

Report for Resolution

Report to Planning Applications Committee
Date 25 February 2010
Report of Head of Planning Services
Subject 09/01330/U
64 - 68 Rose Lane, Norwich, NR1 1PT

Item
5(1)

SUMMARY

Description: Change of use from warehouse/storage (Class B8) on ground floor and offices (Class B1) on first floor to drinking establishment (Class A4).
Reason for consideration at Committee: Objections
Recommendation: Approve with conditions
Ward: Thorpe Hamlet
Contact Officer: Mr Rob Parkinson
Senior Planning Officer
(Development) 01603 212765
Date of Validation: 8th January 2010
Applicant: Mrs Michelle Williams
Agent: Mr Anthony Doughty

INTRODUCTION

The Site

Location and Content

1. The site is located on Rose Lane, east of St Vedast Street. The site is a 2.5-storey brick building, with set-back roof, with vehicular and pedestrian access fronting the street. It is currently vacant but was most recently used for warehouse and storage at ground floor, and before that for vehicle servicing, with offices at first floor above. The building lies at the rear of, and adjoins, a number of premises between 63 and 73 Prince of Wales Road.
2. This is a mixed-use area within the City Centre. To the west, the adjacent property on the corner of Rose Lane / St Vedast Street is an occupied 6-storey office building. This is opposite the new Travelodge hotel on St Vedast Street. Further west along Rose Lane are a number of new residential units built recently as part of the Greyfriars Road / Maidstone Road development, and the vacant ex-car park site. There are other existing offices on St Vedast Street and opposite the site, at 61-65 Rose Lane.
3. To the east, the adjacent property (70-72 Rose Lane) is a two-storey building with pitched roof, currently in use as an Islamic cultural centre and mosque (planning permission granted in March 2001), which includes on-site caretaker residential

accommodation permitted in 1999. Further east are a number of premises used as part of bars and nightclub premises, and the Railway Mission Hall, all currently fronting Prince of Wales Road, including a group of three locally-listed buildings. Further mixed use development is expected in the future on the corner of Rose Lane / Mountergate, which is anticipated to include residential, office, leisure, bars, restaurant and takeaway uses (Local Plan policies CC9 and HOU9), although no related planning applications have been received nor permissions granted yet.

4. The application has identified the Essence bar at the rear of the site being within the applicant's ownership. This is a bar at both ground and first floor level and is accessed via an entrance on 63-65 Prince of Wales Road, extending to include premises at 1-3 St Vedast Street, although the only access here is for staff and servicing.

Planning History

5. There has been no relevant recent planning history at this site.

Constraints

6. The premises falls within the City Centre Leisure Area defined by Local Plan policy AEC1, and is close to the defined Late Night Activity Zone (also policy AEC1) which encompasses the premises at the top (west) of Prince of Wales Road as far as, and including, the western side of St Vedast Street. The new Travelodge hotel actually lies within the Late Night Activity Zone. The application site building is neither statutorily nor locally listed, but is in the City Centre Conservation Area.

The Proposal

7. The application seeks to change the use of both floors of the premises from its current warehouse and office uses into a bar or drinking establishment (A4 use class). The application is submitted by the current operators of the Essence bar, and it is intended to operate the application site as an extension to the Essence bar premises (subject further planning permissions to create a connection between the two buildings). This application is for the principle of the change of use only.
8. No external works are proposed and public access into the premises is intended to remain that of the main entrance on Prince of Wales Road (subject to future connections) and the building would become a part of the larger bar. The existing roller shutter and pedestrian doors on Rose Lane would not be used for public access, and are shown indicatively as fire exists. Although the plans don't show servicing and refuse / recycling stores inside the premises, it is understood this would continue from the St Vedast Street doors.
9. The proposed hours of use / opening of the bar have not been specified.
10. If permitted, the application site would almost double the overall internal floor space of the Essence bar. The new bar would make use of the existing garden / smoking area courtyard at the rear of the premises, the use of which is currently permitted under the Essence bar permission.

Representations Received

11. Advertised on site and in the press. Adjacent and neighbouring properties have been notified in writing. 5 letters of representation have been received citing the issues as summarised in the table below.

12.

