

## Report for Resolution

**Report to** Planning Applications Committee  
1 October 2009

**Report of** Head of Planning and Regeneration Services

**Subject** 09/00663/F Kingsley House 2A Upper King Street Norwich  
NR3 1HA

Item  
**5(2)**

## SUMMARY

<b>Description:</b>	Alterations to first floor elevation and modifications to existing flat roof to provide external first floor bar area including screen fence and fabric awning structure.	
<b>Reason for consideration at Committee:</b>	Objections	
<b>Recommendation:</b>	Approve with conditions	
<b>Ward:</b>	Thorpe Hamlet	
<b>Contact Officer:</b>	Jonathan Bunting	Planner, Development Management Telephone No: 01603 212506
<b>Date of Validation:</b>	11th August 2009	
<b>Applicant:</b>	Global Binding Engineers Ltd	
<b>Agent:</b>	Paul Abbott, A Squared Architects Ltd	

## INTRODUCTION

### The Site

#### Location and Context

1. The site is located on the west side of Upper King Street close to the junction with Queen Street and adjacent to the former Slug and Lettuce public house at No 2, which has recently reopened as the Beluga Bar. The application premises comprise a two-storey former estate agent office (previously "Your Move") which has been vacant for some months, and was before that a motorbike and parts retail unit. The first floor consists of a narrow corridor of offices on the south and east sides forming a screen surrounding a flat roof.
2. Both the Upper King Street area and neighbouring Queen Street are characterised by a lively mix of daytime city centre offices and bars and restaurants active into the evening and at night.

#### Constraints

3. The site is level with no significant physical constraints. Both the adjoining properties in Upper King Street are on the City Council's local list of buildings of architectural and historic interest and the premises fall within the City Centre Conservation Area, within an important group of buildings close to Tombland and

the Cathedral. Upper King Street is bustling and busy with general traffic and buses during the working day.

4. The railed flat roof subject of this application is approximately square and measures 4.7m by 4.8m. It is enclosed on three sides by built development at a higher level – on the south and east by the internal first floor office wings of the premises which form a screen around the flat roof and on the west by the flank wall of numbers 7 and 9 Queen Street (the present Slug and Lettuce). Immediately adjoining to the north is the recently completed rooftop smoking terrace of the Beluga bar at number. 2 Upper King Street, on the same level as the roof of 2a. Fire escape stairs lead from the western edge of the roof of number 2 down to a passageway leading into Queen Street.

## **Planning History**

5. Planning permission was granted for change of use from office (Class A2) to drinking establishment (Class A4) on 13 August 2009 (09/00460/U). The permission is conditioned to prevent opening after midnight and provides for appropriate measures for sound insulation and reduction of noise emanating from the premises.

## **The Proposal**

6. This application follows on from and relates to the previous application by the present applicant for change of use to an A4 drinking establishment (09/00460/U) granted on these premises on 13 August 2009.
7. Planning permission is sought for alterations and adaptations to the first floor roof to bring it into use as an outdoor drinking terrace (effectively a rooftop “beer garden” and smoking area) which is proposed to be used in association with a small internal first floor bar subsidiary to the main open plan bar on the ground floor. The external works covered in the present application could not be considered as part of the previous change of use application as they involved material alterations to the building.
8. It is understood that the premises are intended to operate as a “drinks only” bar and there would be no late night entertainment or live music. There is no indication of the intended hours of operation of the drinking terrace.
9. The proposal involves:
  - a) Removing the three office windows in the south first floor elevation and replacing them with a full width opening giving access to the new terrace, with a central pillar and roller shutter doors. No details have been included of the proposed doors.
  - b) Removing and sealing the ten existing glazed skylights in the roof and constructing a new raised timber deck over the entire roof area.
  - c) Constructing a stretched fabric “umbrella” awning structure over the drinking terrace. The awning would be anchored on its edges at various points by ten stainless steel fixing pillars together with a larger central steel pillar surmounted

by a fabric covered ventilation cap.

