

Report to Planning applications committee

Item

8 January 2015

Report of Head of planning services

Subject Application nos 14/00920/F 63-67 Prince of Wales Road and 64-68 Rose Lane, Norwich NR1 1PT

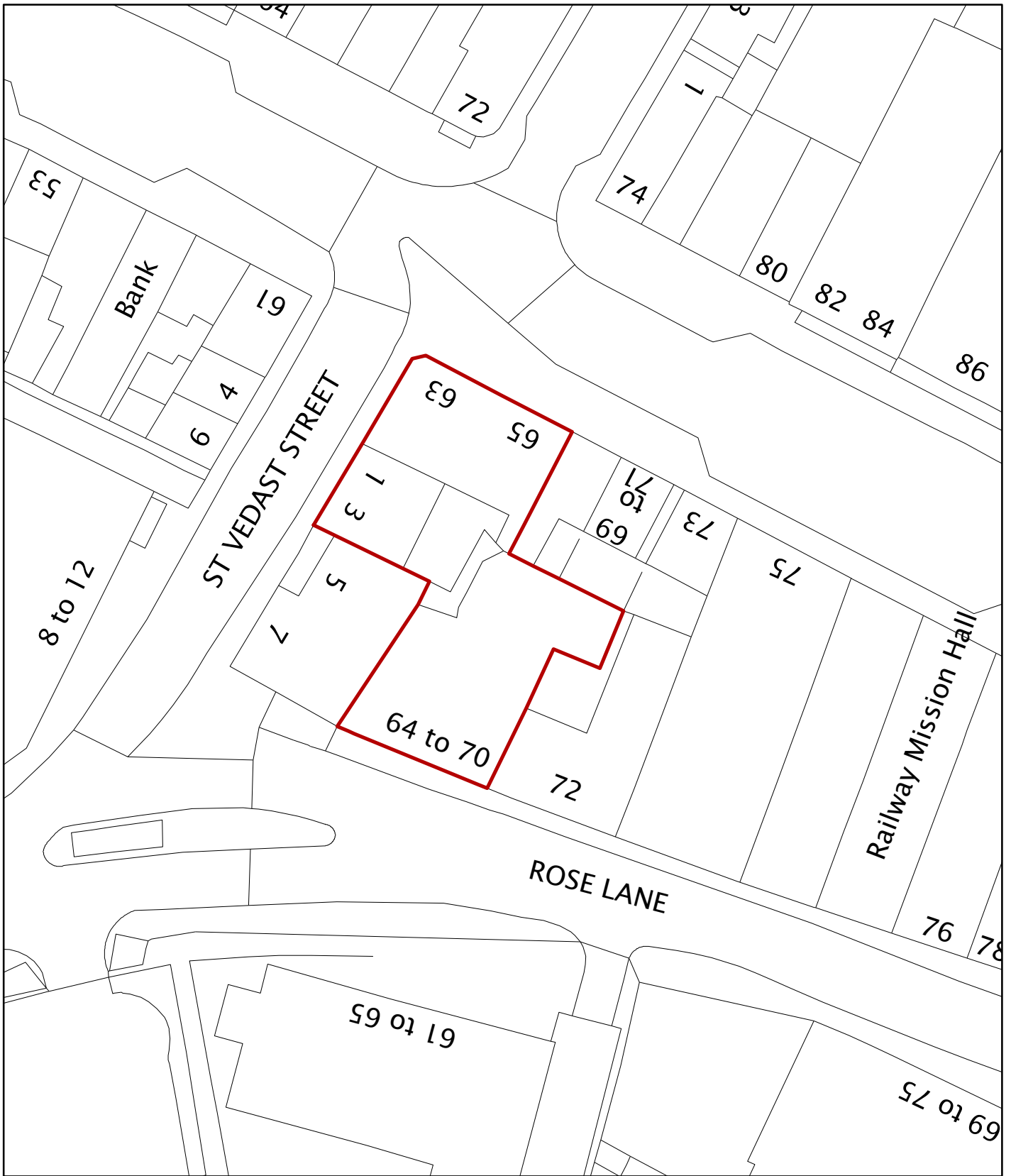
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Reason for referral Objections and authority to take enforcement action