Issues Raised	Response
Noise pollution from the existing external smoking area would worsen and affect the Islamic Centre, whose windows overlook the garden.	Use of the garden/courtyard/smoking area is already controlled. See paragraph 26.
The bar would affect the amenity of the area and disturb the late night users amongst the Islamic congregation and cause safety concerns for visitors to the centre, for example through their entrance being adjacent to the door on Rose Lane.	Noise emissions and insulation, and public safety can be controlled adequately by conditions on a planning condition, for example there shall be no entrances onto Rose Lane. See paragraphs 13-16 & 24-28.
The Islamic Centre is home to the Caretaker whose bedroom window is adjacent to the party wall and would be adversely affected by the noise of the bar.	Adequate sound insulation and noise limitation measures can be required by condition. See paragraphs 13 & 26.
There could be a spread of crime and disorder away from Prince of Wales Road which would drain policing resources.	This can be prevented from operating with a frontage onto Rose Lane. See paragraphs 16, 27 & 28.
Rose Lane is not in the Late Night Activity Area and the proposal would increase the already extensive noise in the area and spread public nuisance outside that zone and affect nearby residents and the hotel.	This can be prevented from operating with a frontage onto Rose Lane. See paragraphs 16, 24 & 25.
No evidence has been provided for noise mitigation - how will noise be controlled and insulation measures implemented?	Noise can be controlled by condition. See paragraphs 13 & 26.
The Essence bar and its operators have not been in the area for long and any extensions should only be allowed following a successful track record of responsible business operations.	This is not a planning consideration.

Consultation Responses

13. Environmental Health; Pollution Control (25.1.10) - Some concerns regarding likely music noise affecting a nearby resident in Prince-of-Wales Road and visitors to the hotel in St Vedast Street. It is likely that the building is not adequately insulated to prevent significant levels of music noise escaping the building and if permission is granted it should be conditional on adequate internal sound insulation being provided to a suitable standard, and noise limits being imposed for amplified sound. The rear doors that currently open out to the courtyard garden space should preferably be removed from use and customers required to access the smoking area via the existing route from Essence. Alternatively a second set of doors could be installed inside those existing, and appropriately acoustically sealed to create an acoustic lobby, although this would be the least favoured option given the

frequency of use and difficulty of enforcement.

14. Environmental Health; Health and Safety (20.1.10) – Numbers of patrons are not shown and the adequacy of toilet provision can not be gauged and problems with nearby urination may arise. The smoking shelter is not detailed and windows opening onto this area should be avoided. The width of the Rose Lane pavement should be considered if it is to be used for fire escape congregation.
15. Transportation Planning (1.2.10) – The impact of the development is unlikely to be significant in transport terms.
16. Norfolk Constabulary (5.2.10) – The Rose Lane entrances should be used solely as fire exits and should not be allowed to be retrospectively converted to become the main entrance. Having entrances onto Rose Lane would conflict with the current layout of the street, the pavement is narrow and the pedestrians would be vulnerable to the traffic passing in close proximity. The policing model for the area is based on Prince of Wales Road being the main focus of night time demand.

ASSESSMENT OF PLANNING CONSIDERATIONS

Relevant Planning Policies

Relevant National Planning Policies

PPS1 - Delivering Sustainable Development
PPS4 - Planning for Sustainable Economic Growth
PPG15 - Planning and the Historic Environment
PPG24 - Planning and Noise

Relevant Strategic Regional (East of England Plan, May 2008) policies

SS1 – Achieving Sustainable Development
SS6 – City and Town Centres
ENV6 – The Historic Environment
ENV7 – Quality in the Built Environment
WM6 – Waste Management in Development
NR1 – Norwich Key Centre for Development and Change

Relevant City of Norwich Replacement Local Plan (November 2004) policies

EMP3 – Protection of small business units and land reserved for their development
HBE8 - Development in Conservation Areas
HBE12 – High quality of design
AEC1 - Major arts and entertainment facilities
EP10 – Noise protection between different uses
EP22 - Residential amenity
TRA5 – Approach to design for vehicle movement and special needs
TRA8 - Servicing

