

PLANNING COMMITTEE – 17 January 2017

APPLICATION NO DC/16/4137/FUL

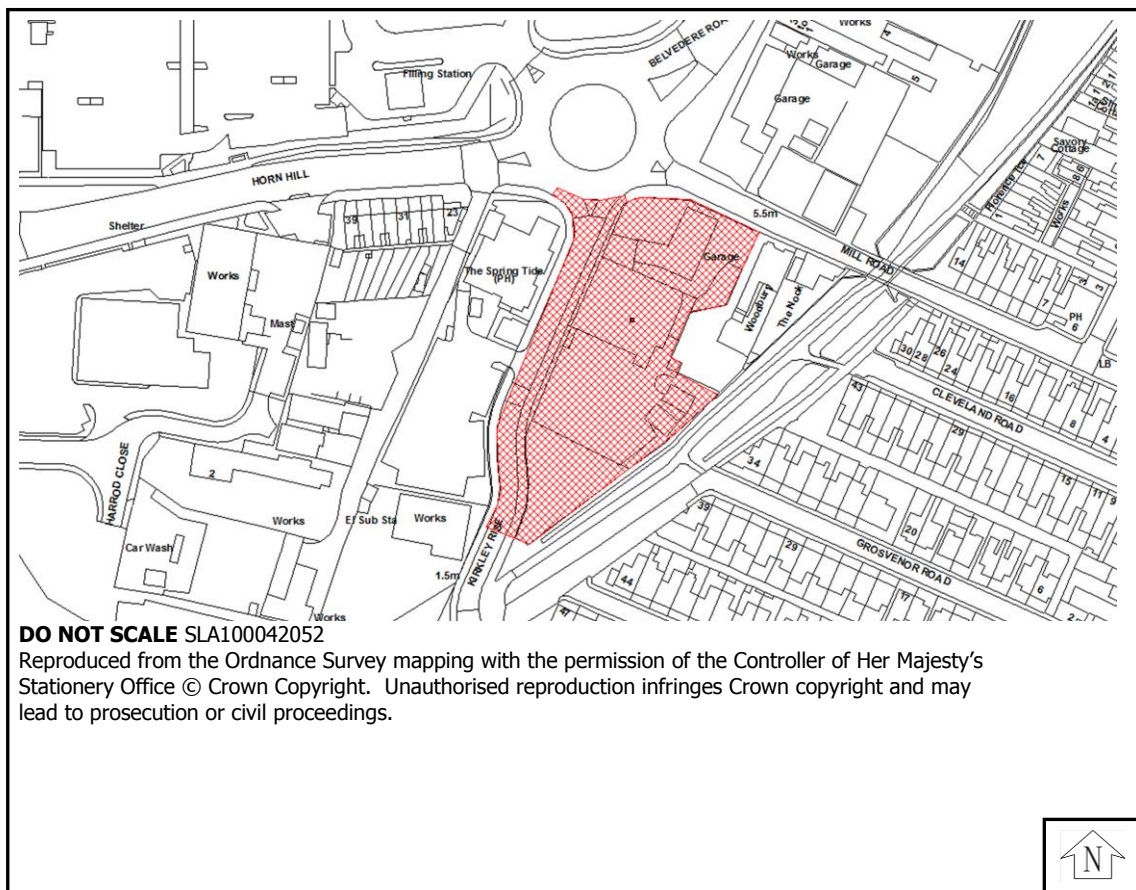
**LOCATION**

Land At  
Kirkley Rise  
Lowestoft  
Suffolk  
NR33 0PP

**EXPIRY DATE** 20 January 2017  
**APPLICATION TYPE** Full Application  
**APPLICANT** Tarncourt Ambit 2013 Ltd

**PARISH**

**PROPOSAL** Demolition of existing buildings and full planning permission for the erection of mixed-use development for retail (Use Class A3/A5) including drive-thru and residential (Use Class C3), with associated access, car parking, landscaping and associated infrastructure



## **1 SUMMARY**

- 1.1 Full Planning Permission is sought for the comprehensive regeneration of the former petrol filling station site and associated land located at the junction Mill Road and Kirkley Rise, South Lowestoft.
- 1.2 The application proposes the demolition of the existing buildings and the redevelopment of the site for a mix of retail (Class A3/A5) and residential (Class C3) use with associated access, car parking, landscaping and associated infrastructure.
- 1.3 The application is Major Proposal and it is for this reason alone that the application is brought in front of the Planning Committee.
- 1.4 The proposed development brings back into vital and viable use a prominent and largely redundant brownfield site within the defined development limits of South Lowestoft.
- 1.5 The proposals will bring about the physical upgrade of the site to deliver a mix of residential and employment generating uses in general compliance with the site's allocation within the Lake Lothing and Outer Harbour Area Action Plan.
- 1.6 The proposed town centre uses have been sequentially tested and no sequentially preferable sites have been identified as being suitable or available now and therefore capable of accommodating the proposed development as submitted.
- 1.7 The layout of the site and the design of its buildings have responded to the requirements of the intended operators and makes effective use of the site's prominent road frontages.
- 1.8 The environmental impacts of the development are capable of being controlled to an acceptable level through the proposed mitigation and the recommended planning conditions.
- 1.9 On balance, the proposed development is considered in general conformity with the Waveney District Council Development Plan and is beneficial economic development in its own right for which there is a National presumption in favour.
- 1.10 Conditional approval is recommended.

## **2 SITE DESCRIPTION**

- 2.1 The site covers an area of 0.65 hectares and is located on the Junction of Mill Road and Kirkley Rise to the south east of the A12, South Lowestoft.
- 2.2 The 'Lothing Park' retail development lies to the north west of the site and contains a 24 hour ASDA supermarket and Dunelm furniture store. A Marston's public house and family restaurant is located to the west of the site on the opposite side of Kirkley Rise.
- 2.3 The site is bounded by a large belt of mature trees to the south east (outwith the application boundary), Mill Road to the north east and Kirkley Rise to the west.

- 2.4 The site currently contains buildings totalling 1,227 sq. m together with large areas of hardstanding and some small pockets of immature / scrub vegetation.
- 2.5 The site was previously used as a car dealership and a Petrol Filling Station (PFS) is located on the Mill Road frontage. Whilst the PFS lies redundant, other buildings to the rear are currently occupied by a national charity for a mix of retail, storage and office uses.
- 2.6 The site is in a poor state of repair and in officer's opinion is in need of physical regeneration and environmental improvement.
- 2.7 The site falls within the physical development limits of South Lowestoft and within Policy Area SSP5 of the Lake Loathing and Outer Harbour Area Action Plan ("the AAP").
- 2.8 The site is located outwith, albeit immediately adjacent to, the western boundary of the South Lowestoft Extended Conservation Area.
- 2.9 The site is located part within Tidal Flood Zone 1 as defined by the Environment Agency's Flood Risk Maps. A small section to the south of the site falls within Flood Zone 3.
- 2.10 The site is located within an Archaeological Site of Regional Importance.

### **3 PROPOSAL**

- 3.1 Full planning permission is sought for the demolition of the existing buildings and the redevelopment of the site for a mix of commercial (Class A3/A5) and residential (Class C3) uses with associated access, car parking, landscaping and associated infrastructure.
- 3.2 The proposed development is to be divided across three distinct Units as follows:
  - Unit 1, comprising 372 sq. m (GIA) of Class A3 restaurant use is to be located adjacent to the Mill Road frontage to the north of the Site;
  - Unit 2, comprising 167 sq. m GIA of Class A3 /A5 drive thru café use is to be located within the centre of the site; and
  - Unit / Building 3, comprising 21 affordable 1 bedroom residential apartments is to be located to the far south west of the site.
- 3.3 Although the occupiers for the proposed commercial units have not been confirmed, the development has been designed to accommodate the operational requirements of Frankie and Benny's family restaurant and a drive thru Starbucks.
- 3.4 The existing vehicular access into the site from Mill Road is to be closed off and a new access (to serve the two commercial units) is proposed off Kirkley Rise.
- 3.5 The existing vehicular access from Kirkley Rise (to the south of the site) is to be retained to provide a dedicated, private vehicular access to the proposed residential building.
- 3.6 The residential accommodation will be constructed above a private undercroft car park (providing 21 dedicated parking spaces for occupants of the residential apartments). A further 9 car parking spaces are proposed to the south of the residential block along the access road.

