



West
Northamptonshire
Council

Planning Committee Report

Application Number: WNN/2022/1072

Location: Commercial Street Car Park Surface N B C, Commercial Street, Northampton

Development: Change of Use from Car Park to Temporary Home for Northampton Market Stall Holders, with associated works

Applicant: West Northamptonshire Council

Agent: West Northamptonshire Council

Case Officer: Christopher Wentworth

Ward: Castle Unitary Ward

Referred By: Head of Planning Delivery

Reason for Referral: The Council is the applicant

Committee Date: 10th January 2023

EXECUTIVE SUMMARY OF PROPOSALS AND RECOMMENDATION

The application was considered by Members at Committee on 5th December 2022 and deferred for further consideration.

An Addendum providing an update to the previous Committee report is in the paragraphs preceding the 'Main Report' below.

RECOMMENDATION: GRANT PERMISSION SUBJECT TO CONDITIONS as set out below with delegated authority to the Head of Planning Delivery to approve any amendments to those conditions as deemed necessary.

Proposal

Planning consent is sought for the temporary change of use of the eastern portion of the Commercial Street Car Park to an outdoor market (Class E) for a period of two years. The temporary change of use would facilitate the relocation of Northampton Town Market from its present location within Market Square whilst the Market Square undergoes redevelopment.

Consultations

The following consultees have raised **no objections** to the application:

- Conservation
- Anglian Water
- Environment Agency
- Environmental Health
- Highways
- Tree Officer

The following consultees have **commented** on the application:

- West Northants Police

1 no. letter of objection has been received and zero letters of support have been received.

Conclusion

The application has been assessed against the relevant policies in the NPPF, the adopted Local Plan and other relevant guidance as listed in detail at Section 8 of the report.

The key issues arising from the application details are:

- Principle of Development
- Highway Safety
- Visual Impact
- Flooding and Drainage
- Tree Matters
- Site Security

The report looks into the key planning issues in detail, and Officers conclude that the proposal is acceptable subject to conditions.

Members are advised that the above is a summary of the proposals and key issues contained in the main report below which provides full details of all consultation responses, planning policies, the Officer's assessment and recommendations, and Members are advised that this summary should be read in conjunction with the detailed report.

ADDENDUM

1.1 The application was presented to Members at Planning Committee on 5th December 2022 with an officer recommendation for approval subject to a variety of planning conditions as outlined in Section 12 below of this report. Members voted against the officer recommendation to approve and deferred the application for further consideration.

1.2 During the consideration of the application at Committee, Members raised concerns regarding the following points:

- Wider town centre accessibility to the proposed site with concerns raised regarding level access from the existing Market Square location and the bus station.
- Lack of public toilets and disabled public access toilets on the proposed site.
- Servicing of the site – How would market vehicles access the site without adversely impacting the existing car park and public highway?

- 1.3 Following the deferral of the application by Committee, there has subsequently been further discussion with the applicant to seek clarification on the above matters as detailed below.
- 1.4 A plan has been provided, appended to this report, to show Members pedestrian accessibility from various points in the Town Centre to the proposed site. Officers have noted that there are pedestrian access routes from the existing Market Square location. 6 no. of these are step free and 1 no. has steps. The site is located approx. 6-7 min walk from the southern entrance to Market Square where it meets Abington Street and also from the bus station. There is a level change from these points to the proposed site of approx. 60ft (i.e. downhill). Therefore, officers consider that the proposed site is accessible to all users.
- 1.5 It is noted that there are currently no public toilets on the existing Market Square however there are public toilets within the vicinity, the nearest being located on Abington Street and within the Grosvenor Centre, the Guildhall and the Bus Station. The concerns raised by Members at the previous committee have been noted and, whilst not a planning consideration, the applicant has advised that they would be willing to install an accessible toilet for use during market opening hours.
- 1.6 In respect of access for service vehicles, the access and egress to the car park from the existing highway networks would remain unchanged with access gates within the car park proposed that would ensure that the servicing of the market takes place within the market area rather than within the public car park. The submitted Design and Access Statement advises that a perimeter steel powder coated fence will be erected on the south and west of the site with the north and east of the space protected by existing boundary treatments. Two 4m vehicle access/egress gates will be constructed within the fence with pedestrian access gates adjacent.
- 1.7 The statement advises that operating times for the market trading in this location will be 9am-3:30pm, Monday to Saturday with market traders being able to set up from 6:30am with clearly defined access routes into and out of the occupied space. External deliveries will be permitted until 10am but must do so from a designated loading area that will be clearly defined and must not obstruct vehicle or pedestrian access. Council operatives would be on site at various times during the day to ensure the smooth operation of the market and associated activities.
- 1.8 In addition to the above information, it is considered relevant to highlight to Members details submitted within the Design and Access Statement to Members relevant to the proposed location of the temporary market.
- 1.9 The submitted Design and Access Statement advises that "it will not be possible to maintain the market on the square during delivery of the proposed works due to the extent of works proposed". This includes an increase in vehicle movements, regular access for construction traffic and space on the market square for provision of welfare facilities, and storage materials in addition to a requirement for ongoing archaeological mitigation and monitoring works. "For safety, most of the square will be fenced off from public use" whilst ensuring access to existing businesses.
- 1.10 The Design and Access Statement further details the options considered by the Council along with market traders in respect of how to ensure the market is retained. The options considered were as follows:
 - *Retrain traders on existing Market Square & phase delivery around them.*