- d) Constructing a rendered timber staircase enclosure in the northwest corner of the roof terrace. A fire door from the roof would give access to a new internal escape staircase within the building leading directly down to the passageway into Queen Street via a new fire door at ground level. The existing public staircase within the building would remain.
- e) Construction of new timber perimeter safety fencing to the northern and western edges of the roof terrace.

## Representations Received

10. Advertised on site and in the press. Adjacent and neighbouring properties have been notified in writing. Two letters of representation have been received on behalf of Strutt and Parker, the present occupiers of number 4 Upper King Street, together with an objection from the Head of Asset and City Management as landlord of the adjoining bar premises at number 2 Upper King Street .

Issues Raised	Response
Potential overlooking, noise nuisance and disturbance to adjoining office workers when working after hours	See discussion at paragraph 21-27
Potential safety hazard to users of the new bar area as it would be unenclosed	See paragraph 9(e) – means of enclosure is proposed as part of the submitted scheme.
Potential for depositing of rubbish and litter in gutters	See paragraph 31 – waste management issues have been addressed as part of the earlier application
Concerns re structural impact of proposed alterations on number 2	See paragraph 32
Concerns re fire escape arrangements, potential safety implications and joint use (with number 2) of escape route to Queen Street resulting in assembly of large numbers of customers in Queen Street and Upper King Street	See paragraph 32

## Consultation Responses

11. Environmental Health officer (Pollution Control) – recommends the imposition of conditions re sound insulation, noise limitation and prevention of light pollution to protect the amenity of neighbouring occupiers.

## ASSESSMENT OF PLANNING CONSIDERATIONS

### Relevant Planning Policies

#### National Planning Policies

PPS1 - Delivering Sustainable Development

PPS6 - Planning and Town Centres  
PPG15 - Planning and the Historic Environment  
PPG24 - Planning and Noise

### **Adopted East of England Plan Policies**

ENV6 – The Historic Environment  
ENV7 – Quality in the Built Environment

### **Saved City of Norwich Replacement Local Plan Policies**

HBE8 - Development in Conservation Areas  
HBE12 - Design  
AEC1 - Major arts and entertainment facilities  
EP18 – Energy Efficiency  
EP22 - Residential Amenity

### **Supplementary Planning Documents and Guidance**

City Centre Conservation Area Appraisal – Prince of Wales area

## **Principle of Development**

### **Policy Considerations**

12. National planning policy in Planning Policy Statement 1 (PPS1) requires that all new development is appropriately and accessibly located and designed to make the most sustainable use of materials and resources. Planning Policy Guidance Note 15 seeks to ensure that new development is designed and planned to safeguard the character and appearance of the historic environment. Planning Policy Guidance Note 24 (PPG24) sets out general principles to be considered when planning for and assessing proposals for potentially noisy and noise-sensitive development.
13. East of England Plan policies ENV6 and ENV7 relate, respectively, to protecting the historic environment of the region and ensuring that new development achieves a high quality which promotes local distinctiveness and helps to secure urban regeneration. Saved City of Norwich Replacement Local Plan policy AEC1 sets out criteria for the acceptance of major arts and entertainment facilities, defining a Late Night Activity Zone around Prince of Wales Road and Upper King Street within which late night uses are normally accepted. Policy EP18 promotes energy efficient measures in new development EP22 seeks to ensure a high standard of amenity for 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.

### **Other Material Considerations**

14. During consideration of the previous application for the change of use to A4, various concerns were raised about the impacts of shared fire escape arrangements with the adjoining (Council-owned) bar premises at number 2 Upper King Street, and the evident absence of any legal rights of the occupants of number 2a to utilise an escape route across the roof of number 2 to reach external fire escape stairs to the passageway leading to Queen Street. These issues were not considered to be material planning considerations since the change of use of Number 2a could be implemented without relying on this escape route.