- 3.7 56 car parking spaces are proposed for the commercial units including 4 dedicated accessible spaces. 16 designated covered bicycle parking spaces are proposed for use by customers of the commercial units and a further 16 covered bicycle parking spaces are proposed for occupants of the residential apartments.
- 3.8 The residential accommodation is separated from the commercial units and associated car parking by a band of low growing landscaping and a paved footway which provides private stepped pedestrian access between the residential apartments and Kirkley Rise, (dealing with the drop in level between the north and southern sections of the site). Additional areas of soft landscaping are proposed to the west of the proposed apartment block.
- 3.9 The residential accommodation is to be provided in a square shaped, three storey block with rooms facing out on each of the four elevations. The building will be treated in a mix of red facing brickwork and white render with the corner entrance core constructed with full height glazed and wooden clad walling with metal surround.
- 3.10 Projecting rendered balconies are proposed to the majority of apartments.
- 3.11 The commercial units will be single storey with Unit 1 being flat roofed and Unit 2 occupying a mono-pitched roof, sloping front to back. The rooves extend as 'cantilevered' overhangs above the main entrances to each unit. The front and side elevations are to be constructed from brick and glazing. Glazed entrance doors and screens are located centrally on the front elevation of each unit.
- 3.12 The buildings have been positioned to make the most efficient use of the site and to 'address' the existing street frontages. The car parking areas are positioned to the road frontages to attract customers and seating is proposed to the front of the two commercial units to assist in orientating customers travelling from the car park.
- 3.13 Refuse stores have been positioned in the least visible locations whilst allowing ease of access.
- 3.14 A new substation is proposed to the rear of the site and is subject to separate local electricity board approval.

#### **4 ENVIRONMENTAL IMPACT ASSESSMENT**

- 4.1 The development does not fall within Schedule 1 or 2 of the Town and County Planning Environmental Impact Assessment Regulations 2011 (as amended) ('the Regulations') and does not require screening for EIA under the Regulation 5 of the Regulations.

#### **5 CONSULTATIONS/COMMENTS**

##### **5.1 Neighbour consultation/representations**

23 neighbours were consulted on the proposals and no comments have been received.

##### **5.2 Parish/Town Council Comments**

Not a "parished" area.

**5.3 Anglian Water** was consulted on the 6 October 2016. Response Received 15 November 2016:

5.3.1 Our records show that there are no assets owned by Anglian Water or those subject to an adoption agreement within the development site boundary.

5.3.2 The foul drainage from this development is in the catchment of Lowestoft Water Recycling Centre that will have available capacity for these flows.

5.3.3 The sewerage system at present has available capacity for these flows.

5.3.4 The preferred method of surface water disposal would be to a sustainable drainage system (SuDS) with connection to sewer seen as the last option.

5.3.5 The surface water strategy/flood risk assessment submitted with the planning application relevant to Anglian Water is unacceptable. We would therefore recommend that the applicant needs to consult with Anglian Water and the Lead Local Flood Authority (LLFA). We request a condition requiring a drainage strategy covering the issue(s) to be agreed.

5.3.6 Anglian Water would ask that the following text be included within your Notice should permission be granted.

“An application to discharge trade effluent must be made to Anglian Water and must have been obtained before any discharge of trade effluent can be made to the public sewer. Anglian Water recommends that petrol / oil interceptors be fitted in all car parking/washing/repair facilities. Failure to enforce the effective use of such facilities could result in pollution of the local watercourse and may constitute an offence. Anglian Water also recommends the installation of a properly maintained fat traps on all catering establishments. Failure to do so may result in this and other properties suffering blocked drains, sewage flooding and consequential environmental and amenity impact and may also constitute an offence under section 111 of the Water Industry Act 1991.”

5.3.7 Anglian Water would therefore recommend a planning condition requiring a surface water drainage strategy to be submitted to and agreed in writing with the Local Planning Authority prior to commencement of development.

Anglian Water has subsequently provided their informal agreement to the proposed method of surface water disposal.

**5.4 Suffolk Fire and Rescue Service** was consulted on the 6 October 2016. No response received.

**5.6 WDC Planning Policy** was consulted on the 6 October 2016. Initial response received 11 October 2016:

5.6.1 In terms of the sequential test (NPPF paragraph 24) the applicant has submitted an assessment of various sites in the town centre.

- 5.6.2 Sites considered include Peto Square, which was allocated within Area Action Plan SSP2 for retail uses as an extension to the town centre. This was discounted because of the difficulty in reaching agreement with different landowners. The sequential assessment also drew attention to vacant units within the town centre. However these vacant units were discounted without being individually considered. Without such consideration it is not possible to know whether these units could accommodate the proposal. The sequential test mentions a unit in the Britten Centre, but is not specific about which unit is considered. There are currently vacant units formerly occupied by BHS and QD (at the rear of the Britten centre). It would be useful to know if each of these units were considered. Similarly there are other vacant units in the town centre formerly occupied by the Post Office and Argos. The Post Office in particular is a large premises and it is important to know if it could accommodate the proposed scheme.
- 5.6.3 The application also revisited sequential tests undertaken for previous applications on the Mill Road and Kirkley Rise site and considered if these alternative sites would now be suitable. Previous tests considered town centre car parks, but these were discounted because they were not available, had too little street frontage or were in a poor location. The Triangle Market was considered unsuitable because it could not accommodate the proposed scheme. Redeveloping part of the Britten Centre site was also seen as not feasible because much of the site is in use.
- 5.6.4 The applicant has stated that operators of the type suggested need to cluster together and therefore a shared site such as this is preferable. Similarly restaurant and drive-thru operators also require access to the road network and car parking space. However there is no explicit explanation as to why the two named preferred end users need to share the same site and why it would not be commercially possible for them to operate on separate sites within or closer to the town centre. It is also unclear what the specific operational requirements of each individual operator are and how these translate into the size of site (615 sq. m) tested by the applicant.
- 5.6.5 A written statement from each end user explaining why this shared arrangement is necessary and what their individual site specific requirements are would be helpful in understanding the reasoning behind the application.
- 5.6.6 Turning to the impact test (NPPF paragraph 26) the proposal includes two units with town centre uses, which have a combined gross external area of 615 square metres. This is significantly below the threshold in the NPPF above which a sequential test is required and the Council does not have its own locally set threshold. Therefore an impact test cannot be required but the applicant has provided a brief survey about the health and vitality of the town centre. However since no impact test has been provided and no end users have yet been confirmed town centre impact cannot be assessed with any confidence. It is necessary to consider how the proposal contributes towards South Lowestoft tourist offer and whether it can offer facilities that will benefit tourists and visitors to the town. It is not clear how this proposal will enhance the tourism offer in Lowestoft from the information submitted and whether it will draw people into Kirkley or operate as a standalone development.
- 5.6.7 Access to the site is important and it is necessary to demonstrate that the site can be accessed safely and conveniently by cyclists and pedestrians, as well as by motorised vehicles. Furthermore the site is located between a national and regional cycle route and

so it would be beneficial for cyclists to be able to travel across the site quickly and safely to access the respective cycle routes, as well as other parts of the town. There should also be safe and secure storage for people visiting the 2 retail units, as well as for residents living on the site. It is important that residents can also access cycle routes and other parts of the town either by bike or on foot.

