

Report for Resolution

Report to Planning applications committee
Date 21 June 2012
Report of Head of planning services
Subject 12/00270/U 39 Elm Hill Norwich NR3 1HG

Item
5(3)

SUMMARY

Description:	Change of use from shop (Class A1) on all floors to cafe (Class A3) on ground floor, shop (Class A1) on first floor and associated office on second floor.
Reason for consideration at Committee:	Objection
Recommendation:	Approve
Ward:	Thorpe Hamlet
Contact Officer:	Mrs Joy Brown 01603 212542
Valid Date:	5th May 2012
Applicant:	Mrs Rebecca Taylor
Agent:	Mrs Rebecca Taylor

INTRODUCTION

The Site

Location and Context

1. The site is located on the east side of Elm Hill. It is a small grade II three storey 18th century red brick premises. The premises is currently vacant but the existing use of the ground floor is A1 and it appears that the first and second floors were previously used for storage in connection with the ground floor retail use. The building does not have a traditional shopfront which would suggest that it was once used for residential.
2. The property has no external space although it has previous been extended with a single storey extension to the rear.

Constraints

3. The site is situated within the City Centre Conservation Area, the Elm Hill and Wensum Street Secondary Retail Area (although it does not have a retail frontage), the City Centre Leisure Area and is a priority area for the development of visitor attractions. The Elm Hill and Maddermarket character area is designated as 'very high' significance within the City Centre Conservation Area Appraisal. The property is grade II listed.

Planning History

12/00271/L - Internal alterations to facilitate change of use from shop (Class A1) on all floors to bakery/cafe (Class A3) on ground floor, shop (Class A1) on first floor and associated office on second floor (Application cancelled).

Equality and Diversity Issues

There are no significant equality or diversity issues. The premises currently has a stepped access from the street so there is no level access practically available to the existing ground floor use or the proposed use.

The Proposal

4. The proposal is for a change of use from A1 at ground floor level with associated storage at first and second floor level to a café (Class A3) on ground floor level, retail (Class A1) at first floor level and associated office accommodation at second floor level. The proposal is only for the change of use of the premises and does not include any external alterations.
5. The design and access statement submitted with the application sets out that the proposed business is for a high-end cake and champagne boutique which will specialise in serving baked goods and champagne with the first floor being a high-end home accessories shop. However should permission be granted for an A3 use, this would cover all types of restaurants and cafes (where the primary purpose is the sale and consumption of food and light refreshment on the premises).
6. An application for listed building consent was submitted with the application; however this has been cancelled as it was not considered that any of the internal works proposed would affect the fabric of the building (12/00271/L).

Representations Received

7. Advertised on site and in the press. Adjacent and neighbouring properties have been notified in writing. Letters of representation have been received from eighteen interested parties citing the issues as summarised in the table below. A letter has also been sent on behalf of Friends of Elm Hill which is a local community group which represents the businesses and residents of Elm Hill. A petition has also been received which contains 27 signatures.

8.

Issues Raised	Response
<p>The loss of a retail premises with the potential to complement other businesses on Elm Hill would have a detrimental impact on the vitality and viability of the street and unlikely to bring shoppers into the area which will forever ruin the special quality of Elm Hill. Permission has been refused on Elm Hill for the change of use from A1 to residential and the precedence of not permitting change of use from class A1 must also apply to 39 Elm Hill. A Champagne and cake boutique is a concept which is at odds with the trading and community ideals.</p>	<p>See paragraphs 13-18</p>
<p>Three cafes already serve Elm Hill. Another café will have a detrimental effect on the existing three businesses.</p>	<p>This is not a material planning consideration.</p>
<p>Elm Hill is a largely visitor destination. A high end cake and champagne boutique is unlikely to be part of the experience they are seeking.</p>	<p>See paragraphs 14-15</p>
<p>The change of use and proposed hours of opening will impact upon the adjacent neighbouring residents in this mainly residential street due to noise and disturbance. It is the Council's aim to encourage residential in the city centre and residential contributes to the healthy community and safe neighbourhood which is enjoyed. The existing bars at the bottom of the Hill already generate uncomfortable levels of noise, rowdyism and street activity and should not be added to.</p>	<p>See paragraphs 16-19</p>
<p>The unit is compact and therefore there may be operational difficulties which could lead to anti-social behaviour. Encouraging day long drinking would seem to endanger the child and family friendly nature of Elm Hill.</p>	<p>See paragraphs 18-21</p>
<p>There are safety concerns for example fire risk.</p>	<p>This is not a material planning consideration as it is covered under separate legislation.</p>
<p>Bins stored within the alleyway will cause obstruction to those which have right of way over the land.</p>	<p>See paragraph 22</p>
<p>Clarification should be given that no building changes will be made that will affect Council owned structures.</p>	<p>See paragraph 24. These matters are covered by the Party Wall Act 1996 and are generally not material planning considerations.</p>
<p>Should planning permission be granted for an A3 use then this is one step in a longer process to achieving a change of use to a drinking establishment. It is felt that the use of the term 'bakery' is to detract from the real nature of the venture as a drinking</p>	<p>See paragraph 17</p>

