

**Report to** Planning applications committee

**Item**

10 November 2016

**Report of** Head of planning services

**Subject** Application nos 16/00949/F and 16/00950/L - 13 St Giles Street, Norwich, NR2 1JL

**4(h)**

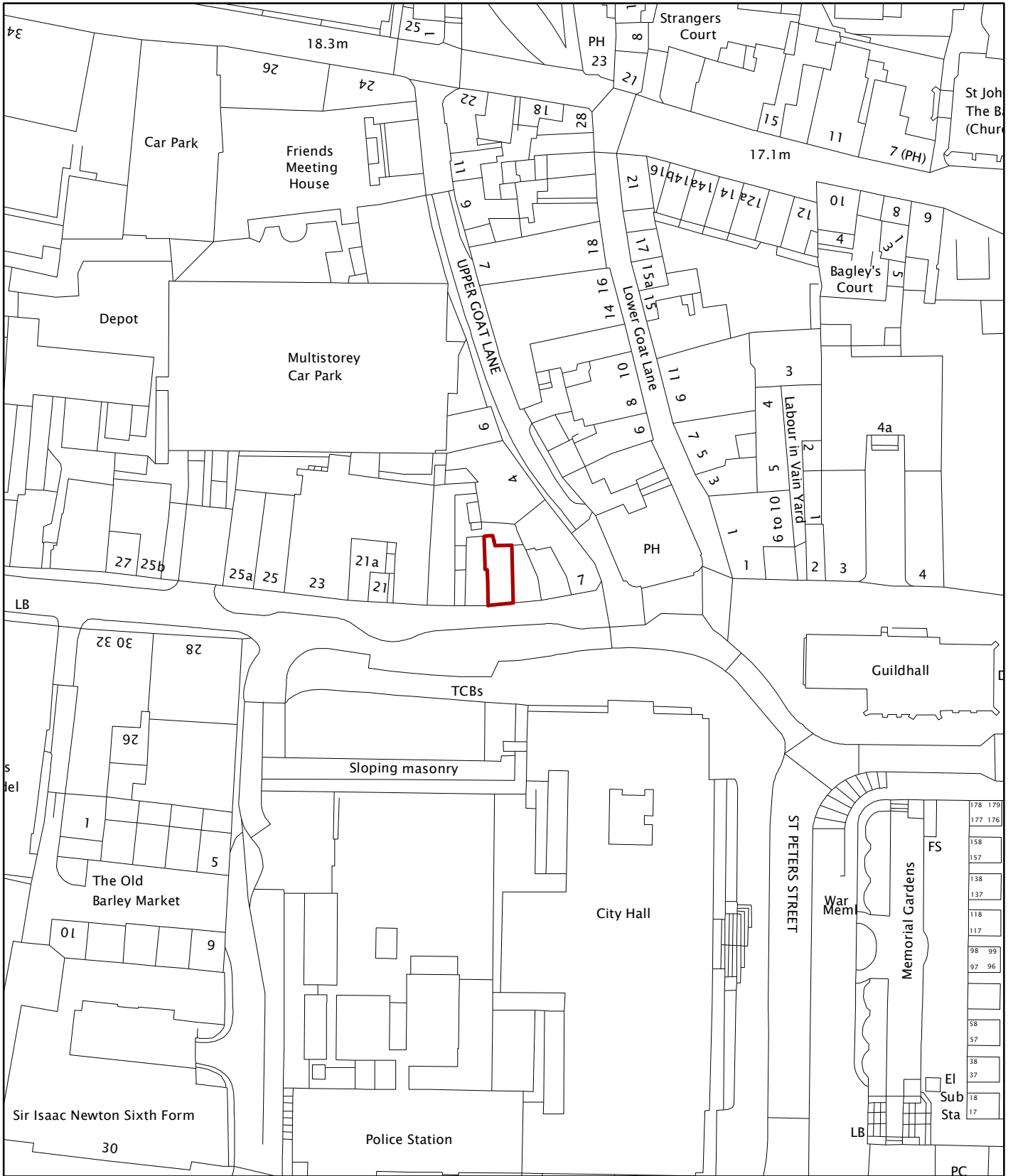
**Reason for referral** Objection

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<b>Ward:</b>	Mancroft
<b>Case officer</b>	Samuel Walker - <a href="mailto:samuelwalker@norwich.gov.uk">samuelwalker@norwich.gov.uk</a>

<b>Development proposal</b>		
Installation of new extraction system.		
<b>Representations</b>		
Object	Comment	Support
3		