Supplementary Planning Documents and Guidance

City Centre Conservation Area Appraisal

Principle of Development

Policy Considerations

17. National planning policy PPS1 requires that all new development is appropriately and accessibly located, and PPG15 seeks to ensure that new development is designed and planned to safeguard the character and appearance of the historic environment. PPG24 sets out general principles to be considered when planning for and assessing proposals for potentially noisy and noise-sensitive development.
18. East of England Plan policies ENV6 and ENV7 relate to protecting the historic environment and ensuring a high quality of new development to promote local distinctiveness and help secure urban regeneration. Saved City of Norwich Replacement Local Plan policy AEC1 sets out criteria for the acceptance of major arts and entertainment facilities, and through the Local Plan defines the Late Night Activity Zone within Prince of Wales Road, within which late night uses are normally accepted. Policy EP22 seeks to ensure a high standard of amenity for nearby residential occupiers. In relation to design considerations, policy HBE8 seeks to promote appropriate development in conservation areas whilst Policy HBE12 seeks a high quality of design and materials in all new development.
19. Saved Local Plan policy EMP3 does seek to avoid the loss of small business units, although normally being most pertinent to city centre offices and outlets in employment areas. The applicant has not presented any information to show the continued use of the site for employment to be unviable, nor would the continued use of the site be detrimental to the amenity of the adjacent premises. As such, the proposal would be contrary to the principles of Local Plan policy.
20. However, it is considered that in this instance the proposal can be a justifiable exception to policy. The location of this site would make it more desirable for protection had it been in active office use, but the current warehouse use if recommenced would be a relatively small employment generator and the offices above have been vacant for some time (and the premises are gutted). There are no policies to specifically protect warehousing, although permitted change of use rights to office use (without needing planning permission) do exist. However, to recommence warehousing activity may be awkward in traffic terms and could result in conflicting access with the Rose Lane bus lane outside.
21. The emerging Joint Core Strategy Policy 11 does identify Rose Lane as a major focus for future commercial development, and aims to promote more office based employment in the city centre through a future Supplementary Planning Document. However, this can be afforded only minimal material weight, and besides such development is anticipated mainly through new high quality office premises. Overall, this site and its particularly constrained environment is not considered to compromise such future redevelopment plans.
22. Overall, given the limited employment opportunity available at the site, the principle of converting the use of the site to an A4 licensed bar is considered acceptable and appropriate to the area; that is one characterised by a lively mix of daytime city centre offices and bars and restaurants active into the evening and at night. Although the premises are situated just outside the defined Late Night Activity Zone by the Local Plan, St Vedast Street is actually within the Zone, whilst the area of Prince of Wales Road at the rear of the site is effectively an extension of the Zone

as a result of the many current uses allowed for the same type of activity there.

23. In general, the site is part of an area experiencing transformation, and future such uses, or uses generally compatible with the proposed use (such as offices), are envisaged in the immediate area, especially so at the Mountergate site, as indicated by saved Local Plan policies CC9 and EMP16.

Access and Pedestrian Safety

24. Given that multiple bar/nightclub uses within premises to the east along Rose Lane have been found acceptable and are established, a precedent has been set to allow this use in the immediate area. However, such activity has clearly been mindful of the need to ensure pedestrian and patron safety adjacent to the busy Rose Lane carriageway. Permissions for these uses have been conditional on any access to Rose Lane being prevented for general use by public and patrons of those bars and clubs where principle entrances exist from Prince of Wales Road. It is considered reasonable and appropriate to apply conditions to a permission to ensure all the doors on the street frontage are only to be used as emergency exists.
25. Separate Building Control and Fire Safety Regulations will determine the numbers of patrons able to use the site, and highways licensing can prevent doors from opening outwards onto the highway.

