



*St Edmundsbury*  
BOROUGH COUNCIL

# DEV/SE/18/015

## Development Control Committee 5 April 2018

### Planning Application DC/17/0688/FUL – 46 to 47, St Andrews Street South, Bury St Edmunds

<b>Date</b>	03.04.2017	<b>Expiry Date:</b>	03.07.2017
<b>Registered:</b>			EoT until 23.03.2018
<b>Case Officer:</b>	Marianna Hall	<b>Recommendation:</b>	Approve Application
<b>Parish:</b>	Bury St Edmunds	<b>Ward:</b>	Abbeygate
<b>Proposal:</b>	Planning Application - 3 storey building with basement level to comprise 16 no. residential apartments (following demolition of existing buildings). As amended by revised plans and documents received on 25 September 2017.		
<b>Site:</b>	46 To 47, St Andrews Street South, Bury St Edmunds		
<b>Applicant:</b>	Julia MacKay Properties		

#### **Synopsis:**

Application under the Town and Country Planning Act 1990 and the (Listed Building 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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## **Background:**

**This application is presented to the Development Control Committee at the request of the Ward Members, and because the Town Council objects to the proposal, which has an Officer recommendation for APPROVAL subject to conditions and subject to the completion of a S106 Agreement.**

## **Proposal:**

1. Planning permission is sought for the erection of a three-storey building with basement to provide 16 no. flats following the demolition of former takeaway and education centre buildings at 46-47 St Andrews Street South in Bury St Edmunds. The development would provide 10 no. two-bedroom and 6 no. one-bedroom flats all comprising open-market units. The building would be set back from the adjacent footpath with a low boundary wall and planting proposed along the site frontage. A pathway along the southern boundary of the site is proposed to provide access to cycle and bin storage behind the building. No on-site car parking is proposed.
2. The application has been amended since its original submission following concerns raised by officers regarding the scale of the building in relation to surrounding development and the resulting impact upon the streetscene. The original proposal was for 18 no. flats (12 no. two-bedroom and 6 no. one-bedroom) within a 3½ storey building.

## **Application Supporting Material:**

3. Information submitted with the application is as follows:
  - Application Form
  - Design and Access Statement
  - Planning Statement
  - Plans
  - Transport Statement
  - Phase I Contaminated Land Assessment
  - Level 1 Flood Risk Assessment & Drainage Strategy
  - Financial Contribution Assessment (confidential)

## **Site Details:**

4. The site is located on the west side of St Andrews Street South between a furniture shop and barber shop and currently comprises a vacant hot food takeaway unit and a vacant youth and adult education centre with car parking in front. To the rear of the site is the Waitrose supermarket car park and directly opposite are some recently constructed dwellings. The existing buildings on the site are in poor condition and of no architectural merit. The site is located within the settlement boundary for Bury St Edmunds and immediately adjacent to its Town Centre Conservation Area. The site is within the Town Centre but outside of its Primary Shopping Area and Primary Shopping Frontages. Several properties to the east fronting Guildhall Street are listed buildings.

## Relevant Planning History:

Reference	Proposal	Status	Decision Date
SE/09/1489 (No. 46)	Regulation 3 Application – Change of use from youth information and support centre to youth and adult education, youth club and detached youth workers base. To include café for users of the centre.	Granted	12/01/2010
SE/08/1414 (No. 47)	Planning Application – Change of use from Class A2 (Offices) to Class A5 (takeaway).	Granted	14/11/2008
SE/02/3509/P (No. 47)	Planning Application – Change of use from Class A1 (Shop) to Class A2 (Financial and Professional Services).	Granted	05/12/2002
SE/00/3496/P (No. 46)	Regulation 3 Application – Change of use from retail use (Class A1) and associated store to youth information and support centre for community education (Class D1).	Granted	15/01/2001
E/87/3071/P (No. 46)	Erection of retail premises with ancillary office and staff facilities.	Granted	08/10/1987
E/86/1450/P (No. 47)	Change of use of two ground floor rooms to pet shop with flat above.	Granted	12/05/1986

## Consultations:

### 5. Town Council

*Original scheme:* Objection on the grounds of parking.

*Amended scheme:* Withdraws previous objection and raises no objection.

*Revised comments:* Resubmission of previous objection on the grounds of parking.

## 6. Conservation Officer

*Original scheme:* Recommend refusal. Development would be taller than adjacent Neptune building resulting in an extremely large and overbearing property dominating the street scene. Top floor would be clearly visible above existing buildings. Difference in scale between proposed building and neighbouring buildings becomes more apparent due to their proximity. Note large scale buildings of the arc visible in the background but the separation distance reduces their apparent scale. Proposal at its current scale fails to preserve or enhance the character or appearance of the conservation area or its setting, nor does it enhance or better reveal the setting of the heritage assets in the vicinity. The less than substantial harm caused by the proposed development is not outweighed by public benefit. Redevelopment of the site has the opportunity to enhance the area and the provision of accommodation in this location is possible but with a building of smaller scale. No objection to the overall design approach for the building but it is possible to reduce the scale at both ends by removing a storey off the end bays to maintain the symmetry, if that is a feature which is considered to be paramount in the design, as lower end bays are a feature of Georgian architecture. No objection to the demolition of the existing buildings.

*Amended scheme:* Revised scale fits more comfortably between the two neighbouring buildings than the earlier scheme, due to the reduced parapet and removal of the mansard roof. This is a modern building but reflects the traditional proportions and massing of Georgian architecture. It is a huge improvement to the street scene and would enhance the setting of the conservation area (the site is just outside the boundary). I have no objection to this application subject to a condition requiring samples of external materials and surface finishes.

## 7. SCC Archaeological Service

Site lies in an area of archaeological potential. Conditions recommended to secure appropriate investigation and recording.