<b>Main issues</b>	<b>Key considerations</b>
1	Design / heritage impacts
2	Amenity – Odour and noise, opening hours
<b>Expiry date</b>	21 September 2016
<b>Recommendation</b>	Approve



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Planning Application No 16/0094/F & 16/00950/L

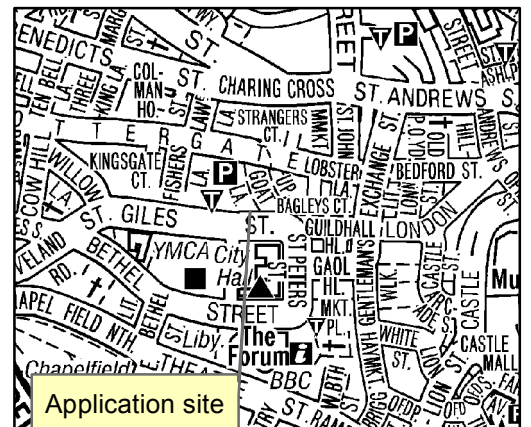
Site Address 13 St Giles Street

Scale 1:1,000



**NORWICH**  
City Council

PLANNING SERVICES



## The site and surroundings

1. No.13 St Giles is a two storey, rendered timber framed building on the north side of St Giles. The building is Grade II\* Listed and located in the 'St Giles Character Area' of the City Centre Conservation Area.
2. There is a mixture of retail, commercial, leisure and residential uses in this location

## Constraints

3. Grade 2 star statutory listed building within St Giles Character Area' of the City Centre Conservation Area.

## Relevant planning history

- 4.

Ref	Proposal	Decision	Date
10/01901/U	Change of use from estate agent (A2 Use Class) to a mix of uses comprising ground floor restaurant / cafe (A3 Use Class) within the shop frontage with retail (A1 Use Class) at rear and mixed uses at first and second floor comprising tattoo and body-piercing studio (sui generis Use Class) and retail (A1 Use Class).	APPR	20/12/2010
12/00402/L	Removal of existing signage and installation of hand-painted new fascia.	APPR	03/05/2012
12/00403/U	Change of use from mixed use: ground floor restaurant/cafe (Class A3) within shop frontage with retail (Class A1) at rear and mixed uses at first and second floor comprising tattoo and body-piercing studio (sui generis) and retail (Class A1) to mixed use: cafe/restaurant (Class A3) on ground floor and part first floor with hairdressers (Class A1) on part first floor and all second floor.	APPR	03/05/2012

## The proposal

5. The proposed development is for the installation of a freestanding 'ductless air recirculation unit' as extraction plant associated with cooking. Due to the sensitivity of the Grade 2 star Listed Building in the City Centre conservation area, the scheme has been amended since the initial proposal and now does not involve any work to the exterior of the building, and does not propose any flue or grilles discharging to

the courtyard area. The proposal also includes some internal alterations to the kitchen area and floor finishes to the ground-floor.

### Summary information

<b>Proposal</b>	<b>Key facts</b>
<b>Operation</b>	
Opening hours	<b>13 St Giles has existing A3 use under planning permission ref 12/00403/U, there is no change to this proposed under this application. The opening hours permitted under the previous application were 07.30am – midnight on any day.</b>
Ancillary plant and equipment	<b>Internal, freestanding ‘ductless air recirculation unit’</b>

### Representations

6. Advertised on site and in the press. Adjacent and neighbouring properties have been notified in writing. 3 letters of representation have been received citing the issues as summarised in the table below. All representations are available to view in full at <http://planning.norwich.gov.uk/online-applications/> by entering the application number.

<b>Issues raised</b>	<b>Response</b>
Design, harm to Listed Building	See main issue 1.
Amenity – Odour and noise	See main issue 2.
Opening Hours	See main issue 2.
Fire Risk	This is not a material consideration of the planning application. Fire safety should be dealt with by Norfolk Fire Service, an informative can be added relative to this.
Concern with regard to refuse storage and collection	This is an existing A3 café unit which has been in use until recently – refuse storage and collection details for the existing unit not a material requirement of this application.

## Consultation responses

7. Consultation responses are summarised below the full responses are available to view at <http://planning.norwich.gov.uk/online-applications/> by entering the application number.

