the highway.

- 4.3 **Suffolk County Council Archaeology:** Were consulted on 27<sup>th</sup> July 2016

- 4.4 **Suffolk County Council Lighting Engineer:** At present I would make the following comments with regards to the planning application.

1: It has been brought to my attention that wall light A1481 which is attached to the former Council building requires removal as part of the demolition. There is no mention of this in any documents as far as I am aware?

2: The documentation states that there will also be exterior lighting columns with an isolux plan provided.

The lighting design exceeds the limits of light spill therefore this design will be rejected. Extract of design information within the application is detailed as follows:

*7.58 Lighting is directed inward to the site and away from neighbouring residential properties on Compass Street. This is illustrated in the Lighting Plan which shows decreasing external*

*lighting levels from a maximum 35 Lux within the site to 10 Lux at Compass Street, and decreasing to 1 Lux at the edge of the site of the housing development adjacent.*

(Section A4 of the planning act shown below states the following)

*A4) The value of illumination, at ground level, must be no greater than 1 lux at the highway boundary.*

The design currently shows that there is 10 Lux at the highway boundary and 1 Lux on the opposite side of the road.

3: The documentation also states that there will be a recessed uplighter to illuminate the stained glass window of the Council Chambers.

There is no design detail for this uplighter and the lighting plan shows that it will be a flood light attached to a column and not a recessed uplighter.

Consideration must be taken with regard to lighting of buildings, i.e. light source / light spill / sky glow etc.

A design will be required for the illumination of this window.

4: The application will also have to be passed onto Highways England for their consideration as this site is adjacent to the A12.

4.5 **Suffolk County Council Fire and Rescue Service:** Were consulted on 28<sup>th</sup> July 2016

4.6 **WDC Environmental Health Officer: Contaminated Land:** There does not appear to be any information concerning the investigation or assessment of the site in regards to contamination. While use as an office would not be considered to be potentially contaminative what has the site been used for previously? In addition, as the site has been previously developed, there will almost certainly be made ground present – particularly under the car park areas. Made ground is inherently associated with contamination including asbestos, heavy metals, PAHs and TPHs. Such contamination could have an impact on the proposed end use (particularly services such as the water supply), demolition / construction workers; nearby residents and the wider environment. It would be best if the site was subject to competent assessment prior to development commencing. This work, together with any remediation and validation that is subsequently required, could be secured using the model conditions:

4.7 "Unless otherwise agreed by the Local Planning Authority, development other than that required to be carried out as part of an approved scheme of remediation must not commence until conditions 1 to 4 have been complied with. If unexpected contamination is found after development has begun, development must be halted on that part of the site affected by the unexpected contamination to the extent specified by the Local Planning Authority in writing until condition 4 has been complied with in relation to that contamination.

#### 4.8 1. Site Characterisation

An investigation and risk assessment, in addition to any assessment provided with the planning application, must be completed in accordance with a scheme to assess the nature and extent of any contamination on the site, whether or not it originates on the site. The contents of the scheme are subject to the approval in writing of the Local Planning Authority. The investigation and risk assessment must be undertaken by competent persons and a written report of the findings must be produced. The written report is subject to the approval in writing of the Local Planning Authority. The report of the findings must include:

(i) a survey of the extent, scale and nature of contamination;

(ii) an assessment of the potential risks to:

- human health,
- property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes,
- adjoining land,
- groundwaters and surface waters,
- ecological systems,
- archeological sites and ancient monuments;

(iii) an appraisal of remedial options, and proposal of the preferred option(s).

This must be conducted in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11'.

#### 4.9 2. Submission of Remediation Scheme

A detailed remediation scheme to bring the site to a condition suitable for the intended use by removing unacceptable risks to human health, buildings and other property and the natural and historical environment must be prepared, and is subject to the approval in writing of the Local Planning Authority. The scheme must include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works and site management procedures. The scheme must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.

#### 4.10 3. Implementation of Approved Remediation Scheme

The approved remediation scheme must be carried out in accordance with its terms prior to the commencement of development other than that required to carry out remediation, unless otherwise agreed in writing by the Local Planning Authority. The Local Planning Authority must be given two weeks written notification of commencement of the remediation scheme works.

Following completion of measures identified in the approved remediation scheme, a verification report (referred to in PPS23 as a validation report) that demonstrates the effectiveness of the remediation carried out must be produced, and is subject to the approval in writing of the Local Planning Authority.

#### 4.11 4. Reporting of Unexpected Contamination

In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken in accordance with the requirements of condition 1, and where remediation is necessary a remediation scheme must be prepared in accordance with the requirements of condition 2, which is subject to the approval in writing of the Local Planning Authority.