- 5.6.8 Housing provision makes a significant contribution towards the amount of housing that could be accommodated across the area covered by policy SSP5. It also contributes towards housing provision across the District.
- 5.6.9 Lastly this site is in an area that is allocated for high quality mixed use development under policy SSP5. Furthermore the site is located close to a conservation area as covered by policy DM30. As a result each of the units should be of a high quality design that respects and enhances the surrounding townscape and provides a pleasant environment for residents of unit 3. Unit 1 in particular should be of a high quality both because of its prominent position next to Mill Road and Kirkley Rise. This will provide an attractive road frontage, which will attract visitors to the area and help to aid navigation through the street network.
- 5.6.10 Unit 1 is a glass fronted building which faces towards Kirkley Rise, which creates an attractive and open appearance but is not particularly prominent. The building could be of a more distinctive design, which would be noticed and appreciated by passers by and would serve to draw people in to Kirkley Rise. Unit 1's visual impact is further lessened by an area of car parking in front of the building, which occupies the north western corner of the site. Landscaping and tree planting is necessary to improve the appearance of the northwest corner of the site, which is the most visible part of the proposed development. In addition the residential unit on the southern edge of the site should ensure that there is adequate overlooking of public areas, particularly the cycle lane to the east, to help minimise anti social behaviour.
- 5.6.11 Response received 22 November 2016 following receipt of additional information on the sequential text on 17 November 2016.
- 5.6.12 It is unclear why the drive-thru takeaway and the restaurant businesses need to be located on the same site. There is no requirement in policy to demonstrate that the businesses could not operate on separate sites (the disaggregation assessment) but at the same time it has not been demonstrated why there is a need for this mix of uses on the same site and what benefits this would provide for both customers and businesses.
- 5.6.13 It remains unclear how this proposal would contribute towards the town's tourist offer.

**5.7 Environment Agency - Drainage** were consulted on the 6 October 2016. Response received 24 November 2016:

The application lies outside of Flood Zones 2 and 3 and there are no other constraints within our remit. The proposal is not one on which we should have been consulted.

**5.8 Suffolk County Archaeological Unit** was consulted on the 6 October 2016. Response received 18 October 2016.

We are satisfied there would be no significant impact on known archaeological sites or areas with archaeological potential. We have no objection to the development and do not believe any archaeological mitigation is required in this case.

**5.9 Suffolk County Council Travel Planner** was consulted on the 6 October 2016. Response received 18 October 2016

I will be providing some comments, however they will be incorporated into the formal Suffolk County Council Highways response to comply with internal protocol.

Condition recommended in Suffolk County Council Highway response of 21 November 2016.

**5.10 WDC - Arboricultural And Landscape Officer** was consulted on the 6 October 2016. Response received 19 October 2016

5.10.1 This site has no Tree Preservation Orders (TPOs) and is not within the Conservation Area (CA), however, the South Lowestoft Conservation Area is just beyond the cycle track.

5.10.2 Tree cover on site comprises of natural regeneration predominately of Sycamore, Goat Willow & Buddleia, these are low quality, off site in neighbouring property Woodbury Mill Road are 2 x cypress.

5.10.3 Immediately beyond the eastern boundary between this site and cycle path is a grassed area with predominately Hawthorn trees and on the other side of the cycle path and separating it from CA of Windsor, Grosvenor & Cleveland Roads are a row of Poplars and Oaks planted when cycle path was laid and owned and managed by SCC & WDC. Both rows of trees are outside this site and are not affected by this proposal.

5.10.4 This proposal includes a landscaping scheme which should enhance this site.

5.10.5 No objection to this proposal.

**5.11 Suffolk County - Highways Department** were consulted on the 18 October 2016. Response received on 21 November 2016.

No objection subject to conditions.

**5.12 Natural England** was consulted on the 6 October 2016. Response Received 13 October 2016.

No Comment

**5.13 Police - Alan Keely Crime Reduction Beccles Police Station** was consulted on the 6 October 2016. Response received 11 October 2016.

5.13.1 On a development of this type and size I would strongly recommend that applications for Secured by Design approval are made both for the residential area and for the commercial areas of this scheme.



5.13.3 My specific comments in respect of the residential development are as follows: Sections 27 – 31 of Homes 16 provide more information:

- The residential block should be equipped with a visitor door entry system with access via an electronic key fob card or key should be provided incorporating a remote release facility of the primary entrance door. This should also include a facility for audio and visual communication between the occupant and the visitor.
- The developer is advised to avoid unrestricted access to the building and should, as a minimum, provide dedicated doorsets on each landing.
- Ground floor windows and doors should be glazed with at least one pane of laminated glass in accordance with BS EN 356:2000.
- Communal mail delivery should be in accordance with Section 29 of Homes 16. It is not recommended that mail is delivered to individual flat entrances.
- External lighting is required to each elevation that contains a door set which is used by occupants of visitors. The preferred type would be dusk to dawn type.
- Undercroft parking can cause problems and the requirements for this type of parking are described in Section 52 of Homes 2016. There are many options and I would be happy to discuss specific detail with the developer.
- Cycle storage and parking should be secure and follow the guidelines in Section 53 of Homes 16.
- The boundary between the residential area and the commercial area should be clearly defined and should incorporate the means to prevent customers from the commercial area using the residential area as a short cut.

5.13.4 I would advise that all aspects of the commercial development be taken account of including the perimeter and external areas, the building shell security and the internal security considerations.

**5.14 WDC Environmental Health - Noise** was consulted on the 6 October 2016. Response received 25 October 2016:

5.14.1 The author of the report recommends noise limits which I am unable to agree that we should be accepting as a default position for redevelopment proposals.

5.14.2 The author suggests that noise levels 5dB above background level should be used as the basis to limit noise from deliveries and plant. However, under BS4142:2014, a difference of around 5dB above the background level is likely (depending upon the context) to indicate an adverse impact. The NPPF (paragraph 123) states that:

“Planning policies and decisions should aim to....mitigate and reduce to a minimum other adverse impacts on health and quality of life arising from noise from new development, including through the use of conditions...”

5.14.3 And the Noise Policy Statement for England (NPSE) provides three policy statements including:

“Through the effective management and control of environmental, neighbour and neighbourhood noise within the context of government policy on sustainable development...mitigate and minimise adverse impacts on health and quality of life...”

5.14.4 In explanation of this policy aim the NPSE states:

“...all reasonable steps should be taken to mitigate and minimise adverse effects on health and quality of life while also taking into account the guiding principles of sustainable development...This does not mean that such adverse effects cannot occur.”

5.14.5 As such we should be ensuring, where it is reasonable and practicable to do so, that noise emissions from new development do not have an adverse impact. In assessing the impacts of noise emissions BS4142:2014 states:

“Where the rating level does not exceed the background sound level, this is an indication of the specific sound source having a low impact, depending on the context.”

5.14.6 This should therefore be our default position for limiting noise emissions unless the applicant can demonstrate that to do so would be unreasonable or particularly onerous in the particular circumstances.

### **1. Impacts of noise on the proposed dwellings**

The report highlights that the proposed dwellings will require noise control measures in order to protect occupants from external noise. It is important that the proposed dwellings provide an internal noise climate which accords with the limits recommended by the WHO and BS8233. The author advises that these levels are achievable and recommends a minimum sound reduction specification for glazing (page 14) and alternative means of ventilation (page 15). However, the report is vague on the specification required for windows not directly facing the road, “...windows facing away from the road would require a lower level of mitigation and some may be met by using standard thermal double glazing...”.

We will need the applicant to demonstrate greater clarity in this respect than “may” and similarly specifications for ventilation are a bit vague: “...performance for the bedroom is likely to require a high performance acoustics ait brick or vent.”

I would recommend using a condition which requires the applicant to submit detailed proposals showing the internal layouts and noise control measures for all dwellings together with detailed calculations demonstrating how the proposed mitigation will ensure an internal noise climate which complies with the levels specified by the WHO and BS8233:

### **2. Noise from plant and equipment associated**

There is a plethora of plant and equipment (such as refrigeration and air conditioning) which could be installed in the proposed commercial units which could have the potential to cause a noise nuisance to the occupants of existing and proposed dwellings. However, at present there are no details of the equipment that will be installed, where it will be located or how it will perform acoustically. This is acknowledged at paragraph 5.2 of the acoustic report.

The author of the report has suggested that a condition could be imposed which would restrict noise emissions from any plant to 5dB above background levels. However, as

stated above, 5dB above background levels is considered within BS4142 to be an indication of a likely adverse impact which should not be acceptable as the default position for new development. In addition this is a mixed use area (commercial and residential) and such a condition will only contribute to 'noise creep': a gradual increase in background noise levels resulting in reduced amenity for residents. Also a simple fixed emission level does not take account of the characteristics of a noise which can contribute greatly to the adverse impact that the noise could have, including (from BS4142:2014): tonality, impulsivity and intermittency.

