

PLANNING COMMITTEE – 4 DECEMBER 2018

Application No:	18/00664/FUL	
Proposal:	Material Change of Use from A2 to A3	
Location:	9 Church Street, Southwell, NG25 0HW	
Applicant:	Mr D and Miss C D / C Crawley	
Registered:	17.05.2018	Target Date: 12.07.2018 Extension agreed to: 09.11.2018

This application is presented to the Planning Committee for determination as it has been referred by Cllr B Laughton on behalf of Southwell Town Council on the grounds of unacceptable impact on neighbour amenity.

Description of Site and Surrounding Area

No. 9 Church Street is a Grade II listed (1046142) former house, (last used by the Nat West Bank) dating from c.1784 and first listed on 9th February 1973. The property is located on the north east side of Church Street and is approx. 90m north west of the Grade I listed Southwell Minster. There is a wall running along the side boundary of the site which is also listed.

To the side of the property is a single width vehicular access which leads to a parking area to the rear of the property. The building is accessed by a pedestrian door set back approx. 7m off the pavement on Church Street. The site is located within the Southwell District Centre (as defined by the Adopted Newark and Sherwood Allocations and Development Management DPD), the Southwell Conservation Area and the Southwell Protected Views Area and approx. 3 m west of the primary shopping frontage for Southwell.

The building previously operated as a bank (A2) but has been recently decommissioned and as such is currently not in use. The first floor portion of the building is a separate residential unit and is occupied on a long term lease. The footprint of the flat above does not cover the entire footprint of the ground floor application site.

The adjoining property to the east is Grade II listed Minster Lodge (no. 11), a former prebendal house of Norwell Overhall, now a house - this building is one of the 9 remaining prebendal houses formerly attached to the Southwell Minster.

It is noted that there are a number of listed buildings within the immediate vicinity – in addition the main shopping frontage of Southwell is approx. 3m west of the application site. 20m to the west is the Crown Pub, 45m is the Saracens Head Pub and Hotel and 11m south across the highway is the Wine Bank and Bar (Mr & Mrs Fine Wine). The entrance to the 24hr public car park for Southwell is accessed 31m east of the application site going NE spanning the length of the

application buildings rear garden. There is a bus stop adjacent to the SE corner of the site and directly opposite across the highway which serves buses into Newark and Nottingham throughout the day and into the evening.

Relevant Planning History

17/01730/FUL – Change of use of existing bank (a2) to public house and restaurant (A4) – Withdrawn Oct 2017

17/01731/LBC – Change of use of existing bank (a2) to public house and restaurant (A4) – Withdrawn Oct 2017

17/00792/FUL – Removal of existing NatWest brand signage and ATMs together with internal alterations to remove non- original fixtures, fittings, furniture and equipment relating to the operation of the branch. – Permitted 3.7.17

17/00793/LBC – Removal of existing NatWest brand signage and ATMs together with internal alterations to remove non- original fixtures, fittings, furniture and equipment relating to the operation of the branch. – Permitted 3.7.17

15/01813/DISCON - Request for confirmation to discharge conditions 3 and 4 attached to planning permission 14/01547/LBC Re-building a section of garden wall like for like – Approved 16.11.15

15/00223/LBC - Proposal for advertisement signage for; One illuminated fascia; One non-illuminated projecting sign, One ATM vinyl non-illuminated tablet, ATM cladding and three miscellaneous permitted non-illuminated signage items (see application form for full details) – Permitted 8.4.15

15/00228/ADV - Proposal for advertisement signage for; 1 illuminated fascia, 1 non-illuminated projecting sign, 1 ATM vinyl non-illuminated tablet, ATM cladding and 3 miscellaneous permitted non-illuminated signage items (for full details see application form) – Permitted 8.4.15

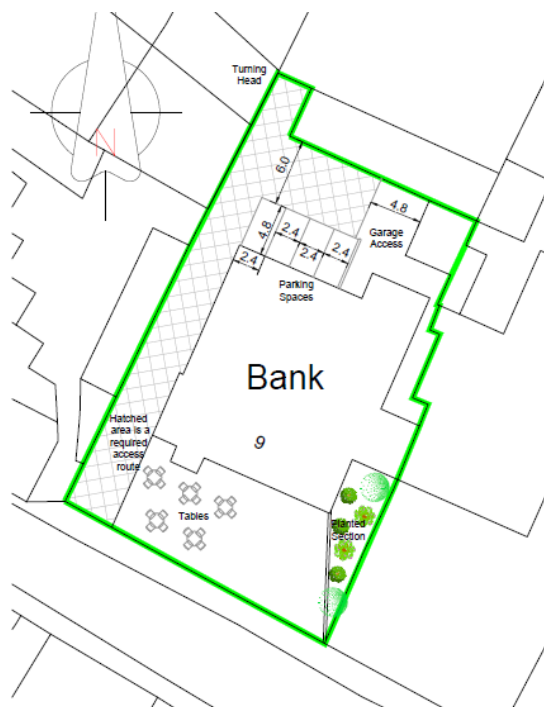
14/01547/LBC - Re-building a section of garden wall like for like – Permitted 21.11.2014

The Proposal

Full planning permission is sought for the change of use of the property from A2 (Financial and professional services - Financial services such as banks and building societies, professional services (other than health and medical services) and including estate and employment agencies) to A3 (Restaurants and cafés - For the sale of food and drink for consumption on the premises - restaurants, snack bars and cafes). No internal or external modifications are proposed at this time. The application purely seeks to establish the change of use of the premises.

As part of this proposal, the existing small car park is to be retained to the rear as parking for staff

members as shown on 'Proposed Site Location Plan – GBS/1603/005'. The applicant has clarified that the rear garden is not proposed to be included within this application - the extent of the site proposed to be included within the application is shown on the below plan.



Access for staff and deliveries is taken from the SW of the site which is shown as hatched on the above plan. The area to the front of the building is proposed to be used for outside seating with a section to the SE proposed to be planted.