Following completion of measures identified in the approved remediation scheme a verification report must be prepared, which is subject to the approval in writing of the Local Planning Authority in accordance with condition 3."

4.12 Alternatively, as the site and proposed end use are relatively low risk, it could be appropriate to permit development but require that the site is inspected following clearance by a competent person and that any suspected contamination encountered during demolition / construction is reported. These works could be secured using conditions such as:

“Condition 1:

Following site clearance and demolition, but prior to development, the site will be inspected by a competent person (as defined by the NPPF) for the presence of contamination. Prior to the commencement of development the results of the inspection must be submitted in writing to, and approved by, the local planning authority.

4.13 Condition 2:

In the event that contamination is found or suspected at any time when carrying out the approved development, including the inspection required under condition 1, it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be completed in accordance with a scheme to assess the nature and extent of the contamination on the site. The contents of the scheme are subject to the approval in writing of the Local Planning Authority. The investigation and risk assessment must be undertaken by competent persons and a written report of the findings must be produced. The written report is subject to the approval in writing of the Local Planning Authority.

4.14 Where remediation is necessary a detailed remediation scheme must be prepared, and is subject to the approval in writing of the Local Planning Authority. The scheme must include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works and site management procedures. The scheme must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation. The approved remediation scheme must be carried out in accordance with its terms. The Local Planning Authority must be given two weeks written notification of commencement of the remediation scheme works. Following completion of measures identified in the approved remediation scheme, a verification report (referred to in PPS23 as a validation report) that demonstrates the effectiveness of the remediation carried out must be produced, and is subject to the approval in writing of the Local Planning Authority.”

4.15 **WDC Environmental Health Officer: Noise:**

4.16 Noise during the construction phase

Assessment has been undertaken in relation to the potential construction impacts in accordance with BS5228 and these indicate that significant impacts will occur at some stage to all receivers during the construction of the development. This means that ‘best practicable means’ should be employed to reduce and control noise levels according to BS5228 and ensure that the noise impacts are managed appropriately. The report recommends that a Control of Pollution Act Section 61 Agreement is put in place to ensure that the potential noise effects are minimised. This could be made a condition of the planning consent, and that a Section 61 Agreement is obtained before construction work commences.

4.17 All construction activities should take place between 07.30 – 18.00 Monday to Friday and Saturdays between 07.30 – 13.00 and at no other times unless written approval is obtained from the local Planning Officer.

4.18 The cumulative impact of noise from the building services plant

Noise from building services plant has been assessed and a condition should be used to limit the noise impact from this source at the nearest noise sensitive receptors. It has

previously agreed that the combined noise level of all plant in operation at Units 1 and Unit 2 shall achieve a minimum of 10dB below the existing background noise (expressed as  $L_{A90}$  dB) at the receivers.

Suggested noise limits for a condition:

- 4.19 Cumulative noise levels from all building services plant associated with Unit 1 should not exceed a value of 35dB  $L_{Aeq}$  at 10m from the nearest façade of Unit 1. The nearest receptors are the residential premises in Compass Street.
- 4.20 Cumulative noise levels from all building services plant associated with Unit 2 should not exceed a value of 37dB  $L_{Aeq}$  at 10m from the nearest façade of Unit 2. The nearest receptors are the rear of the residential premises in Albany Road.
- 4.21 A time limit will have to be put on the use of all plant associated with the Units 1 and 2 and this could be a condition with a restriction that plant can be operated only between 07.00 – 23.00, otherwise additional representational noise measurements will need to be taken and more onerous targets set. This condition is required because refrigeration plant may operate 24/7, but the consultant was unable to factor this into his assessment because no information was available.

User (people noise) noise from the development

- 4.22 User noise from the development is difficult to quantify and probably difficult to control, as the area is likely to become a meeting place late in the evening and in the early morning hours. Appropriate signage may have some impact, but realistically the area will be busier and noisier. It might be appropriate to have a condition that requires Burger King to submit a noise management plan and this to be agreed in writing with the planning officer before trading commences.

'The Drive Through' noise

- 4.23 The Drive Through element of Unit 1 will incorporate an internal and external speaker system to be used for the relay of order information. The document 'Burger King Framework Document CgMs Generic', outlines the specification for this system, which it states incorporates the latest technologies to minimise noise. I have not had the opportunity to examine the detail of the specification, but I suggest that the limits are conditioned as follows:
- 4.24 Noise levels from speaker systems associated with Unit 1 should not exceed a value of 30dB  $L_{Aeq, 5 mins}$  at 10m from the nearest façade of Unit 1.
- 4.25 Noise levels from all speakers systems associated with Unit 2 should not exceed a value of 32dB  $L_{Aeq, 5mins}$  at 10m from the nearest façade of unit 2.
- 4.26 The noise levels are set lower because of the characteristic of the noise is intermittent. It is reasonable to assume that there is a possibility that a similar speaker operation may be installed at Unit and hence the condition to control noise emissions from Unit 2.

