

Forest Heath District Council

**DEVELOPMENT
CONTROL
COMMITTEE**

2 MARCH 2016

DEV/FH/16/005

Report of the Head of Planning and Growth

**PLANNING APPLICATION DC/15/0754/FUL - 146A HIGH STREET,
NEWMARKET**

Synopsis:

Application under the Town and Country Planning Act 1990 and the Planning (Listed Buildings and Conservation Areas) Act 1990 and associated matters.

Recommendation:

It is recommended that the Committee determine the attached application and associated matters.

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Committee Report

App. No:	DC/15/0754/FUL	Committee Date:	02 March 2016
Date Registered:	20 May 2015	Expiry Date:	31 March 2016 (with agreement)
Case Officer:	Philippa Kelly	Recommendation:	APPROVE planning permission.
Parish:	Newmarket	Ward:	St Mary's
Proposal:	Planning Application - Conversion of former nightclub to residential use (36 dwelling units including 2 affordable units) and 290 square metres of office space, a detached block of 10 affordable housing apartments and ancillary parking (as amended by drawings received 19 October 2015).		
Site:	146A High Street, Newmarket		
Applicant:	Murfet Group		

BACKGROUND:

This application is referred to the Development Control Committee because it is for 'major development' and raises issues which are in the public interest.

The application is recommended for APPROVAL.

APPLICATION DETAILS:

1. This is an application for full planning permission, for the conversion of an existing building, No. 146A High Street, Newmarket to residential use, with 290 square metres of office space at the ground floor.
2. The converted building will accommodate 36 one and two bedroom apartments. Two of these will be affordable units, to be provided at basement level, with separate private access to the rest of the building.
3. As part of the conversion of the building, an extension is proposed on the southern side of the building to accommodate a lobby and lift which will serve all floors. Other alterations to the building include the re-instatement of windows, and the insertion of a number of new openings.

4. The application also proposes a separate two storey building at the rear of the site (north-western side). The purpose of this block is to provide 10 one bedroom one person affordable housing units.
5. Ancillary car parking to serve the development is proposed at the rear of the site.
6. The existing access arrangements to the site will remain unchanged. Access will be taken from the High Street, with vehicular access from Grosvenor Yard to the west.

AMENDMENTS:

7. During the course of the application, the application proposals were amended a number of times. The main changes relate to the following:

First Amendment – July 2015

8. The first amendment removed the separate block at the rear of the site from the scheme. This is because the Council considered that Vacant Building Credit should be applied to the main building. This resulted in the deduction of the affordable units from the scheme.
9. A full re-consultation exercise was undertaken in respect of the first amendment.

Second Amendment –October 2015

10. A second amendment was formally submitted on 19 October 2015. The changes relate primarily to the re-instatement of the separate building at the rear of the scheme, following the abolition of Vacant Building Credit.
11. A full re-consultation exercise was undertaken in respect of the second amendment.
12. Amendments were also made to the design of the scheme, specifically the separate building at the rear of the site. The design changes followed advice offered by the Council's Conservation Officer, and included the reduction of the scale and form of the separate affordable housing block - from two and a half storey to two storey.

Third Amendment – November 2015

13. Further amendments to the scheme layout were submitted in November 2015, in response to advice offered to the Planning Agent by the planning officer. Additional information was also submitted in respect of arboricultural issues, including an Arboricultural Impact Assessment and Tree Constraints Plan.

Fourth Amendment – December 2015

14. On 17 December 2015, a further amendment was formally submitted. The amendment relates to the position of the separate affordable housing block, the footprint of which has been moved away from the common boundary to the

north-west. This amendment was made in response to continued arboricultural concerns raised by the Council's Tree and Landscape Officer.

15. Only the Council's Tree and Landscape officer and Suffolk County Council Highways Officer were consulted in respect of the third and fourth amendments.

Additional information – February 2016

16. In February 2016 further revised plans were submitted in respect of the separate affordable housing block, following a site meeting which was attended by representatives of the Council and the Planning Application. The purpose of the meeting was to try and resolve outstanding arboricultural issues.

APPLICATION SUPPORTING MATERIAL:

17. The application is accompanied by the following documents:
 - i. Application forms and drawings.
 - ii. Planning Statement
 - iii. Design and Access Statement.
 - iv. Heritage Statement
 - v. Affordable Housing Statement
 - vi. Transport Statement and Travel Plan
 - vii. Desk Top Contamination/Enviro Search and report
 - viii. Foul and surface water drainage details.
 - ix. Employment Statement.
18. During the course of the application, additional supporting information was also received from the Applicant in respect of arboricultural issues. This included an Arboricultural Impact Assessment, Tree Protection Plan, details of boundary treatments and landscaping details.

SITE DETAILS:

19. The application site is an approximately rectangular parcel of land which is situated in Newmarket Town Centre, on the northern side of Newmarket High Street, adjacent the entrance to Grosvenor Car Park. The site comprises an area of approximately 0.38 hectares.
20. The site is dominated on the southern-eastern side by an existing building which fronts the High Street. The building was last occupied by De Niros Nightclub, and is understood to have been vacant since late 2014.
21. Immediately adjacent and adjoining the former De Niros Nightclub building is No. 130 High Street, a restaurant. This building does not form part of the application site.
22. To the immediate rear of the building is a surfaced public car park, which is accessed from Grosvenor Yard on the north-western side. The car park is currently being used as a hand car wash.
23. Grosvenor Yard is a public highway which abuts the southern boundary of the application site. It runs between High Street to the south-east and Fitzroy

Street to the north-west, and provides vehicular access to the application site and a public car park to the south.