Option discounted due to significant costs of project, practical issues in providing a safe environment whilst implementing a major regeneration project and insufficient space.

- *Move market to multiple locations on Wood Hill and Abington Street.*
No one location on these sites will accommodate all the market traders and the market would have to be scattered across these locations to accommodate delivery routes. In addition, funding has been secured to regenerate Abington Street with works planned to be carried out in conjunction with the Market Square.
- *Move market to vacant unit in Grosvenor Centre and locate food concessions in Wood Hill.*
The creation of an indoor market was not favoured by traders. Option not selected for this reason and concerns about cost and delivery.
- *Move market to Commercial Street carpark.*
Simplest option from planning, management and cost perspective. Carpark is owned by WNC; space to accommodate the whole market in one location and clearly visible from surrounding area. Easily accessible to car drivers and pedestrians and users of public transport.

MAIN REPORT

2 APPLICATION SITE AND LOCALITY

- 2.1 The application site is the eastern portion of an existing surface level public car park, known as Commercial Street Car Park, which is located on the southern area of Northampton Town Centre.
- 2.2 The application site is bounded by the north by a separate surface level car park and St Peters Square shopping centre beyond, to the west and south by the remaining surface level car park and St Peters Way and Horseshoe Street beyond and to the east Foundry Street and Commercial Street.

3 CONSTRAINTS

- 3.1 The application site is within Flood Zones 2 and 3.

4 DESCRIPTION OF PROPOSED DEVELOPMENT

- 4.1 Planning consent is sought for the temporary change of use of the eastern portion of the Commercial Street Car Park to an outdoor market (Class E) for a period of two years. The temporary change of use would facilitate the relocation of Northampton Town market from its present location within Market Square whilst the Market Square undergoes redevelopment.
- 4.2 The proposed temporary market would comprise of 48 no. stalls within 10 no. canopied structures along with temporary toilet facilities, 8 no. additional pitches for food trucks and boundary fencing to the southern and western perimeter of the site with a variety of access points for both pedestrians and vehicles.

5 RELEVANT PLANNING HISTORY

- 5.1 The following planning history is considered relevant to the current proposal:

Application Ref.	Proposal	Decision
WNN/2022/0454	Public Realm regeneration of Market Square.	Approved Nov 22.

6 RELEVANT PLANNING POLICY AND GUIDANCE

Statutory Duty

- 6.1 Planning law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise.
- 6.2 Section 16 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires Local Planning Authorities in considering whether to grant listed building consent for any works to have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.

Development Plan

- 6.3 The Development Plan comprises the West Northamptonshire Joint Core Strategy Local Plan (Part 1) which was formally adopted by the Joint Strategic Planning Committee on 15th December 2014 and which provides the strategic planning policy framework for the District to 2029, the adopted Local Plan (Part 1 – saved policies) and adopted Neighbourhood Plans. The relevant planning policies of the statutory Development Plan are set out below:

West Northamptonshire Joint Core Strategy Local Plan (Part 1) (LLP1)

- 6.4 The relevant policies of the West Northamptonshire Joint Core Strategy Local Plan (Part 1) are:
- BN7 – Flood Risk
 - Policy SA – Presumption in Favour of Sustainable Development
 - Policy S9 – Distribution of Retail Development

Northampton Local Plan 1997 (Saved Policies) (NLP1)

- 6.5 The relevant policies of the Northampton Local Plan 1997 (Saved Policies) (NLP1) are:
- E20 – New Development.

Northampton Central Area Action Plan (CAAP) (2013)

- 6.6 The relevant policies of the Northampton Central Area Action Plan (CAAP) (2013) are:
- Policy 4 – Flood Risk and Drainage.

Material Considerations

- **National Planning Policy Framework (NPPF)**

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:

Paragraphs 7-12 - Presumption in favour of sustainable development.