Control of odour impact

- 4.27 Cooking of meat and high fat content foods at the Burger King premises will require that odour abatement is provided and that an appropriate detailed design specification of the kitchen exhaust system shall be submitted to secure the approval in writing of the Local Planning Officer before trading begins at Unit 1.
- 4.28 It might be a good idea to apply a similar condition at Unit 2, just in case a similar type of business occupies the Unit.



### Deliveries

- 4.29 There is a possibility that deliveries may take place outside of the normal operational times, so that it would be reasonable to apply some restrictions. Deliveries to the units shall not occur between 21.00 – 0700 hours at any time.

Measures to mitigate noise from delivery activities can also be documented and included in the Noise Management Plan.

- 4.30 **Suffolk Wildlife Trust:** Were consulted on 27<sup>th</sup> July 2016
- 4.31 **Anglian Water:** Were consulted on 27<sup>th</sup> July 2016
- 4.32 **Essex and Suffolk Water:** Were consulted on 27<sup>th</sup> July 2016
- 4.33 **Highways England:** Offer no objection.
- 4.34 **Suffolk Preservation Society:** Were consulted on 27<sup>th</sup> July 2016
- 4.35 **Victorian Society:** Were consulted on 27<sup>th</sup> July 2016

### **PUBLICITY**

- 4.36 The application has been the subject of the following press advertisement:

<b>Category</b>	<b>Published</b>	<b>Expiry</b>	<b>Publication</b>
Adjacent to Listed Building	05.08.2016	25.08.2016	Beccles and Bungay Journal
Adjacent to Listed Building	05.08.2016	25.08.2016	Lowestoft Journal

### **SITE NOTICES**

- 4.37 The following site notices have been displayed:
- |                     |  |
|---------------------|--|
| General Site Notice | Reason for site notice: Adjacent to Listed Building. Date posted 28.07.2016 Expiry date 17.08.2016 |
|---------------------|--|

### **PLANNING POLICY**

- 5.1 The National Planning Policy Framework (NPPF) was published in March 2012. At the heart of the NPPF is a presumption in favour of sustainable development (para. 14). The NPPF makes clear that for decision taking, the presumption means approving development proposals that accord with the development plan without delay. In particular the NPPF, at paragraph 17, encourages the effective use of land by reusing land that has been previously developed (brownfield land).
- 5.2 Section 12 of the NPPF addresses conserving and enhancing the historic environment. In particular paragraph 132 states that great weight should be given to the conservation of designated heritage assets. Any harm or loss should require clear and convincing justification. Paragraph 135 states that the effect of an application on the significance of a non-designated heritage asset should be taken into account in determining the application. A balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset.

- 5.3 The **Core Strategy** was adopted in January 2009. **Policy CS01** states that Lowestoft is the main town in the District where it is envisaged approximately 70 to 80% of the housing growth and 70 to 80% of the additional 5000 jobs are to be created, with the majority of this growth on previously developed land. **Policy CS02** requires high quality and sustainable design. In particular proposals should reflect local character and distinctiveness and protect historic character. **Policy CS10** identifies Lowestoft as the major town centre in the district, and the preferred location for retail, leisure and office uses in the hierarchy of settlements. **Policy CS17** expects development proposals to conserve or enhance the character and setting of conservation areas.
- 5.4 The **Development Management Policies** were adopted in 2011. **Policy DM02** sets down Design Principles for new development, in particular proposals should be sympathetic to the character of a site and the quality of the built environment. **Policy DM30** seeks to protect and enhance the historic environment.
- 5.5 The **Site Specific Allocations Document** was adopted in 2011. **Policy LOW 3** allocates the Town Hall, Council Offices and car parks at Mariners Street and Compass Street for mixed use including student accommodation, offices/studio/creative industries, live-work units (approx. 9 units) and housing (7 units).