BS4142 provides a framework for assessing the potential noise impacts from the introduction of new plant and equipment on the occupants of dwellings. It would be more prudent and sensible to require the applicant to provide details of the proposed equipment and plant (including type and models of equipment, location and type of installation and predicted acoustic performance) together with an assessment, in accordance with BS4142, of the impacts of any noise emissions on both the existing and proposed dwellings. This will identify any requirements for mitigation before the equipment is installed and provide a high level of certainty to both the applicant and the Council that noise emissions from the proposed retail units will not adversely affect residents of the proposed and existing dwellings. Conditions are recommended to this effect.

### **3. Noise from deliveries**

The acoustic report has identified that noise associated with deliveries will need to be controlled and may not be acceptable at certain times of the day. The report has assessed the impact of noise from deliveries on existing residents but has failed to recognise that these properties are 3 storeys not 2. As such the conclusions and comments concerning acoustic barriers are likely to be flawed and the potential impacts more severe given that these upper floors are likely to consist of bedrooms and these are large, family homes. In addition the report does not appear to assess the impact of noise from deliveries on the proposed dwellings.

At the moment the report indicates that noise from early and late deliveries will cause an adverse noise impact so I would recommend a condition which restricts delivery times. Should the applicant, or future site operators, wish to remove or vary this condition then they would need to be able to demonstrate, via a detailed and competent acoustic assessment, that doing so would not result in an adverse impact from noise emissions to the occupants of nearby dwellings.

**5.15 WDC Environmental Health - Contaminated Land** were consulted on the 6 October 2016. Response received 25 October 2016

5.15.1 The report submitted with the application has identified the presence of contamination on site which is having an adverse impact on ground water. There are tanks, pipes and interceptors still on site which will require removal and the ground around them will require investigation and characterisation.

5.15.2 Thereafter it will be necessary for the applicant to develop and submit a detailed proposal for remediation of the site which may include ground water remediation and vapour barriers. As such I would advise that the standard contaminated land conditions are

applied to ensure that the site is developed safely and does not pose a hazard to future site occupants or the environment.

**5.16 Suffolk County - Rights of Way** were consulted on the 6 October 2016. Response received 13 October 2016:

No Objections

**5.17 Suffolk Wildlife Trust** was consulted on the 6 October 2016. No response received.

**5.18 Estates Asset Management** was consulted on the 6 October 2016. No response received.

**5.19 SCC Flooding Authority** was consulted on the 6 October 2016. Response received 20 October 2016:

5.19.1 The points raised by Jason Skilton on 03/06/2016 on the previously withdrawn application DC/16/2034/FUL have not been fully addressed. As such our comments on the latest proposal are consistent to what was previously stated:

1) As this is a full planning application, all documents listed on page 8 of appendix A of the Suffolk Flood Risk Management Strategy need to be provided.

2) No surface water drainage strategy or statement has been submitted

3) We note that they applicant is proposing to utilise the existing surface water drainage system, which is assumed to be an Anglian Water asset.

Subsequent response received 20 December 2016: No objection subject to conditions.

**5.20 NHS Great Yarmouth And Waveney Clinical Commissioning Group** was consulted on the 6 October 2016. No response received.

**5.21 WDC - Economic Regeneration** were consulted on the 13 October 2016. Response received 10 November 2016

5.21.1 The Economic Development & Regeneration Team seeks to support planning applications where the application clearly supports the growth and regeneration of the district, and where they help meet the targets identified in the Lowestoft Lake Lothing and Outer Harbour Area Action Plan (AAP).

5.21.2 The former Mill Road Service Station is part the AAP Kirkley Rise site, an area allocated for a mixed -use development under Policy SSP5, and we are very keen to see this redundant site brought back into use with the creation of new businesses and jobs as well as new residential accommodation.

5.21.2 We are supportive of the mix of use in the scheme design, but would draw your attention to the following SSP5 design guidance:

5.21.3 EHC4 - Development should include provision to encourage wildlife habitats such as green/ brown roofs and conservation areas within green spaces. We would recommend that the developer consider producing a landscape maintenance plan

5.21.4 WEW 1-3 All new buildings will be designed to ensure energy, water and waste efficiency. While the energy statement proposes a plan for achieving a 15% reduction in CO2 emissions across the development, the planning drawings do not appear to reflect the chosen technologies, Photovoltaics or ASHPs.

5.21.5 As part of the Flood Risk Assessment, has the developer considered the utilisation of either green roofs or rainwater harvesting systems for either landscape maintenance or reuse within the buildings as part of the solution for surface water management and reduced water demand from the development?

5.21.6 Further we cannot see any documentary reference to waste management through the construction phase or measures to reduce or manage waste generation in use. We would recommend the production of a site waste management plan and further detail regarding waste / recycling facilities provided by the development.

**5.22 Suffolk County - Highways Department** were consulted on the 15 November 2016 and subsequently on 18 October 2016. Response received 21 November 2016.

No objection subject to conditions.

**5.23 WDC Design and Conservation** was consulted on the 18 October 2016. Response Received 23 November 2016.

5.23.1 The additional street scene image confirms that the proposed elevation of the retail unit fronting onto Mill Road has not been designed as a street frontage, and the signage fronting Mill Road, in its awkward juxtaposition to the sloping eaves, serves to underline this. In my view, the building needs to acknowledge this frontage and be modified accordingly.

5.23.2 Response received 19 November 2016 in response to updated drawings concluded previous concerns to have been addressed.

## **6 PUBLICITY**

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

<b>Category</b>	<b>Published</b>	<b>Expiry</b>	<b>Publication</b>
Major Application, Public Right of Way Affected,	14.10.2016	03.11.2016	Beccles and Bungay Journal
Major Application, Public Right of Way Affected,	14.10.2016	03.11.2016	Lowestoft Journal

## SITE NOTICES

The following site notices have been displayed:

General Site Notice	Reason for site notice: Major Application, In the vicinity of Public Right of Way, Date posted 06.10.2016 Expiry date 26.10.2016
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## 7 PLANNING POLICY

7.1 The Waveney Core Strategy was adopted in 2009 and contains the following policies of relevance to the determination of this application:

- CS01 sets the Spatial Strategy for the District;
- CS02, requires development to be of High Quality and Sustainable Design;
- CS03 deals with Flooding and Coastal Erosion;
- CS05, sets policy for the Lake Lothing and Outer Harbour Area Action Plan;
- CS10, deals with Retail Leisure and Office Development; and
- CS11 deals with Housing.

7.2 The Waveney Development Management Policies Document was adopted in 2011 and contains the following policies of relevance to the determination of this application:

- DM01, deals with development within the physical Development Limits;
- DM02, sets out the Council's Design Principles for new development;
- DM17, specified Housing Mix;
- DM30, outlines measures for Protecting and Enhancing the Historic Environment; and
- DM31, deals with Archaeological Sites.

7.3 Lake Lothing and Outer Harbour Area Action Plan was adopted in 2012. The site is located within Policy Area SSP5 - Kirkley Rise.

7.4 The National Planning Policy Framework and associated Guidance forms a material consideration in the determination of this application in particular those areas of guidance relating to the location of town centre uses.

## 8 PLANNING CONSIDERATIONS

8.1 The key considerations in the determination of this application are:

- (i) the principle of residential and retail (Class A3/A5) development in this location;
- (ii) flood risk and drainage;
- (iii) the impact of the proposed development upon the amenity of adjacent and future occupants and users;
- (iv) the sustainability of the proposed design and its impact upon local heritage assets and landscape character;
- (v) transport and access;
- (vi) ecology;
- (vii) ground conditions; and
- (viii) the sustainability of the proposed development.