## 8. SCC Highways

*Original scheme:* Recommends refusal due to insufficient parking. Site currently/previously used for commercial purposes with some parking provision. It is accepted that a reduction in parking can be applicable for sustainable town centre locations however it cannot be assumed that future residents will not own a car. Development is on a busy route near a school where parking restrictions apply. Any on street parking/waiting here would impact on highway safety. Accept there are public car parks but these are designed for shoppers and visitors to the town and their capacity should not be undermined by residential parking. At least one parking space per apartment should be provided in addition to the cycle storage indicated.

*Amended scheme:* Recommends refusal, previous comments still apply. In highly sustainable locations we may accept 1 space per dwelling and no

visitor parking. To offer no parking could encourage residential parking in public car parks, thus reducing the capacity for visitors to Bury St Edmunds, or inappropriate or obstructive parking and waiting on the highway which will impact on highway safety for all users. Welcome the inclusion of 36 cycle stands however these should be secure and covered. Also welcome the provision of Residents Travel Packs but would need to understand the exact content and means to manage these.

*Further comments received on 26<sup>th</sup> February and 19<sup>th</sup> March:* Previous recommendation and comments still apply. In addition, charges for public car parks are high and will not encourage residents to use them. Presence of nearby hairdresser, dental surgery and school also create demand for the limited on-street parking. Cycle Route 51 runs through St Andrews Street South. Cycle parking and means of storage is not acceptable. Access to cycle store from private pathway obstructed by bin store. Private pathway should be wider as it is a pedestrian and cycle access. Also space between cycle store and rear wall may be insufficient to manoeuvre a cycle. Arrangement of cycle store outside Flat 6 is unclear. Conditions and S106 contribution recommended should permission be granted against our advice. S106 contribution of £15,000 requested to secure alterations to current parking restrictions on St Andrews Street and the surrounding area. Conditions to cover matters of travel packs, car club, bin storage and presentation, cycle storage, surface water drainage, construction and deliveries management plan, and S278 agreement for highway work.

#### 9. Environment Team

Content with the recommendations of the contaminated land assessment subject to conditions. Recommend a sum is provided to allow provision of off-site electric vehicle charge points.

#### 10. Suffolk Fire and Rescue Service

Advisory comments provided regarding access to buildings for fire appliances and firefighters. No additional water supply for firefighting purposes is required in this case. Recommend consideration be given to the provision of an automatic fire sprinkler system.

#### 11. Public Health & Housing

No objections.

#### 12. SCC Flood & Water Management

No formal comments to make. Happy for development to follow Building Regulations and Anglian Water should be consulted. Recommend any soakaways take roof water only as site is within a Groundwater Protection Zone 1.

#### 13. Anglian Water

Wastewater Treatment: Foul drainage from this development is in the catchment of Fornham All Saints Water Recycling Centre that will have available capacity for these flows.

Foul Sewerage Network: Development will lead to an unacceptable risk of flooding downstream. A drainage strategy will need to be prepared in consultation with Anglian Water to determine a pumped discharge rate. Surface water strategy/flood risk assessment submitted relevant to Anglian Water is unacceptable, recommend conditions to secure an acceptable scheme.

14. Environment Agency

Previous use of the site presents a risk of contamination that could be mobilised during construction to pollute controlled waters. Controlled waters are particularly sensitive in this location. Documents submitted provide us with confidence that it will be possible to suitably manage the risk posed to controlled waters by this development. Conditions recommended.

15. SCC Planning and Infrastructure Officer

Financial contribution sought towards primary education and libraries.

16. Housing Strategy & Enabling Officer

*Original scheme:* Require 30% on-site affordable housing provision comprising 5 units with 0.4 commuted sum.

*Amended scheme:* Support proposal to provide 2 affordable dwellings which can be agreed as shared equity dwellings on a 75% sale basis with a 25% second charge in favour of St Edmundsbury Borough Council.

17. Bury St Edmunds Society

*Original scheme:* Objects for reasons of road safety and detailed design. Site located adjacent to busy junction where pedestrians cross and is on a two-way bus route. Site is also not close to public parking which may lead to unsafe street parking. Concerned about scale of building in streetscene, should act as a transition between the taller Neptune building and diminutive scale of the Dennys building. Feel the design does not reflect the town's 18<sup>th</sup> century heritage as suggested. Subterranean single aspect basements and lack of outdoor amenity space will provide a poor standard of amenity. Applicant is seeking too much from this modest site.

*Amended scheme:* Objects. Removal of two apartments does not reduce the concerns previously raised. A terrace of town houses with parking would be more appropriate.

18. Suffolk Preservation Society

*Original scheme:* Welcomes principle of redeveloping the site but consider the scale, layout and detailed design to be contrary to policy and harmful to the setting of the conservation area. Absence of parking is unrealistic. Recommend a revised scheme is sought that is at least one storey lower and with a more cohesive design.

*Amended scheme:* Welcome reduction in height of building but inadequacies of detailed design remain. A high quality contemporary

design would be appropriate and the current proposal represents a missed opportunity.

## **Representations:**

### Original scheme

19. Representations regarding the original scheme for 18 no. flats were received from Hill Farm Barn in Bressingham (as owner of a neighbouring building), Walrond Cottage St Andrews Street South, 86 Guildhall Street, 87 Guildhall Street, 88 Guildhall Street, Waitrose Ltd and the Churchgate Area Association making the following summarised comments:

- Welcome plans to improve an increasingly dilapidated area.
- Scheme should include retail space at ground level given proximity to town centre.
- Building is disproportionately large and out of character and will be visually dominant.
- A block of flats is not appropriate in this location.
- Will overlook, overshadow and result in a loss of privacy for nearby properties.
- Buildings should be renovated into quality family homes or retail units.
- Infrastructure is already at breaking point with buses, emergency vehicles and residents struggling to use the highways and have services delivered.
- No long term parking available near the site.
- St Andrews Street South is already heavily congested with frequent examples of illegal parking.
- No provision for parking for residents and six spaces are being removed in an area already severely short of parking spaces.
- Lack of on-site parking provision will lead to future residents and visitors using Waitrose car park which is only intended for customer use. This will make it more difficult for customers to park and will impact on the vitality and viability of the store and wider town centre.
- Will harm important views from the Conservation Area and the setting of 87 Guildhall Street, a Grade II listed building.
- Application fails to assess the impact on heritage assets.
- Query where bins will be stored.