## **PLANNING CONSIDERATIONS**

- 6.1 Separate applications on this agenda consider the proposed signage for the site (DC/16/2787/RG3) and the proposed demolition of the buildings (DC/16/2733/DEM).
- 6.2 The starting point for the consideration of this application is planning policy. Another important consideration will be the impact on heritage, particularly the listed Town Hall and the adjacent conservation area.
- 6.3 The site forms part of the LOW 3 allocation (see para.5.5). A3/A5 uses are not mentioned in Policy LOW 3. Arguably therefore the proposal could be considered contrary to Policy LOW 3 and not the type or form of development envisaged for this prominent and important site. There is however clearly a commercial element to Policy LOW 5 and further consideration will now be given to this.
- 6.4 The Policy LOW 3 allocation envisages student accommodation, offices/studio/creative industries, live-work units (approx. 9 units) and housing (7 units) for the LOW 3 area. To date 23 affordable homes have been built and 8 are under construction. The Planning and Design and Access Statement (PDAS) says that plans for student accommodation were not realised due to lack of funding. The housing element of LOW 3 has therefore been met, indeed exceeded. Whilst the proposal does not propose any of the uses envisaged in LOW 3 it is acknowledged that other parts of the site remain available by, for example, converting the Town Hall for offices/studio/creative industries.
- 6.5 The supporting text to the policy LOW 3 states:
- 6.6 "The site has excellent access to services, facilities and public transport. This makes it a good site for a range of uses in keeping with Core Strategy policies, including office and commercial uses and housing. Improvements to pedestrian and cycle links within and through the site to existing networks will help to connect the development to the surrounding area and encourage walking and cycling.
- 6.7 One of the key considerations in the redevelopment of this site is that it must be sensitive to the historic value of the site and its surroundings. The Town Hall building should be retained in any development, and its architectural and historic features (such as the

Council Chamber) should be protected. The design of new development should be sympathetic to its location, being adjacent to this listed building, on the historic High Street and in the North Lowestoft Conservation Area”.

6.8 Policy LOW 3 states that the site will be developed in accordance with the following site specific criteria:

- The Town Hall building and its historic and architectural features should be conserved and enhanced through sympathetic conversion.
- New buildings should be sympathetically designed to fit in with the historic environment of the High Street.
- An archaeological investigation shall be carried out prior to the submission of a planning application.
- A Transport Assessment should be carried out prior to the submission of a planning application.
- Noise and air quality assessments should be carried out prior to the submission of a planning application and mitigation measures detailed in the design of new buildings.
- The detailed design shall incorporate pedestrian and cycle routes to link to the existing networks.
- A detailed plan of hard and soft landscaping works shall be submitted with the planning application.

6.9 As previously mentioned some residential development has already taken place within the LOW 3 allocation. The application PDAS:

6.10 “Where the housing portion of the LOW 3 site has largely been met through affordable housing, there is now an opportunity to develop the commercial aspect of the site. There is an opportunity to achieve a mixed use development at the Town Hall building comprising work spaces and cultural facilities. The subject proposal will help achieve the aims of the LOW 3 Site Allocation by contributing to the vitality of the High Street by attracting and retaining footfall for the surrounding shops and services”.

6.11 Additional information submitted by the Agent expands on the economic benefits of the proposal:

6.12 “We are strongly aware of the Council’s Business Plan and its support towards the Government’s national priority for long-term economic growth and improved productivity. This would be achieved through developing a strong local economy and delivery of services that residents of East Suffolk want and need. In addition to new housing, the Plan aims to create increased opportunities for all. The Plan acknowledges the need to create the right environment for sustainable economic growth to flourish, supporting everyone from micro and small businesses to resident multinationals, by collaborating with a wide range of public and private sector partners. The submitted schemes will demonstrate the Council can make best use of its resources through a key business decision to enter into a financial arrangement with a number of multi-national companies to deliver a considerable number of jobs, while ensuring considerable financial benefit to the Council that would enable the provision of other benefits to the community elsewhere in the District. It would further enable the early regeneration of these now surplus and increasingly derelict properties. On this basis, the schemes will meet and deliver a number of key priorities for the Council”.

6.13 The benefits of the proposal are set down in the PDAS as follows:

6.14 “The subject proposal is the first opportunity to develop the commercial aspect of the LOW 3 site allocation in the Local Plan. With the ease of access of the proposed restaurant for

pedestrians the subject proposal can contribute to the vitality of the High Street by attracting and retaining footfall in the area. This will contribute to the efforts of the local business community to promote the High Street as a shopping destination in its own right.

