

Report for Resolution

Report to Planning Applications Committee
Date 19 January 2012
Report of Head of Planning Services
Subject 11/00173/BPC/ENF - 27 Wensum Street, Norwich, NR3
1LA

Item
6(2)

SUMMARY

Description:	Unauthorised installation of air handling / conditioning unit at the above address and seeks authority to pursue enforcement action in this matter.
Reason for consideration at Committee:	Enforcement Action required
Recommendation:	Authorise enforcement action to secure removal of the air handling / conditioning unit from the North (side) elevation of 27 Wensum Street and undertake legal proceedings, including prosecution if necessary.
Ward:	Thorpe Hamlet
Contact Officer:	Ali Pridmore Enforcement Officer

INTRODUCTION

The Site

1. The North (side) elevation of 27 Wensum Street where the air handling / conditioning unit has been installed is located on Quayside opposite the river Wensum.
2. Although 27 Wensum Street is not a statutory listed building it is a locally listed building located within the City Centre Conservation area.

Planning History

3. Planning permission was granted for hot food takeaway on the 20th July 1990 under application reference 4/1990/0492/S.
4. A Variation of Condition application was submitted in 1991 under application reference 4/1991/0984/F which sought to vary condition 2 of the previous permission 4/1990/0492/S to extend the opening hours of the premises to not open before 08:00hours and not open after 24:00hours on any day. The variation of condition was approved.
5. Three subsequent variation of Condition applications were received seeking to

extend the opening hours of the premises. These are detailed below:

6. Application number 4/1994/0308/F sought to extend the hours to not open before 08:00hours and not open after 24:00hours Sunday to Tuesday, and not open before 08:00hours and not open after 02:45hours Wednesday to Saturday.
7. Application number 4/1996/0916/F sought to extend the hours to not open before 08:00hours and not open after 24:00hours as a hot food takeaway, and not open before 08:00hours and not open after 03:00hours as a restaurant. No days were specified so it is taken that this was applied for on any day.
8. Application number 4/1998/0890/F sought to extend the hours to open to the public past midnight. No closing times were proposed under this application.
9. All of the above applications were refused for the following reasons:
 - 1) The proposals were considered to be detrimental to residential amenity and all applications were considered to be contrary to Policy S10 (Food and drink proposals including hot food takeaways) of the then City of Norwich Local Plan (Adopted December 1995). The third application (4/1998/0890/F) also cited policy EP16 (Protection from noise, smell or air pollution) of the then City of Norwich Local Plan (Adopted December 1995);
 - 2) The proposals were all also considered to be prejudicial, by virtue of increased noise and disturbance, to the Council's policy of encouraging residential use within the City Centre within the then City of Norwich Local Plan (Adopted December 1995).
10. An appeal was lodged by the applicant against the 1998 refusal (4/1998/0890/F). The appeal was dismissed.
11. A further Variation of Condition application was submitted in 2006 under application reference 06/00399/VC. This application sought to extend the opening hours to not open before 08:00hours on any day and not open after 00:01 Monday to Friday and 01:30hours on Saturday and Sunday. The application was refused for the following reason:
 - 1) The late night disturbance associated with the use of the premises as a hot food takeaway until 01:30hours on Saturdays and Sundays would result in the loss of residential amenity to neighbouring properties and would therefore be contrary to Policies EP22 and SHO22 of the City of Norwich Replacement Local Plan 2004.
12. More recently and following a complaint that the premises was still opening after midnight a Breach of Conditions Notice was served on the then owner under application reference EH10/22457 on 5th November 2010.
13. The premise was observed to have changed from a Hot Food Takeaway Shop (Class A5) to an Off-Licence shop (Class A1) on 9th September 2011.

Equality and Diversity Issues

14. The Human Rights Act 1998 came into effect on 2nd October 2000. In so far as

its provisions are relevant: -

Article 1 of the First Protocol (the peaceful enjoyment of one's possessions), is relevant in this case. Parliament has delegated to the Council the responsibility to take enforcement action when it is seen to be expedient and in the public interest. The requirement to secure the removal of the unauthorised building in the interests of amenity is proportionate to the breach in question.

Article 6: the right to a fair hearing is relevant to the extent that the recipient of the enforcement notice and any other interested party ought to be allowed to address the Committee as necessary. This could be in person, through a representative or in writing.

Conclusions

15. 27 Wensum Street is a non-statutory local list building which is situated in the heart of the City Centre Conservation Area at the junction with Quayside. The building represents a non-designated heritage asset for the purposes of PPS5 and as such should be protected from visually harmful additions, located inappropriately on its exterior.
16. The City Centre Conservation Area Appraisal (Northern Riverside) identifies the building and those adjoining it as representing a positive frontage and notes that there is a positive vista when looking from Wensum Street along Quayside towards the east.
17. It is considered that this unauthorised air conditioning unit, due to its size and prominent position on the north facing flank of the building is visually injurious to the non-designated heritage asset and to the Conservation Area contrary to the guidance in PPS5, policy ENV6 and 7 of the East of England Plan (Adopted May 2008); policies 2 of the Joint Core Strategy for Broadland, Norwich and South Norfolk (Adopted March 2011) and contrary to the aims of policies HBE8 and 12 of the City of Norwich Replacement Local Plan (Adopted Nov 2004).