24. Along the north-eastern boundary of the application site is public open space comprising the King Edward VII Memorial Gardens. A row of mature pollarded lime trees are located in the gardens, close to the common boundary of the application site. These trees are approximately 1m lower than the site, and separated by a retaining wall topped with metal railings.
25. To the north-west of the application site are residential properties which take access from Fitzroy Street. The rear garden of 5A Fitzroy Street forms the common boundary, and contains a number of mature trees which overhang the site. Beyond the adjacent public car park to the west is more modern development of contemporary design.
26. The application site is situated entirely within the Newmarket Conservation Area. Whilst the application building is not listed, adjacent properties at Nos. 152 and 154 High Street are designated as Grade II listed buildings. To the south-west of the application site are Grade II listed former stables.
27. The application site is largely flat and level. There are differences in levels between the site and the Memorial Gardens to the north-east, and the public car park to the south-west, with the land sloping downwards towards the Memorial Gardens.
28. The application building was nominated for listing as an asset of community value by the Newmarket Doric Centre Project pursuant to the Localism Act 2011 and the Assets of Community Value (England) Regulations 2012. The application to Forest Heath District Council was successful, with a decision made on 14 September 2015.
29. A review of the Council's decision to accept the nomination of the property as an Asset of Community Value (ACV) was submitted on 29 September 2015. The review concluded that the building does not meet the criteria for listing.
30. A further nomination for listing as an ACV was subsequently submitted by the Newmarket Doric Centre Project. The building was re-listed as an ACV in January 2016. It is understood that a further review has been sought by the owners of the property.
31. The relevance of this to the planning application process is addressed in the Officer Comment section below.

RELEVANT PLANNING HISTORY:

32. **DC/14/0213/14** – Resubmission of DC/13/0752/FUL – retrospective application for the change of use from car park to hand car wash facility, to include associated external drainage works. Approved 24 April 2014.
33. **F/2004/0686/OUT** – Outline application for the erection of a two storey building comprising 8 bedsits. Approved 25 October 2004.

Officer note: This was an outline planning permission which has now lapsed.

CONSULTATIONS:

34. Members of the public and statutory consultees were consulted in respect of the scheme as submitted. The following is a summary of statutory comments received in relation to the scheme as originally submitted and as amended.

Original scheme submitted with the planning application (April 2015):

35. **West Suffolk Conservation – Objection.** Detailed comments. Recommends refusal on the basis of the scale, height and massing of the proposed new building, together with the complicated nature of the design, poor choice of materials and inappropriate detailing, which will result in a development which would fail to: respect the setting of the listed stables; preserve or enhance the character or appearance of the conservation area or that of the memorial gardens.
36. **West Suffolk Strategy Housing Team - No objection.** Comments. The team supports the planning application to convert the former nightclub in Newmarket into a residential development. Newmarket has a huge demand for housing in general as well as the need for more affordable homes and this development will help to meet that demand.
37. **West Suffolk Environment Officer – No objection.** Recommends conditions relating to contamination.
38. **West Suffolk Public Health and Housing – No objection.** Recommends conditions relating to construction activities.
39. **Suffolk County Council Highways – Objection.** Recommends refusal based on insufficient provision of car parking.
40. **Suffolk County Council Planning Obligations – No objection.** Comments.
41. **Suffolk County Council Archaeological Services – No objection.** Comments Recommends conditions relating to recording heritage assets.
42. **Suffolk County Council, Flood and Water Manager – No comments to make.**
43. **Suffolk County Council Fire and Rescue – No objection. Comments.** No additional water supply for fire fighting purposes is required in respect of this planning application.
44. **Anglian Water- No objection. Comments.** Recommends conditions relating to drainage strategy and surface water disposal.
- Amended scheme received October 2015 (reinstatement of separate building at the rear of the scheme, alterations to the design of the development).
45. **West Suffolk Strategic Housing Team – No further comments.**

46. **West Suffolk Conservation – Comments.** The revised proposal has, as requested, removed the gabled features to both the rear and front elevation whilst fenestration details have been regularised. The wide gables and provision of balconies still remain an undesirable feature, whilst the flat roof link appears particularly odd to the rear elevation due to the absence of any such break articulated in the corresponding walls. Whilst the amendments have addressed a number of concerns the design remains bulky and uninspiring.

A bank of trees to the rear will provide some screening to the memorial grounds to the north. It is important that you are satisfied that the proposal will not pose a threat to the trees resulting in their removal or reduction and loss of screening.

The proposed development will inevitably cause a degree of harm to the character and appearance of the conservation area due to its overall bulk and incorporation of disproportionately wide gables and generally poor design. It is recognised however that there is likely to be a public benefit which should be weighed against the harm.

47. **West Suffolk Tree and Landscape Officer – Objection.** Detailed comments. Recommends refusal because the potential for direct damage to public trees has not been properly assessed and because locating residential property so close to existing trees will inevitably lead to pressure to constantly prune and/or the premature removal of trees in a public park.
48. **West Suffolk Environment Officer – No objection.** Recommends conditions relating to contamination.
49. **West Suffolk Public Health and Housing – No objection.** Recommends conditions relating to construction activities.
50. **Suffolk County Council Highways – No objection. Comments.** Requests financial contributions towards improvements to Newmarket railway station and highway improvements on Grosvenor Yard. Without such improvements to the sustainability of the development, and to the highway adjacent to the development, the reduced parking provision and increase in use of this area would not be acceptable. Recommends conditions and informatives relating to details of the proposed access, secure motorcycle/cycle storage and the storage of refuse/recycling bins.
51. **Suffolk County Council Planning Obligations – No objection.** Comments.
52. **Suffolk County Council Archaeological Services – No objection.** Comments Recommends conditions relating to recording heritage assets.
53. **Suffolk County Council, Flood and Water Manager – No comments to make.** The site is less than 0.5 and there is no surface water flood risk at the site.
54. **Suffolk County Council Fire and Rescue – No objection. Comments.** No additional water supply for fire fighting purposes is required in respect of this planning application.

55. **Anglian Water- No objection. Comments.** The development site is within 15 metres of a sewage pumping station. Whilst Anglian Water takes all reasonably practicable steps to prevent any nuisance arising from the site, there should be no development within 15 metres from the boundary of a sewage pumping station of this type if the development is potentially sensitive to noise or other disturbance or which might give rise to complaint from the occupiers regarding the location of the pumping station. Recommends conditions relating to drainage strategy and surface water disposal.

REPRESENTATIONS:

56. Newmarket Town Council:

Scheme as originally submitted – Objection on the grounds that there was not enough parking and it was excessive development of the site not in keeping with the character of the building or the conservation area.