### Design and conservation

8. *(for full consultation response refer to public access file)*  
The applicants have revised the application to remove the installation of a new kitchen and associated flue, instead they have sought to install a much smaller flueless cooker with a re-circulation hood. The new cooker is small enough to be easily installed within the building and its loadings should not adversely impact upon the relatively sensitive timber floor structure. The highly significant undercrofts will remain unaffected.
9. At ground floor level new floor coverings will be installed upon the new non-original raised floor in the principal front room and upon the non-original ply in the rear room. These works are not opposed. The removal of the existing unsightly suspended ceiling would be welcomed. Any new suspended ceiling and lighting scheme will be required by condition.
10. I would recommend that the applicants include any alteration to the colour and appearance of the existing shopfront within this application. It is recommended that any new colour scheme should blend in with the existing muted colours found within the historic terrace. \*The proposed works will not cause harm to the special architectural and historic interest or significance of the listed building or wider character and appearance of the conservation area.

### Historic England

11. *(for full consultation response refer to public access file)*  
Our specialist staff have considered the information received and Historic England do not wish to offer any comments on this occasion.

### Environmental protection

12. The Noise consultant acting on behalf of the applicant was to carry out physical sound testing but this was only partially successful. The consultant was only able to get into one of the adjoining properties albeit the property closest to where the ductless extraction system will be sited. Although this is not ideal, the information gained should be sufficient to make an informed decision on whether neighbouring properties, in particular the adjacent first floor residential property above 15 St. Giles Street will be adversely affected by noise from the operation of the above system.
13. The applicant has committed to using anti-vibration mounts to reduce the likelihood of structure-borne vibration affecting neighbouring properties. However, this must be conditioned to ensure this is carried out if permission is granted. Furthermore, the ductless extraction system must be properly maintained to ensure it continues to operate effectively and without any unnecessary noise. This will have to be conditioned if permission is to be granted. I would also condition any permission to

ensure the ductless extraction system is turned off when the kitchen has ceased serving food.

14. Taking into account the siting of the ductless extraction system, the noise emission characteristics of the system and the location and proximity of the nearest noise receptor; the system is not likely to cause a noise nuisance as long as any permission is appropriately conditioned to protect current and future occupiers of the adjacent properties from undue and unnecessary noise disturbance.
15. As discussed, the ductless extraction system should be able to remove the odours from the kitchen extract subject to meeting the stated aims of the manufacturer, it is properly installed and maintained. As the system does not vent out of the building as a 'ducted' system would do; any odour issues will most likely affect the operator (and customers) of the application premises before it will affect anyone else. Therefore, it is unlikely that odour will be an issue for the adjoining properties. However, in the unlikely event that this proves to be the case then there are legislative provisions available to the Council to control odour if it is proved to be a nuisance.

## **Assessment of planning considerations**

### **Relevant development plan policies**

16. **Joint Core Strategy for Broadland, Norwich and South Norfolk adopted March 2011 amendments adopted Jan. 2014 (JCS)**
  - JCS2 Promoting good design
  - JCS7 Supporting communities
  - JCS8 Culture, leisure and entertainment
  - JCS11 Norwich city centre
17. **Norwich Development Management Policies Local Plan adopted Dec. 2014 (DM Plan)**
  - DM2 Ensuring satisfactory living and working conditions
  - DM3 Delivering high quality design
  - DM9 Safeguarding Norwich's heritage
  - DM16 Supporting the needs of business
  - DM17 Supporting small business
  - DM18 Promoting and supporting centres
  - DM20 Protecting and supporting city centre shopping
  - DM23 Supporting and managing the evening and late night economy
  - DM24 Managing the impacts of hot food takeaways

### **Other material considerations**

18. **Relevant sections of the National Planning Policy Framework March 2012 (NPPF):**
  - NPPF0 Achieving sustainable development
  - NPPF1 Building a strong, competitive economy
  - NPPF2 Ensuring the vitality of town centres
  - NPPF7 Requiring good design
  - NPPF12 Conserving and enhancing the historic environment

## Case Assessment

19. Planning law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. Relevant development plan policies are detailed above. Material considerations include policies in the National Planning Framework (NPPF), the Councils standing duties, other policy documents and guidance detailed above and any other matters referred to specifically in the assessment below. The following paragraphs provide an assessment of the main planning issues in this case against relevant policies and material considerations.