- 6.15 There still remains an opportunity to achieve a mixed use development at the Town Hall building comprising work spaces and cultural facilities, which themselves would encourage visitors and tourists to the area.
- 6.16 The proposal will attract a national retail brand into Lowestoft who are not currently represented, and will introduce a commercial operation into an area which has suffered economic decline in recent years.
- 6.17 The proposal will bring new life into a part of the town that has been affected by the closure of the Council offices, which has left redundant unoccupied buildings on the site, and resulted in a loss of business to the local area.
- 6.18 The proposal is located within Harbour Ward, and according to the government's Index of Multiple Deprivation 2015, is among the 10% most deprived wards in the country. The proposal would provide as many as 25 full-time equivalent jobs at this restaurant / take-away, providing a much needed source of employment in this locality. The new restaurant will offer flexible and full time work opportunities for young people (approx. 60% of the business workforce) and women (approx.. 40% of the workforce)".
- 6.19 It is acknowledged that the proposal will bring some benefits to the area. The proposed restaurant would attract people to the site who quite possibly would then go on to stay longer by visiting shops and businesses on the High Street. The proposal therefore has the potential to attract people into the High Street who otherwise would not be there. It is considered that there is less likelihood that the proposed drive thru would encourage people to stay in the area for longer periods. Therefore whilst there will be some local economic benefits from attracting people back to the site (for the first time since the offices closed) it is unlikely they will be very significant.
- 6.20 Whilst there will be some benefits arising from this proposal these need to be balanced against the impact upon the setting of the Town Hall, the nearby conservation area and the proposed demolition of the Coopers building (a non designated heritage asset). These are significant considerations in the determination of this application and ones that have been raised in a number of pre-application meetings.
- 6.21 Guidance is contained in the NPPF. With regards to the listed Town Hall paragraph 132 of the NPPF is relevant and states:
- 6.22 "When considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation...significance [of a heritage asset] can be harmed or lost through alteration or destruction of the heritage asset or development within its setting. As heritage assets are irreplaceable, any harm or loss should require clear and convincing justification".
- 6.23 NPPF paragraph 134 states:
- 6.24 "Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal, including securing its optimum viable use".
- 6.25 When considering non-designated heritage assets (Coopers building) regard should be had to NPPF paragraph 135:

- 6.26 “The effect of an application on the significance of a non-designated heritage asset should be taken into account in determining the application. In weighing applications that affect directly or indirectly non designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset”.
- 6.27 The application is supported by a comprehensive Heritage and Context Appraisal (HCA). The HCA identifies the presence of historic buildings absorbed into the existing Mariners Street complex, in particular the former Coopers building in the south west corner. The HCA considers the Coopers building a non-designated heritage asset. The Councils Design and Conservation Officer considers the loss of this building, which is a rare survival of Lowestoft’s commercial past, would be detrimental to our understanding of the area.
- 6.28 The HCA states that the proposed redevelopment of the land to the west of the Town Hall has several implications, on not only the listed Town Hall, but on the non-designated assets in close proximity and the neighbouring Conservation Area. The impact development could potentially have can be summarised as follows:
- The loss of the Cooper’s building would further erode the already damaged streetscape to the west boundary of the site and along the east side of the A12. The building, although much harmed through insensitive additions and internal remodelling, retains a definable historic core (to the corner of Compass Street). Removal of the insensitive additions would increase the presence and importance of this structure in an area now largely bereft of historic buildings. Although the building is not of a quality required to meet the national criteria for listing, it arguably would meet the ‘local list’ criteria on the Waveney District Council website (criteria 1) and therefore its demolition would need justifying against NPPF (135) non designated assets, and NPPF (132).
  - The removal of the c1970’s annexe structures to the south side of Mariners Street would have a beneficial impact on the setting of the Town Hall and the Conservation Area.
  - The impact signage (potentially illuminated) would have on the setting designated heritage asset and neighbouring conservation area should be carefully considered.
- 6.29 The HCA suggests that retention of the Cooper’s building and removal of insensitive additions to this building would increase the presence and importance of this structure in an area now largely bereft of historic buildings. However retention of the building is clearly not proposed as part of this application. The Council’s Design and Conservation Officer is of the view that the contents of the HCA do not appear to have prompted any changes to the proposal, which is a missed opportunity, as the Town Hall site as a whole offers various opportunities to mitigate the harms to heritage associated with the proposal. For example the retention of the Cooper’s building or facades does not in itself prevent the proposed use of the site, but this avenue does not appear to have been explored. Significantly for this important site, it is considered that the design of restaurant building itself appears to be the operators standard item, not specifically tailored to this sensitive location.
- 6.30 With regards to the proposed demolition of the Coopers building Policy LOW 3 allocates this area for mixed use. In the supporting text to the policy there is no reference of the need to retain buildings within the site other than the Town Hall itself (Site Specific Allocations DPD paragraph 2.49). It is therefore implies that the clearance of the remainder of the site is expected. Furthermore the HCA, whilst recognising the Coopers building as a non-designated heritage asset, nevertheless acknowledges the clearance of many buildings around the Coopers building and the harm that has already been caused to the building itself over its 140 year life.
- 6.31 The PDAS states:

“It is submitted that the loss of the Coopers building, which is required to make way for the proposed development, would not cause substantial harm to the significance of the Town Hall building or its setting. The building itself has no direct relationship to the Town Hall due to the distance between them, and the fact that the back of the Town Hall faces it”.