establishment. Elm Hill is not within the Late Night Activity Zone and is not a suitable place for night time businesses. The Council should not seek to move people away from the over crowded Prince of Wales Road and spread this across as large an area as possible. Residents have a right to enjoy peace and quiet at night.	
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Consultation Responses

9. Local Highway Authority – no objection in principle. See <http://planning.norwich.gov.uk/online-applications/applicationDetails.do?activeTab=externalDocuments&keyVal=LYZ0XELX0J300>
10. Environmental Health Pollution Enforcement - no objection in principle. See <http://planning.norwich.gov.uk/online-applications/applicationDetails.do?activeTab=externalDocuments&keyVal=LYZ0XELX0J300>
11. NPS Norwich Ltd – No objections in principle but some concern about the use of the adjacent alleyway for the storage of refuse bins. See paragraph 22.

ASSESSMENT OF PLANNING CONSIDERATIONS

Relevant Planning Policies

National Planning Policy Framework:

Relevant policies of the adopted East of England Plan Regional Spatial Strategy 2008

Statement 2 – Ensuring the vitality of town centres

Statement 7 – Requiring good design

Statement 11 – Conserving and enhancing the natural environment

Statement 12 - Conserving and enhancing the historic environment

Relevant policies of the adopted Joint Core Strategy for Broadland, Norwich and South Norfolk 2011

Policy 1: Addressing climate change and protecting environmental assets

Policy 8: Culture, leisure and entertainment

Policy 11: Norwich City Centre

Relevant saved policies of the adopted City of Norwich Replacement Local Plan 2004

EP10: Noise protection between different uses

EP22: High standard of amenity for residential occupiers

HBE8: Development in Conservation Area

HBE9: Listed buildings and development affecting them

HBE12: Design

SHO11: Frontage policy for secondary retail area

SHO22: Food and drink uses

TVA4: Visitor Attractions Areas

TRA7: Cycle parking standards

TRA8: Servicing provision

Supplementary Planning Documents and Guidance

Norwich City Centre Conservation Area Appraisal (Elm Hill and Maddermarket character area)

Principle of Development

Policy Considerations

12. There are several issues for consideration in determining this application.

Primarily, the acceptability of the proposed A3 use at ground floor level in the secondary retail area, the impact that the proposal will have upon the fabric of the listed building, servicing implications, the installation of any associated plant and machinery that may be required as a result of the change of use and the impact upon the living conditions of neighbouring residents.

Principle

13. 39 Elm Hill is situated within the secondary retail area although it does not have a retail frontage. As such saved policy SHO11 of the City of Norwich Replacement Local Plan is of particular importance. This policy sets out that changes to uses in classes other than A1 will be permitted in the Secondary Retail Areas where they do not have a harmful impact on the vitality or viability of the area and on the individual street. The second part of the policy also states that the beneficial use of upper floors will be permitted where they are compatible with surrounding uses.

14. In this instance it is considered that the use of the premises as a café at ground floor level will not have a harmful impact on the vitality and viability of the area and the use of the upper floors for retail will be a complementary use and of benefit to this part of Elm Hill and the wider shopping area. The café and A1 retail element will help bring customers to the area and a specialist café on Elm Hill has the potential to serve and attract visitors to this part of the city. Saved policy TVA4 of the replacement Local Plan sets out that proposals for new visitor attractions will be permitted in priority locations which includes Elm Hill.

15. Furthermore, Policy 11 of the Adopted JCS seeks to promote hospitality uses in the city centre and the National Planning Policy Framework seeks to provide customer choice and a diverse retail offer.

16. The use of this premise as an A3 café in principle is considered to be in accordance with saved policy SHO11, the objectives of the National Planning Policy Framework and the Joint Core Strategy, as it is considered that the proposal will add to the vitality and viability of the street scene and wider Conservation Area.