15. The present application seeks to overcome these concerns by providing a new escape route via a dedicated staircase within the premises leading to a ground floor fire exit door to the passage to Queen Street, obviating the need to use the adjoining roof and existing external fire stairs for escape purposes. Despite this, it is relevant to assess the potential cumulative impacts of the approved bar at 2a (including this drinking terrace proposal) with the new bar at number 2 Upper King Street and the recently implemented consent for a rooftop smoking terrace directly adjoining the proposed rooftop drinking terrace at 2a.
16. Members are reminded that the principle of changing the use of 2a Upper King Street to a bar is already agreed by virtue of the planning permission granted in August. Therefore (although the applicant has indicated that a rooftop drinking terrace is essential to his overall plans for the building) there would be nothing to prevent the internal parts of the premises being brought into use as a bar without the roof being used. The planning issues to consider here relate solely to the effect of intensifying the approved A4 bar use by expanding it onto the roof, together with the physical and visual impact of the works necessary to construct the terrace.

## **Impact on Living Conditions**

### **Noise and Disturbance**

17. There are no residential occupiers in the immediate vicinity of the application site. The approved bar and associated outdoor drinking terrace now proposed at 2a Upper King Street would be situated within an area which already has a number of bars, restaurants and other late night entertainment uses including the Slug and Lettuce (7-9 Queen Street), Indulge (1 Queen Street), Orgasmic (6 Queen Street), The Office (19 Upper King Street) and the newly reopened Beluga Bar next door at 2 Upper King Street and 11 Queen Street.
18. The application premises are situated just outside the Late Night Activity Zone defined by policy AEC1 of the Local Plan (centred on Prince of Wales Road), which is largely segregated from residential areas and where late night uses are normally accepted subject to detailed assessment in each case. Outside of this area more care needs to be taken in order to ensure that the amenity and outlook of local residents is protected. In recent years Queen Street especially has become more dominated by bars and restaurants at the expense of offices and this trend is continuing with the spread of restaurants and bars into Upper King Street and Tombland. Although on the fringe of the Late Night Activity Zone it is considered that pubs and bars are an accepted part of the night-time economy of this part of the City centre and the nearest residential properties are at some distance from the application site. The principle of A4 bar use at 2a Upper King Street has already been established and is considered to accord with the mixed character of the area and to be consistent with development plan policies promoting the evening economy.
19. Members should note that there is an unimplemented planning permission for conversion of the first and second floors of numbers 8-10 Upper King Street (the former Savills offices three doors away) to four residential apartments (application 08/01023/U, approved 31 October 2008). The ground floor of numbers 8-10 has a separate unimplemented permission for conversion to a restaurant (application 09/00442/U, approved 3 August 2009). Sound insulation conditions have been imposed on these permissions to ensure that the approved flats are protected from

noise transmission from the proposed ground floor restaurant and from late night noise from the adjoining Late Night Activity Zone (i.e. providing for insulation to the upper windows on the Upper King Street elevation of the premises). Although there are no equivalent conditions to protect the rooms at the rear facing toward Queen Street, the approved flats are at some distance from the proposed drinking terrace at number 2a and would be screened to a degree from noise emanating from that area by intervening buildings.

20. On balance it is considered that, provided that appropriate conditions are imposed to control hours of usage and to strictly limit the transmission of ambient and amplified sound and artificial light from the application premises and the drinking terrace, there would be no unacceptably detrimental impacts on the amenity of existing and potential future residents arising from this proposal.