- 6.32 Paragraph 135 of the NPPF requires a ‘balanced’ judgement having regard to the scale of any harm or loss and the significance of the heritage asset. The loss of any non-designated heritage asset is regrettable. However it is considered that on balance the impact of the loss of the Coopers building would not be so significant as to warrant refusal of the scheme given the wider benefits the proposal would bring, having regard to the objectives of the Council’s policy for the site which seeks redevelopment and the business plan.
- 6.33 Since the site was vacated a significant marketing campaign has taken place resulting in the current commercial interest in the site. There are no other proposals for the site and it is considered that to leave the site vacant for a further (indefinite) period would not be in the best interests of the site or the area generally. Furthermore it is considered that the proposal could provide the catalyst for proposals for the conversion/re-use of the Town Hall.
- 6.34 In seeking to address the sensitive location of the site revisions have been made to the scheme presented at pre-application stage. In particular the proposal aims to retain a sense of enclosure to the site through the use of hard and soft landscaping. 2m high boundary walls in the north west and south west corners enclose the site in the street scene and are proposed to be capped off with a moulded coping stone feature to reflect similar detailing within the façade of the Town Hall. Hard and soft landscaping is also employed to direct views across the site to the Town Hall. It is considered that there is a high standard of boundary wall detailing and landscaping proposed for the site.
- 6.35 As mentioned above the proposed restaurant building appears to be the operators standard design. This is regarded as a shortcoming of the proposal given its close proximity to the Town Hall. However the existing prefabricated office buildings on the site are even closer and their removal would be beneficial to the setting of the Town Hall (as acknowledged in the HCA). The Town Hall is considered to be the only heritage asset directly affected by the proposal. Other listed buildings in the area along the High Street are located some distance or are obscured from view of the proposed development. Therefore it is considered that the impact on any of these other assets will be limited if non-existent.
- 6.36 Having regard to paragraph 134 of the NPPF it is considered that the proposal will lead to less than substantial harm to the designated asset and that the public benefit arising from the proposal outweighs the harm that would be caused.
- 6.37 Whilst the proposed building is architecturally uninspiring its modular construction means the building will be relatively temporary and could easily be removed from the site when the use ceases. Should the application be approved a condition could require the removal of the building within 6 months of the use ceasing to operate.
- 6.38 There are residential properties close to the site along Compass Street and Mariners Street and slightly further afield along the High Street. Consideration therefore needs to be given to the potential effects of the proposal on the amenities of these properties.
- 6.39 There is potential for noise to be generated from building services plant such as kitchen extract systems and ventilation fans. As will be noted in paragraph 4.18 above the Environmental Health Officer advises that a condition should be used to limit the noise impact from the development. If consent is granted the suggested condition is considered both necessary and appropriate in the interests of residential amenity.

- 6.40 The EHO is also of the view that a condition is required restricting the times building plant is operated. This condition is required because refrigeration plant may operate 24/7, but the consultant was unable to factor this into his assessment because no information was available (para 4.20). The EHO recommendation is based on the following extract from the submitted Sound Assessment Report (SAR):  
“If plant associated with either Unit 1 or Unit 2 is proposed to be operational during night hours (23:00 to 07:00), additional noise measurements will need to be undertaken, representative of these hours and more onerous target values established”.
- 6.41 It is therefore considered appropriate to attach a condition restricting the operation times of building plant should consent be granted. If 24/7 operation of refrigeration is needed the applicant could apply to vary this condition and provide the information that is currently missing.
- 6.42 The Environmental Health Officer also advises that odour abatement is provided. This can be controlled by an appropriately worded condition should consent be granted. Again this is considered both necessary and appropriate in the interests of residential amenity.
- 6.43 Deliveries also have the potential to impact upon residential amenity particularly if they take place outside of the normal operational times. Therefore the EHO is of the view that it would be reasonable to apply some restrictions so that deliveries do not occur between 21.00 – 07.00. This restriction could be secured by condition.
- 6.44 The drive-thru element of the proposal will incorporate an internal and external speaker system to be used for the relay of order information. Should consent be granted it is considered that noise levels from the speakers need to be controlled in accordance with the condition suggested by the EHO.
- 6.45 The submitted Sound Assessment Report (SAR) acknowledges that the development and its proposed use are likely to encourage people to meet and socialise in the area. The SAR says:  
“The noise effects from such gatherings are difficult to quantify. It is therefore recommended that signage is used to ensure that people are encouraged to be considerate to neighbours, in relation to noise. If necessary, people should be discouraged from congregating in areas close to residential properties, including car parks. This is particularly relevant for evening and early morning hours”.
- 6.46 The EHO is of the view that appropriate signage may have some impact, but realistically the area will be busier and noisier. He therefore considers that that it may be appropriate to require the applicant to submit a noise management plan. If consent is granted it is considered that a noise management plan is necessary and could be secured with an appropriately worded condition.
- 6.47 It should also be noted that some forms of anti-social behaviour such as loitering, car cruising/speeding etc are matters that would more appropriately be dealt with by the police, should they occur.
- 6.48 Originally the proposal intended to illuminate the rear of the Town Hall, in particular the stained glass window. However this element has been deleted on the advice of the Design and Conservation Officer. As an alternative the following has been put forward:
- 6.49 “I can confirm that my client is prepared to examine alternative ways of illuminating the principal features of the Town Hall building, and would be prepared to accept a condition requiring a scheme for such measures to be included”.