17. It should be noted that concern has been raised by neighbouring residents that should planning permission be granted for an A3 use then this is one step in a longer process to achieving a change of use to a drinking establishment. Should the applicant in the future wish to use the premises as a drinking establishment (class A4), a new planning application would be required and consideration would

need to be given at that time to whether a drinking establishment is acceptable. This current application is for the change of use of the ground floor premises to A3 and consideration can only be given to whether a café/restaurant use is appropriate in this instance.

18. Furthermore although the applicant has made it clear that the intention is to serve alcoholic beverages with the food on offer, this is not unusual for an A3 use which includes cafes and restaurants and in planning terms there is no distinction between the serving of alcoholic or non alcoholic drinks. This is a licensing issue.

Noise, disturbance and odour and impact upon neighbouring residents

19. The site is adjacent to residential properties and concern has been raised by neighbouring residents that the proposal will impact upon their living conditions and could result in anti-social behaviour. The applicant wishes to have the option to open the ground floor café from 08.30 to 22.00 although they have confirmed that the normal closing time is more likely to be around 19:30. The proposed hours of opening for the first floor retail is 09.00 to 17.00. Although the site is adjacent to residential properties, it is within a city centre location and is situated within the leisure area. It is not considered unreasonable for a ground floor café or restaurant to open until 10pm within a city centre location and no objection has been received from Norwich City Council's environmental health officer in relation to the proposed opening hours. Notwithstanding the above, due to the proximity of neighbouring residents a condition should be attached to any permission restricting the level of acoustic or amplified music in the ground floor. Furthermore a condition should be attached to any permission restricting the hours of opening until 10pm to ensure that the premises is not open beyond this time.

20. The applicant has confirmed that the type of food to be sold at the premises will be cakes and other baked goods. If a flue is required for any cooking this is likely to only be a domestic style flue/fume extractor unit. No details have been provided of flue extraction equipment and as such a condition should be attached to any permission requiring details of any such equipment should this be required. The condition would apply in perpetuity and as such should the type of food to be prepared on the premises change over time with a different flue being require, details would need to be submitted. This should ensure that the proposal does not give rise to unacceptable environmental effects or unacceptable impacts upon the fabric of the listed building.

21. Provided the conditions referred to above are attached to any future permission, it is not considered that the proposal will give rise to unacceptable environmental effects or an unacceptable impact upon neighbouring residents.

Servicing and cycle storage

22. Cycle parking is available nearby at Tombland for customers and given the sustainable location of the premise this is considered acceptable and satisfies the local plan (policy TRA 7) requirements. The original refuse and servicing statement submitted as part of the application stated that bins would be stored in the adjacent alleyway and collected by the Council. This would not be acceptable and as such the applicant has amended the statement with the proposal being for the waste to be stored internally and collected by a commercial company when a member of staff is on site to take the waste to the collection vehicle. Given the constraints of the site, this is considered acceptable and will ensure that the alleyway to the site is kept clear of waste and obstruction.

23. The site would not be eligible for on street parking permits and an informative should be added to any permission stating this.

Impact upon listed building and conservation area

24. The application is solely for the change of use of the premises as no external alterations are proposed and the internal alterations will not affect the fabric of the listed building. The applicant intends to install a hanging sign and this will be the subject of a separate listed building consent application. The use of the building as a café at ground floor level and retail at first floor level is appropriate and will not have an impact upon the fabric of the listed building itself or the character of the conservation area subject to conditions requiring details of any flue extraction should this be required.

Conclusions

25. The proposed change of use to a café at ground floor level and retail at first floor level will not have a detrimental impact upon the vitality and viability of Elm Hill or the wider conservation area and has the potential to attract visitors to the area further enhancing vitality and viability. Therefore the proposals are considered to be in accordance with the objectives of the National Planning Policy Framework, policy 11 of the Adopted Joint Core Strategy for Broadland, Norwich and South Norfolk (March 2011) and saved policies SHO11 and TVA4 of the City of Norwich Replacement Local Plan (Adopted Version November 2004).

26. Subject to conditions controlling plant and machinery, flue extraction, hours of delivery, hours of opening and the provision of amplified and acoustic music, it is not considered that the proposal will have a detrimental impact on the amenity of adjacent uses, occupiers, the significance of the grade II listed building or on the character of the Conservation Area. Therefore the proposals are considered to be in accordance with the objectives of the National Planning Policy Framework and saved policies HBE8, HBE9 and EP22 of The City of Norwich Replacement Local Plan (Adopted Version November 2004).

