

Report for Resolution

Report to Planning Applications Committee
Date 9 February 2012
Report of Head of Planning Services
Subject 11/02108/VC 37 Prince Of Wales Road Norwich NR1 1BG

Item
5(2)

SUMMARY

Description:	Variation of Condition 3 of previous planning permission (11/00671/F): 'Change of use from financial services (Class A2) to private member bar and six karaoke function rooms (Sui Generis) including alterations to shopfront to facilitate level access' From: 'The premises which form the subject of this permission and outlined in red on the approved location plan ref. [00153100] 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 <u>01:00am and 08:00am</u> on any day' To: 'The premises which form the subject of this permission and outlined in red on the approved location plan ref. [00153100] 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 <u>04:00am and 08:00am</u> on any day'.
Reason for consideration at Committee:	Member's Request
Recommendation:	Approve subject to conditions
Ward:	Thorpe Hamlet
Contact Officer:	Miss Sarah Platt 01603 212500
Valid Date:	1st December 2011
Applicant:	
Agent:	Mr M Marshall

INTRODUCTION

The Site

Location and Context

1. The application site can be found on the south side of Prince of Wales Road. The premises are a four storey (including basement), brick building with clay pantile roof. The front elevation has a traditional style glazed shop front at ground floor level with appropriate signage areas. The premises are currently vacant but the previous use saw an A2 financial services operation run on all floors. Planning permission has been granted for the change of use to an A4 drinking establishment

and the works are currently being undertaken to re-open the premises. There is an external courtyard area to the rear of the premises enclosed by a boundary wall on two sides but with open access to the rear. The rear area is overlooked extensively by residential properties on the Maidstone Road/Greyfriars Road development.

2. This is a mixed-use area within the City Centre. Adjacent to the east of the property is a lap dancing club operating in the basement and ground floor with offices above (B1) (number 39 Prince of Wales Road). Adjacent to the west is another late night bar with a vacant and unknown permitted use above. To the rear of the site lies a residential development built recently as part of the Greyfriars Road / Maidstone Road development. Opposite and also on Prince of Wales Road lie other late night uses including nightclubs, restaurants and bars and offices and cafes.

Constraints

3. Within the Late Night Activity Zone and Leisure Area as defined by saved policy AEC1. Within the City centre Conservation Area as defined by saved policy HBE8.

Relevant Planning History

4. Under application reference **11/00671/F** planning permission was granted for the change of use of the premises from financial services (Class A2) to private member bar and six karaoke function rooms (Sui Generis) including alterations to shopfront to facilitate level access.
5. Application number **11/02038/D**, not yet determined, seeks the discharge of the conditions of the above planning permission: Details of condition 4: provision and operation of internal CCTV; condition 5: a) existing shopfront and new access doors, b) new doors to the rear elevation, c) proposed lighting to the rear access, d) obscure film to be applied internally to the shopfront windows, e) refuse and cycle storage; condition 8 - landscaping; condition 11: fume extraction and ventilation equipment; and condition 12: details of air-conditioning units. If these conditions are not discharged before the determination of this application then they should be re-applied if permission is granted by committee members.
6. Application number **11/02111/A**, not yet determined, seeks Retrospective advertisement consent for the display of 1 No. internally illuminated fascia sign.

Equality and Diversity Issues

There are no significant equality or diversity issues.

The Proposal

7. The application seeks to vary a condition of the original permission (11/00671/F) relating to the hours of operation.
8. The original condition read as follows: *The premises which form the subject of this permission and outlined in red on the approved location plan ref. [00153100] 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 01:00am and 08:00am on any day.*
9. The application seeks to vary it as follows: *The premises which form the subject of this permission and outlined in red on the approved location plan ref. [00153100]*

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 04:00am and 08:00am on any day.

10. The extension would allow the premises to operate for an additional 3 hours every morning.

Representations Received

11. Advertised on site and in the press. Adjacent and neighbouring properties have been notified in writing. 1 letter of representation from a Councillor, including a request to call the application before Planning Committee, has been received citing the issues as summarised in the table below.

12.

Issues Raised	Response
Residents endure considerable disruption to family life, sleep and health as a result of anti-social behaviour by revellers on their way home, outside the geographical area and timing of the intensive policing that concentrates on Prince of Wales Road.	See paragraph 15-23
The existing conditioned hours allows for 6 hours rest time between 2am and 8am. Extending opening hours reduces this time and is not acceptable.	See paragraph 15-23

Consultation Responses

13. Environmental Health: No objections.
14. Norfolk Police: After consultation with Police Licensing Officers which have raised no objections, we do not contest the application for variation to the hours of use.