### Amended Scheme

20. Representations regarding the revised scheme for 16 flats have been received from Walrond Cottage St Andrews Street South, Waitrose Ltd, 2 Kings Mews, 87 Guildhall Street, the Churchgate Area Association and Bonnie Doon Albert Street making the following summarised comments:

- Whilst number of units has been reduced, lack of on-site parking provision will still lead to future residents and visitors using Waitrose car park which is only intended for customer use. This will make it more difficult for customers to park and will impact on the vitality and viability of the store and wider town centre.
- Concerned about lack of parking and resulting impact on the highway.

- Development will exacerbate severe problems people already have with parking.
- Query where bins will be stored.
- Building is still too large for the site.
- Will not visually enhance St Andrews Street South which the Town Centre Master Plan is specified as an area that needs improvement.
- Proposal will adversely affect the conservation area and the listed buildings therein.
- Conservation Officer required height of development on east side of St Andrew's Street South to be reduced to reflect nearby buildings, suggest this should also apply here.
- Rear aspect of building will be in view of our property, blocking light and obstructing existing views.
- Basement accommodation does not provide decent living accommodation.
- Scheme represents cramped form of overdevelopment.
- We provided a feasibility study for this site for a very different scheme.

### **Policy:**

21. The following policies have been taken into account in the consideration of this application:

22. St Edmundsbury Core Strategy (December 2010):

- Policy CS1 St Edmundsbury Spatial Strategy
- Policy CS2 Sustainable Development
- Policy CS3 Design and Local Distinctiveness
- Policy CS4 Settlement Hierarchy and Identity
- Policy CS5 Affordable Housing
- Policy CS7 Sustainable Transport
- Policy CS14 Community Infrastructure capacity and tariffs

23. Bury St Edmunds Vision 2031 (September 2014):

- Policy BV1 Presumption in Favour of Sustainable Development
- Policy BV2 Housing Development within Bury St Edmunds
- Policy BV25 Conserving the Setting and Views from the Historic Core
- Policy BV27 Bury St Edmunds Town Centre Masterplan

24. Forest Heath and St Edmundsbury Local Plan Joint Development Management Policies Document (February 2015):

- Policy DM1 Presumption in Favour of Sustainable Development
- Policy DM2 Creating Places – Development Principles and Local Distinctiveness
- Policy DM6 Flooding and Sustainable Drainage
- Policy DM7 Sustainable Design and Construction
- Policy DM11 Protected Species
- Policy DM14 Protecting and Enhancing Natural Resources, Minimising Pollution and Safeguarding from Hazards
- Policy DM15 Listed Buildings
- Policy DM17 Conservation Areas
- Policy DM20 Archaeology



- Policy DM22 Residential Design
- Policy DM30 Appropriate Employment Uses and Protection of Employment Land and Existing Businesses
- Policy DM35 Proposals for main town centre uses
- Policy DM42 Open Space, Sport and Recreation Facilities
- Policy DM45 Transport Assessments and Travel Plans
- Policy DM46 Parking Standards

**Other Planning Policy/Guidance:**

25. National Planning Policy Framework (2012)
26. National Planning Practice Guidance
27. St Edmundsbury Borough Council Supplementary Planning Document for Open Space, Sport and Recreation Facilities (December 2012)
28. Forest Heath District Council and St Edmundsbury Borough Council Joint Affordable Housing Supplementary Planning Document (SPD) (October 2013)
29. Bury St Edmunds Town Centre Masterplan (2017)
30. Suffolk Guidance for Parking Technical Guidance Second Edition (November 2015)

**Officer Comment:**

31. The issues to be considered in the determination of the application are:

- Principle of Development
- Design and Impact on Character, including Heritage Assets
- Residential Amenity
- Highway Safety
- Contamination and Air Quality
- Flood Risk and Drainage
- Planning Obligations
- Affordable Housing and Development Viability

Principle of Development

32. Section 38(6) of the Planning and Compulsory Purchase Act 2004 (as amended) requires that applications are determined in accordance with the development plan unless material considerations indicate otherwise. The development plan for St Edmundsbury comprises the Core Strategy, the three Vision 2031 Area Action Plans and the Joint Development Management Policies Document. National planning policies set out within the National Planning Policy Framework (NPPF) and the presumption in favour of sustainable development contained at its heart are also material considerations.

33. The NPPF explains (in paragraph 9) that in order to achieve sustainable development, economic, social and environmental gains should be sought jointly and simultaneously through the planning system. It is Government policy that the planning system should play an active role in guiding

development to sustainable solutions.

34. Paragraph 9 of the NPPF further explains that pursuing sustainable development involves seeking positive improvements in the quality of the built, natural and historic environment, as well as in people's quality of life, including (but not limited to):
- making it easier for jobs to be created in cities, towns and villages;
  - moving from a net loss of bio-diversity to achieving net gains for nature;
  - replacing poor design with better design;
  - improving the conditions in which people live, work, travel and take leisure; and
  - widening the choice of high quality homes.
35. Core Strategy Policy CS1 confirms the towns of Bury St Edmunds and Haverhill as being the main focus for the location of new development. This is re-affirmed by Policy CS4 which sets out the settlement hierarchy for the district. Policy BV1 of the Bury St Edmunds Vision 2031 echoes national policy set out within the NPPF insofar as there is a presumption in favour of sustainable development, and Vision Policy BV2 states that within the housing settlement boundary for Bury St Edmunds planning permission for new residential development will be granted where it is not contrary to other planning policies. The NPPF states within its core principles that planning should encourage the effective use of land by reusing land that has been previously developed (brownfield land), such as the application site in this case.
36. Whilst the previous uses of the existing buildings would have generated some degree of employment, this is not considered to constitute an employment site for the purposes of Policy DM30 (which seeks to safeguard employment uses in the Borough). No. 46 was previously a youth and adult education centre run by the County Council and No. 47 comprised a hot food takeaway which has now relocated elsewhere within the town. The education centre is understood to have closed down in 2015.
37. The site lies within the defined Town Centre of Bury St Edmunds but just outside of its Primary Shopping Area where Policy DM35 prioritises retail uses.
38. Having regard to the policy context as set out above, the principle of the redevelopment of this site to provide residential properties is acceptable.