There is currently no proposed end user of the site but the application seeks to establish hours of operation between 07:00 until 23:00 Monday – Sunday including Bank Holidays however the noise survey submitted highlights it is assumed that the site may be active for up to an hour after closing for cleaning and staff leaving the site etc. The application form states that the business would employ 4 full time and 4 part time staff members.

The current application seeks a material change of use and given no end user has been identified extensive detailed design work has not been provided at this stage in relation to soundproofing. However, following the concerns of the Environmental Health Officer the agent has provided an example drawing Ref: GBS/1603/008 of proposed soundproofing that could be applied to a listed building (noting that this would require a subsequent Listed Building Consent). It is noted that the property currently has a suspended ceiling in place with existing fixing points.

Documents deposited with this application:

- Application Form and Certificates (4.4.18)
- Site Location Plan - GBS-1603-003 (4.4.18)
- Proposed Floor Plans - GBS-1603-002 (4.4.18)
- Existing Floor Plans - GBS-1603-001 (4.4.18)
- Heritage Statement (8.5.18)

- Supporting Statement and Email (20.07.18)
- Existing and Proposed Site Location Plan – GBS-1603-005 (20.07.18)
- Proposed Ceiling Detail – GBS-1603-008 (20.07.18)
- Noise Impact Assessment – Ref. 2823GU by Nova Acoustics (19.10.18)

Departure/Public Advertisement Procedure

Occupiers of 64 properties have been individually notified by letter. A site notice has also been posted close to the site and an advert placed in the local press.

Planning Policy Framework

Southwell Neighbourhood Plan (made 11 October 2016)

Policy SD1 - Delivering Sustainable Development

Policy DH1 – Sense of Place

Southwell Design Guide

The Development Plan

Newark and Sherwood Core Strategy DPD (adopted March 2011)

Spatial Policy 1: Settlement Hierarchy

Spatial Policy 2: Spatial Distribution of Growth

Spatial Policy 7: Sustainable Transport

Core Policy 6: Shaping our Employment Profile

Core Policy 8 – Retail Hierarchy

Core Policy 9: Sustainable Design

Core Policy 14: Historic Environment

SoAP 1 – Role and Setting of Southwell

Allocations & Development Management DPD

Policy DM1: Development within Settlements Central to Delivering the Spatial Strategy

Policy DM9: Protecting and Enhancing the Historic Environment

Policy DM5: Design

Policy DM11: Retail and Town Centre Uses

Policy DM12: Presumption In Favour of Sustainable Development

Area Policy SoDC1 – Southwell District Centre

Other Material Planning Considerations

- National Planning Policy Framework 2018
- Planning Practice Guidance 2014

Consultations

Southwell Town Council – “Southwell Town Council considered application 18/00664/FUL 9 Church Street and agreed unanimously to object to the application and to ask Cllr Bruce Laughton to call in this application for the following reasons:

- This application lies within the precincts of the Minster and with no indication of what the property would be used for, it could negatively impact on the sense of place (NP DH3 Historic Environment 7.14), therefore more information is required;
- There is public documentation available which indicates that a change to A4 is possible which is unacceptable to the committee;
- The hours of business are stated as 7am to 12 midnight, therefore this will cause increased noise and light pollution to neighbouring properties within the conservation area;
- The rear garden is a haven for wildlife and runs deep into the heart of Southwell with 21 adjoining properties along its boundary with very little protection from increased noise, smells and light.
- Also, there would be a decrease in the security of these gardens.
- It has inadequate unloading and parking facilities and inadequate vehicle access causing possible public safety issues.
- The building has many listed features and the committee required further information on any potential changes to the building via an LBC application.”

Additional Comments Received - “The Council would like to reiterate the comments submitted in June 2018 and add to them the following.

There are issues relating to the potential use of the gardens in the future, access for residents into the shared car parking space, increased noise, waste location and access into and out of the property, parking and lack of amenities to the residents living above. Any application for casual use will also be objected to and the Council wish to strongly keep in mind that the building is a listed building.”

Southwell Civic Society – “We have no objection to the reclassification of this property from A2 to A3 per se.”

Second comments submitted 11th June 2018 – “This submission supercedes our response of 30th May 2018.

We have no objection to the reclassification of the building from A2 to A3 per se.

However, we are concerned about the potential effect on the prebendal garden and the environs of the surrounding properties. We would therefore request that the garden be excluded from any change of use.

We have noted in the Estate Agent’s Brochure that it was intended that an application would be submitted for change of use to A4. If this were the case then we would strongly oppose any such proposal for the reasons described in our response detailed below to application 17/01730 which was subsequently withdrawn.

If NSDC are minded to approve the change of use to A3 it should be made clear that any future application for a change to A4 or A5 would be refused.

Our submission regarding 17/01730 stated:-

This is a Grade II listed prebendal house situated at Southwell's historic and religious heart. It therefore has considerable significance architecturally, culturally and socially. The application conflicts with the Neighbourhood Plan, which was comprehensively endorsed by the citizens of Southwell in a referendum.

Policy DH3 states that: - "Development proposals within the historic Town Centre must not negatively impact on the spaces, links or relationships between buildings, particularly those associated with the Minster where the aim is to maintain a sense of place within and around its precinct."

We appreciate that the proposal at this time is to leave the outer walls of the building as they are. However, Conservation Areas are not just about conserving building fabric but also about conserving and indeed adding to the ambiance of the area as a whole. This will not be the case if a public house with an outside beer garden is permitted in this sensitive location.

We are also deeply concerned about the effect the proposed change of use will have on the amenity of the residents living in the properties adjoining and near to the proposed public house. This is contrary to the Neighbourhood Plan Policy SD1, which states: -

"That, where applicable, account has to be taken of the wellbeing and social development needs of Southwell residents".

We also note that the proposed application is limited to the ground floor and therefore the landlord will not be resident in the public house but living elsewhere unaffected by any negative impacts of the proposal."

NSDC Conservation Officer – 9 Church Street is Grade II listed. The building is within the Southwell Conservation Area (CA) and is in proximity to the significant landmark Minster Church, Grade I listed. There are many other fine historic buildings within this part of the CA.

