

PLANNING COMMITTEE – 15 MARCH 2022

Application No:	21/02589/FUL	
Proposal:	Change of use of the first floor atrium and old pub area of the Buttermarket from Sui Generis to Mixed Use (Uses Classes E(a), E(b), E(g(i)), F1(a) and F2(b))	
Location:	The Buttermarket, Between 27 and 28 Middle Gate, Newark On Trent, NG24 1AL	
Applicant:	Newark and Sherwood District Council	
Agent:	Jackson Design Associates - Mr Alex Brown	
Registered:	05.08.2019	Target Date: 17.02.2022
	Extension of Time: 18.03.2022	
Link to Application File:	https://publicaccess.newark-sherwooddc.gov.uk/online-applications/applicationDetails.do?activeTab=documents&keyVal=R3TOLILBINFO0	

This application is being presented to the Planning Committee as the applicant is Newark and Sherwood District Council.

The Site

The application site comprises the building known as the 'Buttermarket' and the Royal Exchange Shopping Centre which lies between no. 27 and 28 Middle Gate in the sub-regional centre of Newark Urban Area. In accordance with Section 1 (5) of the Planning (Listed Building and Conservation Areas) Act 1990 the building known as the Buttermarket is considered to form part of the Grade I listed Town Hall listing, which lies to the east of the application site with through access onto the Newark Marketplace. The building is surrounded by listed buildings and has a historically sensitive location. The site lies within the Newark Town Centre and Primary Shopping Area, within Newark's Historic Core and the defined Conservation Area.

The main Buttermarket access which is of brick wall construction and is formed of elaborately shaped brick gable with a pediment at the top and is accessed off Middle Gate to the NW, this façade features a large pedestrian access point and four glazed arched openings. There is through access into the exchange shopping area which exits into Chain Lane in addition to through access via the Town Hall onto the Newark Marketplace. This application specifically relates to the first floor area of the building.

Relevant Planning History

19/01410/FUL & 19/01411/LBC – Alterations and conversion of units 4, 9, 10 and 11 to form a single unit; Blocking up of window and door on Chain Lane; Re-design of shopfront on Middlegate; Change of allowable uses within the building to incorporate use A1, A2, A3, B1, D1 and D2 – Permitted 09.10.2019

21/02468/LBCLDC - Fit out and refurbishments of 'old pub' area, refurbishments of Atrium floor and ceiling finishes at first floor and refurbishment of ground floor staff toilets – Permitted 07.12.2021

21/02470/LBC - Provision of a general access staircase within the Buttermarket atrium leading from ground floor to the first floor mezzanine level – Permitted 19.01.2022

21/02462/LBC - Removal of existing in-filled wall within the Buttermarket First Floor Atrium and provision of new access doors – Permitted 19.01.2022

The Proposal

The application seeks permission for the change of use of the first floor atrium and 'old pub' area of the Buttermarket from Sui Generis to Mixed Use (Uses Classes E(a) Display or retail sale of goods, other than hot food, E(b) Sale of food and drink for consumption (mostly) on the premises, E(g(i)) Offices to carry out any operational or administrative functions, F1(a) Provision of education and F2(b) Halls or meeting places for the principal use of the local community).

The 'old pub' area of the first floor is proposed to be converted to an educational and community facility – these areas shown on the first floor plan would be used as offices with a staff office, meeting room space, an area to provide educational sessions and for community groups to be held.

The plans also show the installation of 7 no. 'Pods' positioned around the atrium area of the building. Given the pods would be internal features they do not constitute operational development and as such do not require planning permission. Nevertheless, for context the pods are proposed to be used for use classes E(a), E(b) and E(g(i)) which would give visitors the option to visit the shops within the atrium and have refreshments as well as the potential to lease pods for office/meeting room spaces.

Whilst the plans do show some physical alterations on the proposed plans, given these are internal alterations they do not require planning permission – they have also been approved under applications 21/02470/LBC and 21/02462/LBC.