### **Overlooking and Loss of Privacy**

21. The objections from the neighbouring commercial occupier Strutt and Parker (4 Upper King Street) concern potential noise nuisance and disturbance to office workers especially those working outside normal office hours, loss of outlook and potential overlooking of the drinking terrace from main office windows, concerns over the safety of customers using an unenclosed drinking terrace, and concerns over litter and premises security.
22. Strutt and Parker's premises at number 4 have a long frontage to Upper King Street and consist of two parts: a three storey period office wing at the south end of the street elevation and a single storey wing at the north end nearest to the application premises at 2a Upper King Street. 2a Upper King Street is L-shaped with the front part narrow and deep and the rear part (on whose roof the new drinking terrace is proposed) opening out in a wider, roughly square plan form which wraps around and to the rear of Strutt and Parker's offices. The relationship between the two adjoining premises will be illustrated in photographs at the meeting.
23. The first floor rooms of number 2a (which would house the first floor bar and circulation areas) would effectively form a screen around the north and east sides of the proposed rooftop drinking terrace. The main first floor offices of Strutt and Parker are located toward the front of their building facing Upper King Street, but one north-facing office window (and a window to an internal staircase) do overlook a small section of the flat roof of number 2a. However, the overlooked section of roof is not on the public side of what would become the first floor bar and circulation area, and this part of the roof would not in fact be accessible to or used by bar customers. The proposed drinking terrace would be on the far side of the first floor wing of number 2a and would thus be completely screened from view from Strutt and Parker's main office windows. It is considered therefore that the proposals would not result in unacceptable degree of overlooking or loss of outlook or privacy to Strutt and Parker employees using those offices.
24. The introduction of an outdoor drinking terrace in combination with the newly opened rooftop smoking terrace and shelter at number 2 (the Beluga Bar) will inevitably result in some intensification of activity at roof level and some additional noise from customers making use of the two roof terraces which does not exist at present. However, the immediate neighbourhood of this part of Upper King Street already contains a number of popular bars including Orgasmic at 6 Queen Street and the large rear beer garden of the Slug and Lettuce at 7-9 Queen Street

immediately adjoining the rear of Strutt and Parker. Concentrations of drinkers are likely to be significantly greater in the garden of the Slug and Lettuce than would be using the proposed drinking terrace at 2a Upper King Street. Office workers may be subject to a perceived increase in noise levels from these establishments at certain times of day particularly when background noise levels drop in the early evening following the rush hour. During normal working hours, however, it is considered that normal background noise would tend to mask the majority of noise emanating from the local bars. It is only when the background noise levels drop in the early evening and people are still required to be working in their offices at later times than usual that there would be any obvious increase in perceived noise levels.

25. Strutt and Parker have indicated that some of their staff are required to remain working in the office on a regular basis outside of normal office hours into the evening (up to 8.30 pm) and thus would be subjected to unacceptable noise and disturbance from the proposed drinking terrace especially when the (single glazed) office windows were open. Background noise measurements have been taken from Strutt and Parker's premises by environmental health staff. The findings confirm that likely noise levels from the proposed drinking terrace would tend to be masked by general background ambient noise from Upper King Street at most times of the day.
26. Whilst acknowledging the importance of protecting the amenity of residential occupiers, the applicant is unwilling to accept any condition unreasonably limiting the hours of operation of the drinking terrace in order to safeguard the amenity and working conditions of a perceived minority of commercial office workers. In negotiating and conditioning these aspects of the proposal, an acceptable balance must therefore be struck between what is reasonable in planning terms in the interests of protecting neighbourhood amenity and what would be appropriate for the bar and drinking terrace to operate effectively.
27. After careful consideration (taking account of the advice of the Environmental Health Officer) it is considered that the impacts on adjoining office workers from the proposal would not be sufficiently detrimental as to justify any restrictions on early evening operation of the terrace in addition to the sound insulation and noise mitigation measures proposed above.

## **Design**

### **Layout, Form and scale**

28. The design of the proposed terrace awning, decking and stair enclosure is broadly acceptable. Minor changes are being negotiated in the design and configuration of the awning to meet the minimum requirements of smoking legislation and ensure adequate separation from (and circulation space in front of) the bar servery. Revised plans illustrating these amendments are expected to be available at the meeting. Additional details of the proposed roller shutter doors to the bar and of the new fire exit doors will be required and can be conditioned. The new perimeter fences are acceptable.

### **Conservation Area – Impact on Setting**

29. The drinking terrace would be screened from view from the street and from most other surrounding buildings in the vicinity. The alterations proposed are not considered to have a detrimental impact on the fabric of the building or on the character of the City Centre Conservation Area.

## **Transport and Access**

### **Transport Assessment**

30. As a city centre facility the majority of visits to the premises will be on foot and adequate public parking and cycle parking facilities exist nearby.
31. Access, servicing and waste management issues have been adequately addressed as part of the consideration of the earlier application for change of use of the premises and the introduction of the new drinking terrace will not affect these provisions.