## Principle

- 8.2 Policy CS01 sets out the Council's Spatial Strategy for the distribution of development and directs the majority of new housing, employment, retail, services and facilities to the Main Town of Lowestoft.
- 8.3 Lowestoft is identified under Policy CS01 as the focus for regeneration, particularly around Lake Lothing and the Outer Harbour area in which the application site is situated. The Town is to accommodate 70 to 80% of the District's housing growth and 5,000 new jobs over current Plan Period.
- 8.4 The site is located within the Lake Lothing and Outer Harbour Area Action Plan (the AAP) Area as set by Policy CS05 and is a focus for employment-led regeneration.
- 8.5 More specifically, the site falls within the Site Specific Policy Area 5 (SSP5) of the AAP otherwise referred to as Kirkley Rise. The area is identified as a strategic site due to its gateway location between Kirkley District Shopping Centre, South Quay and Kirkley Waterfront.
- 8.6 The Policy Area presents a significant opportunity to link the Lake Lothing Waterfront Area with the existing Kirkley District Shopping Centre. Policy SSP5 indicates that existing employment uses to the west of the Policy Area should be retained and identifies scope to extend the mix of uses across the Policy Area to include residential, retail (adjacent to the Kirkley District Shopping Area) and community uses.
- 8.7 The application site is identified specifically on Figure 4.5.2 of page 97 of the AAP as an 'employment / residential / mixed use development' area.

## Residential

- 8.8 In light of the above, the principle of delivering an element of residential accommodation on the application site as part of a mix of uses accords with Policy SSP5.
- 8.9 The site is previously developed land within the defined physical development limits of South Lowestoft and as such is considered a sequentially preferable location for new residential development in accordance with Policy CS11.
- 8.10 The site is sustainably located within easy walking distance of Kirkley District Shopping Centre and its shops and associated services.
- 8.11 The proposed residential accommodation makes efficient use of the land available and addresses an identified requirement for smaller, 1 bedroom properties of affordable rents in accordance with Policies DM16 and DM17 and DM18 of the Waveney Development Plan.
- 8.12 Whilst further consideration is given to the design and environmental impact of the proposed residential accommodation later in this report, the principle of providing 21 affordable residential apartments on the application site is considered appropriate.

## Retail Facilities

- 8.13 Policy SSP5 allocates the application site for “employment / residential and mixed use redevelopment”. More specifically the Kirkley Road / Horn Hill frontages are identified for employment led mixed use development and the inner areas of the site for residential and employment use.
- 8.14 Whilst the Policy does not specifically allocate the site for retail use, the explanatory text does draw reference to the potential for the SSP5 Policy Area to deliver new retail facilities adjacent to the Kirkley District Shopping Area as part of a sustainable mix of uses.
- 8.15 In clarification of the applicant’s submission the site is not allocated for town centre uses in the adopted Development Plan nor is the site located within a Town Centre as defined by Policy DM10.
- 8.16 As such, in accordance with paragraph 26 of the National Planning Policy Framework (the Framework) the Local Planning Authority is required to apply the sequential test to the proposed restaurant and drive thru café uses.
- 8.17 The following section considers the Sequential Assessment undertaken by the applicant.
- 8.18 The sequential approach to the location of new town centre uses (including Class A uses) requires such development to be located in town centres, then in edge of centre locations and only if suitable sites are not available, should out of centre sites be considered.
- 8.19 There are two distinct stages to the application of the sequential test: firstly to identify the requirements of the proposed development; and secondly to assess the suitability and availability of more sequentially preferable sites to accommodate the identified requirements.

## Operational Requirements

- 8.20 The Framework requires applicants and local planning authorities to demonstrate flexibility on issues such as format and scale in undertaking the sequential test. In this respect, national policy guidance (‘the NPPG’) recognises that an operator’s modus operandi is a genuine planning consideration which will determine the parameters of the sequential test.
- 8.21 Paragraph 11 of the NPPG goes on to note that: “...certain main town centre uses have particular market and locational requirements which mean that they may only be accommodate in specific locations...”.
- 8.22 This is clear guidance that the sequential approach must be adopted with a strong understanding of the commercial market that the proposals are intended to serve.
- 8.23 The NPPG (paragraph 12) also recognises that town centre locations can be “expensive and complicated” to develop, and in this respect there needs to be realism and flexibility in terms of the expectations of whether a town centre site is viable for the proposal.



- 8.24 The Framework (paragraph 24) and the NPPG (paragraph 10) require the sequential test to be applied to ‘applications’ and the given ‘proposals’, not to some other form of proposal or disaggregated proposal comprising separate elements.
- 8.25 This matter was further reinforced through the legal case of R(Zurich Insurance Limited) v North Lincolnshire Council [2012BWHC3708 (Admin) and latest in the Supreme Court in the case of Dundee where it was stated that the sequential test criteria ‘are designed for use in the real world in which developers wish to operate no some artificial works in which they have no interest in doing so’.
- 8.26 In this instance the ‘application proposal’ requires:
- A site large enough to accommodate the 615 sq. m proposed across the two retail units.
  - Sufficient car parking within the curtilage of the units for customers.
  - A drive through circulation area.
  - External seating.
  - Access, turning and servicing areas for goods vehicles.
  - Good access to and prominence from the road network.
- 8.27 In the interest of demonstrating flexibility on these requirements a floor area that falls 10% below the floorspace specified by the perspective operators has been applied to the assessment.
- 8.28 Officers have questioned the applicant on the need for the two retail units to be located on the same site and why therefore an area of 615 sq. m has been used as opposed to looking for two sites that may be capable of accommodating the requirements of either one of the retail units in isolation.
- 8.29 In response, the applicant has confirmed that although it is possible for both retail components to operate as stand alone units, the preference in the ‘real world’ is for the units to collocate.
- 8.30 Whilst the operators have not been confirmed, the application has been designed to accommodate the needs of Frankie and Benny’s and a Starbucks café drive thru.
- 8.31 Whilst Frankie and Benny’s are a popular and commercially successful operation their experience is that they are not sufficiently strong to operate as a ‘destination restaurant’. Accordingly the preference is for the operator to collocate with other retail / leisure facilities. Frankie and Benny’s pride themselves on being a family friendly restaurant and much of its custom requires car parking facilities within close proximity to the restaurant.
- 8.32 The operator requires a prominent site with easy access given that they rely heavily on passing trade that is drawn by its proximity to compatible uses.
- 8.33 The Starbucks drive-thru concept is a relatively new concept within the UK and is modelled on the drive thru restaurant format operated by fast food businesses. A drive thru operation relies heavily on attracting ‘pass-by’ trade and as such the operator requires a prominent site located on key transport routes through towns. Customers must also have the option to either drive thru to make a purchase and continue their journey or to park up and consume goods on the premises.

8.34 The prospective drive thru operator requires a complementary facility such as a restaurant on the same site. The applicant has suggested that the interest from the drive-thru operator would fall away if the proposed restaurant was removed from the scheme.

#### Sequential Assessment

8.35 The applicant has carried out an assessment of land that is allocated within the adopted Development Plan for new retail development including the area to the north of Lake Loathing allocated under Policy SSP2 of the AAP, vacant sites and units within the Town Centre of Lowestoft and sites which were previously considered for retail redevelopment through the Development Management Process but where development has not progressed.

8.36 The results of this assessment are presented in the application documentation and the key sites considered are assessed in the following table:

<b>Site / Unit</b>	<b>Assessment by Applicant</b>
Land at Peto Square - Policy SSP2	<p>Unavailable – Site requiring comprehensive redevelopment. Land not available in the short terms or suitable for piecemeal redevelopment.</p> <p>Unsuitable – Multiple ownerships making land assembly difficult. Insufficient land available in single ownership to accommodate the proposed development.</p>
Britten Centre	<p>Unavailable – Two potential occupiers in advanced negotiations.</p> <p>Unsuitable – Unit of insufficient size to accommodate the proposed development.</p>
Belvedere Road Car Park	<p>Unavailable – In active use as a car park.</p> <p>Unsuitable – Capable of accommodating the size of site required. This is an unallocated site in an out of centre location and is not considered sequentially preferable to the application site.</p>
Britten Centre Multi-Storey Car Park	<p>Unavailable – In active use as a NCP car park. Car Park remains on site.</p> <p>Unsuitable – Insufficient accessibility and prominence from a key road frontage.</p>
Surface Car Park next to Clapham Road, South Lowestoft	<p>Unavailable – In use as a car park. Further work recommended by the Council’s Retail Consultants, Carter Jonas on the development potential of the site.</p> <p>Unsuitable – Edge of centre site so more sequentially preferable. Capable of accommodating the size of development proposed. Development of the site would result in the loss of a Council owned car park the impact of which requires further review.</p>