Recommendations

18. Authorise enforcement action to secure the removal of the air handling / conditioning unit from the North (side) elevation of 27 Wensum Street and undertake legal proceedings, including prosecution if necessary.

Background Documents

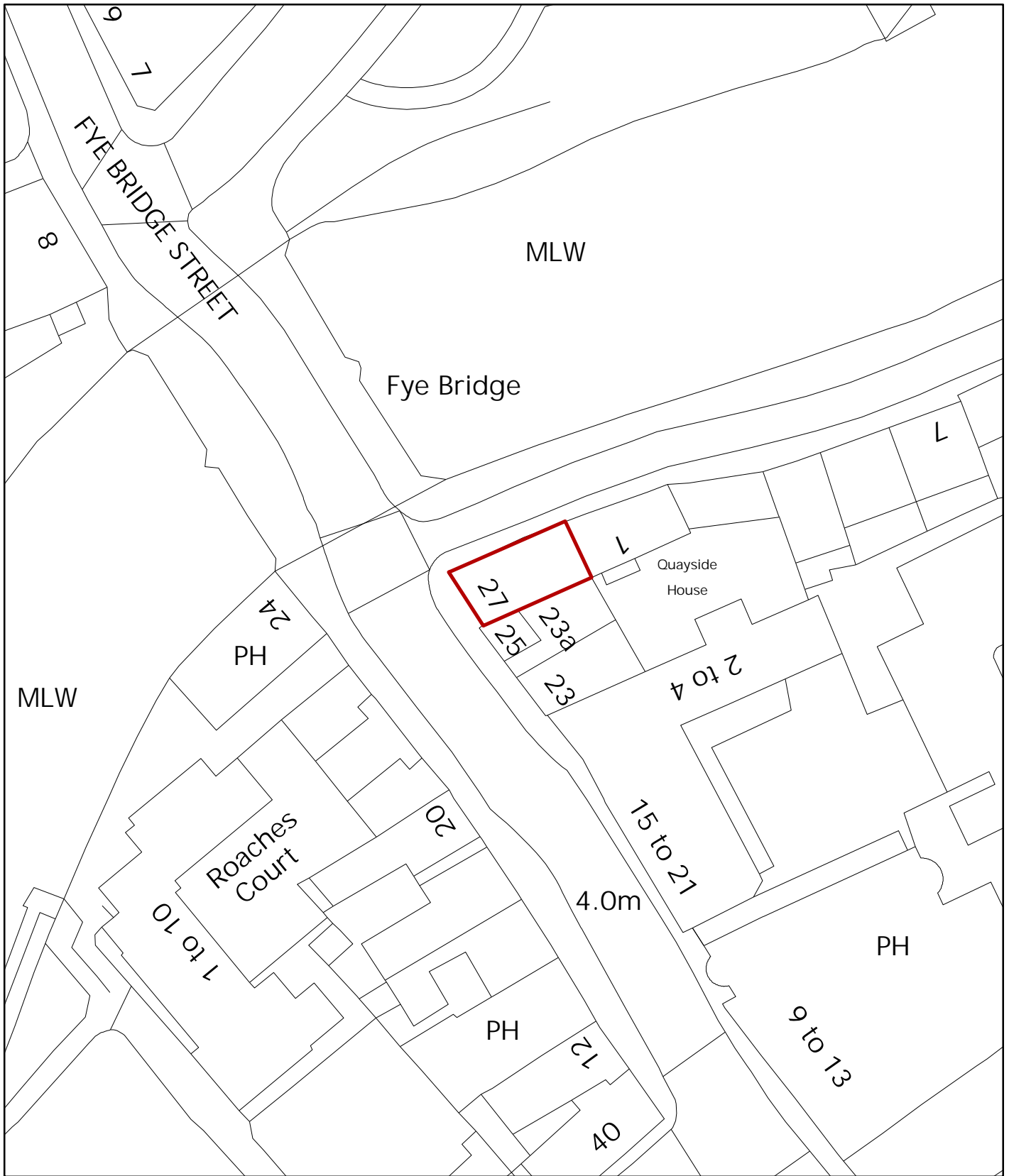
PPS5 – Planning for the Historic Environment

East of England Plan (Adopted 2008)

Joint Core Strategy for Broadland, Norwich and South Norfolk (Adopted March 2011)

City of Norwich Replacement Local Plan (Adopted Version, November 2004)

Relevant correspondence – Enforcement File – 11/00173/BPC/ENF



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Planning Application No Enforcement
 Site Address 27 Wensum Street
 Scale 1:500



NORWICH
 City Council

PLANNING SERVICES