#### Design and Impact on Character, including Heritage Assets

39. The site occupies a visually prominent position within the Town Centre, fronting onto St Andrews Street South. The boundary of the Town Centre Conservation Area is also immediately adjacent to the site frontage, running along the back edge of the public footpath. There are a number of listed buildings within the Conservation Area fronting onto Guildhall Street to the east of the site.
40. The site lies within both the 'Cornhill, Buttermarket and arc (the heart of the town centre) Character Area' and the 'Kings Road and Robert Boby Way Character Area' within the recently adopted Town Centre Masterplan

for Bury St Edmunds. The Masterplan identifies the enhancement of the existing buildings and spaces to make the area more attractive as a key priority here, and encourages the potential for improvements to be explored through redevelopment.

41. The site currently contains two vacant buildings that do not make a positive contribution to the street scene due to their form, design and general condition. Whilst No. 46 is set back within the site behind a small car parking area and is obscured from some views by the adjacent substantial furniture store building (Neptune) and by No. 47, No. 47 is more prominent within the street scene and features external extraction equipment associated with its previous takeaway use. The demolition of the existing buildings can be wholly supported and the redevelopment of this site provides a clear opportunity to significantly improve its appearance within the street scene, to the benefit of the character of the wider area.
42. The application site is located within the urban area where the enclosure of streets and public spaces by built form with active frontages facing onto the spaces are a common feature. The proposals have gone through a number of developments and refinements including a reduction in height and unit numbers. Consideration has been given to the site's surroundings and the scheme as amended is subservient in scale to the neighbouring Neptune building to the south and has an acceptable relationship to the more modest property on its north side currently used as a barber shop. The proposed apartment building is also to be set back within the site behind a low boundary wall with railings, providing an appropriate level of new planting to the front of the building commensurate with the urban location and character of the proposals. The building is of a modern design but reflects the traditional proportions and massing of Georgian architecture, and is considered by officers to significantly improve the street scene and the setting of the adjacent conservation area having regard to the current nature of the site. For these reasons, the development is furthermore not considered to harm the settings of the nearby listed buildings within Guildhall Street to the east.
43. The site lies within an area of archaeological potential recorded on the County Historic Environment Record, on the edge of the historic core of the town. St Andrew's Street lies along the line of the town ditch and whilst it has been recorded on its eastern side, its full extent and depth is not known. The site has potential to lie on the western edge of the medieval town defences. As groundworks associated with the development have the potential to damage or destroy any archaeological remains which exist, the Archaeological Service recommends conditions to secure appropriate investigation and recording.

#### Residential Amenity

44. The site is bounded by commercial development to the north, west and south with a mixture of commercial buildings and residential properties to the east on the opposite side of the street. There is understood to be residential accommodation above the barber shop to the immediate north of the site with several first and second floor windows within the gable end facing the side elevation of the proposed apartment building. The first floor windows are obscure glazed and the application documents state that

these serve a kitchen and bathroom, with the second floor window providing light to a loft storage area. These windows are however already affected to a degree by the existing takeaway building (No. 47) on the site which sits in close proximity and is two storey in scale. Whilst the proposals would introduce a taller building in this location it would be set further back by approximately 2.6m. In this context the proposals are not considered to have a significant impact upon amenity over and above the current situation, and not at a level that would justify a refusal of planning permission on this ground.

45. Some concerns have been raised regarding the impact of the development on the amenities of residential properties in Guildhall Street to the east of the site whose rear gardens back onto St Andrews Street South. Given however the scale of the development and its separation distance from these properties, the scheme is not considered to raise any adverse issues in this respect. It is noted that planning permission has been granted for residential development within the rear garden areas of Nos. 87 and 88 Guildhall Street, fronting onto St Andrews Street, and that these developments are under construction. There will therefore be further built development between the application scheme and the rear gardens of these properties.
46. The proposal includes the provision of four basement flats and some concerns have been raised regarding the amenities of the future occupiers of these units. The flats would each be lit by lightwells to either the front or rear and would be single aspect. The only rooms that do not have direct natural light are the bathrooms which are centralised within the layout to ensure maximum habitable room access to the lightwells. The rooms are also of an adequate size. Overall it is not considered that the amenity effects arising upon eventual occupiers of these basement dwellings would be so adverse so as to justify a refusal of planning permission.

#### Highway Safety

47. The Highway Authority has objected to the proposal and recommended refusal as the development fails to meet the adopted parking standards for car parking. However, the Suffolk Parking Guidance states at page 5 that *"the guidance contained within this document is only one factor to be taken into account when judging planning applications. The issue of parking provisions will be considered alongside existing local policy and all other material planning considerations. It is a matter for the local planning authorities to balance this guidance against all the other material considerations"*.
48. The guidance also states that in sustainable town centre locations a reduction to the parking guidance may be considered. In this case the site is within the town centre of Bury St Edmunds, within walking distance of a wide range of local shops and amenities including the bus station and the railway station. The site is therefore within a highly sustainable location.
49. St Andrews Street South is subject to parking restrictions with double yellow lines on its western side adjacent to the site and most of the east side of the street having a single yellow line with parking restrictions therefore applying between 8am and 6pm. This therefore reduces the

likelihood of the development leading to on-street parking in the immediate vicinity, and thereby causing inconsiderate or unsafe obstructions on the road or footpath. Had parking on the existing single yellow lines during the evening ever been a problem then the County Council have a mechanism to amend this to double yellow lines but have never sought to. There are several on-street parking bays to the south of the site which can be used for up to 1 hour on Mondays to Saturdays between 8am and 6pm which could potentially provide for servicing and deliveries to the development.