Legal and policy considerations

Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the 'Act') requires the Local Planning Authority (LPA) to pay special regard to the desirability of preserving listed buildings, their setting and any architectural features that they possess. Section 72 also requires the LPA to pay special attention to the desirability of preserving or enhancing the character and appearance of conservation areas. In this context, the objective of preservation is to cause no harm, and is a matter of paramount concern in the planning process. The courts have said that these statutory requirements operate as 'the first consideration for a decision maker'.

Policies CP14 and DM9 of the Council's LDF DPDs, amongst other things, seek to protect the historic environment and ensure that heritage assets are managed in a way that best sustains their significance.

The importance of considering the impact of new development on the significance of designated heritage assets, furthermore, is expressed in section 12 of the National Planning Policy Framework

(NPPF). Paragraph 132 of the NPPF, for example, advises that the significance of designated heritage assets can be harmed or lost through alterations or development within their setting. Such harm or loss to significance requires clear and convincing justification. The NPPF also makes it clear that protecting and enhancing the historic environment is sustainable development (paragraph 7). LPAs should also look for opportunities to better reveal the significance of heritage assets when considering development in conservation areas (paragraph 137).

The setting of heritage assets is defined in the Glossary of the NPPF which advises that setting is the surroundings in which an asset is experienced. Paragraph 13 of the Conservation section within the Planning Practice Guidance (PPG) advises that a thorough assessment of the impact on setting needs to take into account, and be proportionate to, the significance of the heritage asset under consideration and the degree to which proposed changes enhance or detract from that significance and the ability to appreciate it.

Additional advice on considering development within the historic environment is contained within the Historic England Good Practice Advice in Planning (HEGPAP; notably Notes 2 and 3). In addition, 'Historic England Advice Note 2: making changes to heritage assets' advises that the "main issues to consider in proposals for additions to heritage assets, including new development in conservation areas, aside from NPPF requirements such as social and economic activity and sustainability, are proportion, height, massing, bulk, use of materials, durability and adaptability, use, enclosure, relationship with adjacent assets and definition of spaces and streets, alignment, active frontages, permeability and treatment of setting. Replicating a particular style may be less important, though there are circumstances when it may be appropriate. It would not normally be good practice for new work to dominate the original asset or its setting in either scale, material or as a result of its siting" (paragraph 41).

Significance of heritage asset(s)

Southwell Conservation Area (CA) was first designated in 1968 and extended in 1970 and 1993. The Council produced an Appraisal of the CA in 2005 following a further review and again amended the boundary. The existing CA boundary has been drawn to include the Minster Church and distinctive Prebendal area, the historic commercial centre of King Street and Queen Street, the Burgage and the former hamlets of Easthorpe and Westhorpe. Key features of the conservation area are the presence of the Minster church, its well-preserved historic layout, the high proportion of listed buildings and unlisted buildings of quality, its strong character areas and its attractive landscape setting. The Minster is a prominent landmark within the town and can be seen for miles around.

The proposal site falls within the Minster and Prebendal character area. There are quite a significant number of large houses in the Minster character area, most of which are Prebendal houses, or their replacements, set within their own grounds. These were the residences of the prebendaries (secular canons) who were supported by income from endowments of properties and tithes known as prebends. By the end of the 13th century, sixteen prebends and prebendal houses had been established. There are now only nine remaining and none is the original building although parts of the originals have been incorporated into the fabric of some of the new.

The former NatWest Bank at 9 Church Street is Grade II listed. It was first designated in 1973.

Extract from list description: "House, now bank. c1784, 2 storey bay window early C19, single storey bank addition c1920. Brick, colourwashed, with stone dressings and slate roof. 5 bay bank addition with rusticated quoins and moulded parapet covers most of the house front and projects to left. 3 plain sashes, projecting porch to left and blank bay to right. House, 2 storeys, 5 bays, has chamfered quoins, moulded eaves, 2 gable stacks, plain sashes. To right, a single window. Above, to left, an irregular 2 storey bay window with 2 sashes. To right, 3 sashes. This building is part of the late C18 additions to the prebendal house of Norwell Overhall which adjoins to the right".

Minster Lodge adjacent is the former Prebendal house. List entry advises: "Former prebendal house of Norwell Overhall, now a house. Front range c1784 for Susanna Clay, incorporating remains of a C14 and a C17 house in the rear wing. Late C19 addition in return angle to east. Brick with slate and pantile roofs. C14 remains coursed rubble. Single coped gable, cogged eaves to front and rear wing, 2 gable and single ridge stacks. Front, 2 storeys, 5 windows, has glazing bar sashes throughout, with flat arches and slatted shutters. Ground floor windows are taller. Rear addition, 2 storeys, 3 windows, has a plain door case to left. Rear wing, 2 storeys, 3 windows, incorporates a section of C14 wall approx. 2M high to north and east. East side has an off-centre C14 double lancet with a flat head. West side has part of a C17 wall post. This building is one of the 9 remaining prebendal houses formerly attached to Southwell Minster".

Assessment of proposal

The existing bank usage is classified as A2, professional services. The proposed change of use is to A3, food and drink. No alterations are proposed to the interior or exterior of the property as part of this change of use application.

Conservation has no objection to the proposed development.

No harm is perceived to the character and appearance of the CA or setting of other heritage assets in this case.

It is probable that an A3 use will require some modifications to the listed building. The applicant should be reminded that as a listed building, any necessary works to enable the change of use which affect the special interest of the building will require listed building consent. Proposals which preserve the special interest of the listed building will be treated favourably.

Conclusion

Conservation considers the change of use to be acceptable and in accordance with the objective of preservation required under sections 66 and 72. The proposal is therefore also compliant with heritage policies and advice contained within DM9 of the Council's LDF DPD and section 12 of the NPPF.

If approved, the following informative note should be added:

This permission relates solely to the change of use of the premises and does not permit any building or other operations. As the building is 'listed', in addition to any other permissions which

may be needed, listed building consent will be required for any works, either internal or external, which affect its special architectural or historic interest.”

NCC Highways – “The above application is within a site within the central area of Southwell. Church Street to the front of the building is protected by a combination of zig zag markings for the pedestrian crossing and double yellow lines therefore parking for the development will not create a highway issue.