Documents considered within this appraisal:

- Planning Statement
- Proposed Visuals and Pod Specifications
- Smartpod Technical data sheet
- Heritage Impact Assessment
- Site Location Plan
- Proposed Area of Works – Ref. 2255 (22) 301
- Existing Basement and Ground Floor Plans – Ref. 2255 (22) 302
- Existing First Floor Plan – Ref. 2255 (22) 303
- Proposed Basement and Ground Floor Plans – Ref. 2255 (22) 304
- Proposed Stair Plans, Sections and Details – Ref. 2255 (22) 401
- Existing Reflected Ceiling Plan – Ref. 2255 (35) 301
- Proposed Reflected Ceiling Plans – Ref. 2255 (35) 301
- Proposed Finishes Plan – Ref. 2255 (40) 301
- Proposed First Floor Plan Proposed Pod Locations and Details – Ref. 2255 (22) 305-P02

(25.02.2022)

- Smartpod Technical Drawings 1-7 – Ref. SP-SMG-NSDCBP1-7

Departure/Public Advertisement Procedure

Occupiers of 15 properties have been individually notified by letter. A site notice has also been displayed near to the site and an advert has been placed in the local press.

Earliest Decision date: 09.02.2022

Planning Policy Framework

The Development Plan

Newark and Sherwood Amended Core Strategy DPD (adopted March 2019)

Spatial Policy 1 - Settlement Hierarchy

Spatial Policy 2 - Spatial Distribution of Growth

Spatial Policy 8 – Protecting and Promoting Leisure and Community Facilities

Core Policy 6 – Shaping our Employment Profile

Core Policy 8 – Retail Hierarchy

Core Policy 9 -Sustainable Design

Core Policy 14 – Historic Environment

NUA/TC/1 - Newark Urban Area - Newark Town Centre

Allocations & Development Management DPD

DM1 – Development within Settlements Central to Delivering the Spatial Strategy

DM5 – Design

DM9 – Protecting and Enhancing the Historic Environment

DM11 – Retail and Town Centre Uses

DM12 – Presumption in Favour of Sustainable Development

Other Material Planning Considerations

National Planning Policy Framework

Planning Practice Guidance

2021 Retail and Town Centre Uses Monitoring Report (1st April 2020 to 31st March 2021)

Planning (Listed Building and Conservation Areas Act) 1990

Consultations

Newark Town Council – No objection.

NSDC Conservation – No objection.

Historic England – No comments to make, defer to the Council's specialist conservation advisors.

Comments of the Business Manager

Principle of Development

The NPPF supports sustainable economic growth and places significant weight on the need to

support economic growth through the planning system. It also places emphasis on promoting health and safe communities, explaining that planning decisions should provide social, recreational and cultural facilities and services the community needs. To the same effect, Core Policy 6 requires the economy of the District to be strengthened and broadened and enabling employment levels to be maintained & increased by meeting requirements of business sectors. SP8 is also relevant which explains that the provision of new and enhanced community facilities will be encouraged.

The application seeks permission for the change of use of the first floor atrium and 'old pub' area of the Buttermarket from Sui Generis to Mixed Use to incorporate retail and the sale of food and drink as well as office use, provision of education and halls and meeting places for the use of the local community. The intention is to create a mixed use area for small businesses to lease the proposed pods and for the community to convene as a hub for work, education and recreational activity. The floor plan shows there would be three Classrooms areas as well as the 7 leasable pods and a staff area with separate public toilet facilities.