50. Given the town centre location of the development it is reasonable to assume that in this case those looking to move into the properties would do so in the full knowledge of the absence of any on-site or nearby on-street car parking facilities, and as such would be those who do not ordinarily rely on the use of a private car or have otherwise made arrangements for parking elsewhere. Annual season tickets for the public car parks in the town would provide possible options for those looking to retain a car, however, it is likely that the cost of this may also serve to discourage car ownership. The development will provide secure cycle storage in accordance with the standards and it is also proposed to provide residents with Travel Packs, the details of which can be secured by condition.
51. Concerns have been raised by Suffolk County Council as Highway Authority regarding the layout and design of the proposed cycle storage. It is alleged that not all of the cycle stands as shown can accommodate two bikes as intended and that it is also unclear how the cycle store to the rear of Flat 6 will be accessed due to the location of the adjacent bin storage area. Concerns are also raised regarding its proximity to the rear boundary wall. There is however sufficient space within the site to revise the layout of the cycle storage in order to address these matters, and an acceptable scheme can be secured by condition.
52. The Highway Authority have also raised concerns regarding the type of enclosure proposed for the cycle stores, in particular regarding its level of security and its visibility (being finished in Perspex). The cycle stores would however be accessed via a private footpath which the agent has advised would be secured by a locked gate and therefore only accessible by residents. This detail can be included as part of the revised cycle storage scheme secured by condition. The proposed materials will enable natural surveillance of the bike stores from the flats and as such this is considered to be acceptable.
53. The Highway Authority have suggested a number of conditions that should be attached to any permission granted in the provisional event that a decision is made contrary to their recommendation of refusal. These include the agreement of bin storage and presentation areas, secure cycle storage, surface water drainage, travel packs, a construction and deliveries management plan and highway works to remove the existing vehicular access, reinstate the footway and relocating street lighting and traffic signs. Conditions covering these matters are included within the officer recommendation of approval at the end of this report.
54. In addition to the above, the Highway Authority have recommended that a car club is provided to encourage car sharing. WSP Transport and

Development Planning, on behalf of the applicant, consider this to be unreasonable given the otherwise modest scale of the development. WSP advise that there are no existing car clubs in Bury St Edmunds upon which the development could build, and that an operator is unlikely to take on the responsibility and risk of delivering the car club service for a scheme of this modest size. The Highway Authority have not provided any further response to these points and in the absence of any such response and justification, officers are not content that this particular requirement is strictly necessary in order to otherwise make the development acceptable.

55. The Highway Authority have also suggested that if planning permission is granted, a Section 106 contribution of £15,000 should be secured for alterations to the current parking restrictions on St Andrews Street and the surrounding area. The Highway Authority state that these alterations may include upgrading single yellow lines to double yellow lines, creating disabled parking bays, extending existing parking bays and/or changing the existing time limit on parking bays. Some of these works would increase the restrictions on parking in St Andrews Street South and others would appear to allow more parking on the street. On the basis of the information provided by the Highway Authority, officers are not content that altering the existing restrictions on the street as a whole and in the surrounding area are directly related to this development and are fairly and reasonably related in scale and kind to the development. As such officers do not consider this request to meet the relevant tests under the CIL regulations. The agent has however agreed to carry out highway works that are directly related to the development, comprising the reinstatement of the footway following the removal of the existing vehicular access and the relocation of lighting and signage in the location of the southern pedestrian access to the flats. These works can be secured by condition.
56. In addition to the County Council parking guidance, Policy DM46 of the Joint Development Management Policies Document states that the local planning authority will seek to reduce over-reliance on the car and to promote more sustainable forms of transport, and that in town centres and other locations with good accessibility to facilities and services and/or well served by public transport a reduced level of car parking may be sought in all new development proposals. The site also lies within an area identified within the recently adopted Town Centre Masterplan where one of the key priorities is giving greater priority to pedestrians and reducing or removing traffic.
57. Taking account of the wider policy context, the flexibility built into the parking guidance, the emphasis on sustainable development in the NPPF and the low likelihood of any harm to highway safety arising as a result of off-site car parking (and that other mechanisms exist to control any such unauthorised parking should it occur), it is considered that the weight to be attached to the conflict with the parking standards and the resulting County Council objection would be reduced in this case to a level that would not be sufficient to justify a refusal on highway safety grounds. As discussed above, queries and concerns raised by the Highway Authority regarding the cycle storage and bin storage can be addressed via conditions.

#### Contamination and Air Quality

58. The application is supported by a Phase 1 Contaminated Land Assessment which provides a suitable summary of the risks associated with land contamination and provides detailed recommendations for further works. The Environment Officer is satisfied with the recommendations for further assessment of the risks and recommends that the standard land contamination condition is attached to any planning permission granted.
59. The EPUK document *Land-Use Planning & Development Control: Planning For Air Quality* (January 2017(v1.2)) recommends that major developments are subject to measures to help reduce the impact on Local Air Quality and states that all major developments should be targeted as whilst very few developments will show a direct impact on local air quality, all developments will have a cumulative effect. Core Strategy Policy CS2 requires the conserving and wherever possible enhancing of natural resources including air quality. The Council's Environment Team recommends the provision of on-site electric vehicle charge points to facilitate and encourage the uptake of zero-emission vehicles in order to enable a long term enhancement of the local air quality. As this development does not propose any on-site car parking however, a financial contribution is suggested to allow the provision of off-site electric vehicle charge points. Given however the scale of the development in this case together with the accepted viability constraints (discussed later in this report), officers are of the opinion that such a contribution could not reasonably be sought.