Servicing is permitted to take place from the double yellow lines outside.

In consideration of the above, we have no objection to the change of use.”

NSDC Access and Equalities Officer – “It is recommended that the developer be advised to consider inclusive access to, into and around the proposal to ensure that it is equally convenient to access and use throughout.

Inclusive access and facilities for all should be considered, with particular reference to disabled people. In this regard, BS 8300: 2018– ‘Design of an accessible and inclusive built environment - Code of Practice’ contains useful information in addition to Approved Documents M and K of the Building Regulations.

A separate enquiry should be made regarding Building Regulations matters and it is further recommended that the developer be mindful of the provisions of the Equality Act.”

**Historic England – “9 CHURCH STREET, SOUTHWELL, NOTTINGHAMSHIRE
Application No. 18/00664/FUL**

Thank you for your letter of 18 May 2018 regarding the above application for planning permission. On the basis of the information available to date, we do not wish to offer any comments. We suggest that you seek the views of your specialist conservation and archaeological advisers, as relevant.

It is not necessary for us to be consulted on this application again, unless there are material changes to the proposals. However, if you would like detailed advice from us, please contact us to explain your request.”

NSDC Environmental Health – “...Further to the above application I note that it is for a change of use class from A2 to A3. As I understand it the A3 use class is for food and drink. As I understand it the first floor is a residential let flat with no current connection with this application.

That being the case, the proposed food use if approved could be enacted as anything from a tea room to a franchised fast food outlet. In the latter case there is considerable scope for noise and disturbance to the residents upstairs from activities in the premises, odour customer movements, potentially late opening hours.”

Additional Comments 16.8.18 – “Honor thank you for consulting me in relation to the addition sound insulation details. As I understand the indicative scheme or something

similar would be applied to the ceiling of the ground floor subject to any listed building and building regulation consent, though I note that there is no claimed sound attenuation.

Whilst such a scheme if properly designed and implemented could give a suitable level of protection from impact and reverberant sound to the residents upstairs, there could still be issues of noise and odour from cooking extraction. Furthermore such a scheme of sound insulation would offer no protection from noise from patrons visiting the premises in the evenings or other noise sensitive times.”

Additional Comments 19.10.18 – “The report presents a technical assessment of noise generated inside the premises or from external plant associated with it. The report also makes recommendations as to noise levels should the development go ahead.

I have two concerns in respect of the report:

Nova Acoustics have used a noise level of 80dB within the restaurant downstairs. This seems low and could foreseeably be much higher. The consequence being an increased noise impact on the flat above.

Furthermore that report has made no assessment of noise from patrons outside the premise, both traveling to and from and also any outdoor smoking areas.

I therefore believe that the proposed development could still cause noise and disturbance to the existing residents in the flat above”

20 no. comments have been received in objection to the proposal, the concerns are summarised below.

- Insufficient information submitted with the planning application
- Lack of detailed heritage impact assessment
- Inappropriate use of a listed building and prebendal house
- Concerns regarding impact upon the conservation area
- Impact upon neighbouring residential amenity through noise, odour, waste disposal, light pollution etc.
- Loss of privacy
- Anti-social behaviour
- Highway Safety: Dangerous access point, receiving deliveries off Church Street could impact the zebra crossing, close proximity of public bus stops
- Competition for local businesses
- Environmental Concerns regarding Bats and Owls on the site
- Inappropriate use class amongst residential properties
- Insufficient car parking facilities
- Safety concerns
- Impact on neighbouring residents quality of life
- Impact upon the setting of surrounding listed buildings

- Impact upon the local economy
- Contrary to the Southwell Neighbourhood Plan
 - “the wellbeing of residents should be protected”
 - “the impact on the public realm”
 - “highway conditions and traffic flow and parking”
 - “protection of species”
- Hour of operation in a residential environment
- Unsatisfactory relationship with existing uses within the same overall site
- Insufficient infrastructure to cope with development
- Flooding issues and impact upon the drainage system
- Insufficient Noise Assessment submitted

1 comment has been received in support of this proposal:

- Positive contribution to the local economy
- Provide important jobs for local people
- Expand the tourist trade in Southwell
- Greater diversity of businesses

Comments of the Business Manager

The NPPG acknowledges that Neighbourhood planning gives communities direct power to develop a shared vision for their neighbourhood and shape the development and growth of their local area, thus providing a powerful set of tools for local people to ensure that they get the right types of development for their community where the ambition of the neighbourhood is aligned with the strategic needs and priorities of the wider local area.

Following public consultation and independent examination, at its council meeting on 11th October 2016 Newark and Sherwood District Council adopted the Southwell Neighbourhood Plan. The Neighbourhood Plan now forms part of the development plan for the district and its policies are a material consideration alongside other policies in the development plan and carry weight in the determination of planning applications in Southwell. In this instance the most relevant policies in the Neighbourhood Plan are listed above and are considered against the relevant aspects of the proposal in the assessment below.

Principle of Development

Core Policy 6 requires the economy of the District to be strengthened and broadened and Core Policy 8 sets out the retail hierarchy for the District. The site lies within the defined Southwell District Centre as defined by the Development Plan. Policy DM11 states that ‘New and enhanced retail development and other town centre uses that are consistent with the size and function of the centre and maintain and enhance its role will be supported within the District Centres, as defined on the Policies Map...’ The NPPF supports sustainable economic growth and places significant weight on the need to support economic growth through the planning system. The NPPF (2018) defines a main ‘town centre use’ which includes recreation uses such as restaurants and bars and pubs.

Area policy SoAP 1 (Role and Setting of Southwell) supports the promotion of Southwell’s role as a Service Centre for the town and its surrounding area by “protecting and enhancing the existing

historic environment which makes the town attractive to residents and visitors.” To achieve this, the policy says that the council will encourage the development of new businesses and local employment to ensure Southwell is a sustainable place to live and work in line with the Spatial Strategy of the plan. It goes on to say that the council also seeks to ‘promote the town as a destination for tourism and leisure activities encouraging events and festivals which attract visitors’.