Revised scheme submitted October 2015: No response received.

Officer note: Clarification has been sought from Newmarket Town Council regarding whether the original objection still stands, as it was not clear from the correspondence received. In response, the Deputy Town Clerk advised that the Town Council noted the October 2015 amendments and decided not to comment.

57. Jockey Club Estates:

Scheme as originally submitted – Comments. The rear access to the site is on Fitzroy Street, which is used each morning by circa 100 horses on their way to and from the Training Grounds. The development site itself is set back from Fitzroy Street but Jockey Club Estates is concerned about the construction traffic going in and out of the site during the mornings. Should planning permission be granted, I would recommend that a condition be imposed to restrict any larger construction vehicles, deliveries etc via Fitzroy Street to late morning onwards. The construction team should be made aware that horses use Fitzroy Street regularly during the morning, passing the rear site access each time.

Amended scheme: The original comments made are applicable to the amended application.

58. Save Historic Newmarket:

Scheme as originally submitted – Comments. Support the application to renovate and improve the building. The development will bring new dwellings and employment opportunities in the commercial part of the development. We are happy that the plans submitted will improve and enhance the building and also utilise this building of special interest in a complimentary manner, keeping the original façade.

59. **Third party representations** have been received from residents of the following properties:

Bloomsbury Cottage, 7 Fitzroy Street
2 Abernant Drive

60. The following is a summary of the issues raised:

Scale of Development: Number of dwellings is too high for an already noisy and traffic congested area.

Highways Issues: Pedestrian access off Fitzroy Street is already dangerous with no pavement. Increasing pedestrian traffic will be a major safety risk. Proposed parking is insufficient. No provision for visitors, nor for any family to have a second car. Need to slow down traffic on Fitzroy Street.

Construction: Construction traffic may endanger the racehorses which use Fitzroy Street. Construction traffic should be restricted.

Impact on Residential Amenity: Noise.

POLICIES:

DEVELOPMENT PLAN

61. The Development Plan for Forest Heath comprises the following:

- The Forest Heath Local Plan (1995) as 'saved' by the Secretary of State in September 2007 and as subsequently amended by the adoption of the Forest Heath Core Strategy in May 2010, and the Joint Development Management Policies in February 2015.
- The Forest Heath Core Strategy adopted in May 2010, as amended following the High Court Order which quashed the majority of Policy CS7 and made consequential amendments to Policies CS1 and CS13.
- The adopted policies of the Joint Development Management Policies Document (JDMP) Local Plan Document (February 2015).

62. The following Development Plan policies are applicable to the application proposal:

Forest Heath Core Strategy 2010

Visions:

- **Vision 1** – Forest Heath
- **Vision 2** – Newmarket

Spatial Objectives:

- **H1** – Housing provision
- **H2** – Housing mix and design standard
- **H3** – Suitable housing and facilities
- **C1** – Retention and enhancement of key community facilities

- **C2** – Provision and maintenance of open space, play and sports facilities and access to the countryside
- **ENV1** – Habitats and landscapes and improving biodiversity
- **ENV2** – Climate change and reduction of carbon emissions
- **ENV3** – Promotion of renewable energy and energy efficiency
- **ENV4** – Design and architectural quality respecting local distinctiveness
- **ENV5** – Designing out crime and anti-social behaviour
- **ENV6** – Reduction of waste to landfill
- **ENV7** – Achievement of sustainable communities by ensuring services and infrastructure are commensurate with new development
- **T1** – Location of new development where there are opportunities for sustainable travel

Policies

- **CS1:** Spatial Strategy
- **CS2:** Natural Environment
- **CS3:** Landscape Character and the Historic Environment
- **CS4:** Reduce Emissions, Mitigate and Adapt to Future Climate Change.
- **CS5:** Design Quality and Local Distinctiveness
- **CS6:** Sustainable Economic Development and Tourism
- **CS7:** Overall Housing Provision (sub-paragraph 1 only. Sub paragraphs 2,3, 4 and 5 were quashed by the Court Order)
- **CS9:** Affordable Housing Provision
- **CS10:** Sustainable Rural Communities
- **CS11:** Newmarket Town Centre
- **CS12:** Strategic Transport Improvements and Sustainable Transport
- **CS13:** Infrastructure and Developer Contributions

Joint Development Management Policies Document 2015

- **DM1** – Presumption in Favour of Sustainable Development.
- **DM2** – Creating Places – Development Principles and Local Distinctiveness.
- **DM6** – Flooding and Sustainable Drainage.
- **DM7** – Sustainable Design and Construction.
- **DM10** – Impact of Development on Sites of Biodiversity and Geodiversity Interest.
- **DM11** – Protected Species.
- **DM12** – Mitigation, Enhancement, Management and Monitoring of Biodiversity.
- **DM14** – Protecting and Enhancing Natural Resources, Minimising Pollution and Safeguarding from Hazards.
- **DM15** – Listed Buildings.
- **DM16** – Heritage Assets and Listed Buildings.
- **DM17** – Conservation Areas.
- **DM18** – New Uses For Historic Buildings.
- **DM20** – Archaeology.
- **DM22** – Residential Design.
- **DM30** – Employment Uses.
- **DM35** – Town Centre Uses.
- **DM41** – Community Facilities and Services.
- **DM42** – Open Space, Sport and Recreation Facilities.
- **DM45** – Transport Assessments and Travel Plans.

- **DM46** – Parking Standards.

Other Planning Policy

Supplementary Planning Documents

63. The following Supplementary Planning Documents are relevant to this planning application:
- Joint Affordable Housing Supplementary Planning Document (October 2013)
 - Open Space, Sport and Recreation Supplementary Planning Document (October 2011)

Emerging Development Plan Policy

64. **Single Issue Review and Site Allocations Document:** The next stage of the Single Issues Review is imminent, with a 'preferred options' consultation to take place in April 2016. A stand alone Development Plan Document has also been prepared alongside the Single Issue Review, and was last subject to public consultation in August 2015. The Local Planning Authority has taken the decision to consult on the documents in tandem in the next round, in early 2016.
65. The Examination of the 'submission' Core Strategy Single Issue Review (CS7) and Site Allocation Local Plan documents is not expected before early 2017, with adoption in mid-2017.
66. At the present time, the Single Issue Review and the Site Allocations Document carry limited weight in the decision making process, although the published evidence underlying the SIR still has weight.