ASSESSMENT OF PLANNING CONSIDERATIONS

Relevant Planning Policies

Relevant National Planning Policies

PPS4 – Planning for Sustainable Economic Growth
PPG24 – Planning and Noise

Relevant policies of the adopted East of England Plan Regional Spatial Strategy 2008

SS6 – City and Town Centres

Relevant policies of the adopted Joint Core Strategy for Broadland, Norwich and South Norfolk 2011

Policy 5 – The economy
Policy 6 – Access and transportation
Policy 7 – Supporting communities
Policy 11 – Norwich City Centre

Relevant saved policies of the adopted City of Norwich Replacement Local Plan 2004

HBE8 - Development in Conservation Areas

EP22 - High standard of amenity for residential occupiers

AEC1 – Major art and entertainment facilities – location and sequential test

Supplementary Planning Documents and Guidance

City Centre Conservation Area Appraisal (September 2007)

Draft National Planning Policy Framework (July 2011)

Written Ministerial Statement: 23 March 2011: Planning for Growth

Support of enterprise and sustainable development.

Principle of Development

Policy Considerations

15. The use of the premises is not for consideration under this application. Its use has been assessed and approved under application reference 11/00671/F. The hours of operation are the only issue for consideration.

Other Material Considerations

16. The original opening hours condition was imposed as a result of consultation with Norfolk Police at which time their views (in part) were:

17. *'In seeking to police areas of the City Centre which cater for the late night economy in an efficient and effective manner i.e. the Late night Activity Zone as defined by saved policy AEC1 of the City of Norwich Replacement Local Plan (Adopted Version November 2004), Norfolk Constabulary has to take into account the size of the patrol area and recent history with regard to public disorder, which may include crime figures relating to the night time economy. Norwich City Council has a duty under Section 17 of the Crime and Disorder Act, 1998, to minimise the potential for crime, disorder and public nuisance in their area. With specific regard to Planning, this duty should be carried out in accordance with the key principles of local and national planning policies. Given these requirements, Norfolk Constabulary request that planning permissions for late night uses be restricted by conditions so that premises are not permitted to be open past 04:00hrs on any day given the constraints of the Police cover in the Late Night Activity Zone with the additional police resources dedicated to the Late Night Activity one finishing at 05:00hrs.*

18. The hours of use conditioned on the original permission were restricted to 01:00hrs as the nature of the use applied for was not considered to be a 'late night use' in the same sense as a nightclub would be for example. However, the applicant has requested the extension of hours until 04:00hrs as they are located within the Late Night Activity Zone and in order to compete with other such establishments in the area.

Impact on Living Conditions

Noise and Disturbance

19. Extensive sound insulation works are in the process of being carried out and are in accordance with the information as detailed on the original application. This included the following:

- upgrading of internal floors to provide insulation to 40dB;

- installation of self closing sealed acoustic external doors;
- rear external doors to be linked to the sound system to cut all amplified sound if the door is opened;
- all rear elevation windows removed and bricked up;
- all internal doors to be sealed acoustic doors;
- mechanical air conditioning with acoustically mounted units to the external;
- front elevation windows will have secondary glazing installed;
- a noise limiting device on the sound system with the limit to be agreed by the Local Planning Authority;
- no speakers in circulation areas, and;
- no external licensed areas.

20. Given these extensive sound insulation works, with maximum noise levels still to be agreed with the local planning authority, there is not considered to be any arising detrimental impact on the amenity of nearby residential dwellings as a result of the extension to the hours of operation.

21. An objection has been made to the application on the basis of continued noise disturbance, and as a result, sleep and health disruption. These premises are located within the Late Night Activity Zone, an area specifically designated for such uses as this and for such operating times. The applicant and owner is keen to avoid any noise disturbance to nearby residential properties and has, to the satisfaction of both Planning and Environmental Health Officers, agreed to and commenced appropriate sound insulation works. It should be noted that the works being proposed and carried out at this premises are considered to be over and above the standard of works carried out in existing premises of a similar nature.

Transport and Access

22. There are no transportation implications as a result of the extended opening hours proposed by this application.

23. It is not possible to control noise from groups leaving the premises and on their way home. Condition 10 a detailed at the end of this report seeks to control the use of the entrance and exit to the rear of the premises so as to minimise any impact on the adjacent residential properties. The main entrance and exit point is onto Prince of Wales Road so there should be minimal noise breakout to the residential premises to the rear of the site. It is also not possible to identify which individual premises the patrons might have come from who cause noise on their way home. On this basis it is not considered reasonable to object to this application on this basis.