Policy HE4 (Economic Development and Employment) of the SNP states that the development of new businesses and employment will be encouraged to ensure Southwell remains a sustainable place to live and work. The policy goes on to explain that development proposals which deliver economic development on an existing employment site will be supported, especially where they seek to diversify employment opportunities through the provision of small business starter units within the town, subject to compliance with other relevant development plan policies.

Policy DH3 - Historic Environment of the SNP also states that development proposals within the Historic Town Centre must not negatively impact on the spaces, links or relationships between listed buildings, particularly those associated with the Minster where the aim is to maintain a sense of place within and around its precinct. In addition it goes on to state that within the Historic Town Centre the established layout of large houses within their own extensive grounds must be retained and that the surviving Prebendal plots must not be subdivided.

The site is situated within the designated District Centre for Southwell as well as the Southwell urban boundary surrounded by a mix of use class businesses and public houses; the site also lies on the periphery of the Primary Shopping Frontage (3m east). Use Class A3 includes restaurants and cafés – use for the sale of food and drink for consumption on the premises including restaurants, snack bars and cafes of which I note are already in existence along King Street to the North West, Market Place to the west and Westgate to the SW. To the south west lie two public houses, the Crown Hotel and The Saracens Head Hotel. Directly opposite the application site (11m) is the Wine Bank (Mr & Mrs Fine Wine) which operates as a unit for wine tasting evenings (open Tues-Thurs until 7pm and Fri & Sat until 9pm).

I consider the A3 use class to be an acceptable service centre use and as such, I consider that the proposed use is acceptable in this location and will not result in a dominant use along Church Street in accordance with Policy DM11.

With regards to the appropriateness of the proposed use in this location I note that the Southwell service centre shopping core is vibrant and thriving and that existing uses in the locality include residential, retail, offices and food and drink premises. The loss of the A2 (professional service) in this circumstance was a commercial decision taken by NatWest Bank. Whilst the presence of a clearly bank adds to the functionality of the District Council, it is not a facility that can be protected through the planning system. As such I am of the view that this change of use would cause no avoidable loss.

The building was last in use as a bank (Use Class A2) albeit it is now closed. Given its position within a District Centre, a main town use such as an A3 café or restaurant is considered to be appropriate as a matter of principle. In addition to this it is considered that, rather than remaining vacant, the A3 use in this building could have a positive impact on the sense of place and secures a viable use for the listed building. Overall, it is considered that the proposed change of use of the building from A2 to A3 is acceptable in principle as it would satisfy the above policy requirements

and reintroduce a use within a currently vacant building and bring it back into use in order to support the economic growth of Southwell.

I note that the Southwell Town Centre is vibrant and that existing uses in the locality include residential, retail, offices and food and drink premises. The premises lie within the conservation area and within the main town centre; I note that in the immediate area there are a number of eating and drinking establishments with the closest being The Crown public house approx. 20 m to the west of the site and the Wine Bank (and tasting bar) 11m across the highway to the south.

As the site is designated as a District Centre, policy DM11 from the ADMDPD applies. This states that the Council will allow a greater diversity of town centre uses that contribute to the overall vitality and viability of the town centre providing there is no overall dominance other than A1. I consider that this application is compliant with this policy as there are a variety of uses Church Street and King Street to the NW, however from inspection A1 is still the dominant use. As such I consider that the proposed A3 use class would be appropriate in this location (subject to an assessment on the impact on neighbouring residential amenity) and complies with the aforementioned policies regarding appropriate town centre development.

Impact upon Character of Area

Core Policy 14 of the Core Strategy requires the continued preservation and enhancement of the character, appearance and setting of listed buildings and the preservation of the special character of Conservation Areas. Policy DM9 of the DPD requires local planning authorities to have special regard to the desirability of preserving or enhancing the character or appearance of Conservation Areas and the desirability of preserving the architectural or historic interest of Listed Buildings. The NPPF states that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation.

The proposed change of use does not involve any extension, alteration or physical changes to the building and as a result would not have any negative impact on the spaces links or relationship between the listed building and its relationship with the Minster. As such I am satisfied that this proposal will not unduly impact the character of the wider area or conservation area.

Any future alteration to the external or internal arrangements of the building will require listed building consent (and possibly planning permission) and I am satisfied that the historic significance of the host building and the surrounding area would not be negatively impacted through the pure change of use and any proposal to amend the building to facilitate this use or that could impact this would be fully assessed through a separate application.

I note the comments of the Conservation Officer and am satisfied that the proposed material change of use would not in itself result in any adverse impacts upon the historic fabric or setting of the building nor the character of the surrounding conservation area and setting of the surrounding listed buildings in accordance with the objective of preservation set out under sections 16, 66 and 72, part II of the 1990 Listed Building and Conservation Areas Act, and complies with heritage policies and advice contained within the Council's LDF DPDs, Southwell Neighbourhood Plan and section 16 of the NPPF.

Appropriateness of proposed use in this location

There are 9 public houses and a number of small cafés and restaurants within Southwell and I acknowledge that there have been a number of neighbour concerns raised with regards to the prospect of anti-social behaviour, appropriateness close to residential accommodation and business competition.

With regards to the competition comments, this is not a matter that the planning system can control as it is not a material consideration that a decision maker can have regard to. I am however mindful that the proposed use class seeks to attract an end user within the restaurant and café market to ensure a viable use for the listed building and improve marketability for a premises within the town centre. I also note that the NPPF as amended, states that local planning authorities should plan positively, to support town centres to generate local employment, promote beneficial competition within and between town centres, and create attractive, diverse places where people want to live, visit and work.

Crime and disorder is a material consideration. However in my opinion the introduction of another restaurant/café establishment within Southwell would be likely to redistribute people who are already visiting the centre, thereby increasing competition with other premises. Even in the event that this change of use would lead to a modest increase in the overall number of people in Southwell at night, it does not follow that this would lead to an increase in crime and disorder in the immediate locality.

The Town Council makes reference to public documentation available which indicates a change to A4 is possible. For the avoidance of doubt Use Class A4 is a drinking establishment. I am not aware of any documentation submitted as part of this application that would allude to the possibility of an A4 use being established within this premises. I note that there was a previous application to change the use of the building to A4, this application was withdrawn some months prior to this application and does not form part of the proposal at hand. Again for clarity if the proposed café/restaurant use is approved (A3) there is not permitted change to A4 and a fresh full planning application would be required for this.