National Planning Policy and Guidance

67. Planning law requires that applications for planning permission must be determined in accordance with the Development Plan, unless material considerations indicate otherwise. The National Planning Policy Framework (NPPF) is a material consideration for planning decisions and is relevant to the consideration of this application.
68. Paragraph 14 of the NPPF identifies the principle objective of the Framework:

'At the heart of the National Planning Policy Framework is a presumption in favour of sustainable development, which should be seen as a golden thread running through both plan-making and decision-taking. For decision taking this means:

- *Approving development proposals that accord with the development plan without delay; and*
- *Where the development plan is absent, silent or relevant policies out-of-date, granting permission unless:*

-any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this framework taken as a whole;

- Or specific policies in this framework indicate development should be restricted'.

69. This presumption in favour of sustainable development is further reinforced by advice within the Framework relating to decision-taking. Paragraph 186 requires Local Planning Authorities to *'approach decision taking in a positive way to foster the delivery of sustainable development'*. Paragraph 187 states that Local Planning Authorities *'should look for solutions rather than problems, and decision takers at every level should seek to approve applications for sustainable development where possible'*.
70. The relevant parts of the NPPF are discussed below in the officer comment section of this report.
71. The Government published its National Planning Practice Guidance in March 2014 following a comprehensive exercise to view and consolidate all existing planning guidance into one accessible, web-based resource. The guidance assists with interpretation about various planning issues, and advises on best practice and planning process. Relevant parts of the NPPF are discussed below in the officer comment section of this report.
72. Paragraph 215 of the NPPF states that due weight should be given to relevant policies in existing plans according to their degree of consistency with the framework (the closer the policies in the plan to the policies in the Framework, the greater weight that may be given).
73. Paragraph 14 of the NPPF states that where the Development Plan is absent, silent or relevant policies are out of date, development proposals should be determined in accordance with the relevant test - that is whether *'any adverse impacts...would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole'*.

OFFICER COMMENT

Designation of building as an Asset of Community Value (ACV)

74. The former De Niros building was listed as an asset of community value by the Council in September 2015. A subsequent review concluded that the building does not meet the criteria for listing.
75. A further nomination for listing as an ACV was subsequently submitted by the Newmarket Doric Centre Project. The building was re-listed as an ACV in January 2016, and a further review has been requested by the building owner.
76. In its non statutory guidance note on Assets of Community Value (October 2012), the DCLG states that *'it is open to the local planning authority to decide whether listing as an asset of community value is a material consideration if an*

application for change of use is submitted, considering all the circumstances of the case'.

77. In considering the materiality of ACV designations, it is important to note that the process of designating an asset of community value set out in the regulations is very prescriptive. Assuming that an asset is nominated by a properly constituted body, the Council can only refuse to include it on the list if the building does not meet the definition of community value, or falls into one of the excluded categories. This process is likely to result in a list of designated assets where the community value of individual assets may vary considerably.
78. It is also important to note that the process triggered by the sale of a designated asset of community value (i.e. a moratorium on its sale while the community group prepares to bid for it) is not guaranteed to result in acquisition of the asset by the community group, but may result in a delay in the sale.
79. Whilst the designation of a site or building as an asset of community value is an important consideration, officers consider that it is not material in planning terms. The process of determining assets of community value is separate from the planning process and simply confirms assets nominated by qualifying community interest groups which are considered by them to have some community value.
80. The application for the change of use of this building is determined through the planning application process. As part of the evaluation of the planning application proposals, consideration is given to Policy DM41 of the Development Management Policies Document, which resists the loss of valued facilities or services which support a local community. This is considered in further detail in the relevant section of this report.
81. The subsequent section of the report discusses whether the development proposed by this application can be considered acceptable in principle, in the light of extant national and local planning policies. It then goes on to analyse other relevant material planning considerations, (including site specific considerations) before concluding by balancing the benefit of the development proposals against the dis-benefits.

Principle of Development

National Policy Context

82. The National Planning Policy Framework (NPPF) places a strong presumption in favour of sustainable development, and where Development Plans are out of date, advises in Paragraph 14 that planning permission should be granted unless *'any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole...'*
83. The NPPF does not equate to a blanket approval for residential development in locations that would otherwise conflict with Local Plan policies. If the adverse impacts of the proposals significantly and demonstrably outweigh the benefits,

then planning permission should still be refused. The fundamental planning principle is that each case must be considered on its own merits.

Development Plan Policy Context

84. The application site is situated in Newmarket Town Centre. Policy CS1 of the Core Strategy confirms Newmarket's position as a market town serving the retail and leisure needs of the local catchment area, and recognises that housing and employment growth will occur. Core Strategy Policy CS11 provides support for maintaining and enhancing the vitality and viability of towns.
85. The recognition that residential development can play an important role in ensuring the vitality of town centres is a key national planning principle.
86. Policy DM1 of the Joint Development Management Policies Document confirms the presumption in favour of Sustainable Development set out in the Framework. Policy DM35 recognises that a balance between shops and non commercial uses is necessary to secure the vitality and viability of town centres, and offers support for residential uses within such areas.

Summary

87. Both national planning policy principles and development plan policies offer support for the principle of the development proposals - subject to there being no over overriding material considerations to suggest that this should not be the case.
88. A key determining factor will be whether the proposed development can be deemed 'sustainable' in the context of the policies contained in the Framework (as a whole). Even if it is concluded that the proposals would not be 'unsustainable' following analysis, further consideration must be given to whether the benefits of development outweigh its dis-benefits, as required by the Framework.
89. A balancing exercise is carried out towards the end of this section of the report as part of concluding comments. An officer evaluation to assist with Members consideration of whether the development proposed by this planning application is 'sustainable development' is set out below on an issue by issue basis.