Section 6 – Building a strong and competitive economy
 Section 8 - Promoting healthy and safe communities.
 Section 9 - Promoting sustainable transport
 Section 11 – Making effective use of land
 Section 12 – Design

- **Northampton Local Plan Part 2 (2011-2029) (Emerging)**

Following the decision at the Full Council on 18 January 2021, the former Northampton Borough Council submitted the Northampton Local Plan Part 2 (2011 – 2029) and supporting documents to the Secretary of State for Housing, Communities and Local Government (now Secretary of State for Levelling Up, Housing and Communities) on 4 February 2021 for examination. This is in accordance with Regulation 22 of the Town and Country Planning (Local Planning) (England) Regulations 2012 (as amended).

In line with Paragraph 48 of the National Planning Policy Framework, the policies contained with the emerging Northampton Local Plan Part 2 are therefore a material consideration in the determination of planning applications. The weight afforded to the policies relevant to this application are set out below:

- Policy 2 – Placemaking and Design (Significant Weight)
- Policy 4 – Amenity and Layout (Significant Weight)
- Policy 7 – Flood risk and water management (Significant Weight)
- Policy 8 – Supporting Northampton’s Town Centre Role (Significant Weight)

7 RESPONSES TO CONSULTATION

Below is a summary of the consultation responses received at the time of writing this report. Responses are available to view in full on the Council’s website.

Consultee Name	Position	Comment
Environment Agency	Comments	No objection subject to the development being carried out in accordance with the submitted Flood Risk Assessment and a condition requiring the market stalls and equipment are fixed/ anchored to the ground and flood resilient.
Northants Police	Comments.	Installation of an additional CCTV camera on the derelict ‘Pets at Home’ building at a level and at an angle that would enable more surveillance over the part of the car park where the market stalls are situated. I am

		satisfied with that contingency. Furthermore, the situation will be closely monitored by the town centre officers who will report into the 'CommunityOne' monthly meeting should Commercial Street become a hotspot for crime. I am satisfied with this approach and have no further comments to make with regard to planning application.
Tree Officer	No objection.	Tree Protection Plan and a Arboricultural Method Statement.
Conservation	No objection.	
Anglian Water	No comments to make.	
Environmental Health	No objection.	
Highways	No objection.	

8 RESPONSES TO PUBLICITY

Below is a summary of the third party and neighbour responses received at the time of writing this report.

8.1 There has been 1 no. objection letter raising the following comments:

- Proposal based upon cost saving.
- Chosen the worst option.
- Reduced accessibility.
- No public toilets nearby.
- Loss of parking.
- Greater highway safety risk to pedestrians.

9 APPRAISAL

Principle of Development

9.1 The proposed commercial/retail use would be located within the town centre and located within close proximity to existing retail and commercial uses. The proposal would be temporary in nature so as to allow the refurbishment of the existing Market Square, where the market is currently held. The proposed temporary use would help to ensure that the viability of the town centre is maintained with the market retained in a town centre location whilst improvement works are undertaken elsewhere. The provision of such a use is considered appropriate subject to an assessment of material considerations addressed within this report.

Impact on Character of Area

9.2 The application site is a surface level car park that is located on the southern edge of the town centre adjacent to the ring road system. The site lies outside of any conservation area and is not located within close proximity of statutorily listed buildings.

9.3 The immediate area is that of a car park and modern shopping centre/retail park. The proposed change of use would retain a large proportion of surface level parking

adjacent to the ring road with temporary structures positioned in the north-eastern corner of the car park away from the main ring road. The structures themselves are temporary in nature are market stalls, an expected feature within a market setting and also within an urban town centre location. It is considered that the proposal would not adversely impact upon the character and appearance of the area. Furthermore, the use is temporary in nature and the structures themselves are removable so that the site can be returned to its former use with minimal works. Subject to a condition to secure that the use is temporary in nature and the site reinstated to its former use upon expiration, the proposed temporary change of use is considered appropriate in this location.

Flooding

- 9.4 The southern portion of the existing surface level car park is located within flood zone 2 and 3 which has a high probability of onsite flooding. The proposal has been accompanied by a Flood Risk Assessment (BCAL Consulting – Flood Risk Assessment. Report Reference: 6942-BCAL-XX-ZZ-RP-C-0001 P1 Dated November 2022). The assessment outlines that there is no known record of historic flooding of the site. From the available information, sea, land / surface water, groundwater, sewers and artificial source flooding are considered to present low risks to the site and that the proposed development has been designed to ensure overland flow routes are maintained through the site.
- 9.5 The proposal has been assessed by the Environment Agency who originally requested the submission of a Flood Risk Assessment. This has now been supplied by the applicant as outlined above and a response is awaited on this point.