Site / Unit	Assessment by Applicant
Battery Green Car Park, Lowestoft	<p>Unavailable – In active use as a multi-storey car park.</p> <p>Unsuitable – Site capable of accommodating the size of development proposed. The Council’s retail consultants have advised the site represents a medium to long term development prospect and does not meet the identified immediate requirements of the prospective operators.</p>
Triangle Market, Lowestoft	<p>Unavailable – The Council’s retail consultants have recommended a review be undertaken of the potential to combine the site with adjacent premises to deliver a comprehensive redevelopment proposal.</p> <p>Unsuitable – The shape of the site and its relationship to St Peters Street and the High Street would render it incapable of accommodating the proposed development. The Site has limited vehicular access.</p>
Former BHS Unit 95-97 London Road North	<p>Unavailable – The unit is not on the open market. The BHS unit was let on a long lease to 2047.</p> <p>Unsuitable – The premises is larger than that required to accommodate the proposed development. The site is in a prime retail location on the high street where there is a policy presumption towards the retention of Class A1 shopping facilities. The unit is situated within a pedestrianised shopping area and does not meet the location requirements of the prospective operators.</p>
Former Argos Unit 37 London Road North	<p>Available.</p> <p>Unsuitable – The unit is situated within a pedestrianised shopping area and does not meet the location requirements of the prospective operators. The unit is insufficient in size to accommodate the proposed development.</p>
Former Post Office 51 London Road North	<p>Unavailable – Unit is not on the open market and it is unclear whether the entire unit is likely to become available.</p> <p>Unsuitable – The unit occupies ground, first and second floors, with the primary frontage to London Road North and a side vehicle access and frontage to Surrey Street. The unit is situated on a pedestrianised stretch of the London Road North.</p> <p>The site is not suitable to accommodate the application proposals.</p>

8.37 In conclusion, the applicant has demonstrated to the satisfaction of officers that there are no sequentially preferable locations that are suitable or available to accommodate the proposed development.

## Impact upon the Vitality and Viability of the Town Centre

- 8.38 When assessing applications for retail uses outside of town centres, which are not in accordance with an up-to-date Local Plan the Local Planning Authority should require an impact assessment if the development is over a proportionate, locally set floorspace threshold (if there is no locally set threshold, the default threshold is 2,500m<sup>2</sup>).
- 8.39 The Council does not have any locally set threshold and the proposal falls well short of the 2,500m<sup>2</sup> specified in the Framework. As such, an assessment of the impact of the proposed development upon existing, committed and planned public and private investment in a centre or centres in the catchment area of the proposal; and the impact of the proposal on town centre vitality and viability, including local consumer choice and trade is not required in this instance.
- 8.40 Despite this, the applicant has offered up an assessment of the 'health' of the Town Centre of Lowestoft and its vulnerability to potential trade diversion. In summary, the assessment identifies Lowestoft's key strengths to be its diverse retail offer and its accessibility by multiple modes of public transport. Its weaknesses relate to its high crime rate and a reduction of footfall outside of London Road North and the High Street. The applicant does not consider the Town Centre to be vulnerable to the potential trade diversion that may result from the provision of Class A3 / A5 uses outside of the Town Centre.
- 8.41 As such, the proposed development is not considered to result in a significant adverse impact upon the vitality and viability of the Town Centre.

## Employment Generating Uses

- 8.42 Whilst Policy SSP5 allocates the site for employment development as part of a mix of uses, it does not specify that the employment should be delivered through traditional Class B employment uses.
- 8.43 The retail sector has been subject to a Select Committee Inquiry by the Department for Innovation and Business (BIS). The BIS Retail Strategy produced in October 2012 emphasised the importance of retail land uses to local economies indicating that 'local economies are underpinned by retail which is a provider of employment, skills development and goods and services people need and want. Where there is retail there is a multiplier effect for other consumer facing enterprises.'
- 8.44 The proposed retail operations are likely to provide in the order of 40 new jobs for the town of Lowestoft. In addition the development will deliver temporary employment opportunities during the construction phase.
- 8.55 The employment opportunities to be generated by the proposed development is a key benefit of the proposed development.

## Flood Risk

- 8.45 The Environment Agency confirms that the application site is within Tidal Flood Zone 1 with a less than 0.1% annual probability of flooding.

- 8.46 The Environment Agency has provided modelled flood levels for the Lowestoft Docks in the vicinity of the Site which includes levels for a 1 in 200 plus climate change event.
- 8.47 When comparing the 1 in 200 year event against the topographical survey it show a small area of the site is shown to be located within Flood Zone 3 having a 0.5% annual probability of flooding. However, the Environment Agency has provided data showing that the site was unaffected by the December 2013 storm surge.
- 8.48 To mitigate the risk of flooding to future occupants of the scheme it is proposed that the finished floor level of the proposed residential building be no lower than 4.19m AoD and above the worst case 1 in 200 year plus climate change event of 3.89m AoD.
- 8.49 As development is proposed within an area at risk of flooding, additional compensatory flood storage is required.
- 8.50 Whilst the proposed development will result in a marginal decrease in non permeable area, the development has been designed to deliver a 30% reduction on the existing surface water discharge rate.
- 8.51 With infiltration having been ruled out as a means of disposing of surface water sustainably, the applicant is proposing to provide below ground storage tanks to collect surface water and to discharge it into the Anglian Water system at a discharge rate of 40 l/s up to a 1 in 100 year event.
- 8.52 The above drainage strategy and flood risk mitigation are to be secured through the recommended planning conditions.

### Amenity

- 8.54 The Council's Environmental Health Officer has expressed concern over the potential impact of existing and proposed noise sources on the occupants of the proposed residential apartments.
- 8.55 However, consideration must be given to the acceptance through the site's allocation that residential and commercial uses may be delivered in this location as part of a sustainable mix of uses.
- 8.56 As such, it is considered appropriate to require the applicant to undertake further assessment of the potential noise sources and to control noise levels through either specific mitigation or building design.
- 8.57 There is uncertainty over the location and design of the plant required by the two operators and as such a full assessment of the noise to be generated and the measures by which to mitigate it, will need to be submitted to and agreed with the Local Planning Authority prior to the installation of any plant. This can be agreed through the recommended planning conditions.
- 8.58 Additional concern has been expressed over the potential for noise from deliveries and the methodology adopted by the applicant in its assessment of such impacts. The Council's Environmental Health Officer has suggested however, that in the absence of a robust

assessment it is appropriate to limit such disturbance through a condition restricting deliveries during night time hours.

- 8.59 As such, the amenity of adjacent and future occupants of the scheme may be appropriately protected through the application of site specific mitigation and building design in accordance with Policies CS02 and DM02 of the Waveney Development Plan.

#### Design, Conservation (including Archaeology) and Landscaping

- 8.60 The design of the proposed development is heavily user lead with the design of each of the commercial units responding to the requirements of the prospective tenants and the residential accommodation designed to meet the needs of the intended registered provider.
- 8.61 Buildings have been positioned on the site to make most efficient use of the land. The units have been orientated to provide active frontages to Mill Road and Kirkley Rise, whilst allowing for easy vehicular access and circulation into and around the site. The success of the proposed operations is dependent upon facilitating easy access between the car park and the proposed units.
- 8.62 The residential building has been located to the south of the site away from the key frontages and existing noise generators. Servicing and bin storage areas are positioned away from key frontages to the rear of each unit.
- 8.63 Units 1 and 2 are single storey framed buildings with the rear wall and roof constructed in the same solid metal cladding material. The remaining side and front elevations are brick with significant elements of glazing.
- 8.64 The residential block provides accommodation over three storeys with undercroft car parking. The materials seek to replicate elements of Units 1 and 2. The elevations are broken up through the asymmetrical distribution of external materials and the grouping of windows.
- 8.65 The proposed site layout responds positively to the existing street frontages. Whilst some concern has been expressed by consultees over the prominence of the customer car park from the Mill Road roundabout, the buildings will dominate views into the site.
- 8.66 The positioning of Unit 1 has been slightly amended so that its northern side elevation falls in line with the building frontage along Mill Road. In this respect the buildings carry forward the historic building line in a manner that is respectful of the South Lowestoft Conservation Area.
- 8.67 The roofline of Unit 1 has also been amended since the original submission to provide a flat roof as opposed to a mono-pitched roof. The amendment overcomes officer's previous concerns regarding the orientation of activity away from the Mill Road frontage. The provision of additional glazing to the side elevation of Unit 1 has assisted in delivering additional interest and focus to this frontage.
- 8.68 The applicant has paid regard to the secured by design methodologies in developing the proposals. Natural surveillance of the proposed car parking and circulation area is

maximised through the orientation of the proposed buildings and the positioning of the car parking areas relative to the highway. The site is to be lit to limit dark corners within the car parking, servicing and pedestrian areas, the detail of which can be secured by condition. Where glazing is proposed at ground level, bollards are proposed at 1.2 m intervals.