Ward:	Thorpe Hamlet
Case officer	Mrs Caroline Dodden - carolinedodden@norwich.gov.uk

Development proposal			
Change of use from warehouse/storage (Class B8) and existing drinking establishment (Class A4) to drinking establishment and nightclub (Class Sui Generis) with retrospective change of use to an external seating/smoking area and external alterations including the provision of a covered link walkway, the blocking up of various doors and windows and the insertion of new fire escape doors. (Revised).			
Representations			
	Object	Comment	Support
Original proposal	11		
Revised proposal	3		

Main issues	Key considerations
1) Principle of development	Principle of use of extended premises
2) Design	Design, impact on conservation area
3) Amenity	Impact on nearby residents and place of worship
4) Servicing	Adequacy of servicing and safety of emergency access
Expiry date	26 August 2014
Recommendation	Refuse and authorise enforcement action



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Planning Application No 14/00920/F

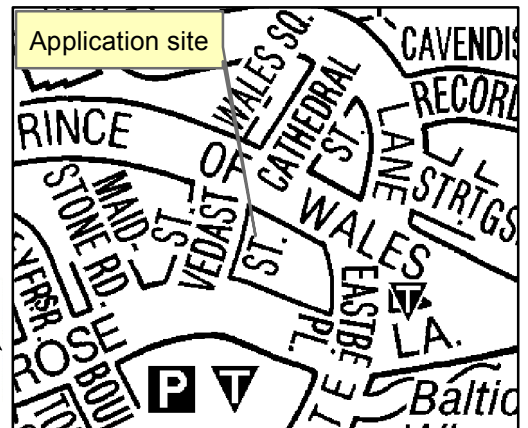
Site Address 63-67 Prince of Wales Road
and 64-68 Rose Lane

Scale 1:500



NORWICH
City Council

PLANNING SERVICES



The site and surroundings

1. The premises at 64-68 Rose Lane is located on the north side of the road, east of St.Vedast Street. The site is a 2.5-storey brick building, with a set-back parapetted roof where vehicular and pedestrian access is from Rose Lane. It is currently used for warehouse and storage at ground floor and before that, for vehicle servicing, with offices at first floor above. The building lies at the rear of 63 - 67 Prince of Wales Road and adjoins a six storey office building at No's 5-7 St.Vedast Street to the west and the single and two storey Norwich Islamic Centre and mosque at 70-72 Rose Lane to the east.
2. This is a mixed-use area within the City Centre. There is a Travelodge hotel on St Vedast Street and further west along Rose Lane are a number of new residential units, which are part of the Greyfriars Road / Maidstone Road development. There are other existing offices on St Vedast Street and opposite the site, at 61-65 Rose Lane.
3. The existing drinking establishment, currently known as Lost, is accessed by customers via an entrance at 63-65 Prince of Wales Road. There is a staff and servicing access point on St Vedast Street.
4. An enclosed external courtyard area currently used by the Lost bar as a seating/ smoking area is located to the north of 64-68 Rose Lane, where access is gained via steps from a back door at first floor level. The courtyard is bounded by the Islamic centre's main hall to the east, (which is a single storey building), the two storey part of the Islamic centre, where there is an associated caretakers flat at first floor level, the application warehouse building to the south and the rear of no's 69-73 Prince of Wales Road, which are a mixture of two and three storeys high where there is residential accommodation at first and second floor levels.

Constraints

5. The application buildings are neither statutorily nor locally listed, but they do fall within the City Centre Conservation Area (DM9) and are part of the Prince of Wales characterisation area, where the view looking westwards down Rose Lane to the junction with St. Vedast Street is indicated as having a negative vista and the building terraces on either side of 63-67 Prince of Wales Road are identified as having positive frontages.
6. The site falls within the city centre leisure area (DM18, DM23). No.63-67 Prince of Wales Road falls within the defined Late Night Activity Zone, but the external seating/ smoking area for the existing bar and the premises at No. 64-68 Rose Lane fall outside the Late Night Activity Zone.
7. The site also falls within an area of main archaeological interest (DM9) and an area for increased parking (DM29).