Sustainable Transport/Impact upon the Highway Network

90. National planning policy in relation to the transport planning of developments is set out in the Framework. Section 4, paragraphs 29 to 41 deal specifically with transport planning and the promotion of sustainable transport.
91. The Framework confirms that the transport system needs to be balanced in favour of sustainable transport modes, giving people a real choice about how they travel. Paragraph 32 of the Framework requires all developments that generate significant amounts of movements to be supported by a Transport Statement or Transport Assessment. It goes on to advise that development should not be prevented or refused on transport grounds, unless the residual cumulative impacts of development are severe.

92. Paragraph 34 of the Framework states that planning decisions should ensure developments that generate significant movement are located where the need to travel will be minimised and the use of sustainable modes of transport can be maximised. However the Framework recognises that different policies and measures will be required in different communities, and opportunities to maximise sustainable transport solutions will vary from urban to rural areas.
93. Core Strategy Spatial Policy T1 aims to ensure that new development is located where there are the best opportunities for sustainable travel and the least dependency on car travel. This is reflected in Policies CS12 and CS13 which confirms the District Council will work with the partners (including developers) to secure necessary transport infrastructure and sustainable transport measures, and ensure that access and safety concerns are resolved in all developments.
94. The application site is situated in a sustainable location, located centrally in Newmarket Town Centre, with good access to facilities and public transport.

Parking

95. The location of the development proposals is considered a 'main urban area' for the purposes of applying of 2014 County Parking Standards – having frequent and extensive opportunities for public transport and cycling and walking links, close proximity to local services (including education, healthcare, food shopping and employment) and on street parking controls.
96. Given the urban location, the Suffolk County Council Engineer considers that a reduced parking provision of 51 spaces (1 per dwelling plus 5 for the office space) would be acceptable.
97. During the course of the application, the parking proposals were revised in response to consultation advice offered by the County Engineer. The level of car parking has been confirmed as adequate, and in accordance with the standards provided within the Suffolk Guidance for Parking (2014).
98. With regards to cycle parking provision, the development requires 40 secure and covered cycle spaces, and one powered two wheeler parking space. The submitted plans identify provision for cycle parking within the scheme. This can be secured by way of planning condition should approval be forthcoming.

Access Arrangements

99. The application proposes no changes to the existing access situation. The former De Niros building is currently accessed from the west, from Grosvenor Yard. Grosvenor Yard forms a connection between Fitzroy Street to the rear and the High Street frontage.
100. The County Highways Engineer has advised that the submitted plans do not adequately detail any changes to the vehicular access to the site from Grosvenor Yard, and the position of any gates which may be provided. However, conditions which require full details of the proposed access and gates and can be secured, should planning approval be forthcoming.

Traffic Generation

101. The application is accompanied by a Transport Assessment and Travel Plan. These documents advise that the scheme will bring about an improvement in highway safety in this part of Newmarket Town Centre.
102. The likely traffic volumes generated by the development are set out in the Transport Statement. This identifies that the proposed development would cause a material reduction in the number of vehicular movements generated, when compared with the previous use of the site as a nightclub.
103. Officers are satisfied that the traffic movements that would be likely as a result of this development could be accommodated by the existing highway network.

Highway Improvements

104. The County Highways Engineer has requested financial contributions in respect of the following:
 - Improvements to Newmarket Railway Station.
 - Highway improvement works on Grosvenor Yard.

These contributions are considered necessary to improve the sustainability of the development and highway safety, without which the reduced parking provision and increase in use of the area would not be acceptable. The contributions can be secured through the Section 106 planning obligation process, should approval be forthcoming.

Other Issues

105. The third party representation on behalf of Jockey Club Estates is noted. Fitzroy Street is used daily by horses on route to the training grounds. Should planning permission be granted, a planning condition could be secured to control construction traffic.

Summary

106. The Framework directs that applications should only be refused on transport grounds if the residential cumulative impacts of the development are severe. Officers are satisfied that the proposed development can be accommodated in highways terms, and has the potential to bring about local transport improvements (which can be secured through the Section 106 process). In reaching this decision, it is material that that the County Highways Engineer has raised no objection to the proposals.

Flood Risk, Drainage and Pollution

107. Policies for flood risk set out in the Framework aim to steer new development to areas with the lowest probability of flooding. The Framework policies also seek to ensure that new development does not increase the risk of flooding elsewhere.

108. The Framework also offers advice in respect of pollution and land instability, and states that planning decisions should ensure that new development is appropriate for its location. It also confirms that, where a site is affected by contamination or land stability issues, responsibility for securing a safe development rests with the developer and/or landowner.
109. Core Strategy Policy CS4 states the Council will support development proposals that avoid areas of current and future flood risk and which do not increase the risk of flooding elsewhere. The policy confirms sites for new development will be allocated in locations with the lowest risk of flooding (Environment Agency Zone 1 flood category) and will seek the implementation of Sustainable Urban Drainage Schemes (SUDS) into all new development proposals, where technically feasible.

Flood Risk/Sustainable Drainage Systems (SuDS)

110. The application site lies within Flood Zone 1 on the Environment Agency Flood Risk maps, representing an area at low risk of flooding and suitable for all forms of development.
111. Suffolk County Council, in consultation correspondence, has raised no objection to the scheme, noting that the site is less than 0.5 hectares in size and that there is no surface water flood risk at the site.
112. An assessment of the surface water strategy for the site has been made by Anglian Water. The surface water disposal details are considered unacceptable, and a condition has therefore been requested, which requires a surface water management drainage strategy. This can be secured by way of planning condition, should approval be forthcoming.

Foul Drainage

113. The foul drainage from the development is within the catchment of Newmarket Water Recycling Centre. Anglian Water has confirmed that there is available capacity to treat these flows, and that the sewerage system has current available capacity.

Contamination

114. The information submitted with the application does not indicate a high likelihood of contamination. In accordance with the advice offered by the Council's Environment Officer, a condition in respect of the reporting of unexpected contamination can be secured should planning approval be forthcoming.