- 6.50 Should the application be approved it is suggested that a scheme for lighting principle features on the town hall, such as the tower, would be appropriate.
- 6.51 In section 4 above it will be noted that some consultees have yet to respond. Any additional responses will be reported in the Late Representations report.
- 6.52 The proposed restaurant is a town centre use. The NPPF requires local planning authorities to apply a sequential test to planning applications for main town centre uses that are not in an existing centre and are not in accordance with an up to date local plan. It states they should require applications for main town centre uses to be located in town centres then in edge of centre locations. Other town centre sites that have main road frontage that were considered for the proposed restaurant were the Clapham Road Car Park and the Christchurch Plain Car Park off Whapload Road. The Asset Management team have advised that both sites were discounted as they are not currently available for redevelopment. It is therefore considered that the requirements of the sequential test have been met.

## **CONCLUSION**

- 7.1 In considering an application of this nature there is an inevitable conflict of interest. On the one hand is the desire to improve and redevelop the area and this proposal would realise some of the commercial aspirations of Policy LOW 3. On the other hand there are the heritage impacts to consider given the close proximity of the listed Town Hall and the loss of the Coopers building, a non-designated heritage asset.
- 7.2 In accordance with the NPPF a balanced judgement is required having regard to the scale of any harm or loss of heritage assets. The application acknowledges that some harm will occur, and while regrettable, it must be weighed against other benefits that would accrue. This proposal is not speculative and it has benefits to the wider community. It is a financially viable scheme that secures some environmental benefits and will ensure additional employment opportunities are created. On balance it is considered that the benefits of the scheme outweigh the adverse impacts. Accordingly therefore the application is recommended for approval subject to controlling conditions.

## **RECOMMENDATION**

That authority be granted to officers to grant permission, subject to:

1. Receipt of outstanding consultation responses and any additional conditions arising therefrom.

And the following conditions:

1. The development hereby permitted shall be begun within a period of three years beginning with the date of this permission.

Reason: In accordance with Section 91 of the Town and Country Planning Act 1990 as amended.

2. The development hereby permitted shall not be brought into use until it has been completed in all respects strictly in accordance with Drawing Nos 02 Rev P4, 03 Rev P3, 04 rev P3, A3/200 Rev A and E01 Rev P2 received 5<sup>th</sup> July 2016, for which permission is hereby granted or which are subsequently submitted to and approved in writing by the Local Planning Authority and in compliance with any conditions imposed by the Local Planning Authority.



Reason: To secure a properly planned development.

3. Details and samples of all external materials and finishes shall be submitted to and approved by the Local Planning Authority before development commences. Development shall be carried out in accordance with the approved details.

Reason: To ensure the satisfactory external appearance of the development.

4. No part of the development shall be commenced until details of the proposed access (including the position of any gates to be erected and visibility splays provided) have been submitted to and approved in writing by the Local Planning Authority. The approved access shall be laid out and constructed in its entirety prior to the occupation of the property. Thereafter the access shall be retained in its approved form.

Reason: To ensure that the access is designed and constructed to an appropriate specification and made available for use at an appropriate time in the interests of highway safety.

5. Before the development is commenced details of the areas to be provided for storage of Refuse/Recycling bins shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be carried out in its entirety before the development is brought into use and shall be retained thereafter for no other purpose.

Reason: To ensure that refuse recycling bins are not stored on the highway causing obstruction and dangers for other users.

6. The use shall not commence until the area(s) within the site shown on Drawing No. 15-12-24-03 Rev P3 for the purposes of [LOADING, UNLOADING,] manoeuvring and parking of vehicles has been provided and thereafter that area(s) shall be retained and used for no other purposes.

Reason: To ensure that sufficient space for the on site parking of vehicles is provided and maintained in order to ensure the provision of adequate on-site space for the parking and manoeuvring of vehicles where on-street parking and manoeuvring would be detrimental to highway safety to users of the highway.