Tree Matters

- 9.6 The proposal would be located within an existing surface level car park that has a number of trees located within it. One of the proposed stalls would be located underneath the canopy of an existing tree. The proposed stall would be secured to the ground with bolts. However, no foundations are proposed for any of the stall structures.
- 9.7 The proposal has been submitted with a tree survey which has been assessed by the authorities' tree officer who has raised no objections to the proposal or the submitted Arboricultural Impact Assessment Report from MacIntyre Trees, reference 22120_Fv1 dated November 2020. The officer concludes that the assessment is comprehensive and agrees with its conclusions and that subject to a condition to secure an appropriate method statement and tree protection measures, the proposal would be appropriate in this regard.

Highway Impacts

- 9.8 The proposal would be located within an existing car park. The access and egress to the car park would remain unchanged with access gates within the car park proposed that would ensure that the servicing of the market takes place within the market area rather than within the public car park. The proposal would result in the temporary loss of 117 no. parking spaces within the car park. However, the immediate and wider town centre is well served by public car parks, including the NCP St Peters Car Park immediately adjacent and St Johns Car Park, Mayorhold Car Park, Albion Place and Grosvenor Centre and it is not considered that the loss of 117 no. parking spaces (retention of 120 no. spaces) would be detrimental to the overall provision in the town centre on a temporary basis. Subject to a condition to secure the reinstatement of the

car park layout once the market use has been removed it is considered that the proposal is appropriate in this regard.

- 9.9 The highway officer has been consulted on the proposal and has raised no objection following an assessment of the loss of parking spaces from the Commercial Street Car park due to the installation of the temporary market stalls and whether there was enough space in the nearby car parks as suggested by the applicants to accommodate this displaced parking and the identification of designated area to show loading and unloading of materials so that it did not cause any disruption in day to day movement of either pedestrian or vehicular traffic. Such matters have been addressed in that the current car park is rarely in use at full capacity and as outlined above, there are a variety of other public car park within walking distance of the site that have available capacity. Furthermore, the loading/unloading of market vehicles would take place within the confines of the market area, i.e., within the fenced area.
- 9.10 It is noted that the proposal would result in the loss of 4 no. disabled parking spaces to accommodate the market. It is considered appropriate to secure by planning condition the retention of 4 no. disabled bays within the wider car park prior to first occupation of the market.

Public Safety

- 9.11 The proposal would introduce a new use, albeit temporary in nature to the car park area. The proposal would introduce boundary fencing and access gates and market stall structures with the aim of the boundary fencing and access gates to secure the site when not in use and to direct pedestrians to the correct access and egress points when using the site to avoid conflict with vehicles.
- 9.12 West Northants Police have been consulted on the proposal and have met with the applicant on site to discuss the scheme. They have not raised objections to the proposed use but have stated that the installation of an additional CCTV camera on the derelict 'Pets at Home' building at a level and at an angle that would enable more surveillance over the part of the car park where the market stalls are situated should be undertaken. Such matters can be addressed by planning condition. Furthermore, the Police state that the situation will be closely monitored by the town centre officers who will report into the 'CommunityOne' monthly meeting should Commercial Street become a hotspot for crime to which the Police raise no objection in this regard. On this basis, subject to the above-mentioned condition it is considered that the proposal is appropriate in this regard.

Other Matters

- 9.13 It is noted that in the objection received from a local resident that concerns have been raised over the lack of available public toilets to serve the market traders and customers. However, the proposal does include the provision of onsite toilet facilities available for use during market hours of operation.
- 9.14 The current change of use planning application is to assess the sites suitability for the use as a market site for a temporary period of time. The rationale behind the financial aspects i.e., cost savings or other potential options are not considered to be material considerations in the assessment of the current proposal in planning terms, and it would fall to other council departments to discuss matters of funding.

10 FINANCIAL CONSIDERATIONS

10.1 The proposal is not CIL liable.

11 PLANNING BALANCE AND CONCLUSION

11.1 The proposed commercial/retail use would be located within the town centre and located within close proximity to existing retail and commercial uses. The proposal would be temporary in nature so as to allow the refurbishment of the existing Market Square, where the market is currently held. The proposed temporary use would help to ensure that the viability of the town centre is maintained with the market retained in a town centre location whilst improvement works are undertaken elsewhere. The provision of such a use on a temporary period is considered appropriate subject to the imposition of planning conditions.

