

Report to Planning applications committee

12 November 2020

Report of Area development manager

Subject Update on kitchen extraction situation at the Strangers Club, 22-24 Elm Hill

Item

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Purpose

This report provides an update to members of planning applications committee on the situation regarding the kitchen extraction equipment at the Strangers Club, 22-24 Elm Hill. Such an update was requested by members during the committee held on 13 August 2020, at which members resolved to refuse the planning application 19/01487/F and listed building consent 19/01488/L.

Recommendation

To note the contents of the report.

Corporate and service priorities

The report helps to meet the corporate priorities of great neighbourhoods, housing and environment and people living well.

Financial implications

There are no direct financial implications arising from this report. This report is for information.

Ward/s: Thorpe Hamlet

Cabinet member: Councillor Stonard, Cabinet member for sustainable and inclusive growth

Contact officers

David Parkin, Area Development Manager 01603 989517

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Background documents:

None

Report

Background

1. Applications for regularisation of the existing kitchen extract flue with amendments at the Strangers Club, 22-24 Elm Hill, were refused on 19 August 2020 as per the resolution of planning applications committee held on 13 August 2020. The reasons for refusal on both applications (19/01487/F & 19/01488/L) were:

“The proposed alterations to the extract system, in particular the introduction of the baffle plate and associated attachments, will protrude further into the confined space between the two Grade II listed buildings. It will make maintenance of both buildings more difficult to the detriment of the designated heritage assets and will cause direct harm to the character of the Grade II* listed Strangers Club. Whilst the introduction of the baffle plate and the extra filter will reduce to some degree the deposition of fatty deposits on to the wall of the Grade II* listed 26-28 Elm Hill the benefit of so doing is outweighed by the harm caused in the process particularly as the applicant has failed to demonstrate to the satisfaction of the Local Planning Authority that other, less harmful solutions are not available. The proposal therefore causes less than substantial harm to the adjacent heritage asset, and this harm is not outweighed by public benefit. The proposal is therefore contrary to policy DM9 of the Development Management Policies Local Plan and to paragraphs 192-196 of the National Planning Policy Framework 2019.”*

2. Members at that committee urged officers to work with the Strangers Club to find alternative solutions that overcome this reason for refusal and, if necessary, pursue enforcement action to ensure that the unauthorised extract flue is removed.
3. It is worth noting that other solutions were discussed with the Club early on in 2019 but officers considered it preferable to utilise an existing authorised opening, as long as the emissions could be adequately controlled. However, now that the existing flue (with amendments) has been deemed unacceptable by the council, we need to look at alternative solutions.

Progress since 13 August 2020

4. Shortly after the applications were refused, officers and the Club made contact and discussed opportunities, including the Club appealing the refusals or applying for an alternative scheme, or the Council enforcing against the unauthorised flue. Officers and representatives of the Club remain keen to resolve the situation without formal enforcement action, and all involved would prefer to negotiate an appropriate solution. Such an approach is consistent with national advice on the approach to enforcement where formal action is a last resort where a negotiated solution cannot be reached.
5. The Strangers Club has prepared an alternative scheme which involves installing ducting diagonally across the kitchen from the cooker hood to the northern wall of the rear single storey wing (boiler house) of the building. The ducting would require a hole to be inserted into the internal wall between the kitchen and the boiler house and another hole to be inserted for the extract which would exit the building via a flush fitting grill measuring 400mm x 400mm, above the external door to the boiler room. Fumes would exit into a large open space, away from the neighbouring building at

26-30 Elm Hill. Plans showing this scheme were shared with officers in advance of a site meeting which was held on 6 October 2020.

6. The council's conservation officer and a representative from Historic England attended this meeting along with the planning case officer. Comments were also sought from the council's environmental protection officer. Overall, the scheme presented appears to be an acceptable solution. It is acknowledged that the proposal would cause harm to the host listed building but that this harm could be balanced against the reduction in harm being caused to the adjacent building.
7. It is understood that this option has been enabled by financial assistance from the landlord, i.e. the city council.

Current applications

8. On 23 October 2020, the council received a planning application and listed building consent application for the scheme described above (references 20/01291/F and 20/01295/L). The applications include reference to the removal of the existing unauthorised flue and the associated repair to the hole which would be left.
9. The public consultations run until 25 November 2020 and the applications will be reported to planning applications committee in due course.

Enforcement options

10. Since the council is in receipt of applications which put forward an alternative solution and include a commitment to remove the unauthorised flue, it would not be prudent for the council to undertake enforcement action until such time as the applications have been determined.
11. That being said, the council reserves the right to carry out enforcement action including the service of notices or prosecution in the courts. Officers are engaged in discussions with legal advisors regarding enforcement options, since there are a number of matter that complicate the legalities in this case, including: the age of the breach (it is decades old); and the ownership of the building, i.e. it is owned by the city council and any notice would need to be served on all those parties with an interest in the land.
12. The council must also consider the impact of any enforcement action not only upon 26-28 Elm Hill, which would be beneficial, but also on the continuing beneficial use of 22-24 Elm Hill (The Strangers Club), which would be harmful.

Way forward

13. The best way forward is to secure the continued beneficial use of the Grade II* 22-24 Elm Hill by the current tenant whilst at the same time minimising the harm to that building and the harm to the adjacent Grade II* 26-28 Elm Hill caused by the existing extraction and thereby allowing the building to be brought back into use. This is best achieved by the determination of the applications (subject to consultation) and the implementation of a satisfactory solution. At the moment, this objective can be achieved through informal negotiation without recourse to formal enforcement action, although this remains an option in the event that negotiations fail.