7. Following site clearance and demolition, but prior to development, the site will be inspected by a competent person (as defined by the NPPF) for the presence of contamination. Prior to the commencement of development the results of the inspection must be submitted in writing to, and approved by, the local planning authority.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.

8. In the event that contamination is found or suspected at any time when carrying out the approved development, including the inspection required under condition 7, it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be completed in accordance with a scheme to assess the nature and extent of the contamination on the site. The contents of the scheme are subject to the approval in writing of the Local Planning Authority. The investigation and risk assessment must be undertaken by competent persons and a written report of the findings must be produced. The written report is subject to the approval in writing of the Local Planning Authority.

Where remediation is necessary a detailed remediation scheme must be prepared, and is subject to the approval in writing of the Local Planning Authority. The scheme must include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works and site management procedures. The scheme must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation. The approved remediation scheme must be carried out in accordance with its terms. The Local Planning Authority must be given two weeks written notification of commencement of the remediation scheme works. Following completion of measures identified in the approved remediation scheme, a verification report (referred to in PPS23 as a validation report) that demonstrates the effectiveness of the remediation carried out must be produced, and is subject to the approval in writing of the Local Planning Authority.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.

9. Full details of hard and soft landscaping for the site shall be submitted to and approved in writing by the local planning authority. The hard and soft landscaping scheme shall be implemented in accordance with the approved details prior to the building first becoming operational. Any trees or plants which, within a period of five years from completion of the development, die, are removed or become seriously damaged or diseased, shall be replaced in the next planting season with others of similar size and species unless the Local Planning Authority gives written consent to any variation; all works shall be carried out in accordance with the relevant provisions of appropriate British Standards or other recognised Codes of Good Practice.

Reason: to ensure that the appearance of the development is satisfactory

10. Within 12 months of the use hereby permitted ceasing the building shall be removed from the site and the land restored, in accordance with a Restoration Method Statement to be submitted and approved in writing by the Local Planning Authority. The Restoration Method Statement shall be submitted within 6 months of the use ceasing.

Reason: In order to reinstate the land in the interests of amenity.

11. Cumulative noise levels from all building services plant associated with the restaurant/take-away 1 should not exceed a value of 35dB  $L_{Aeq}$  at 10m from the nearest façade of Unit 1. The nearest receptors are the residential premises in Compass Street.

Reason: In the interests of residential amenity.

12. All building services plant shall only operate between the hours of 07.00 – 23.00 unless otherwise agreed in writing by the local planning authority.

Reason: In the interests of residential amenity.

13. Deliveries to the restaurant/take-away shall not occur between 21.00 – 0700 hours at any time.

Reason: In the interests of residential amenity.

14. Prior to the use hereby permitted becoming operational a Noise Management Plan shall be submitted to and approved in writing by the Local Planning Authority. The Noise

Management Plan shall be implemented entirely in accordance with the approved details throughout the operation of the building.

Reason: In the interests of residential amenity.

15. Noise levels from speaker systems associated with the restaurant/take-away shall not exceed a value of 30dB LAeq. 5 mins at 10m from the nearest façade of the restaurant/take-away.

Reason: In the interests of residential amenity.

16. Prior to the use hereby permitted becoming operational a detailed design specification of the kitchen exhaust system shall be submitted and approved in writing by the local planning authority. Only the approved specification shall be installed and shall be operated in accordance with the approved details.

Reason: In the interests of residential amenity.

17. Within 3 months of the commencement of the use hereby permitted a scheme for the illumination of principal features on the Town Hall shall be submitted to and approved in writing by the Local Planning Authority. Within 3 months of the scheme being approved it shall be implemented in accordance with the approved details.

Reason: In the interests of the appearance of the site.

18. No development shall take place until a Demolition/Construction Method Statement has been submitted to, and approved in writing by, the local planning authority. The statement shall provide details of:

- proposed hours of work
  - proposed piling methods
  - the parking of vehicles of site operatives and visitors
  - loading and unloading of plant and materials
  - storage of plant and materials used in constructing the development
  - the erection and maintenance of security hoarding and acoustic screens
  - wheel washing facilities
  - measures to control the emission of dust and dirt during construction
  - a scheme for the recycling/disposing of waste resulting from construction works
- The approved Statement shall be adhered to throughout the construction period.

Reason: In the interests of amenity and to ensure a safe development.

19. The value of illumination, at ground level, must be no greater than 1 lux at the highway boundary.

Reason: In the interest of highway safety and residential amenity.

**BACKGROUND INFORMATION:** See application ref: DC/16/2784/RG3 at

[www.waveney.gov.uk/publicaccess](http://www.waveney.gov.uk/publicaccess)

**CONTACT**

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