12 RECOMMENDATION

12.1 Temporary approval for a period of two years, subject to conditions.

Time Limit

1. The use hereby permitted shall be discontinued and the land restored to its former condition on or before 5th December 2024.

Reason: In the interests of amenity as the Local Planning Authority consider the use is only acceptable as a temporary expedient in accordance with Policy SA of the West Northamptonshire Joint Core Strategy

Approved Plans

2. The development hereby permitted shall be carried out in accordance with the following approved plans:

- 1056814/L01 Dated 12/10/2022
- 1056814/P01 Dated 12/10/2022
- 1056814/P02 Dated 15/09/2022

Reason: For the avoidance of doubt and to accord with the terms of the planning application.

Delivery Restrictions

3. The loading and unloading of all vehicles attending the Market site shall at all times take place solely within the curtilage of the site and not within the retained element of Commercial Street Car Park.

Reason: In the interests of highway safety in accordance with Policy SA of the West Northamptonshire Joint Core Strategy.

Refuse Conditions

4. Prior to first use, full details of the provision for the storage of refuse and materials for recycling shall be first submitted to and approved in writing by the Local Planning Authority. The approved details shall be implemented prior to the use of the Market site by customers and traders and thereafter retained.

Reason: In the interests of amenity and to secure a satisfactory standard of development in accordance with Policies SA and BN9 of the West Northamptonshire Joint Core Strategy.

Lighting Details

5. Prior to first use, full details of all external lighting shall be first submitted to and approved in writing by the Local Planning Authority. The approved details shall be fully implemented prior to the first use of the Market by customers and traders and retained thereafter.

Reason: To secure a satisfactory standard of development in accordance with Policies SA and BN9 of the West Northamptonshire Joint Core Strategy.

CCTV

6. Prior to first occupation, full details of CCTV covering the temporary market site shall be submitted to and agreed in writing by the local planning authority. Once approved, the scheme shall be implemented in full prior to first use of the site and retained for the duration of its use.

Reason: In the interests of amenity and public safety in accordance with Policy SA of the West Northamptonshire Joint Core Strategy.

Boundary Condition

7. Prior to the Market being brought into first use, full details of the method of the treatment of the external boundaries of the site, including access gates and positioning of gates and fencing, shall be submitted to and approved in writing by the Local Planning Authority, implemented prior to first use and retained thereafter.

Reason: To ensure that the boundaries of the site are properly treated so as to secure a satisfactory standard of development in accordance with Policy SA of the West Northamptonshire Joint Core Strategy.

Parking Requirements

8. A minimum of 4 no. disabled parking spaces shall be relocated from the Market site to elsewhere within the Commercial Street Car Park. such provision shall be made prior to the first use of the Market site by customers and retained as such until the Market is removed, and the car park reinstated to its previous iteration.

Reason: To ensure satisfactory parking facilities for people with disabilities in accordance with Policy SA of the West Northamptonshire Joint Core Strategy.

Tree Protection

9. Prior to the commencement of the development hereby approved (including all preparatory work), a detailed Tree Protection Plan and a comprehensive Arboricultural Method Statement, together referred to as the scheme of protection, that will detail how the retained trees are to be protected from harm during the development shall be submitted to and approved in writing by the Local Planning Authority. The development thereafter shall be implemented in strict accordance with the approved scheme of protection.

Reason: To ensure that existing tree(s) are retained and maintained in accordance with Policy SA and BN2 of the West Northamptonshire Joint Core Strategy.

Use Restriction

10. The premises shall be used for an Outdoor Retail Market and for no other purpose (including any other purpose in Class E of the Schedule to the Town and Country Planning (Use Classes) Order 1987 (as amended), or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order with or without modification).

Reason: In the interests of amenity and to ensure that effective planning control is retained by the Local Planning Authority in accordance with Policy SA of the West Northamptonshire Joint Core Strategy.

Drainage

11. The development shall be carried out in accordance BCAL Consulting, Report Reference: 6942-BCAL-XX-ZZ-RP-C-0001 P1 Dated November 2022 and the following mitigation measures detailed within the FRA :

1. The market stalls and equipment will be fixed/anchored down to the ground and will be flood resilient. These mitigation measures shall be fully implemented prior to occupation and subsequently in accordance with the scheme's timing/phasing arrangements. The measures detailed above shall be retained and maintained thereafter throughout the lifetime of the development.

Reason To reduce the risk of flooding to the proposed development and future occupants in accordance with Policy BN7 of the West Northamptonshire Joint Core Strategy.



**West
Northamptonshire
Council**

Title: **Commercial Street Surface car park**

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Planning Committee Report

TITLE Market re-location - Walking Bus routes

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