Relevant planning history

- 8.

Ref	Proposal	Decision	Date
09/00437/U	Change of use from restaurants and cafes (Class A3) to drinking establishments (Class A4 (licensed premises)) at 63-67 Prince of Wales Road.	Approved	23/7/2009
09/01330/U	Change of use from warehouse/storage (Class B8) on ground floor and offices (Class B1) on first floor to drinking establishment (Class A4).	Refused	4/3/2010
10/01288/F	Removal of roller shutter door to Rose Lane elevation. Replaced with fire escape doors and brick infill panels. Development of new link walkway and bricking up of courtyard elevation window between the existing bar (Essence on Prince of Wales Road) and these premises. Change of use from warehouse/storage (Class B8) on the ground floor and offices (Class B1) on the first floor to a nightclub (sui-generis) at 64-68 Rose Lane.	Approved	20/12/2010

The proposal

9. The revised proposal is for change of use from warehouse/storage (Class B8) and existing drinking establishment (Class A4) to drinking establishment and nightclub (Class Sui Generis) with retrospective change of use to an external seating/smoking area and external alterations including the provision of a covered link walkway, the blocking up of various doors and windows and the insertion of new fire escape doors to the Rose Lane elevation.

Representations

10. Advertised on site and in the press. Adjacent and neighbouring properties have been notified in writing. A total of 14 letters of representation have been received citing the issues as summarised in the table below. All representations are available to view in full at <http://planning.norwich.gov.uk/online-applications/> by entering the application number.

Issues raised	Response
Increased level of smoke/ noise disturbance/ unsociable behaviour, which causes particular problems during prayer at the adjacent Islamic centre and greater chances of clashes between worshippers and	Paragraphs 33 – 40

clubbers.	
There are already more than enough nightclubs on Prince of Wales Road. The Islamic centre has been established for 13 years, before many of these bars and clubs existed.	Paragraph 26
The external smoking area was not a problem in 2010 but has created difficulties since this time for the place of worship next door and the associated caretaker's first floor flat.	Paragraphs 33 – 40
Lack of pavement space for the number of clubbers planned.	Paragraph 44

Consultation responses

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

Environmental protection

12. The application premises faces onto a courtyard on the northern side which is also overlooked by at least two residential premises, and also by the Islamic Centre which is directly joined to the premises on the eastern boundary. The Islamic centre, as well as being a place of worship, also contains a small residential flat which is located adjacent to the party wall between the Islamic Centre and the application premises.
13. There have been complaints in reference to the smoking area from 2009. Various methods of attenuating the noise created by users of the external area have been considered and the opinion reached is that without a noise impact assessment it is not possible to quantify the noise produced and its likely effects on the overlooking residential/place of worship uses.
14. The noise impact assessment does identify and appear to sufficiently deal with other issues related to the escape of noise from the Rose Lane premises.

Highways (local)

15. No objection to this proposal for fire doors. They are in a recess and do not open out over the highway.

Norfolk police (architectural liaison)

16. Whilst the application clearly states that the only access into the nightclub extension will be via 63-65 Prince of Wales Road. There is concern that efforts may be made in the future to convert or use the Rose Lane exits as the main entrance. The

current street layout, the narrow footpaths and the potential for queues on Rose Lane create the potential for pedestrians and passing traffic to come into conflict.

17. With this in mind, Norfolk Constabulary requests that conditions are applied to this application to restrict the fire doors for emergency access only and for no other purpose.
18. Norfolk Constabulary requests that planning permissions for late night uses be restricted by conditions. Premises in the Late Night Activity Zone should not be permitted to open past 0400hrs on any day, given the constraints on additional police.

Norfolk Fire and Rescue Service

19. Original scheme submitted: Concerned that means of escape provision from the first floor appears to be inadequate for the proposed use (nightclub). Significant internal changes would be required.
20. As a result of this initial comment the proposal was revised so that just the ground floor of the warehouse building is proposed for the nightclub use with ancillary office space at first floor level. No further comments were submitted by the Fire Officer following the submission of the revised proposal.