### **Other Matters**

32. The specific concerns raised by the Head of Asset and City Management relating to the impact of the alterations on the adjoining Council-owned premises at 2 Upper King Street are more properly addressed under the building regulations regime and are not material planning considerations. Similarly, the adequacy and safety of the shared fire escape route discharging into Queen Street – which would be available to the Slug and Lettuce at 7-9 Queen Street as well as numbers 2 and 2a Upper King Street – are the proper concerns of the Fire Officer.
33. Advice has been taken from the Transportation Planner on the highway safety issues raised by the Head of Asset and City Management. It is not considered that there would be any appreciable impact on traffic and highway safety in Queen Street or on the footway of Upper King Street arising from customers congregating outside the premises.

### **Conclusions**

34. The principle of change of use to a bar at 2a Upper King Street is already established by virtue of the permission granted in August (09/00460/U). The current proposal for this outdoor drinking terrace would extend the approved use onto the roof of the premises and therefore presents a number of issues relating to the intensification of the use and associated noise and disturbance to residential and commercial occupiers, particularly in combination with the adjoining smoking terrace at number 2 Upper King Street and the bars and restaurants already in the area. Although just outside the Late Night Activity Zone, the premises are situated in an area of the City centre where drinking establishments, bars and restaurants are an established and accepted part of the evening economy.
35. Care has been taken to ensure that the neighbourhood amenity impacts of the proposed development on existing and proposed residential and commercial occupiers have been fully assessed and these impacts can be appropriately and acceptably controlled by conditions relating to noise insulation, prevention of sound transmission and mitigation of light pollution.
36. Subject to further details being submitted on certain elements of the scheme, the development is acceptable in design terms and would not result in any adverse impact on the fabric of the building or on the character and appearance of the City Centre Conservation Area or on highway safety.
37. The issues raised by the Head of Asset and City Management are, by and large, not material planning considerations. However in view of the positioning of the new fire escape staircase and its relationship to the adjoining premises, a condition is



proposed to be imposed restricting the use of the stairway to emergency escape purposes only.

## **RECOMMENDATIONS**

To approve Application 09/00663/F and grant planning permission, subject to the following conditions and reasons:-