### Main issue 1: Design / Heritage impacts

20. Key policies and NPPF paragraphs – JCS2, DM3, DM9 NPPF paragraphs 9, 17, 56 and 60-66, 128-141.
21. Following negotiation with the applicants, the current scheme has been revised so that it has no impact on the external appearance of the property. 13 St Giles Street is a Grade II\* statutory Listed Building in a Conservation area, as such external extraction plant would not be considered acceptable. The proposed plant does not require flue, ducting or grille extraction to outside space – the unit proposed is designed to filter the air removing the need for externally mounted plant. It is an entirely internal, free standing installation.
22. As such the proposed plant will not impact the historic fabric of the designated heritage asset as it does not require physical alterations, or fixings to the structure for installation. The location of the proposed plant is sufficiently separate from the ‘highly significant undercroft’, the proposed loadings of the plant are not expected to cause harm to the existing floor structure. Anti-vibration mounts have been specified to further reduce potential disturbance to the fabric of the building.
23. Given the above considerations the proposals would not detract from the special architectural or historic interest of the listed building or the character and appearance of the surrounding area in accordance with the above policies.

### 24. Main issue 2: Amenity

25. Key policies and NPPF paragraphs – DM2, DM11, NPPF paragraphs 9 and 17.
26. Objection has been received with regards to negative impacts of noise to neighbouring businesses and residential properties. A noise impact assessment has been submitted to accompany this application, an Environmental Protection officer has assessed the report and raises no objections, the noise levels of the proposed installation are not considered to have significant impact to neighbouring amenity “*the system is not likely to cause a noise nuisance*”, subject to reserving by condition the specification of anti-vibration mounts, schedule of maintenance, operation only whilst required for cooking. We concur with their assessment.
27. The application site has existing lawful use as A3 cafes/restaurants to the ground and first floor under approved application reference 12/00403/U, no change to this use or layout is requested under this application – this application is not to consider the suitability of the premises for the existing lawful use.

28. Objection has been received with regards to negative impacts of odour caused by cooking, the purpose of the current proposal is to provide fume extraction/filtration to prevent this occurring. The proposed plant specification is considered to be appropriate for this purpose, subject to proper installation and maintenance. Maintenance schedule should be reserved by condition
29. Objection has been received relating to the opening hours of this property. Under condition 5 of the permission granted under application reference 12/00403/U it states  
*'The premises which form the subject of this permission and outlined in red on the approved location plan shall not be open to the public, trading, or have members of the public, as customers or guests, on the premises between the hours of 00.00hrs midnight and 07.30am on any day'*.

The opening hours are not the subject of this application; the applicant has confirmed in writing that they are not applying to change to the permitted opening hours previously approved.

### **Equalities and diversity issues**

30. There are no significant equality or diversity issues.

### **Local finance considerations**

31. Under Section 70(2) of the Town and Country Planning Act 1990 the council is required when determining planning applications to have regard to any local finance considerations, so far as material to the application. Local finance considerations are defined as a government grant or the Community Infrastructure Levy.
32. Whether or not a local finance consideration is material to a particular decision will depend on whether it could help to make the development acceptable in planning terms. It would not be appropriate to make a decision on the potential for the development to raise money for a local authority.
33. In this case local finance considerations are not considered to be material to the case.

### **Conclusion**

34. The development is in accordance with the requirements of the National Planning Policy Framework and the Development Plan, and it has been concluded that there are no material considerations that indicate it should be determined otherwise.

### **Recommendation**

To approve:

(1) application no. 16/00949/F - 13 St Giles Street Norwich NR2 1JL and grant planning permission subject to the following conditions:

1. Standard time limit;
2. In accordance with plans;
3. Maintenance schedule of plant



4. Specification of anti-vibration mounts to be retained in perpetuity
5. Ductless extraction system is turned off when the kitchen has ceased serving food

### **Article 35(2) statement**

The local planning authority in making its decision has had due regard to paragraph 187 of the National Planning Policy Framework as well as the development plan, national planning policy and other material considerations, following negotiations with the applicant and subsequent amendments the application has been approved subject to appropriate conditions and for the reasons outlined above.

(2) application no. 16/00950/L - 13 St Giles Street Norwich NR2 1JL and grant Listed Building Consent subject to the following conditions:

1. Standard time limit;
2. In accordance with plans;
3. Materials of partitions to be of lightweight plasterboard construction, easily removable – and so maintained
4. All existing fabric shall be retained unless notated otherwise on the drawings.
5. Detailed drawings or samples of materials as appropriate, in respect of the following: (a) any new and relocated services (such as drainage, lighting) (b) any new suspended ceilings

### **Informatives**

- Advertisement consent and listed building consent will be required for the installation of any new or replacement external signage.
- Building Regulations
- Relative Fire Safety requirements should be addressed with the Chief Fire Officer/Norfolk Fire Service.