#### Flood Risk and Drainage

60. The site lies within Flood Zone 1, being land at the lowest risk of flooding. No objections have been received from the Environment Agency or from Suffolk County Council as lead local flood authority. Concerns have been raised by Anglian Water in terms of the proposed drainage strategy and the foul sewerage network, however, Anglian Water has advised that an acceptable scheme can be secured by condition.

#### Planning Obligations

61. The NPPF (paragraph 204) sets out the requirements of planning obligations, which are that they must be:
- Necessary to make the development acceptable in planning terms;
  - Directly related to the development; and,
  - Fairly and reasonably related in scale and kind to the development.
62. The County and Borough/District Councils have a shared approach to calculating infrastructure needs in the adopted Section 106 Developers Guide to Infrastructure Contributions in Suffolk. The St. Edmundsbury Core Strategy includes the following objectives and policies relevant to providing infrastructure:
- Strategic Objective 1 seeks to ensure that new development occurs where there is adequate capacity in existing services, facilities and infrastructure or where this capacity can reasonably be provided.
  - Policy CS14 sets out the Councils' approach to the sequential development of sites and community infrastructure capacity tariffs.

63. The County Council has confirmed that a scheme of this scale will generate two primary school age children, and that it is forecast that there will not be capacity at the local catchment school. A contribution of £24,362 is therefore sought towards the extension, improvement or enhancement of additional pupil capacity at Guildhall Feoffment Community Primary School. Officers consider that such a request is reasonable and necessary in order to make the development acceptable in planning terms.
64. Each dwelling is expected to generate the need for 2.8 library items per annum (Suffolk standard level of stock per 1000 population is 1,174, CIPFA Library Survey 2015). The average cost of library stock in Suffolk is £5.66 per item. This includes books and physical non-book items, such as spoken word and music CDs, and DVDs, as well as daily newspapers and periodicals. This gives a cost per dwelling of 2.8 items x £5.66 = £16 per dwelling, for a total contribution of £256. This will be spent on providing additional items of lending stock plus reference, audio visual and homework support materials to mitigate the impacts of the proposed development on the local library service.
65. A contribution of £10,285 towards open space improvements is sought by the Borough Council to extend the existing play area in the Abbey Gardens with a new bespoke piece of equipment. This is also considered reasonable and compliant with the CIL Regulations.
66. The agent has confirmed that the applicant is willing to enter into a Section 106 legal agreement to secure the above obligations.

#### Affordable Housing and Development Viability

67. Policy CS5 of the Council's Core Strategy requires schemes of more than ten units to provide up to 30% as affordable housing. In this instance two units were sought to be affordable taking into account the application of Vacant Building Credit for the existing buildings on the site. The Policy states however that where necessary the local planning authority will consider issues of development viability and mix, including additional costs associated with the development of brownfield sites and the provision of significant community benefits, and may be willing to negotiate a lower percentage or tenure mix of affordable housing. In this case the development does not propose any affordable housing due to viability issues.
68. The case put forward by the applicant regarding viability has been accepted by officers and is discussed in greater detail below. The failure of the proposal to make any provision of affordable housing is a factor that weighs heavily against the proposal in the balance of considerations. Noting however the wording of Policy CS5, the approval of a development proposal with a lower level of affordable housing than that targeted could still be considered as policy compliant given the flexibility embedded within the policy for consideration of matters such as viability.
69. The NPPF states under the heading of 'Ensuring viability and deliverability' (paragraph 173):

*"Pursuing sustainable development requires careful attention to viability and costs in plan-making and decision-taking. Plans should be*



*deliverable. Therefore, the sites and the scale of development identified in the plan should not be subject to such a scale of obligations and policy burdens that their ability to be developed viably is threatened. To ensure viability, the costs of any requirements likely to be applied to development, such as requirements for affordable housing, standards, infrastructure contributions or other requirements should, when taking account of the normal cost of development and mitigation, provide competitive returns to a willing land owner and willing developer to enable the development to be deliverable."*

70. The National Planning Practice Guidance sets out the following advice on development viability:

*"Decision-taking on individual applications does not normally require consideration of viability. However, where the deliverability of the development may be compromised by the scale of planning obligations and other costs, a viability assessment may be necessary. This should be informed by the particular circumstances of the site and proposed development in question. Assessing the viability of a particular site requires more detailed analysis than at plan level.*

*A site is viable if the value generated by its development exceeds the costs of developing it and also provides sufficient incentive for the land to come forward and the development to be undertaken."*

71. The applicant has submitted a viability assessment which seeks to demonstrate that the scheme would not be viable with any affordable housing. The viability reports are confidential documents and therefore are not published, but have been reviewed carefully by officers with the support of independent specialists in this field.

72. There are no Development Plan policies specifically addressing development viability, although Core Strategy Policy CS5 (Affordable Housing) states that targets for affordable housing provision are subject to viability being demonstrated, using whatever public subsidy may be available in the case. If the target cannot be achieved, the affordable housing provision should be the maximum that is assessed as being viable.

73. The Joint Affordable Housing Supplementary Planning Document provides further guidance about testing development viability, including commissioning independent advice at the developer's expense. In this case the Council commissioned Chris Marsh and Co. Ltd. to critique the viability assessment provided. The developer's viability assessments and the critique carried out on this are not discussed in detail in this report given their strictly confidential nature.

74. The applicant's viability assessment seeks to demonstrate that in the context of 'normal' and widely accepted industry standards regarding expectations of land value and developer profit, this scheme would not be viable with a policy compliant level of affordable housing. In fact the position reached is that the proposal would not be viable with the provision of any affordable housing, albeit a provision for S106 obligations has been made. Consideration has been given to whether or not the proposal can secure the provision of two shared equity affordable

housing units but this has not been shown to be possible within the bounds of a viable scheme. Furthermore, the appraisal shows the developer is accepting a notably reduced profit level which is, in words accepted by the Authority's independent consultant, '*significantly below the profit level originally anticipated*'.