- 8.69 The proposed development provides a mix of uses appropriate to the site's allocation. The development site is sustainably located within easy walking distance of the District and Town Centres and is accessible by foot, cycle and by car.
- 8.70 Whilst the application site is located within an Archaeological Site of Regional Importance, Suffolk County Council Archaeological Service Conservation Team has confirmed that the proposed development will not give rise to any significant impacts upon known archaeological sites or area with archaeological potential.
- 8.71 The proposed development will not adversely affect the belt of trees to the immediate east of the site and through the provision of additional landscaping will deliver environmental improvements to an urban environment of poor visual and environmental quality.
- 8.72 The proposed development is considered sustainably designed in accordance with Policies CS02, DM02 and DM30 of the Waveney Development Plan.

#### Transport and Access

- 8.73 The application is accompanied by a Transport Statement which confirms that any increase in traffic to result from the proposed development will not be significant having regard to the existing traffic flows.
- 8.74 The Statement demonstrates that the 'with-development' traffic flows that are predicted to occur during the Saturday peak will be lower than those experienced at present during the weekday PM period.
- 8.75 Suffolk County Council Highway Officers confirm that whilst the proposed development will create additional vehicle movements, when considered in relation to the existing vehicle flows on this part of the network and also taking into account the previous use, the increase is not considered significant nor to result in a severe impact.
- 8.77 The existing accesses onto Mill Road which is close to the A12 roundabout and the existing pedestrian crossing is considered undesirable and as such the proposal to access the application site from Kirkley Rise is considered a highway improvement and a benefit of the proposed development.
- 8.78 This site offers good access via sustainable travel modes which will help to mitigate the potential impact from this site. Encouraging access to the site for occupants by sustainable modes of travel can be secured by through the implementation of the draft Travel Plans to be secured by condition.

## Ecology

- 8.79 The application site comprises mainly buildings and areas of hardstanding, albeit patches of scrub, tall ruderal vegetation and semi-improved grassland are also present in places. These habitat types have been characterised to be of low biodiversity value and the site as a whole has been assessed by the applicant's Ecological Consultants as having limited potential to support protected species.
- 8.80 The mature trees located adjacent to the application site on its southern and eastern boundary are unaffected by the proposed development and will be protected during the demolition and construction phase. The need to protect retained trees during the construction of the proposed development and methods by which to limit potential disturbance to protected species during construction set out within the Submitted Ecological Report may be secured by way of condition.

## Ground Conditions

- 8.81 The site's previous use as a petrol filling station has the potential to give rise to ground contamination. A Ground Investigation Report has been undertaken by the applicant's engineers which proposes the assessment and removal of any identifiable contamination together with the application of chemical reagents to enhance the rate of in-situ hydrocarbon degradation.
- 8.82 The Council's Environmental Health Officer has confirmed that the methodology for identifying the magnitude and severity of any ground contamination and the necessary methods for remediating the site may be secured by standard planning conditions.

## Energy

- 8.83 The application is supported by an Energy Statement which presents a range of strategies for reducing reliance on non renewable sources of energy. The applicant's commitment to the delivery of sustainable design and energy and the benefits that it will deliver can be secured by way of the recommended planning conditions.
- 8.84 The applicant has committed to exploring and using sustainable construction techniques in accordance with the principles of Policies CS02 and DM02 and sustainably disposing of site waste which can again be controlled through condition.

## **9 CONCLUSION**

- 9.1 The proposed development brings back into vital and viable use a prominent and largely redundant brownfield site within the defined development limits of South Lowestoft.
- 9.2 The proposals will bring about the physical regeneration and environmental upgrade of the site to deliver a mix of residential and employment generating uses in general compliance with AAP site specific Policy SSP5.
- 9.3 The proposed town centre uses have been sequentially tested and no sequentially preferable sites have been identified as being suitable or available and therefore capable of accommodating the proposed development.



- 9.4 The layout of the site and the design of its buildings have responded to the requirements of the intended operators and deliver a development that makes effective use of the site's prominent road frontages.
- 9.5 The environmental impacts of the development are not considered significant and are capable of being controlled to an acceptable level through proposed mitigation and the recommended planning conditions.
- 9.6 The proposed development is considered in general conformity with the Development Plan and is beneficial economic development in its own right for which there is a National presumption in favour.

## **10 RECOMMENDATION**

10.1 Members grant planning permission subject to the finalisation and signing of a Section 106 Agreement for securing the proposed affordable residential apartments and subject to 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 be carried out in accordance with the following approved drawings for which permission is hereby granted:

Location Plan 13374-170

Tree Removal and Demolition Plan Reference: 13374-173

Proposed Site Plan – Lower Ground Floor Reference: 13374-175 Rev E

Proposed Site Plan – Upper Ground Floor Reference: 13374-176 Rev C

Proposed GA and Roof Plan Unit 1 Reference: 13374-177 Rev A

Proposed Elevations - Unit 1 Reference 13374-178 Rev A

Proposed GA and Roof Plan – Unit 2 Reference 13374-179

Proposed Elevations – Unit 2 Reference 13374-180 Rev B

Proposed Plans and Elevations – Unit 3 Reference: 13374-181 Rev B

Proposed Refuse Store Reference: 13374-182

Proposed Cycle Shelter Reference: 13374-183

Waste Management Plan Reference: 13374-184 Rev B

Proposed Elevations – Substation Reference 13374-185 Rev A

Proposed Street Scene Elevations Reference: 13374-186 Rev A

Proposed Street Scene Comparison Reference: 13374-187 Rev A

Landscape Plan Reference: V13374LO1 Rev K

Schedule of Materials and Finishes Rev A

Reason: To secure a properly planned development.

3. Notwithstanding the provisions of the Town and Country General Permitted Development Order 2015 (as amended) and the Town and Country Planning (Use Classes) Order 1987 (as

amended) Unit 2 hereby approved shall be used as a drive thru café only and for no other use falling within either Class A3 or Class A5 of the Order(s).

Reason: To secure a properly planned development

4. The finished floor levels of the approved units and substation shall be no less than 4.19m AOD.

Reason: to reduce the risk of flooding.

5. Prior to the occupation of the first residential apartment hereby approved, the relevant housing provider shall submit written evidence to the Local Planning Authority to demonstrate that the Environment Agency Flood Warning system has been made available to occupants of the approved residential apartments. The provider shall obtain the Council's written approval of the submitted evidence prior to the occupation of the first residential apartment.

Reason: in the interest of mitigating the impacts of flooding

6. Prior to the commencement of each relevant unit hereby approved samples of the surfaces and materials relevant to that unit shall first be submitted to and agreed in writing with the Local Planning Authority.

Reason: to secure a high quality design.

7. No development shall commence until details of the strategy for the disposal of surface water on the site have been submitted to and approved in writing by the local planning authority.

Reason: To ensure that the principles of sustainable drainage are incorporated into this proposal, to ensure that the proposed development can be adequately drained

8. No development shall commence until details of the implementation, maintenance and management of the strategy for the disposal of surface water on the site have been submitted to and approved in writing by the local planning authority. The strategy shall be implemented and thereafter managed and maintained in accordance with the approved details.

Reason: To ensure clear arrangements are in place for ongoing operation and maintenance of the disposal of surface water drainage.

9. The development hereby permitted shall not be occupied until details of all Sustainable Urban Drainage System components and piped networks have been submitted, in an approved form, to and approved in writing by the Local Planning Authority for inclusion on the Lead Local Flood Authority's Flood Risk Asset Register.

Reason: To ensure all flood risk assets and their owners are recorded onto the LLFA's statutory flood risk asset register.