Summary

115. The Environment Agency, Anglian Water Services, Suffolk County Council and the Council's Environmental Health team have not objected to or raised concerns about the application proposals in respect of flood risk, drainage and pollution. All have recommended the imposition of reasonable conditions upon any potential planning permission to secure appropriate mitigation. On this

basis, the proposals are considered acceptable with regard to flood risk, surface water/foul drainage, potable water supply, SuDS and ground contamination.

Impact upon the Natural Environment

116. The Framework confirms the planning system should contribute to and enhance the natural environment by *inter alia* minimising impacts on biodiversity and providing net gains where possible. The Framework states that protection of designated sites should be commensurate with the status of the site, recognising the hierarchy of international, national and local designations. The presumption in favour of sustainable development set out at Paragraph 14 of the Framework does not apply where development requires appropriate assessment under the Birds or Habitats Directives.
117. Spatial Objective ENV1 of the Core Strategy aims to conserve and enhance the habitats and landscapes of international, national and local importance and improve the rich biodiversity of the District. This objective forms the basis of Core Strategy Policy CS2 which sets out in greater detail how this objective will be implemented. Saved Local Plan Policy 4.15 sets out criteria against which proposals for new housing development are considered. One of the criteria requires that such proposals are not detrimental to significant nature conservation interests.

Ecology

118. During the course of the pre-application dialogue, officers confirmed that, having regard to the biodiversity check list, specific species surveys would not be required to support this planning application.
119. On this basis, officers are satisfied that the development proposals would not have an unacceptable impact on the nature conservation value of the application site.

Trees

120. The application site is located immediately adjacent to the King Edward VII Memorial Gardens. The gardens are formally laid out with avenues of trees lining the main paths, and lines of trees marking the boundaries, including the common boundary with the application site. This provides a sense of enclosure and reduces the impact of the surrounding urban form. At the north-western side of the site, three mature trees are situated close to the common boundary. These trees are also visually prominent in the street-scene.
121. It is understood that the close relationship of the existing trees to the application site was not identified during the course of pre-application dialogue. Furthermore the application as originally submitted failed to identify the presence of trees on adjacent land. This information was requested by the planning case officer, and an Arboricultural Impact Assessment and Tree Constraints Plan were submitted in November 2015.
122. The submitted tree survey indicates that the trunks of the existing lime trees in the Memorial Gardens are approximately two metres from the common boundary of the application site. The Root Protection Areas (RPA) of four of

these trees fall within the footprint of the proposed new building. In terms of the three trees to the north-west of the site, two of these significantly overhang the application site, and have RPA's which also fall within the new building footprint.

123. The Council's Tree and Landscape Officer, in initial consultation comments, raised concern regarding the potential arboricultural impacts of the development proposals – both on adjacent trees within the Memorial Gardens and trees within the rear garden of the property to the north-west of the site. Such impacts are considered to have the potential to arise from the construction of the proposed development, as a result of locating the new building too close to existing trees. Concern was also raised that the location of the development so close to existing trees would lead to inevitable pressure to constantly prune and/or the premature removal of trees in a public park.
124. In response to the concerns raised, the footprint of the new building was amended and moved away from the north-west boundary. A meeting was also held on site in February 2016 with a view to resolving the arboricultural differences. These discussions led to the submission of further information in relation to the relationship of the existing trees with the new building. This include the reconfiguration of the living accommodation in a number of the flats.
125. The revised plans and additional information received has been considered by the Council's Tree and Landscape Officer, who has confirmed that the proposals will not have an impact on adjacent trees such as to warrant the refusal of the application on these grounds. In providing this advice, the Tree and Landscape Officer has raised the importance of securing a scheme of tree planting within the Memorial Gardens. Whilst this land is not within the control of the Applicant, it is understood that the planting could be secured by the way of a suitably worded planning condition. A provisional tree planting plan has been submitted by the Applicant, who has also approached Newmarket Town Council. A verbal update will be given at the committee meeting.

Summary

126. The impact of the development proposals on existing trees has been fully considered. On the basis of the evaluation, officers are satisfied that the impact on existing trees in a Conservation Area would not be unacceptable such as to warrant the refusal of the scheme on these grounds.

Impact upon the Historic Environment

127. The Framework recognises that heritage assets are an irreplaceable resource which should be conserved in a manner appropriate to their significance. When considering the impact of proposed development upon the significance of a designated heritage asset, great weight should be given to the asset's conservation. The term 'heritage asset' used in the Framework includes designated assets such as Listed Buildings, Scheduled Ancient Monuments, Registered Parks and Gardens and Conservation Areas, and also various undesignated assets including archaeological sites and unlisted buildings which are of local interest.

128. The Framework advises that local planning authority's should require an applicant to describe the significance of any heritage assets affected, the level of detail being proportionate to the importance of the asset and sufficient to understand the potential impact upon their significance. Core Strategy Spatial Objective aims to protect and enhance the Historic Environment. This objective is implemented through Policy CS3.

Archaeology

129. The application site is situated within an area of archaeological interest recorded in the County Historic Environment Record, within the historic settlement core of Newmarket. As a result, there is high potential for encountering heritage assets of archaeological interest in this area.
130. In accordance with the advice offered by the County Archaeological Officer, a condition can be secured to ensure a scheme of archaeological investigation. This would accord with Core Strategy Policy CS3 and the advice offered in the Framework with regard to the conservation of heritage assets of archaeological interest.

Impact on Conservation Area

131. The application site is situated in a prominent position within the Newmarket Conservation Area. A Heritage Statement accompanied the application.
132. The existing building is large and dominating, and makes a material contribution to the street-scene when viewed from Newmarket High Street. In terms of its conversion to residential use and office space, this has been broadly supported by the Council's Conservation Officer since the pre-application discussion stage.
133. In initial consultation correspondence, the Conservation Officer raised a number of issues regarding the conversion, and requested additional information/clarification of detail. This information was subsequently provided by the Planning Agent. The Conservation Officer has confirmed the acceptability of the revisions with regard to the conversion, subject to details which can be secured by condition should approval be forthcoming.
134. In terms of the new affordable housing block which is proposed at the rear of the site, the design of this aspect of the scheme has been the subject of detailed dialogue during the course of the development. The scheme as originally submitted proposed a two and a half storey building, involving a hipped roof, dormer windows, a parapet wall and a mix of glazing details and vertical brick columns.
135. The proposed affordable housing block was amended in response to the Conservation Officer's original consultation response. The building has been reduced in height to two storey, and the hipped roof, dormers and parapet roof removed from the scheme.
136. The Conservation Officer has considered these revisions, and noted that the amendments have addressed a number of previously raised design concerns. Notwithstanding these changes, the Conservation Officer considers that the

revised building is '*bulky and uninspiring*' in design terms, and notes that it may have a negative impact on the character and appearance of the Conservation Area due to its overall bulk, and incorporation of disproportionately wide gables and generally poor design.