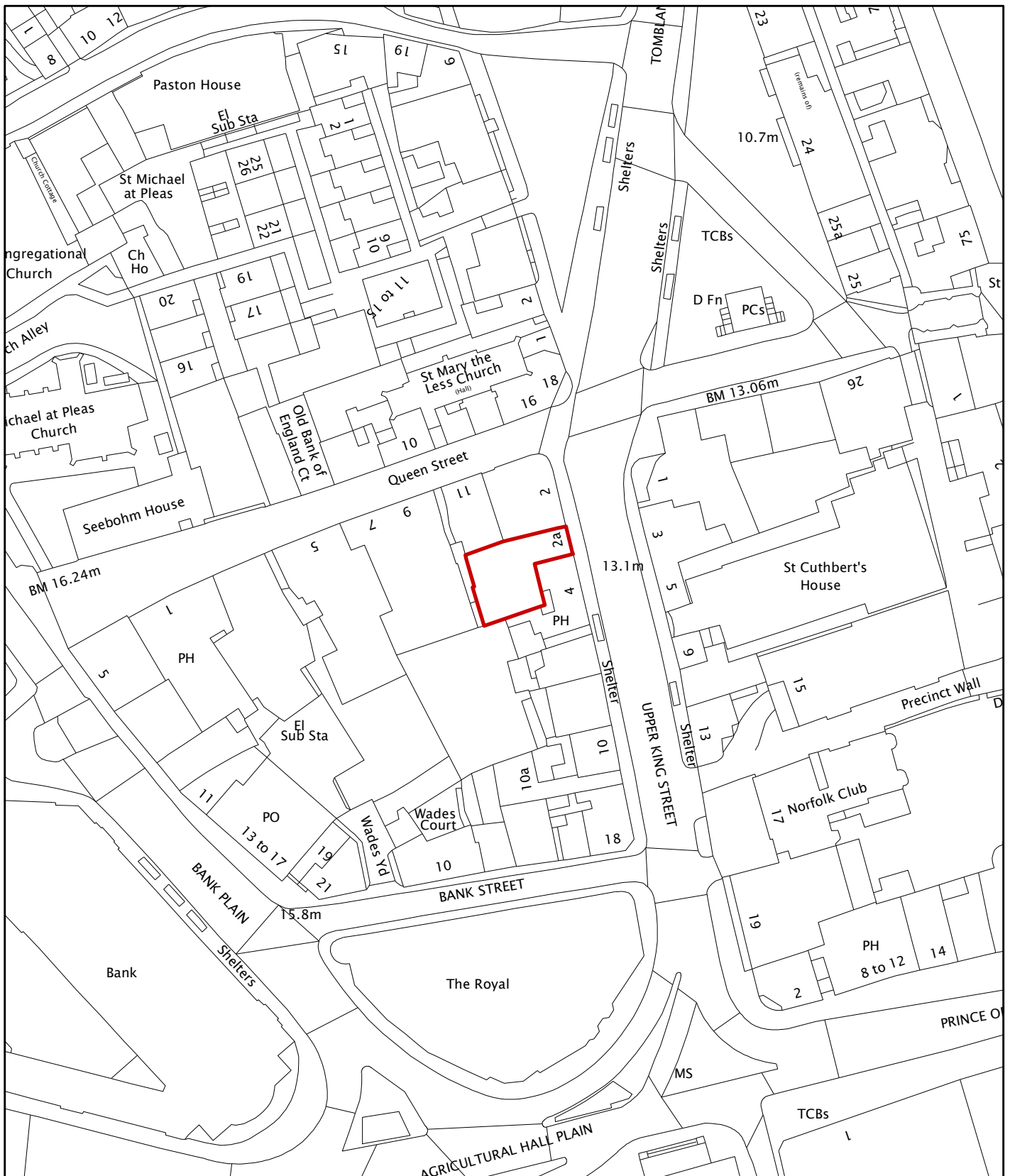
1. Standard time limit
2. Restriction on hours of use of the outdoor drinking terrace to coincide with the opening hours of the main bar – no use beyond 12 midnight.
3. Submission of the following details:
  - Design and materials of new roller shutter doors to first floor bar area
  - Design details of ground floor fire exit door and stair enclosure
  - Details of any external lighting/heating equipment to be installed on the proposed drinking terrace
4. All first floor windows fronting the proposed drinking terrace to be kept closed at all times
5. Doors giving access and egress for customers to the proposed drinking terrace (with the exception of the roller shutter doors to the first floor bar) shall be fitted with automatic closers and shall not be propped or fixed open.
6. No amplified sound system to be installed or live entertainment to take place on the drinking terrace.
7. Submission of details of amplified sound system to be installed within the area of the first floor bar.
8. New staircase from drinking terrace to be used for emergency escape purposes only.
9. Development to accord with submitted plans.

## **Reasons for Approval**

Following careful consideration and negotiation with the applicant and assessment of the relevant issues, it is considered that the proposed development can be accepted, subject to the imposition of appropriate restrictive planning conditions. Thus conditioned, the drinking terrace would not materially affect the amenity and outlook or the living conditions of existing and proposed residential occupiers or have a seriously detrimental impact on the working conditions of commercial office users in the area. The proposals are appropriate to the character and appearance of the premises and would not materially affect the character and appearance of the City Centre Conservation Area.

In reaching the decision to recommend approval, account has been taken of national planning policy (Planning Policy Statement 1 and Planning Policy Guidance Notes 15 and 24), regional planning policy (adopted East of England Plan policies ENV6 and

ENV7), the City Centre Conservation Area Appraisal and the following saved policies of the City of Norwich Replacement Local Plan (Adopted November 2004): HBE8, HBE12, AEC1, EP18 and EP22.



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Planning Application No - 09/00663/F

Site Address - Kingsley House, 2A Upper King Street, Norwich

Scale - 1:1000



**NORWICH**  
City Council

DIRECTORATE OF REGENERATION  
AND DEVELOPMENT