10. The site access shall be constructed in accordance with Drawing No.13374-175 175 Rev E and be available for use before commencing development of the approved units. Thereafter it shall be retained in its approved form. At this time all other means of access on Mill Road within the frontage of the application site shall be permanently and effectively "stopped up" in a manner which previously shall have been approved in writing by the Local Planning Authority.

Reason: In the interests of highway safety to ensure the approved layout is properly constructed and laid out and to avoid multiple accesses which would be detrimental to highway safety.

11. Prior to the occupation of the relevant units hereby approved the area(s) within the site shown on Drawing No. 13374-175 Rev E for the purposes of loading, unloading and manoeuvring and parking of vehicles to each relevant unit 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.

12. The areas to be provided for storage of Refuse/Recycling bins for each relevant unit hereby approved as shown on drawing number 13374-175 Rev E shall be provided in their entirety before that relevant unit 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.

13. Before the development is commenced details shall be submitted to and approved in writing by the Local Planning Authority showing the means to prevent the discharge of surface water from the development onto the highway. The approved scheme shall be carried out in its entirety before the access is first used and shall be retained thereafter in its approved form.

Reason: To prevent hazards caused by flowing water or ice on the highway.

14. Prior to the occupation of each relevant commercial unit the Interim Workplace Travel Plan Statement dated September 2016 must be implemented. This must also include the provision of an employee welcome pack by the occupier of the relevant commercial unit, on the first occupation, that shall include information and incentives to discourage single-occupancy vehicle travel, in favour of sustainable alternatives. The Travel Plan shall be implemented for a minimum of five years following the occupation of each relevant commercial unit.

Reason: to encourage access to the site by sustainable modes of travel.

15. Prior to the occupation of the first residential apartment the Interim Residential Travel Plan Statement, dated September 2016 must be implemented in full. This must also include the provision of a resident welcome pack to each resident on their first occupation,

that shall include information and incentives to discourage single-occupancy vehicle travel, in favour of sustainable alternatives. The Travel Plan shall be implemented for a minimum of five years following the occupation of the last residential apartment.

Reason: to encourage access to the site by sustainable modes of travel.

16. Prior to the commencement of the approved residential apartments hereby approved the applicant must submit to the local planning authority a detailed written report setting out the specific acoustic mitigation measures (including glazing and ventilation) that will be installed in each dwelling. The report must demonstrate and evidence how the noise levels specified by the World Health Organisation (WHO) and BS8233:2014 (as detailed in table 2.1 on page 5 of the applicant's Environmental Noise Assessment from Sharps Redmore dated 27th September 2016) will be met in each dwelling. The report is subject to the written approval of the local planning authority. Thereafter the dwellings shall be developed in accordance with the approved report.

Reason: in the interest of residential amenity

17. Prior to the occupation of each relevant commercial unit hereby approved a written report must be submitted to, and approved by, the Local Planning Authority which must:

- identify all mechanical services noise sources associated with the relevant commercial unit, including (but not limited to): refrigeration units, heating plant, air conditioning and mechanical ventilation;
- detail the type and models of the proposed mechanical equipment / plant, installation locations, and predicted acoustic performance; and
- assess the predicted noise emissions from the identified equipment / plant in accordance with BS4142 (or a methodology agreed by the Local Planning Authority) and demonstrate, with detailed proposals for noise control and mitigation measures if necessary, that noise emissions will not have an adverse impact on the existing and approved dwellings.

Thereafter each relevant commercial unit must be developed in accordance with the approved report(s).

Reason: in the interest of residential amenity

18. Deliveries to the commercial units or collection of packaging, waste or other items shall not take place outside the hours of 8am and 6pm Monday to Saturday and outside the hours of 10am and 4pm on Sundays and bank holidays.

Reason: in the interest of residential amenity

19. Development other than that required to be carried out as part of an approved scheme of remediation must not commence until Conditions 20 to 23 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 19 has been complied with in relation to that contamination.

Reason: to protect against potential ground contamination

20. 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,
- archaeological 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'.

Reason: to protect against potential ground contamination

21. 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.

Reason: to protect against potential ground contamination

22. 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.

Reason: to protect against potential ground contamination

23. 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 19.

Reason: to protect against potential ground contamination

24. All hard and soft landscape works shall be carried out in accordance with the approved details set out on drawing V13374-L01 Rev K. The works shall be carried out prior to the occupation of any part of the development or in accordance with the programme agreed with the Local Planning Authority; and 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

25. No development shall take place until the existing trees on and adjacent to the site, hereby agreed with the Local Planning Authority to be retained, have been protected by the erection of temporary protective fences of a height, size and in positions which shall previously have been agreed, in writing, with the Local Planning Authority. The protective fences shall be retained throughout the duration of building and engineering works in the vicinity of the tree to be protected. Any trees dying or becoming severely damaged as a result of any failure to comply with these requirements shall be replaced with trees of appropriate size and species during the first planting season, or in accordance with such other arrangement as may be agreed in writing with the Local Planning Authority, following the death of, or severe damage to the trees.

Reason: For the avoidance of damage to protected trees included within the landscaping scheme in the interests of visual amenity and the character and appearance of the area.

26. Prior to the commencement of each relevant unit hereby approved a construction method statement relevant to that unit shall first be submitted to and agreed in writing with the Local Planning Authority. The statement shall include:

- A timetable for the construction works including those times of the day to which construction activity will be limited
- A methodology for the recycling of waste material resulting from the demolition of the existing buildings and hardstanding
- Measures to control dust and soil from leaving the site including wheel washing facilities
- Measures for securing the site during construction

Reason: to control the impact of construction activity and to limit waste.

27. The mitigation measures outlined in the hereby approved Extended Phase 1 habitat Survey for protecting protected species during the construction of the approved development shall be implemented in their entirety in accordance with the timeframes outline within the Survey.

Reason: In the interests of nature conservation.

28. Prior to the occupation of the approved development a Lighting Scheme shall first be submitted to and agreed in writing with the Local Planning Authority. The approved scheme shall be implemented prior to the occupation of the proposed development.

Reason: in the interest of amenity and site safety

29. Prior to the commencement of the relevant commercial units hereby approved a scheme setting out the methodologies for reducing energy consumption within each relevant unit shall first be provided and agreed in writing with the Local Planning Authority.

Reason: to reduce energy consumption

#### Informatives:

1. The “relevant units” referred to within the planning permission include:

##### “Commercial units”

- Unit 1, comprising 372 sq. m (GIA) of Class A3 restaurant use is to be located adjacent to the Mill Road frontage to the north of the Site;
- Unit 2, comprising 167 sq. m GIA of Class A3 /A5 drive thru café use is to be located within the centre of the site; and

##### “Residential unit”

- Unit / Building 3, comprising 21 affordable 1 bedroom residential apartments is to be located to the far south west of the site.

2. The Council will expect noise emissions to be controlled so that the predicted or measured rating level does not exceed background noise levels. As stated in BS4142:2014 such a rating level is, “...an indication of the specific sound source having a low impact, depending on the context.” Where the applicant can demonstrate that such a requirement is impracticable, unreasonable or overly onerous in the particular circumstances a higher rating level may be agreed.

3. It is recommended that a check of the buildings and vegetation for nesting birds is undertaken prior to work commencing. Nesting birds are protected by the Wildlife and Countryside Act (1981). It is therefore recommended that any works take place outside the nesting season. If birds are encountered advice should be sort from a suitably qualified ecologist on how best to proceed.

4. An application to discharge trade effluent must be made to Anglian Water and must have been obtained before any discharge of trade effluent can be made to the public sewer. Anglian Water recommends that petrol / oil interceptors be fitted in all car parking/washing/repair facilities. Failure to enforce the effective use of such facilities could result in pollution of the local watercourse and may constitute an offence. Anglian Water also recommends the installation of a properly maintained fat traps on all catering establishments. Failure to do so may result in this and other properties suffering blocked drains, sewage flooding and consequential environmental and amenity impact and may also constitute an offence under section 111 of the Water Industry Act 1991.”

**BACKGROUND INFORMATION:**

See application ref: DC/16/4137/FUL at  
[www.eastsuffolk.gov.uk/publicaccess](http://www.eastsuffolk.gov.uk/publicaccess)

**CONTACT**

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Central Area