137. The planning case officer has considered the application proposals in the context of the impact on the historic environment, and is of the opinion that the visual impact of the affordable housing block on the character and appearance of the Newmarket Conservation Area will not be so unacceptable such as to warrant the refusal of the application proposals on these grounds alone. In reaching this decision, officers are mindful that the building is located within a site which is partially enclosed, and will have limited visibility from the wider public realm. Moreover, existing trees will assist in mitigating the visual impact of the new building when viewed from the Memorial Gardens, to the north of the site. On balance, it is considered that the proposals will have a neutral impact on the Conservation Area.

Summary

138. On the basis of the above evaluation, officers consider that the proposals do not conflict with Development Plan policies, including DM2 of the Joint Development Management Policies Document (February 2015) which seeks to ensure the preservation and enhancement of the setting of Conservation Areas.

Design of the Built Environment

139. The Framework states the Government attaches great importance to the design of the built environment and confirms good design is a key aspect of sustainable development and is indivisible from good planning. The Framework goes on to reinforce these statements by confirming that planning permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions.
140. Core Strategy Spatial Objective H2 aims to provide a sufficient and appropriate mix of housing that is designed to a high standard. Design aspirations are also included in Spatial Objectives ENV4 (high standard of design) and ENV5 (community safety and crime reduction through design). The Objectives are supported by Policies CS5 and CS13 which require high quality designs which reinforce local distinctiveness and take account of the need for stronger and safer communities. Policy CS5 confirms design that does not demonstrate it has had regard to local context and fails to enhance character will not be acceptable.

Layout and Design

141. The accompanying Design and Access Statement explains the rationale behind the scheme design. With regard to the conversion of the building, the eastern elevation will remain largely unchanged, apart from new window openings. Elevations will be renovated to provide a mix of brickwork and rendered panels, retaining and enhancing vertical features.

142. The treatment of the external elevations has been the subject of detailed discussions with the Council's Conservation Area, who has confirmed the general acceptability of the conversion of the building from a design perspective.
143. With regard to the new two storey building, its design has been the subject of detailed and lengthy discussion with officers, both during the course of the application and at pre-application stage. Amendments were received during the course of the application, in response to advice offered by the Conservation Officer.
144. The evaluation of the proposal on design matters is very much a matter of judgement and balance. Whilst the Conservation Officer has raised design concerns regarding the affordable housing block, planning officers are not convinced that the design is so poor as to warrant the refusal of the scheme on these grounds alone.

External Materials

145. Details of the external facing and roofing materials to be used in the two storey block, and material details to be used in the conversion, were revised during the course of the application. The materials palette is considered to be an acceptable choice.

Cycle and bin storage provision

146. A strategy for bin and cycle storage for the occupiers of the proposed dwellings can be secured by planning condition, should the scheme be approved.

Summary

147. Amendments to the scheme during the course of the application have resulted in positive improvements to the design and layout of the development. After considering the elements which contribute to the character of the development, it is concluded that the scheme is acceptable in terms of design.

Impact upon Residential Amenity

148. The protection of residential amenity is a key component of good design. The Framework states (as part of its design policies) that good planning should contribute positively to making places better for people. The Framework also states that planning decisions should aim inter alia to avoid noise from giving rise to significant adverse effects on health and quality of life as a result of new development.

Noise

149. Consultation correspondence dated 02 December 2015 on behalf of the Anglian Water advises that the application site is within 15 metres of a sewage pumping station, and recommends a condition to prevent 'sensitive development' within 15 metres of its boundary.

150. Officers note that the proposed residential use is a 'sensitive' end use. It would not be reasonable to control this use by planning condition, as recommended by Anglian Water.
151. Further advice on this issue has been sought from both Anglian Water and the Council's Environmental Health Officer. Anglian Water has confirmed that the pumping station emits virtually no noise, and that the noise source is submerged in a well. Given the information provided, the Council's Environmental Health Officer considers this acceptable, and there is no further requirement for noise surveys to be undertaken.
152. On the basis of this evaluation, the proposal is considered acceptable with regard to residential amenity.

Loss of Community Facility

153. Policy DM41 of the Joint Development Management Policies Document (2015) states that proposals that will result in the loss of valued facilities or services which support a local community (or premises last used for such purposes) will only be permitted subject to a number of criteria.
154. Paragraph 7.23 of this document identifies the types of facilities and services which may constitute a community facility/service. This includes shops, post offices, pubs, primary schools and community centres. Whilst it is acknowledged that this list is not exhaustive, officers are of the opinion that the previous use of the application building as a night club does not constitute a community facility/service. On this basis, there is no conflict with Policy DM41.

Section 106 Planning Obligation Issues

155. Planning obligations secured must be in accordance with the Community Infrastructure Levy Regulations 2010, which came into force on 06 April 2010. In particular, Regulation 122 states that a planning obligation may only constitute a reason for approval if it is:
 - (a) Necessary to make the development acceptable in planning terms;
 - (b) Directly related to the development; and
 - (c) Fairly and reasonably related in scale and kind to the development.
156. These are the three principal tests set out in Paragraph 204 of the Framework and are of relevance in guiding the negotiation of planning obligations sought prior to the coming into force of the CIL Regulations. In assessing potential S106 contributions, officers have also been mindful of Core Strategy Policy CS13 and the Suffolk County Council guidance in respect of Section 106 matters, 'A Developers Guide to Infrastructure Contributions in Suffolk'.