Policy NUA/TC/1 states that development of retail and other town centre uses within Newark town centre will be considered against general policy requirements in the Core Strategy and the Development Management policies in Chapter 7, with particular reference to DM11. Policy DM11 states that new and enhanced retail development and other town centre uses that consolidate the composition of the town centre will be supported within the Town Centre Boundary (TCB), as defined on the Policies Map. The NPPF defines Main Town Centre Uses, which includes (inter alia) retail development, leisure, recreation uses and offices. Officers are also mindful that these policies were adopted prior to the Use Class Order (UCO) of 1987 being amended in 2020 which revoked all former retail uses (including A4 (drinking establishments) and A5 (hot food & take away) putting them all, in this case, into one use class (Class E – Commercial, business and service uses) resulting in greater flexibility. The changes to the UCO and Permitted Development reforms support the shifting emphasis towards supporting the diversity of uses in town centre locations in order to support the vitality of town centers and the high street to adapt and diversify to allow the most effective use of existing buildings.

In this case, given the site is within the TCB and does not involve street level units the principle of changing the use of the first floor of the Buttermarket to create a recreational, educational and community hub with complementary uses would accord with the provisions of DM11 as it would provide an enhanced retail offer within the Primary Shopping Area with other complementary town centre uses that aims to draw visitors to the area. DM11 goes on to explain that the Council will support a greater diversity of town centre uses that contribute to the overall vitality and viability of the town centre and it is considered that this proposal would achieve this by combining uses that would bring people to the building (for educational or community group meetings) with retail uses (in the form of smaller units which would be conducive to small businesses and/or pop up events) which would give visitors and customers a reason to remain in the town for recreation as well as its educational or community offering. Furthermore, considering the Newark Town Centre Use Class Split (as of 31st March 2021) as reported in the 2021 Retail and Town Centre Uses Monitoring Report (1st April 2020 to 31st March 2021) retail use (E(a)) remains the most dominate use class (at 36%) with food and drink (E(b)) at 5.14% and educational facilities (F1(a)) at 0.3%. No community facility or office uses were reported within the Town Centre. As such it is not considered that this proposal would result in an over dominance of non-retail uses within the primary shopping area and given it would offer a range of complementary uses for the local community as well as visitors it is considered that the proposal would support the overall vitality and viability of the town centre. The proposal would therefore be in accordance with policies SP8,

CP6 and DM11 and the provisions of the NPPF in principle.

Impact on the Character of the Area and the Heritage Asset

The site is located within the historic core of the town, the defined conservation area and is a curtilage listed building associated with the Grade I Listed Town Hall to the east, as such the Council's heritage policies are applicable. Policies CP14 and DM9 of the Council's LDF DPDs, amongst other things, seek to protect the historic environment and ensure that heritage assets are managed in a way that best sustains their significance. The importance of considering the impact of new development on the significance of designated heritage assets, furthermore, is expressed in section 16 of the National Planning Policy Framework (NPPF). Paragraph 194 of the NPPF, for example, advises that the significance of designated heritage assets can be harmed or lost through alterations or development within their setting. Such harm or loss to significance requires clear and convincing justification. The NPPF also makes it clear that protecting and enhancing the historic environment is sustainable development (paragraph 8.c).

Paragraph 137 of the National Planning Policy Guidance also states that, '*Local planning authorities should look for opportunities for new development within Conservation Areas...to enhance or better reveal their significance.*' Section 72 of the Planning (Listed Building and Conservation Areas Act) 1990 further states, in relation to the general duty with regard to conservation areas in exercise of planning functions that, '*special attention shall be paid to the desirability of preserving or enhancing the character and appearance of that area*'.

Internally the building reflects a 1980's arcade style shop frontages at ground floor which lead onto Chain Lane and through to the Town Hall. The building has a commercial character internally which translates externally on Chain Lane as a glazed arcade style entrance with adjacent shop units and on Middlegate as an ornate building entrance with an arched glazed frontage and entranceway. At first floor there is a mezzanine atrium area which has ornate metal railings surrounding it. Consent has been granted for the provision of a new general access staircase within the atrium leading to the mezzanine level (21/02470/LBC) in addition to the removal of some existing infilled internal walls within the first floor atrium and the 'old pub' area (21/02462/LBC) to open up some of the internal areas proposed to be used for the educational facility which have been approved under separate listed building consent applications.