Crime and Disorder

24. With regards to the potential for crime, disorder and public nuisance, the club has planning permission to operate until 01:00hrs. Norfolk Police have commented, as stated on the original application, that they are happy for the hours of use to be extended until 04:00hrs given the additional police resources dedicated to the Late Night Activity Zone finishing at 05:00hrs. It is therefore considered that the extension of hours of operation will not result in an increased potential for crime and disorder and is therefore acceptable.

Conclusions

25. The extension of hours of operation of the premises is considered acceptable and has the support of both Norfolk Police Licensing Regulation and the Crime Reduction Partnerships Department. There are not considered to be any arising detrimental impact on residential amenity or increased potential for the threat of crime and disorder as a result of this extension of operation hours.
26. The prospective variation of Condition permission will effectively re-grant the previous permission but with the appropriate condition varied and all conditions not discharged or still requiring compliance re-applied.

RECOMMENDATIONS

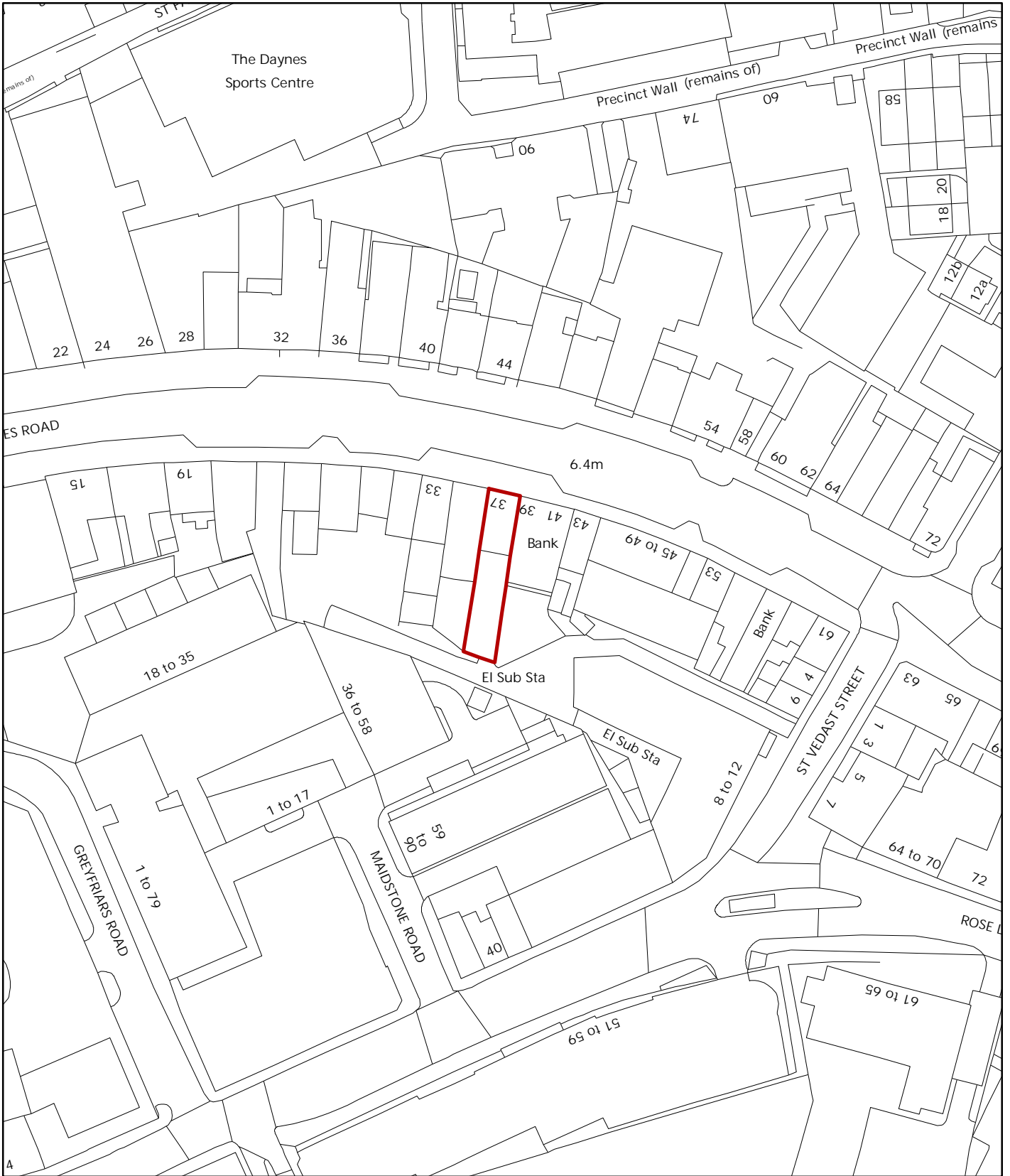
Recommended to Vary Condition 3 of permission 11/00671/F subject to the following conditions (assuming all relevant conditions need to be re-applied):