75. Notwithstanding the reduced profit level in this case, the applicant is still offering a suite of S106 measures as set out above. It is therefore only the affordable housing levels that stand to be compromised from fully policy compliant levels (dropping from 30% to 0%). Core Strategy Policy CS5 and its related SPD do however allow for a reduction in this contribution where adverse scheme viability is demonstrated.
76. Core Strategy Policy CS14 (Community Infrastructure Capacity and Tariffs) states that all new proposals for development will be required to demonstrate that the necessary on and off-site infrastructure capacity required to support the development and to mitigate the impact of it on existing infrastructure exists or will exist prior to that development being occupied. Policy CS14 does not make any concessions on viability grounds. When this policy is therefore considered alongside Policy CS5, which does make such concessions, this suggests that where a viability case is demonstrated it is the level of affordable housing rather than the provision of necessary infrastructure that should be reduced. This approach recognises that the S106 requirements set out above are intrinsic and fundamental to ensuring that any development is sustainable, in a way perhaps that the provision of affordable housing is not.
77. The provision of affordable housing is nevertheless a key corporate and political priority of the West Suffolk Authorities and Policy CS5 does require the maximum level of affordable housing to be provided from new developments, within the parameters of scheme viability. Furthermore the Affordable Housing SPD confirms, in cases where viability is demonstrated to justify a reduction in affordable housing provision, other obligations should be reviewed on a priority basis to establish whether the affordable housing offer could be increased.
78. A review of the other planning obligations sought from the development has been carried out and are all considered necessary in order to make the development sustainable. Accordingly, these should be prioritised over affordable housing provision to ensure the development is sustainable with respect to infrastructure provision. In any event, and as advised, there is no scope for any form of other priority here, noting the inability of the scheme to make any provision for affordable housing.

### **Conclusions:**

79. The scheme would provide additional housing on a currently vacant, brownfield site in a highly sustainable location within the town centre. Having regard to the appearance and condition of the existing buildings on the site, the redevelopment proposed would furthermore significantly improve the street scene to the benefit of the character and appearance of the area including the setting of the adjacent conservation area. The development is considered to be in keeping with its surroundings and

would not have an unacceptable impact upon the amenities of neighbouring properties.

80. Whilst the development does not propose any on-site car parking, the site is within the town centre of Bury St Edmunds with services and amenities readily accessible by means other than the private car. The adjacent highway is also controlled by parking restrictions, which together with the highly sustainable location of the development and the type of accommodation proposed, reduces the likelihood of adverse issues arising as a result of the development to an acceptable degree.

81. The proposal fails to make a policy compliant provision of affordable housing. The level of 30% set out within Policy CS5 is however a target, and the policy also expressly allows for the consideration of viability. These factors therefore reduce the weight to be attached to this harm. The viability argument put forward in this case has furthermore been objectively and independently reviewed and corroborated. Taking all matters into account and noting the significant benefits of the proposals, the failure to provide affordable housing, whilst weighing against the scheme, is not considered to justify a refusal of planning permission in this case.

82. In conclusion it is considered that the lack of affordable housing in this case should not otherwise prevent the development of this site given the clear urban regeneration benefits of the scheme and that, as a matter of balance and subject to appropriate conditions and the completion of a S106 agreement, planning permission should otherwise be granted.

### **Recommendation:**

83. It is recommended that delegated authority be granted to officers to **GRANT PLANNING PERMISSION** subject to the applicant first entering into a Section 106 agreement in respect of education, library and open space contributions.

Any such approval to thereafter be granted by officers to also be subject to the following conditions:

- 1) The development hereby permitted shall be commenced not later than 3 years from the date of this permission.  
*Reason: In accordance with Section 91 of the Town and Country Planning Act 1990.*
- 2) The development hereby permitted shall be carried out in complete accordance with the details shown on the approved plans and documents.  
*Reason: To define the scope and extent of this permission.*
- 3) No development shall commence until the following components to deal with the risks associated with contamination of the site have each been submitted to and approved in writing by the Local Planning Authority:
  - i) A site investigation scheme (based on the approved Preliminary Risk Assessment (PRA) within the approved Desk Study), to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off site.
  - ii) The results of a site investigation based on i) and a detailed risk

assessment, including a revised Conceptual Site Model (CSM).

iii) Based on the risk assessment in ii), an options appraisal and remediation strategy giving full details of the remediation measures required and how they are to be undertaken. The strategy shall include a plan providing details of how the remediation works shall be judged to be complete and arrangements for contingency actions. The plan shall also detail a long term monitoring and maintenance plan as necessary.

*Reason: To protect and prevent the pollution of controlled waters, future end users of the land, neighbouring land, property and ecological systems from potential pollutants associated with current and previous land uses. This condition requires matters to be agreed prior to commencement since it relates to consideration of below ground matters that require resolution prior to further development taking place, to ensure any contaminated material is satisfactorily dealt with.*

- 4) No occupation of any part of the development shall take place until a verification report demonstrating the completion of works set out in the remediation strategy approved under Condition 3(iii). The long term monitoring and maintenance plan approved under Condition 3(iii) shall be updated and be implemented as approved.

*Reason: To protect and prevent the pollution of controlled waters, future end users of the land, neighbouring land, property and ecological systems from potential pollutants associated with current and previous land uses*

- 5) If during development contamination not previously identified is found to be present at the site then no further development (unless otherwise agreed in writing with the local planning authority) shall be carried out until the developer has submitted a remediation strategy to the local planning authority detailing how this unsuspected contamination shall be dealt with and obtained written approval from the local planning authority. The remediation strategy shall be implemented as approved.

*Reason: To protect and prevent the pollution of controlled waters, future end users of the land, neighbouring land, property and ecological systems from potential pollutants associated with current and previous land uses*

- 6) No development shall commence until a foul water strategy has been submitted to and approved in writing by the Local Planning Authority. No dwellings shall be occupied until the works have been carried out in accordance with the foul water strategy so approved unless otherwise approved in writing by the Local Planning Authority.