Impact upon Residential Amenity (including Noise, Odour etc)

Criterion 3 of policy DM5 outlines that regard should be given to the impact of proposals on amenity or surrounding land uses and should not cause unacceptable loss of amenity. DM5 also states that any new development proposal that creates an unacceptable standard of amenity will be resisted. National planning policy advice in the NPPF recognises the importance of supporting the vitality and viability of town centres, which could mean support for the night-time economy but care is needed so that such uses do not disturb nearby residents.

I consider the main issues with this proposal to be whether the change of use would cause unacceptable harm to nearby residents (noting that many residential properties have commented in objection to this proposal as they live in close proximity to the rear garden of the site).

The hours of operation are proposed from 07:00 until 23:00 Monday-Sunday including Bank Holidays. These hours are considered acceptable for A3 operators within a Town Centre location, and indeed are similar to other commercial properties in the immediate vicinity which also have neighbouring residential properties. Comments received that reference the use of the rear garden area of the site for A3 use have been clarified by the agent who has subsequently submitted a

revised plan showing the extent of the change of use is limited to the building itself and does not include the rear garden, which is reserved for staff parking. A condition can be imposed to ensure this remains the case.

With regards to the impact upon surrounding residential amenity, in locations such as mixed commercial/residential areas containing a proportion of pubs and restaurant uses, within a defined town centre environment and served by busy roads, it may be concluded that a significant degree of noise and activity both during the day and in the evening is inevitable. It may also be considered that people who live in or near such a location must expect a certain level of activity close to their homes. In this instance, I note that there are two close residential properties to consider in the assessment of this application – there is a long term residential lease on the unit above the application building and an adjoining residential occupier in the property to the east. The nature of this historic building means that noise attenuation within the property is poor and as such the intensification of use within the ground floor unit has the potential to impact the neighbouring amenity of existing residents.

The former NatWest Bank operated between the hours of 9.00am and 4.30pm Monday to Friday only. These operational hours for this particular use were considered to be acceptable and afforded adequate protection to the amenity of the occupiers of the first floor apartment and adjoining dwelling. Outside of those hours (including weekends) the property has historically been dormant. The occupiers of these two properties have chosen to live on the periphery of the primary shopping frontage within a town centre environment, but they have enjoyed the low level of noise disturbance by virtue of the former bank use. Given the location, the principal of this use class is considered to be acceptable, the proximity of nearby pubs/restaurants/shops adjacent to the primary shopping frontage for the area means that the residents are likely to be already affected by a certain level of commotion or general disturbance.

Concerns have been raised by the Environmental Health Officer (EHO) regarding the relationship between the proposed A3 premises and the upstairs residential flat stating that the proposed food use if approved could be enacted as anything from a tea room to a franchised fast food outlet. However I must point out that actually a fast food outlet would fall into Use Class A5 and outside of the scope of an A3 use; one that would need a separate planning application.

It is acknowledged that a café is likely to operate during the daytime but a restaurant would likely operate during the evenings giving scope for noise and disturbance to the residents upstairs from activities in the premises, from odour, customer movements, and potentially late opening hours. Following these comments from our EHO the agent has submitted an indicative plan (GBS/1603/008) demonstrating how soundproofing could be achieved sympathetically within the building that would reduce the impact on the residential property above.

Following the submission of these details the Environmental Health Officer reviewed the application and acknowledged that should the indicative scheme or something similar be proposed to be applied to the ceiling of the ground floor, subject to any listed building and building regulation consent, there is no claimed sound attenuation level that this would provide. Whilst such a scheme if properly designed and implemented could give a suitable level of protection from impact and reverberant sound to the residents upstairs and adjoining, there could still be issues of noise and odour from cooking extraction that would be unacceptable close to existing residential use.

The applicant took this opportunity to conduct and submit a Noise Impact Assessment which includes a noise breakthrough assessment (i.e. the direct impact of noise to neighbouring residents) – this section assumes that operations within the proposed restaurant are not expected to exceed a noise level of 80 dBA which the assessment states is in line with the Noise at Work Regulations 2005. It also assumes that any music associated with proposed site would be played at a background level only; this is subsequently stated as a recommendation of the report. The EHO commented on this report that a noise level of 80 dBA “*seems low and could foreseeably be much higher*” – in response to this the agent has advised that they believe this level to be robust and fairly conservative for the type of development. When considering that the Noise at Work Regulations 2005 suggest hearing protection is to be enforced at levels above 85dB and made available at 80 dB, I therefore agree with the agent that 80dB used in the assessment is likely to be higher than would be found in a cafe/restaurant. If noise levels were expected to exceed 80-85 dB for any length of time all kitchen staff and service staff would have to wear hearing protection and this is not how standard A3 use class premises operate.

In addition to this, the agent has advised that in their experience of undertaking noise surveys in a multitude of industrial type facilities they note the average ambient noise level of such places like sheet metal workshops, machine shops ranges from 80 - 90 dB. As such I am content that it can be assumed that an A3 cafe/restaurant is significantly quieter than this and thus an internal noise level of 80 dB is robust. The EHO chose not to comment further on this point.

The noise report presents a technical assessment of the noise generated inside the premises and from external plant associated with it and goes on to make recommendations as to appropriate noise levels should the development go ahead. The EHO has advised that whilst the survey does this, the report has made no assessment of noise from patrons outside the premise, both traveling to and from in the evenings or other noise sensitive times which could impact local residents. I agree that the survey does not consider the mitigation of noise from patrons, however I cannot see how the applicant would be able to mitigate against a variable that cannot be predicted, such as the level of noise people might make when going into the premises or leaving it. It is not reasonable to insist that the applicant demonstrates how noise from patrons will be prevented when this is something that cannot be controlled. Having discussed this with our EHO, they agree.

