



PLANNING COMMITTEE:	27th October 2015
DIRECTORATE:	Regeneration, Enterprise and Planning
DIRECTOR:	Steven Boyes
N/2015/0780:	The erection of a cinema and creation of external terrace on land at corner of Albion Place and Derngate
WARD:	Castle
APPLICANT:	Royal and Derngate Theatre
AGENT:	One17 Architects & Interior Designers
REFERRED BY:	Director of Regeneration, Enterprise and Planning
REASON:	Council owned land
DEPARTURE:	No

APPLICATION FOR DETERMINATION:

1. RECOMMENDATION

1.1 APPROVAL IN PRINCIPLE subject to the conditions as set out below and for the following reason:

By virtue of its siting within the open space, the proposed development would neither preserve nor enhance the character and appearance of the conservation area and would lead to some impact on the setting of the adjacent listed buildings. However, on balance the impacts are considered to be less than substantial. The aesthetic qualities of the design are of a high standard and would be in keeping with the existing cinema and an element of open space and landscaping would remain. The site is located within the town centre where policy seeks to promote regeneration and strengthen the offer of cultural, leisure and tourism provision when weighed against the public benefits. The proposal would enhance the cultural offer within this location and allow for the expansion of an existing prominent business within the town centre. On balance, it is considered that the public benefits outweigh the harm to heritage assets and therefore, the proposal is considered to be in accordance with Policies S10, E7, BN5, N1 and N2 of the West Northamptonshire Joint Core Strategy, Policy 1 of the Northampton Central Area Action Plan and the aims and objectives of the National Planning Policy Framework.

1.2 As the consultation period will not expire until 29th of October, it is recommended that delegated authority be given to the Director of Regeneration, Enterprise and Planning to resolve any additional issues raised in comments received not dealt

with in the report and issue planning permission after the consultation period has expired.

2. THE PROPOSAL

- 2.1 The application proposes the erection of a second cinema adjacent to the existing Errol Flynn Filmhouse. The scheme proposes a cinema building aligned parallel with the existing cinema and of similar design. The scheme has been amended with the aim of reducing impacts and to improve footpath provision through the site. The cinema would essentially reflect the design and materials of the existing cinema albeit on a slightly wider and shorter footprint with a roof level approximately 0.5m higher. A stepped access between the two cinemas would lead up to an external terrace and seating area. The cinema would sit level with the ground of the existing cinema with the land excavated and graded around it. The development of the site would include the removal of a number of trees of varying maturity. The existing footpath through the open space would be re-routed alongside the parking area on Albion Place. Security shutters are proposed at the base of the steps to secure the external terrace area out of hours and existing security shutters on the walkway to the theatre would be re-located towards the end of the walkway.
- 2.2 The application is supported by a Planning Statement, a Tree Survey and a Heritage Impact Assessment.

3. SITE DESCRIPTION

- 3.1 The application site is an area of open space within the Central Area and Derngate Conservation Area situated at the top of Albion Place at the junction with Derngate. The site lies to the immediate east of the Royal and Derngate Theatre with the existing Errol Flynn Theatre located in the south. The site comprises of varying levels with a grass embankment rising up to the walkway to the theatre and a general gradual slope of the overall site from Derngate towards the southern end. A row of Grade II listed terraced properties, Nos. 21 to 24 Albion Place, are located opposite the site to the southwest with a further, Nos. 3 to 7 Albion Place, are situated to the south. Many of the terraces have been converted back to residential use but some commercial uses maintained. Derngate to the north comprises of varying commercial uses at street level with residential accommodation above. The site to the northeast on the corner of Castilian Street/Derngate has an extant permission for the erection of a 3½-storey development of seven townhouses as yet unimplemented.

4. PLANNING HISTORY

- 4.1 N/2011/1149 – Erection of an extension to provide a cinema. Approved 7.03.12.

5. PLANNING POLICY

5.1 Development Plan

Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires a planning application to be determined in accordance with the Development Plan unless material planning considerations indicate otherwise. The Development Plan for the purposes of this application comprises the adopted West Northamptonshire Joint Core Strategy (2014) and the Northampton Central Area Action Plan (2013).