- 1) Implemented not later than the 8th July 2014;
- 2) In accordance with the drawings and details approved;
- 3) Varied hours condition (not open between 04:00hrs and 08:0hrs on any day);
- 4) The CCTV systems as approved and installed under application reference 11/02038/D with regard to condition 4 of permission 11/00671/F (as varied by this permission) shall be provided in full working order and in accordance with the agreed details in perpetuity;
- 5) The development shall be constructed and retained in perpetuity with the details as agreed under application 11/02038/D with regards to condition 5 of planning permission 11/00671/F (as varied by this permission);
- 6) The facing brickwork shall match that of the existing building;
- 7) Provision of car parking, cycle storage and refuse storage areas before the first use;
- 8) The landscaping details as agreed under application 11/02038/D with regard to condition 8 of permission 11/00671/F (as varied by this permission) shall be implemented before the first use of the premises and retained in perpetuity;
- 9) The lighting as agreed under application 11/02038/D with regard to condition 5 of permission 11/00671/F (as varied by this permission) shall no be used outside the hours of operation of the premises, allowing for 1 hour before and after closing for patrons and staff to safely access/exit the premises;
- 10) No use of the rear external door by customers, staff, guests or other members of the public with the exception of exit in the case of emergency or for persons with impaired mobility for exit/entry to the basement floor entertainment room;
- 11) The details of fume extraction and ventilation equipment as agreed under application 11/02038/D with regard to condition 11 of permission 11/00671/F (as varied by this permission) shall be installed and retained at the premises in accordance with the agreed details in perpetuity;
- 12) The plant and machinery to be installed, as agreed under application number 11/02038/D with regard to condition 12 of permission 11/00671/F (as varied by this permission) shall be retained in perpetuity in accordance with the agreed details;
- 13) Details of schedule of maintenance of fume and flue extraction and plant and machinery;
- 14) Details of refuse storage areas and a servicing statement;
- 15) Restrictions of hours of trade deliveries;

- 16) Implementation and retention of noise control measures as detailed in the Noise Impact Assessment submitted under application 1/00671/F;
- 17) Details of the amplification system;
- 18) No amplified music to be played unless through the agreed and installed amplification system;
- 19) No amplified music in any external areas;
- 20) Details of maximum noise levels to be agreed with the Local Planning Authority;
- 21) Details of management scheme ensuring no adjustment of the amplification system;
- 22) No noise or vibration emitting devices shall be fitted to either party wall;
- 23) All internal doors shall have self-closures and will be acoustic doors and shall be operational whenever the premises is open.

Reasons for Approval:

- 1) The decision has been made with particular regard to PPS1, PPS4, PPS5, and PPG24, policies ENV6, and ENV7 of the Adopted East of England Plan (May 2008), policies 2, and 11 of the Adopted Joint Core Strategy for Broadland, Norwich and South Norfolk (March 2011) and saved policies HBE8, HBE12, EP10, EP22, EMP3, AEC1, TRA6, TRA7 and TRA8 of the City of Norwich Replacement Local Plan (Adopted Version November 2004). The proposed use is considered acceptable in the Late Night Activity Zone. Subject to compliance with the conditions imposed here, it is not considered that the proposals would have a significant detrimental impact on the amenity of neighbouring residential or commercial properties.
- 2) It is considered that the extension of operational hours of the application premises will not result in a detrimental impact on the living conditions of nearby residents and that there will not be an increase in the potential threat of crime and disorder to the public as a result of an acceptance of this proposal. The premises are set within the Late Night Activity Zone where such late operations are considered acceptable. It is therefore considered that the proposals are in accordance with the objectives of PPG24, and saved policy EP22 of the City of Norwich Replacement Local Plan (Adopted Version November 2004). The Local Planning Authority's duty of care under Section 17 of the Crime and Disorder Act has also been taken into account and it is not considered that the proposed extension of operational hours of this premise will result in an increase in crime and disorder in the area.



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Planning Application No 11/02108/VC
 Site Address 37 Prince of Wales Road
 Scale 1:1,000



NORWICH
 City Council
 PLANNING SERVICES