*Reason: To prevent environmental and amenity problems arising from flooding.*

- 7) No development shall commence until a scheme for surface water disposal has been submitted to and approved in writing by the Local Planning Authority. Infiltration systems shall only be used where it can be demonstrated that they will not pose a risk to groundwater quality. The development shall be carried out in accordance with the approval details.

*Reason: To ensure that the development is not put at unacceptable risk from or adversely affected by unacceptable levels of water pollution caused by mobilised contaminants, and to prevent hazards caused by the discharge of surface water onto the highway.*

- 8) The use of penetrative methods shall not be carried out other than with the written consent of the local planning authority. The development shall

be carried out in accordance with the approved details.

*Reason: To ensure that the proposed method, does not harm groundwater resources.*

- 9) No drainage works shall commence until a surface water management strategy has been submitted to and approved in writing by the Local Planning Authority. No hard-standing areas to be constructed until the works have been carried out in accordance with the surface water strategy so approved unless otherwise agreed in writing by the Local Planning Authority.

*Reason: To prevent environmental and amenity problems arising from flooding.*

- 10) No development shall commence until the implementation of a programme of archaeological work has been secured, in accordance with a Written Scheme of Investigation which has been submitted to and approved in writing by the Local Planning Authority. The scheme of investigation shall include an assessment of significance and research questions and:

- a. The programme and methodology of site investigation and recording
- b. The programme for post investigation assessment
- c. Provision to be made for analysis of the site investigation and recording
- d. Provision to be made for publication and dissemination of the analysis and records of the site investigation
- e. Provision to be made for archive deposition of the analysis and records of the site investigation
- f. Nomination of a competent person or persons/organisation to undertake the works set out within the Written Scheme of Investigation.
- g. The site investigation shall be completed prior to development, or in such other phased arrangement, as agreed and approved in writing by the Local Planning Authority.

*Reason: To safeguard archaeological assets within the site from impacts arising from the development and to ensure the proper and timely investigation, recording, reporting and presentation of archaeological assets affected by the development. This condition requires matters to be agreed prior to commencement since any groundworks have the potential to affect archaeological assets within the site.*

- 11) No buildings shall be occupied until the site investigation and post investigation assessment has been completed, submitted to and approved in writing by the Local Planning Authority in accordance with the programme set out in the Written Scheme of Investigation approved under Condition 8 and the provision made for analysis, publication and dissemination of results and archive deposition.

*Reason: To safeguard archaeological assets within the site from impacts arising from the development and to ensure the proper and timely investigation, recording, reporting and presentation of archaeological assets affected by the development.*

- 12) All HGV and construction traffic movements to and from the site over the duration of the demolition and construction period shall be subject to a Construction and Deliveries Management Plan which shall be submitted to the planning authority for approval a minimum of 28 days before any

deliveries of materials commence. No HGV movements shall be permitted to or from the site other than in accordance with the routes defined in the Plan, and no equipment or materials shall be stored on the highway. The Construction and Deliveries Management Plan shall include, but not be restricted to, adequate parking of vehicles for demolition and construction site staff and visitors, means to ensure mud, water and other debris does not migrate onto the highway, times and movements of delivery vehicles including routes to and from the site and times and duration of site operation, storage of equipment and materials and location of site security fencing. The site operator shall maintain a register of complaints and record of actions taken to deal with such complaints at the site office as specified in the Plan throughout the period of occupation of the site.

*Reason: To reduce and/or remove as far as is reasonably possible the effects of HGV and construction traffic in sensitive areas.*

- 13) No work of construction above slab level shall commence until samples of the external materials and surface finishes have been submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be carried out in accordance with the approved details.

*Reason: To ensure the appearance of the development is satisfactory.*

- 14) No development shall commence until details of secure cycle storage have been submitted to and approved in writing by the Local Planning Authority. The details shall provide for a minimum of 2 cycle spaces per dwelling and the storage shall be secure from theft, damage and weather. The approved cycle storage facilities shall be provided prior to any of the flats being first occupied and shall thereafter be retained and used for no other purpose.

*Reason: To encourage residents to use sustainable transport.*

- 15) Not less than 3 months prior to the first occupation of any flat, details of the contents of a Residents Travel Pack shall be submitted to and approved in writing by the Local Planning Authority in consultation with the Highway Authority. Within one month of the first occupation of any flat, the occupiers of each of the flats shall be provided with a Residents Travel Pack. The Residents Travel Pack shall be maintained and operated thereafter.

*Reason: To encourage residents to use sustainable transport.*

- 16) No development shall commence until details of the areas to be provided for the storage and presentation of refuse and recycling bins have been submitted to and approved in writing by the Local Planning Authority. The areas shall be provided in their entirety prior to any of the flats being first occupied and shall be retained thereafter for no other purpose.

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

- 17) No development shall commence until details of the highway works to reinstate the footway at the existing vehicular crossover have been submitted to and approved in writing by the Local Planning Authority in consultation with the Highway Authority. The details shall include the raising of kerbs, associated surfacing and drainage and the re-siting of street lighting and traffic signs from the proposed pedestrian access. The

agreed works shall be carried out before the development is first occupied.

*Reason: To ensure that the highway works required as a result of the development are carried out to the correct specification in the interests of highway safety.*

18) No individual dwelling hereby approved shall be occupied until the optional requirement for water consumption (110 litres use per person per day) in Part G of the Building Regulations has been complied with for that dwelling.

*Reason: To improve the sustainability of the dwellings in accordance with policy DM7 of the Joint Development Management Policies (2015).*

**Documents:**

All background documents including application forms, drawings and other supporting documentation relating to this application can be viewed online [DC/17/0688/FUL](https://www.dorsetcouncil.gov.uk/DC/17/0688/FUL)