It is important to note that the EHO has not offered any technical appraisal of the level of disturbance that they anticipate would occur from patrons as a result of this use. When questioned regarding their technical appraisal of the current level of disturbance from patrons vs the predicted level using the data the applicant has provided regarding hours of use the EHO has chosen not to comment. Without a technical justification as to why the addition of passing trade to the new restaurant/café would be so significant that it would result in an unreasonable level of disturbance I consider this argument would be indefensible at an appeal.

Taking into account the site context and surrounding uses, given the car park and adjacent bus stops I am confident that the frontage of this application site is already a highly used thoroughfare and that there will already be a considerable degree of disturbance from patrons going to and from the primary shopping area to the west.

I must consider whether the level of disturbance from the addition of this A3 use would be so significant that it would result in an unreasonable impact on neighbouring amenity. Whilst I sympathise with the neighbouring residents, I am of the view that occupants of residential properties within a town centre, in such close proximity to the primary shopping frontage cannot expect to enjoy the same degree of residential amenity as would be achievable in wholly

residential areas. I must conclude that, given there has been no technical justification from the EHO given the location, the noise levels from the comings and goings of patrons to the building in A3 use would be indistinguishable from the noise already found in the town centre.

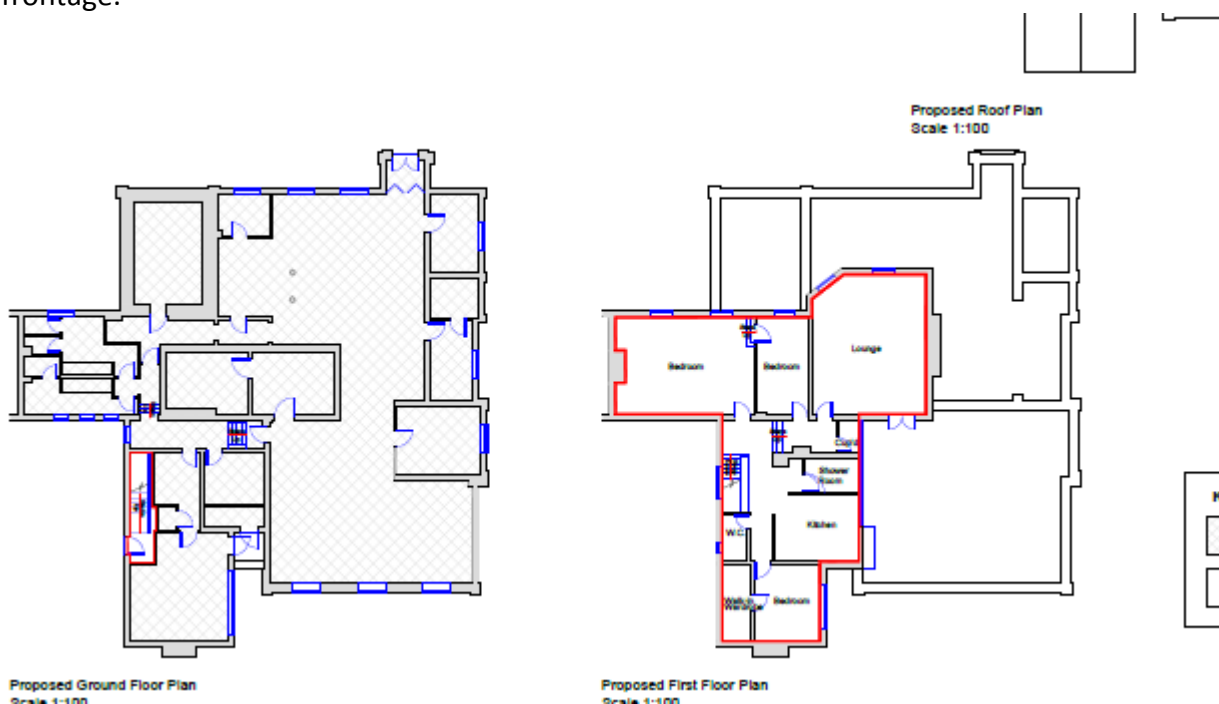
It can be concluded that the anticipated noise associated with visiting patrons is not likely to create an unacceptable level of disturbance to the existing local residents in excess to what is already experienced by virtue of this town centre location. The site is therefore considered to be suitable for an A3 use class, it has been demonstrated that internal soundproofing could give a suitable level of protection from impact and reverberant sound to the residents upstairs and adjoining (which will be secured via condition) and given the location it is not justified to conclude that the level of noise from patrons would be increased so much so that it would unduly impact neighbouring residents that have chosen to live in a town centre location.

Outside Area

Members will note that the indicative plan suggest an area of outside seating to the frontage of the building. I consider that if this area was to be used during the daytime only (to match the shopping hours of the District Centre) then this would cause no unacceptable harm to amenity. However I would be concerned at its use during the evening/anti-social house due to levels of noise from patrons. As such I consider that a condition is appropriate to restrict the use of this area for seating to between 09.00 and 17.00 on any day.

Smoke/Odour

Turning my attention to potential nuisance to neighbours from patrons smoking outside, I note that the residential unit above is located in only part of the first floor and is set back from the frontage.



Therefore in the event that a smoker chose to stand outside the front of the building smoking, this smoke would not be directly underneath the lounge or bedroom windows. In any event I consider that patrons could be encouraged to smoke at a designated point within the site (possibly to the

site) by imposing a condition that requires the provision of a smoking point with smoking bin and cover prior to first occupation which I consider is reasonable.

With regard to odour from the cooking equipment, it is noted that the EHO has indicated there could be issued regarding this. No details have been provided given that no end user is identified. However this is a matter that can be controlled via condition by requiring full details including the technical details prior to the use operating in order to safeguard the amenity of neighbours. Its impact upon the listed building and its surrounding area would be controlled via the need for a listed building consent in any event.

In summary, I am satisfied that the impacts upon the amenity and living conditions of those in the area (subject to the conditions I have suggested) would not be unduly harmed by the introduction of this use into the building in a District Centre. As such this application would accord with the principals outlined within policy DM5 of the ADMDPD, as well as the NPPF and PPG.