5.2 National Policies

The National Planning Policy Framework (NPPF) sets out the current aims and objectives for the planning system and how these should be applied. In delivering sustainable development, decisions should have regard to the mutually dependent social, economic and environmental roles of the planning system. The NPPF should be read as one complete document. However, the following sections are of particular relevance to this application:

The NPPF has a presumption in favour of sustainable development and aims to support sustainable economic growth. Paragraph 21 supports the expansion of existing business sectors. Paragraph 23 advises on the importance of meeting the needs for retail, leisure, office & other main town centre uses ensuring that they are not compromised by limited site availability.

The NPPF emphasises the importance of securing high quality design and the conservation of heritage assets in a manner appropriate to their significance at paragraph 17 further emphasising that good design is a key aspect of sustainable development and should contribute to making places better for people at paragraph 56. Paragraph 64 advises that permission should be refused for development of poor design that fails to take the opportunities for improving the character and quality of an area and the way it functions.

Paragraph 131 advises that account should be taken of the desirability of sustaining and enhancing the significance of heritage assets and at paragraph 132 advises that great weight should be given to the assets conservation.

Paragraph 133 advises where a proposal will lead to substantial harm to or total loss of significance of a designated heritage asset, Local Planning Authorities should refuse consent, unless it can be demonstrated that the substantial harm or loss is necessary to achieve substantial public benefits that outweigh the harm or loss. At paragraph 134 advice is that where a development will lead to less than substantial harm to the significance of a heritage asset, this harm should be weighed against the public benefits of the proposal, including securing its optimum viable use.

5.3 West Northamptonshire Joint Core Strategy (2014)

The West Northamptonshire Joint Core Strategy (JCS) provides an up to date evidence base and considers the current Government requirements for plan making as it has been prepared in full conformity with the NPPF. Policies of particular relevance are:

Policy S10: Sustainable Development Principles – development should achieve the highest standards of design incorporating safety and security considerations and a strong sense of place and protect, conserve and enhance the natural and built environment and heritage settings.

Policy E7: Tourism, Visitor & Cultural Industries – development proposals will be supported where they contribute towards the achievement of regeneration aims and objectives; strengthen the overall tourism offer; benefit local communities and businesses; and the development is of a use, form and scale which does not harm the quality of the natural or built environment.

Policy BN3: Woodlands and Enhancement and Creation – loss of veteran trees will not be permitted unless the benefits of the development in that location clearly outweigh the loss.

Policy BN5: The Historic Environment & Landscape – designated and non-designated heritage assets and landscapes will be conserved and enhanced.

Policy N1: The Regeneration of Northampton – supports the regeneration of Northampton by a focus on the town centre and central area for leisure and service development providing high quality urban design and public realm and protecting its heritage assets and historic character through managed change.

Policy N2: Northampton Central Area – acknowledges that major office, leisure and cultural development will take place in the Northampton Central Area as identified in the Central Area Action Plan.

5.4 Northampton Central Area Action Plan 2013

The Central Area Action Plan (CAAP) provides specific planning policy and guidance for the town centre and adjoining areas where significant regeneration and investment is proposed in the period up to 2026 and is in conformity with the objectives of the NPPF. Relevant policies include:

Policy 1: Promoting Design Excellence – development must demonstrate a high design standard; positively contribute to the character of the area; preserve and enhance the character, appearance and setting of the central area's heritage assets paying suitable regard to adopted Conservation Area Appraisals and Management Plans; and promote high quality inclusive design.

Policy 4: Green Infrastructure – development within the Central Area must deliver and/or contribute the provision of green infrastructure by enhancing the setting and function of the green infrastructure identified on the 'Proposals Map'.