No operational development requiring permission is proposed as part of this application and reviewing the proposal the Conservation Officer (CO) has advised that the change of use proposed would not result in any impact on the special character of the building. Overall, given there are no physical alterations to the exterior of the building the proposal is not considered likely to have any adverse impact on the street scene or Conservation Area. Furthermore, given the positive conclusion of the CO it is considered that the development would not unduly impact the setting or significance of the adjacent Listed Building. This application therefore accords with Section 72 and 66 of the Planning (Listed Building and Conservation Areas Act) 1990 as well as Core Policy 14 of the CS, policy DM9 of the ADMDPD and Section 16 of the NPPF.

Impact on Neighbouring Amenity

DM5 of the ADMDPD outlines that regard should be given to the impact of proposals on amenity or surrounding land uses and should not cause unacceptable loss of amenity. Given that no new external building works are required as part of the proposal and that the immediate neighbouring properties, as well as the wider area, are all commercial, it is considered that the proposed uses of

the site are acceptable from an amenity perspective. The proposal would not result in any unacceptable levels of amenity for surrounding occupiers/uses and thus the proposal would accord with policy DM5 of the ADMDPD in this regard.

Impact on Highways Safety

Core Strategy Spatial Policy 7 seeks to ensure that vehicular traffic generated does not create parking or traffic problems. Policy DM5 of the DPD requires the provision of safe access to new development and appropriate parking provision. There are no proposed changes to the access arrangements to the site as part of this application. There is ample public car parking in the town centre and given the highway restrictions in place it is not envisaged that the proposal would result in any material highway safety issues. The application is therefore in accordance with Spatial Policy 7 of the Core Strategy and Policy DM5 of the DPD.

Conclusion

The principle of the change of use of the first floor of the building to Mixed Use including retail, sale of hot food, office use, and provision of education for use by the community is considered to be acceptable in the context of the town centre and primary shopping area location. The proposed uses are not considered to result in any unacceptable neighbouring amenity impact, nor would the proposed uses result in harm to the character and appearance of the Conservation Area or the setting of the listed building. There are no highways impacts that will result from this application and therefore subject to conditions it is recommended that the application be approved.

Recommendation

That full planning permission is approved subject to the following conditions.

01

The use hereby permitted shall not begin later than three years from the date of this permission.

Reason: To comply with the requirements of Section 51 of the Planning and Compulsory Purchase Act 2004.

02

The use hereby permitted shall not be carried out except in complete accordance with the site location plan, block plan and approved proposed plans reference

- Site Location Plan
- Proposed Area of Works – Ref. 2255 (22) 301
- Proposed First Floor Plan Proposed Pod Locations and Details – Ref. 2255 (22) 305-P02 (25.02.2022)

Reason: So as to define this permission.

Note to applicant

01

The application as submitted is acceptable. In granting permission without unnecessary delay the District Planning Authority is implicitly working positively and proactively with the applicant. This is

fully in accordance with Town and Country Planning (Development Management Procedure)(England) Order 2015 (as amended).

02

The applicant is advised that all planning permissions granted on or after the 1st December 2011 may be subject to the Community Infrastructure Levy (CIL). Full details of CIL are available on the Council's website at www.newark-sherwooddc.gov.uk/cil/

The proposed development has been assessed and it is the Council's view that CIL is not payable on the development hereby approved as the development type proposed is zero rated in this location.

03

This grant of permission does not convey consent for the display of any advertisement on or within the application site which will require separate advertisement consent.

BACKGROUND PAPERS

Application case file.

For further information, please contact Honor Whitfield on ext 5827

All submission documents relating to this planning application can be found on the following website www.newark-sherwooddc.gov.uk.

Lisa Hughes
Business Manager – Planning Development

Committee Plan - 21/02589/FUL