Impact on Amenity

Noise and Disturbance and Public Safety

26. Whilst the adjacent Islamic centre is used in the evening for community activity and prayer, and includes residential accommodation, the noise insulation that can be required by condition should ensure a suitable barrier to possible disturbance, which can be further bolstered by an additional condition to restrict amplified noise emissions to maximum limits. Any residential use in those premises is not authorised and should be subject to separate planning permission if it is to continue. The dwelling above a unit on Prince of Wales Road, which currently overlooks the garden courtyard, would experience an increase in noise and activity nearby, and it is considered appropriate to restrict entry to the garden to those means already in use, which will further support existing licensing restrictions on the numbers of patrons allowed to use the garden at any one time. The hotel and other dwellings in the area should not be affected once the sound insulation measures are provided in accordance with the proposed condition. Details of extract, ventilation, plant and machinery can all be agreed beforehand by condition.
27. With entry and exit access restricted to Prince of Wales Road (which will be required by condition), patron and public safety will be better controlled by Police and avoid the vulnerability to traffic dangers along Rose Lane.
28. Emergency exit use only onto Rose Lane is considered acceptable as the pavements are wide enough to avoid danger to patrons congregating / passing by.
29. Further to conditions being applied to prevent the use of doors onto Rose Lane for general access, conditions can also restrict the operation of the premises to ensure it is only used in connection with the Essence bar or other premises on Prince of Wales Road.

30. Whilst the premises can be required by condition to require its use only in conjunction with the Essence bar, it would normally be appropriate for hours of opening to be restricted, in line with those permitted for the Essence bar. However, planning permission has already been granted to remove the previous opening hour restrictions and allow the Essence bar to operate without any opening hour restrictions (application no. 09/00189/VC & 09/00437/U). Given this recent previous planning history, if permission were granted it would be neither reasonable nor enforceable to impose new opening hour restrictions on either the application site or the existing bar in the applicant's ownership.

Overlooking

31. There would be no overlooking of any residential premises, nor the nearby hotel or the adjacent Islamic community centre. Neither would privacy be affected.

Conservation Area – Impact on Setting

32. The effect on the Conservation Area would be minimal given that activity would be either internal or focussed on Prince of Wales Road, and the change of use is not considered to have a detrimental impact on the wider conservation area as it is located within the City Centre Leisure Area.

Vehicular Access, Servicing and Waste Management

33. Providing that any permission granted is only related to uses ancillary, or as an extension to, the existing Essence bar or other premises on Prince of Wales Road, the servicing and refuse collection would continue to operate from St Verdast Street or from Prince of Wales Road.

Conclusions

34. Notwithstanding the loss of the existing employment use, and the site's location just outside the Late Night Activity Area, the premises are within the City Centre Leisure Area and are consistent with the character, and the use is appropriate to, this part of the city centre and as such the principle of the use is supported by national and local planning policy.

35. Subject to the conditions imposed on the planning permission, notably to ensure the site operates only as a part of the existing bar on Prince of Wales Road and does not include access or egress on Rose Lane (except in the case of emergency), impact on businesses, residents and visitors to the area is considered to be minimal and any possible future regeneration of the area to be safeguarded.

RECOMMENDATIONS

To approve application no 09/01330/U (64 - 68 Rose Lane, Norwich, NR1 1PT) and grant planning permission, subject to the following conditions:-

1. Standard time limit;
2. The existing rear doors onto the courtyard / smoking area shall be blocked up;
3. The doors to and from Rose Lane shall only be used for fire exit purposes and shall not be used in any way or at any time for entry or exit other than in an emergency situation;

4. The premises shall only be accessed by the general public and patrons from existing premises fronting Prince of Wales Road, and servicing access shall only be from Prince of Wales Road or St Vedast Street;
5. No hot food shall be served from the premises for consumption off-site;
6. Prior to commencement of the use, noise insulation shall be installed;
7. Prior to commencement of the use, maximum noise levels shall be agreed and shall not be exceeded at any time;
8. Details of extract and ventilation systems shall be provided prior to first use;
9. Details of plant and machinery shall be provided prior to first use.

(Reasons for approval:

The change of use hereby permitted is located in the City Centre Leisure Area and adjacent to the Late Night Activity Zone, where uses of this kind are considered acceptable. Subject to the conditions attached to the planning permission, the use will only operate in conjunction with the premises already operating within the extended Late Night Activity Zone and will minimise disruption and alteration to the immediate Rose Lane area, nor is there considered to be a detrimental impact on the street scene or residential or visitor amenity. Therefore the proposals are in accordance with PPS4 and saved policies AEC1, HBE8, EP10 and EP22 of the City of Norwich Replacement Local Plan (Adopted Version November 2004)).