5.5 Supplementary Planning Documents

Northamptonshire County Parking Standards SPG 2003
Planning out Crime in Northamptonshire SPG 2004

5.6 Other Material Considerations

Derngate Conservation Area Appraisal & Management Plan

5.7 Statutory Duty

Section 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires Local Planning Authorities when considering development to pay special attention to preserving a listed building or its setting and to the desirability of preserving or enhancing the character or appearance of a conservation area.

If there is any harm to the aspects of the listed building or conservation area identified under section 66 or section 72 considerable weight should be placed on this harm in deciding whether to grant planning permission (East Northamptonshire Court of Appeal decision 2014).

Nevertheless a later judgement *R Morris v Wealden DC* (2014) explained the duty further thus:

“If, for example, the harm was trivial, then the great weight to be attached could more easily be outweighed by any advantages that accrued from the development in question.”

6. CONSULTATIONS/ REPRESENTATIONS

Comments are summarised as follows:

- 6.1 **NBC Conservation** – The space is identified in the Conservation Area Appraisal and Management Plan as a ‘valuable green space’. This has already been eroded following the construction of the Errol Flynn 1 cinema making the remaining space more valuable, however the existing cinema enabled the remaining space to be enhanced thus improving the remaining green space. The existing cinema is partially sheltered by the mass of the Dergate Theatre and does not project forward of the listed terrace of properties to the south of the site. The current proposal would divide the remaining open space into two less usable areas and would project forward significantly blocking the view of the terrace of properties to the south, would result in the erosion of the green space impacting on the setting of the listed terrace of properties opposite and would dominate the view south from Castilian Street. These elements would therefore have a negative impact on the setting of the listed buildings and character of the conservation area. The amended scheme is insufficient to mitigate the impact on the setting of the adjacent listed buildings and the character of the conservation area.
- 6.2 **NBC Arboricultural Officer** – The development requires the removal of mature and early mature and some young recently planted trees. All the trees form a synergistic group which provides amenity to the area and contributes to an important landscape feature as part of the open space with the conservation area. The loss of trees is in itself not overly significant but the combination of the loss of trees with the fragmentation of the open space as a result of the development is not acceptable. The construction of the proposed footpath may also have an adverse impact on the trees dependant on the method of construction and the scheme allows very little scope for the planting of replacement trees. No further comments on the amended scheme.
- 6.3 **NBC Environmental Health** – The development will require heat control and ventilation plant, the main concern being noise from plant and equipment and breakout from the cinema soundtrack. It would also be appropriate to check for contamination on site. Conditions are recommended in relation to the submission of a scheme for the control of noise and contamination.
- 6.4 **Crime Prevention Design Advisor** – no objection to the principle of a second cinema in this location. NBC CCTV has a very poor view of this space with only parts visible and at some distance with the only guardianship coming from houses at the top of Albion Place. The development will need to create an environment which feels welcoming and not intimidating. Historically this space was used by drinkers and is somewhat secluded. Removal of the seating blocks is recommended as this removes any option to sit and congregate in order to drink.

- 6.5 **Town Centre Conservation Advisory Committee** – consider the proposed alignment would have an impact on the setting of the listed buildings in Albion Place and the mature trees and valuable green space. Adequate consideration should be given to assessing the impact on the conservation area and the setting of the listed buildings.
- 6.6 **The Town Centre Manager** – advises that the existing cinema, whilst enhancing the environment, has been well received by the general public and attracted capacity audiences who have supported other local businesses in the locality. There appears to be demand for expanding the cinema offer and the design and layout is in keeping with its location.
- 6.7 **The Theatres Trust** – No objection. The creation of an additional cinema will complement the existing cinema and support the role of the Royal and Derngate as a cultural destination. The location and orientation of the extension ensures the fire escape from the theatre building will be maintained free from obstruction.
- 6.8 There is no requirement to refer the application to Historic England as the development is under 1000 square metres in area and does not affect the setting of a Grade 1 or II* listed building.
- 6.9 The consultation period on the amended scheme will not expire until 29th of October 2015 and any additional comments received will be reported via the report addendum.