Impact upon Highway Safety

Spatial Policy 7 of the Core Strategy seeks to ensure that vehicular traffic generated does not create parking or traffic problems. Policy DM5 of the DPD requires the provision of safe access to new development and appropriate parking provision.

The site is situated within walking distance to existing public car parks and in addition, the NCC highways commented on the application raising no objections to the proposal as the alterations do not affect the public highway.

I note the concerns raised by local residents regarding deliveries to the site and the hazardous access point into the site. I am satisfied that the proposal to utilise a portion of the rear garden area as parking for staff provides a safe access and delivery area for delivery vehicles and am therefore satisfied that there will be no detrimental impact upon the public highway in concurrence with the Highways authority.

I am of the view that the majority of customers attracted to this proposed establishment would be unlikely to drive and that there is no evidence to suggest that the proposal would increase the demand for parking in the surrounding roads. I am of the view that there is ample provision for public parking within the Southwell centre and that there are a number of public bus services that operate through the area with two bus stops located less than 10 m from the boundary of the application site. I am satisfied that a large proportion of the customer base in Southwell will walk, utilise public parking facilities or public transport and therefore conclude that the proposal will not result in any adverse impact upon highway safety in accordance with Spatial Policy 7 of the Core Strategy and Policy DM5 of the DPD.

Conclusion

As set out above, I am satisfied that the principal of the use of the unit under A3 complies with local and national planning policies. The proposed change of use of the site is not considered to detrimentally impact upon the Southwell conservation area or the special historic significance of the listed building, nor is it considered to have a detrimental impact upon the highway network in accordance with SP7.

Due to the nature of the proposed use I have carefully considered impact upon neighbouring amenity and have concluded that there would be no overriding and significant detrimental harm upon neighbouring residential occupiers given the noise attenuation survey has evidenced that internal sound level can be controlled to negate any adverse impact on the adjoining neighbouring occupiers. I am satisfied that issues with odour from cooking equipment can be controlled and mitigated by imposing a condition.

I have concluded that in my view the noise levels from the comings and goings of patrons to the building in A3 use would be indistinguishable from the noise already found in the town centre. Taking into account the context, the frontage of this application site is already a highly used thoroughfare and there is already a significant degree of disturbance from patrons going to and from the primary shopping area to the west, it is considered that the level of disturbance from this use, subject to conditions, would not exacerbate any neighbouring amenity issues that would warrant the refusal of this application.

Rather, maintaining an active use of a property within the District Centre that is also a listed building must be given significant weight in the consideration of this application.

Taking all of these matters into account I conclude that this application accords with the principals outlined within the Development Plan, the NPPF and accords with the objective of preservation set out under sections 16, 66 and 72, part II of the 1990 Listed Building and Conservation Areas Act.

RECOMMENDATION

That full planning permission is approved subject to the following conditions;

Conditions

01

The development hereby permitted shall not begin later than three years from the date of this permission.

Reason: To comply with the requirements of Section 51 of the Planning and Compulsory Purchase Act 2004.

02

The use hereby permitted shall not be carried out except in complete accordance with the following approved plan references:

- Existing and Proposed Site Location Plan – GBS-1603-005 (20.07.18)
- Proposed Floor Plans - GBS-1603-002 (4.4.18)

unless otherwise agreed in writing by the local planning authority through the approval of a non-material amendment to the permission.

Reason: So as to define this permission.

03

The use hereby permitted shall not be begun until a scheme for sound insulation has been submitted to and approved in writing by the local planning authority. All works which form part of the scheme shall be completed before the use hereby permitted is implemented. The scheme as approved shall be retained for the lifetime of the development.

Reason: In the interests of residential amenity.

04

The premises shall not be open to patrons or customers outside the following hours:-

07:00 to 23:00 on any day of the week.

Reason: In the interests of residential amenity.

05

The use hereby approved shall be undertaken in strict accordance with the Recommendations and Mitigation measures outlined in section 4.3 of the Noise Impact Assessment – Ref. 2823GU prepared by Nova Acoustics (submitted 19.10.18), unless otherwise first agreed in writing with the Local Planning Authority.

Reason: In the interests of residential amenity.

06

The area of land to the front (south-west) of the building (which is shown to contain outdoor seating and tables on drawing no: GBS/1603/005) shall only be used by patrons or customers between the hours of 09.00 and 18.00 on any day unless expressly permitted by a separate planning application.

Reason: In the interests of residential amenity.

07

No amplified music shall be played in the premises.

Reason: In the interests of residential amenity.

08

Prior to the development being first brought into use, a scheme for the provision of a dedicated smoking area has been submitted to and approved in writing by the Local Planning Authority. This shall include the proposed location on site, the provision of smoking bins and appropriate signage directing patrons to the area. The approved smoking area and facilities shall be provided on site prior to the use first commencing and shall be retained for the

lifetime of the development unless otherwise agreed in writing by the Local Planning Authority.

Reason: In the interests of residential amenity.

09

The area to the north-east of the site (to the north of the building) shall be used for parking and servicing only as indicated on drawing number GBS/1603/005.

Reason: In the interests of residential amenity.

010

Prior to the use hereby permitted commencing, a scheme for the installation of equipment to control the emissions of fumes and smells from the premises shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be implemented on site prior to the use commencing. All equipment installed as part of the scheme shall thereafter be retained for the lifetime of the operational development and operated and maintained in accordance with the manufacturer's instructions.

Reason: In the interests of residential amenity.

Notes to Applicant

01

This permission relates solely to the change of use of the premises and does not permit any building or other operations. As the building is 'listed', in addition to any planning permission which may be needed, listed building consent will be required for any works, either internal or external, which affect its character.

02

The sound proofing scheme required by condition 03 and the cooking extraction equipment referenced in condition 10 will require an application for listed building consent which must be approved prior to the implementation of the use hereby permitted. The smoking bins may also require listed building consent.

BACKGROUND PAPERS

Application case file.

For further information, please contact Honor Whitfield on extension 5827.

All submission documents relating to this planning application can be found on the following website www.newark-sherwooddc.gov.uk.

Matt Lamb
Business Manager – Growth and Regeneration

Committee Plan - 18/00664/FUL