RECOMMENDATIONS

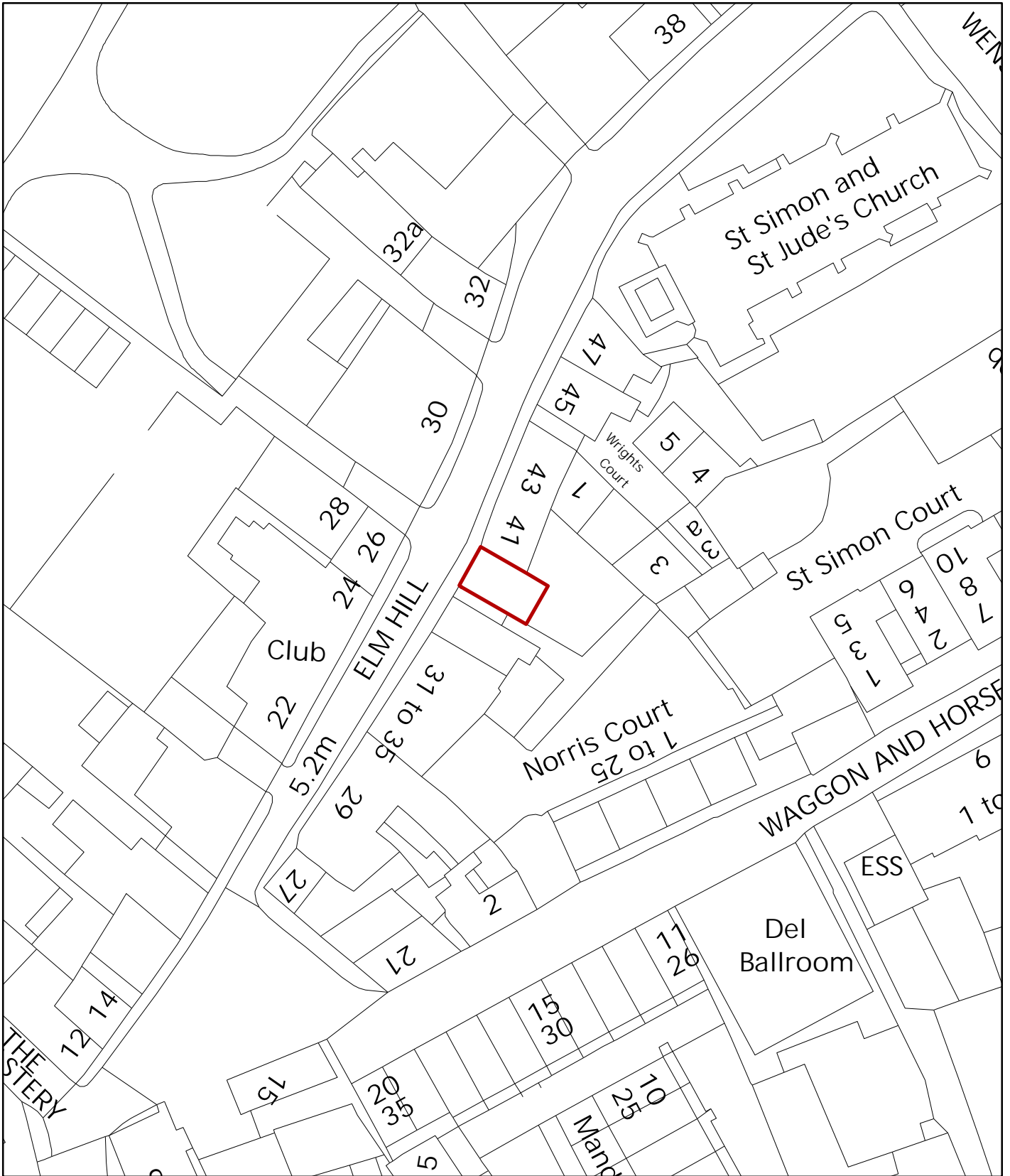
Recommendation

To approve Application No 12/00270/U, 39 Elm Hill and grant planning permission, subject to the following conditions:-

- 1) Standard time limit
- 2) In accordance with plans
- 3) Fixed plant or machinery to be agreed
- 4) Details of any extract ventilation or fume extraction system
- 5) The premises shall not be open between the hours of 22:00 and 08:30 on any day.
- 6) No deliveries or collections between the hours of 19:00 and 07:00 Monday to Saturday. No deliveries on Sunday.
- 7) No acoustic or amplified sound unless levels agreed

Informative:

The business will not be eligible for parking permits.



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Planning Application No 12/00270/U
Site Address 39 Elm Hill
Scale 1:500



NORWICH
City Council

PLANNING SERVICES