7. APPRAISAL

Background to Design Issues

- 7.1 The application was subject to pre-application discussions with the Local Planning Authority where it was suggested by officers that an alternative layout be considered which positioned the proposed cinema at an angle with the existing cinema running along the length of the walkway to the theatre in order to retain as much of the green space as possible in a single area and reduce the impact on adjacent listed buildings. The application as submitted aligns the proposed cinema parallel with the existing.
- 7.2 Discussions have continued regarding the layout during the course of this application and the scheme has been amended to widen the building but shorten it by two rows of seating in response to concerns raised by officers regarding impact on the open space and heritage assets. The submitted revised Planning Statement advises that the applicant wishes to replicate the existing cinema as closely as possible but provide “a more raked profile to the viewing space to improve screen visibility for all audience members” and “greater space between the projection window and the ceiling”.
- 7.3 The applicant’s supporting statement seeks to provide justification for the siting of the cinema (as amended) as follows:
- The shape of the cinema is a wedge (shallower at the entrance and deeper at the screen end). Working with rather than against the site contours is invariably a logical response.
 - Running the cinema parallel with the walkway (as suggested by the local planning authority) involves considerably more excavation at greater cost.

Furthermore, problems were experienced during the construction of the existing cinema with undermining the walkway foundations.

- The walkway's primary function is as an emergency or fire escape route from the theatre.
- The outdoor terrace is beneficial to both cinemas and for the supervision and maintenance of outside space. Placing outdoor furniture on the existing walkway has proved popular however the walkway's primary function is as an emergency or fire escape route from the theatre and building control officers have advised to keep the walkway clear.
- The generous opening between the two cinemas would create an important visual link between the walkway and the green space below.
- The relationship between the buildings in the application scheme is comfortable and logical.

Impact on Heritage Assets

7.4 National and local planning policy seek to ensure that development proposals are of high quality design and conserve and enhance heritage assets and their settings having regard to the significance of the heritage asset. Where a proposal will lead to substantial harm or loss to the significance of the heritage asset this should be weighed against the substantial public benefits of the proposal. Where a proposal would lead to less than substantial harm to the significance of a designated heritage asset this should be weighed against the public benefits of the proposal, including securing its optimum viable use.

7.5 The application site forms a prominent green open space within the town centre, the setting of which is further enhanced by the presence of mature trees. The space provides a natural setting that enhances the setting of the existing cinema, the adjacent unattractive façade of the Derngate Theatre, the surrounding conservation area and the setting of the adjacent listed buildings. When viewed from Castilian Street to the north of the application site the open space affords views down towards the group of listed terraced properties on Albion Place (Nos. 3 to 7) albeit these views are interrupted by the presence of the existing cinema and partially obscured by the trees when in full bloom. The relationship of the open space with the listed terrace opposite is interrupted by the presence of the parking area and associated signage.

7.6 The Derngate Conservation Area Assessment (September 2006) referred to the value and importance of this open space within the central area acknowledging that it was underused and would benefit from seating and a more rigorous maintenance regime. The open space was subsequently enhanced with the erection of the existing Errol Flynn theatre with the provision of an area of informal block seating and a footpath that winds through the open space. Although the space has been enhanced visually there is nothing to suggest that usage of the space has increased as a result. The supporting statement submitted with the application acknowledges that the construction of the existing cinema created more of a focus on the remaining green space which reduced the incidence of antisocial behaviour to an extent but not completely. The benefits of the open space are therefore considered to be more of a visual merit within the conservation area and as part of the setting of the adjacent listed buildings than

as a functional amenity space within the town centre. The existing footpath route through the open space would be retained albeit on a different alignment.