Affordable Housing

157. The application proposes 12 of the units to be provided on site as 'affordable'. Ten of these would be in the new block at the rear of the existing building. Two would be provided in the converted building.

158. The on site provision of 12 affordable units represents 26% of the total number of units for the site. In accordance with the Affordable Housing SPD, a financial contribution in lieu of the additional 1.8 units required under the SPD could be secured through the Section 106 agreement.
159. The Council's Housing Officer, in consultation advice, has confirmed general support for the scheme and the provision of affordable housing on the site, and as an off site contribution.
160. In terms of housing tenure, the adopted SPD seeks a tenure split of 70% rented and 30% intermediate in Forest Heath, based on current housing needs evidence. The precise detail of the affordable housing scheme, including tenure mix and their transfer to a registered provider can be secured through the S106 planning obligation.
161. Members are advised that at the time of writing this report, the Council's Housing Officer had raised concern in respect of the revised layout plans which were submitted in February 2016. It is understood that some of the residential units within the proposed affordable housing block may not be acceptable to housing associations, due to their small size. Further advice has been sought on this matter, and a verbal update will be given at the committee meeting.

Education

162. The local catchment schools are Houldsworth Valley Primary School and Newmarket Academy. There are currently forecast to be surplus places available at the catchment secondary school serving the proposed development, and no secondary school contributions are sought.
163. At the primary school level, a contribution of £48,724 is sought by Suffolk County Council for the additional 4 primary school age pupils forecast to arise.
164. In terms of pre-school provision, it is understood that there is an existing deficit of local provision. A capital contribution of £12,181 is sought to enhance local early years facilities.

Libraries

165. The application site is served by Newmarket Library. Suffolk County Council has identified a need to enhance service provision at this library, and has requested a capital contribution of £7,776.

Transport

166. The County Highways Engineer has requested financial contributions in respect of the following:
 - Improvements to Newmarket Railway Station (£500 per dwelling).
 - Highway improvement works on Grosvenor Yard. (£4000)

These contributions are considered necessary to improve the sustainability of the development and highway safety, without which the reduced parking provision and increase in use of the area would not be acceptable.

Public Open Space

167. In accordance with the Council's Supplementary Planning Document in respect of open space, the off site provision of open space can also be secured by way of S106 agreement.

Summary

168. The provisions as described above ensure that the effects of the development proposal on local infrastructure within Newmarket, in terms of affordable housing, education, libraries, public open space and transport would be acceptable. The Applicant has confirmed the acceptability of entering into a Section 106 agreement to secure these contributions, should approval be forthcoming.
169. The requests for developer contributions as described above will ensure improvements to existing infrastructure within Newmarket to accommodate the additional growth and meet the needs of the community, in accordance with Core Strategy Policy CS13. Officers are satisfied that they meet the three tests of planning obligations set out in Paragraph 204 of the Framework, and are therefore entirely justified.

CONCLUSIONS AND PLANNING BALANCE

170. The development proposal has been considered against the objectives of the Framework, and the government's agenda for growth, which identifies housing development as a key driver for boosting the economy.
171. Newmarket is identified in the 2010 Forest Heath Core Strategy as one of the three market towns in the District which form the top tier in the settlement hierarchy, and which can accommodate further growth.
172. In terms of the economic role of sustainable development, the development proposals would bring a vacant building back into use, by providing 36 well designed residential properties, and additional employment space. This would be of economic benefit to Newmarket, and would enhance the vitality and viability of the town centre, entirely in accordance with key planning principles identified in the NPPF.
173. The development would also provide economic benefits relating to the creation of short term jobs in the construction industry, local spending likely to be generated by the proposed residents, and monies from the new homes bonus payments.
174. From a social perspective, the development would make a valuable contribution to the District's housing needs, by providing a level of market and affordable housing to meet the needs of present and future generations. The applicant has agreed to the financial contributions towards education provision, small scale highway improvements and library provision. These contributions will be secured through a Section 106 agreement and will add to the sustainability of the proposals.

175. In the context of the environmental role of sustainable development, the application has provided additional information to demonstrate that unacceptable harm to existing trees in a Conservation Area would not arise from the development proposals.
176. Following a considered evaluation of the merits of this scheme, officers have reached the decision that the benefits of the scheme would outweigh the potential dis-benefits. For this reason, officers have come to the 'on balance' decision, that the proposal constitutes sustainable development as set out in the Framework
177. Having regard to the Framework and all other material planning considerations, the proposal is considered to be in accordance with the NPPF and Development Plan policy. The recommendation is one of approval.

RECOMMENDATION:

178. That planning permission is **GRANTED**, subject to:
- (1) The completion of a Section 106 agreement to secure the following (subject to meeting the CIL Reg 122 tests):

Affordable housing – 30% provision (12 units on site provision and off site financial contribution in respect of 1.8 units).

Primary school contribution - £48 724.

Pre school contribution - £12 181.

Open space contribution – to be confirmed.

Libraries contribution - £7 776.

Highway improvement works contribution - £4 000.

In the event that there are any substantive changes to the Section 106 package, then this will go back to Members for consideration.

- (2) And the following conditions:

1. Time
2. Compliance with approved plans.
3. Highways – details of proposed access (including gates).
4. Highways – details of areas to be provided for storage of refuse/recycling bins.
5. Highways – set back of gates.
6. Highways – details of manoeuvring and parking of vehicles.
7. Highways – details of secure motorcycle and cycle storage.
8. Surface water management strategy.

9. Archaeology – investigation and post investigation assessment.
10. Contamination – further investigative work if found.
11. Construction management plan.
12. Details of boundary treatment.
13. Samples of materials.
14. Scheme of hard and soft landscaping, including tree planting.
15. Tree protection.
16. Details of works to trees.
17. Detailed arboricultural method statement and tree protection plan.
18. Tree planting scheme.
19. Waste minimisation and recycling strategy.

Documents:

All background documents including application forms, drawings and other supporting documentation relating to this application can be viewed online:

<https://planning.westsuffolk.gov.uk/online-applications/applicationDetails.do?activeTab=documents&keyVal=NMQK48PD03H00>