- 7.7 The development as proposed would divide this remaining open space into less usable areas and result in the loss of existing mature trees although a number of trees would be retained to the front of the site adjacent to Derrnagate and the existing parking area.
- 7.8 The building would be visually prominent within the open space when viewed from Castilian Street and further obscure views of the listed buildings at Nos. 3 to 7 Albion Place. However, the views of these listed terraces are already interrupted by the presence of the existing cinema and partially obscured by existing trees on site. The upper floors of the terrace would remain visible above the cinema and the immediate setting of these listed buildings when viewed further down Albion Place would remain unchanged. Views of the listed terrace (Nos. 21 to 24) when approached from Derrnagate would remain uninterrupted with the buildings viewed as part of the remaining open space. The setting and open space has already been partially eroded by the presence of the parking area and associated signage.
- 7.9 On balance it is considered that whilst the development as proposed would neither enhance nor preserve the character of the conservation area and the setting of the listed buildings the harm would not be of such significance that it could be considered substantial. Therefore, it is considered that paragraph 134 of the NPPF should be applied and that the test as to whether the development is acceptable is as to whether the public benefits of the proposal outweigh the less than substantial harm.

Cultural and Economic Impacts

- 7.10 The NPPF aims to support sustainable economic growth and the expansion of existing businesses. The NPPF and policies of the JCS and the CAAP seek to focus leisure and cultural development within the town centre. The JCS seeks to support development proposals that contribute towards regeneration aims and objectives which help to strengthen the overall tourism offer of the town and benefit the local community and businesses whilst seeking to preserve heritage assets and historic character.
- 7.11 The site lies within an area being promoted by the Council as a 'cultural quarter' for Northampton. The development of a second cinema in this location within the town centre adjacent to the existing cinema and theatre has the potential to benefit surrounding businesses and the town's night-time economy and would increase the cultural focus within this location consistent with the Council's aims of regenerating the town centre and enhancing the cultural experience that Northampton has to offer.
- 7.12 The supporting information submitted with the application advises that the existing cinema has 'proved so successful that the management now wish to open a second screen'. The provision of a second cinema is therefore in accordance with the aims of the NPPF which seeks to support the sustainable economic growth of existing businesses.

Other Matters

- 7.13 The location of the proposed cinema would be in close proximity to existing public car parks on Albion Place and at St John's Multi-storey. In addition the site is within a sustainable location within the town centre with good access to public transport. Customers would predominantly attend the venue in the evenings and are unlikely to conflict with daytime requirements for parking within the town centre. As such it is not considered that the proposal would lead to any significant adverse impacts on parking provision within the locality.

8. CONCLUSION

- 8.1 The positive and negative aspects of this development proposal are very finely balanced. The adverse impact on the open space, the character and appearance of the Derngate Conservation Area and the setting of the adjacent listed buildings is acknowledged. The harm on balance is considered to be less than substantial and therefore this must be weighed against any considered public benefits of the proposal.
- 8.2 The aesthetic appearance of the cinema would be in keeping with the high quality design of the existing cinema and its location would assist in screening the less attractive elevation of the theatre. An element of open space and mature trees would remain surrounding the proposed cinema albeit more divided than at present and further landscaping could be required by condition to assist in blending the appearance of the development within its setting.
- 8.3 The new cinema would provide an opportunity to further enhance the cultural and leisure offer of the town centre and would support the expansion of an existing prominent business in the town centre. On balance, it is considered that the public benefits are considered significant enough to outweigh the harm to heritage assets, even after applying the relevant weight to such harm, such that the application is recommended for approval.

9. CONDITIONS

- (1) The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

Reason: To comply with Section 91 of the Town and Country Planning Act 1990.

- (2) Notwithstanding the details submitted prior to commencement of development details of all proposed external facing materials shall be submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details

Reason: In the interests of visual amenity and to ensure that the development will harmonise with its surroundings in accordance with Policy S10 of the West Northamptonshire Joint Core Strategy and Policy 1 of the Northampton Central Area Action Plan. This is a pre-commencement condition in order to ensure that details are submitted in a timely manner.

- (3) Prior to commencement of development an Arboricultural Method Statement shall be submitted including a Tree Protection Plan, details of any works within the Root Protection Area of any retained trees and including a 'no-dig' construction method for the proposed footpath. Development shall be carried out in accordance with the submitted details.

Reason: In the interests of preserving the health and amenity of retained trees and in the interests of visual amenity in accordance with Policy BN3 and Policy S10 of the West Northamptonshire Joint Core Strategy. The details are required pre-commencement to ensure appropriate protection of the trees.

- (4) Prior to the occupation of the development hereby permitted a detailed scheme of hard and soft landscaping for the site shall be submitted to the Local Planning Authority for approval in writing. The hard landscaping shall be carried out in accordance with the approved details prior to occupation.

Reason: In the interests of amenity and to secure a satisfactory standard of development in accordance with Policy S10 of the West Northamptonshire Joint Core Strategy and Policy 1 of the Northampton Central Area Action Plan.

- (5) All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the building or the completion of the development, whichever is the sooner, and which shall be maintained for a period of five years; such maintenance to include the replacement in the current or nearest planting season whichever is the sooner or shrubs that may die are removed or become seriously damaged or diseased with others of similar size and species, unless the Local Planning Authority gives written consent to any variation.

Reason: In the interests of amenity and to secure a satisfactory standard of development in accordance with Policy S10 of the West Northamptonshire Joint Core Strategy and Policy 1 of the Northampton Central Area Action Plan.

- (6) Notwithstanding the details submitted details of the proposed security shutters shall be submitted to and approved in writing by the Local Planning Authority prior to installation. The works shall be carried out in accordance with the approved details prior to occupation of the development hereby permitted.

Reason: In the interests of amenity and to secure a satisfactory standard of development in accordance with Policy S10 of the West Northamptonshire Joint Core Strategy and Policy 1 of the Northampton Central Area Action Plan.

- (7) No development shall take place until a desk top study in respect of possible contaminants within the site is completed and a site investigation has been designed. The scope and methodology of the desk top study and the site investigation report shall be submitted to and approved in writing by the Local Planning Authority. The site investigation and appropriate risk assessments shall be carried out and the results shall be used to produce a method statement for the necessary remedial works (and a phasing programme), which shall be submitted to and approved in writing by the Local Planning Authority. All remedial works shall be fully implemented in accordance with the approved method statement and phasing programme. Confirmation of the full implementation of the scheme and validation report(s) shall be submitted to the Local Planning Authority within 2 weeks of completion (or within 2 weeks of completion of each respective phase).

Reason: To ensure the effective investigation and remediation of contaminated land sites and in the interests of health and safety and the quality of the environment in accordance with Policy BN9 of the West Northamptonshire Joint Core Strategy.

- (8) Prior to the occupation of the development hereby permitted, a scheme shall be submitted to the Local Planning Authority for approval in writing that specifies how noise from fixed plant or equipment and breakout from the auditorium shall be controlled. The scheme shall be implemented in accordance with the approved details prior to the development coming into use and retained thereafter. The applicant shall provide evidence that the scheme has achieved the design targets required within 1 month of the development being brought into use.

Reason: In the interests of adjacent residential amenity in accordance with the aims and objectives of the National Planning Policy Framework.

- (9) The development hereby permitted shall be carried out in accordance with the following approved drawing nos. 2297(PL)01 received 8.07.15 and 2997 (PL)02 rev A & 2997(PL)03 rev A received 9/10/15.

Reason: For the avoidance of doubt and to accord with the terms of the planning application/listed building consent application.

10. BACKGROUND PAPERS

- 10.1 N/2015/0780

11. LEGAL IMPLICATIONS

- 11.1 None.

12. SUMMARY AND LINKS TO CORPORATE PLAN

- 12.1 In reaching the attached recommendations regard has been given to securing the objectives, visions and priorities outlined in the Corporate Plan together with those of associated Frameworks and Strategies.



Name: Site Location Plan
 Date: 26th August 2015
 Scale: 1:1250
 Dept: Planning
 Project: Planning Committee

Title
Land corner of Albion Place and Derrigate

Produced from the 2011 Ordnance Survey mapping with the permission of the Controller of Her Majesty's Stationery Office. © Crown Copyright
 Unauthorised reproduction infringes Crown Copyright and may lead to prosecution or civil proceedings. Licence number: 100019655