Assessment of planning considerations

Relevant development plan policies

21. **Joint Core Strategy for Broadland, Norwich and South Norfolk adopted March 2011 amendments adopted Jan. 2014 (JCS)**
 - JCS2 Promoting good design
 - JCS8 Culture, leisure and entertainment
 - JCS11 Norwich city centre
22. **Norwich Development Management Policies Local Plan adopted Dec. 2014 (DM Plan)**
 - DM1 Achieving and delivering sustainable development
 - DM2 Ensuring satisfactory living and working conditions
 - DM3 Delivering high quality design
 - DM18 Promoting and supporting centres
 - DM23 Supporting and managing the evening and late night economy
 - DM31 Car parking and servicing

Other material considerations

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

Case Assessment

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

Main issue 1: Principle of development

25. Key policies and NPPF paragraphs – JCS8, DM23, NPPF paragraph 23.
26. Under policy DM23 proposals for late night entertainment uses will only be permitted within the Late Night Activity Zone and where they would not give rise to unacceptable amenity and environmental impacts which could not be overcome by the imposition of conditions. Where necessary, permission will be granted subject to conditions restricting hours of opening and/or removing permitted development rights to change to alternative uses in order to protect the amenity of surrounding occupants and the vitality and viability of the area.
27. The proposal seeks to change the use and extend an existing bar at 63-67 Prince of Wales Road to a bar and nightclub where the existing bar building (63-67 Prince of Wales Road and 1-3 St. Vedast Street) falls within the Late night Activity Zone but the proposed link walkway, converted rear building (64-68 Rose Lane) and external smoking area fall just outside it. In this regard and notwithstanding the issues discussed below, any approval would need to link the Rose Lane building to the use of the Prince of Wales building so they are not operated as separate premises.

Main issue 2: Design

28. Key policies and NPPF paragraphs – JCS2, DM3, NPPF paragraphs 9, 17, 56 and 60-66.
29. A new link walkway is proposed at first floor level, and would be a timber-framed enclosed structure with sound-reducing doors at both the nightclub and bar access points to minimise noise leakage. This walkway would provide access to the courtyard garden for both buildings via the existing steps. The link walkway would be of a basic design and construction, which is considered acceptable given its enclosed location behind the existing buildings on Prince of Wales Road and Rose Lane.
30. The existing roller shutter and pedestrian doors on Rose Lane are proposed to be removed and the openings bricked-up with smaller fire exit doors, of about half the height, provided in their place. In addition a small ground floor window would be removed and bricked-up and the existing single door to the eastern end would be retained but fixed shut to prevent access or any form of exit. These measures are considered to be acceptable as they would improve the overall appearance of the building from the Rose Lane frontage.
31. Alterations to the north elevation of the Rose Lane building would not be visible in the wider Conservation Area. The two existing single doors and set of double doors at ground floor level and six windows would all be removed and bricked-up to match

the surrounding brickwork. A new set of double-doors would be inserted at first floor level to access the proposed covered walkway connection to the existing bar and would not be visible.

Main issue 3: Amenity

32. Key policies and NPPF paragraphs – DM2, DM11, NPPF paragraphs 9 and 17.
33. Policy DM2 states that development will be permitted where it would not result in an unacceptable impact on the amenity of the area or the living or working conditions or operations of neighbouring occupants. Particular regard is given to overlooking/ loss of privacy, loss of light or outlook and the prevention of disturbance from noise, odour, vibration, air or artificial light pollution.
34. Policy DM11 covers environmental issues including noise impact where appropriate and proportionate mitigating measures will be required and appropriate limiting conditions will be attached to permissions for development which, on the best available evidence, is likely to give rise to sources of environmental noise, neighbour noise, or neighbourhood noise which will have some adverse impact on the health, well-being and quality of life of existing adjoining and nearby occupiers.
35. The revised proposal leaves the first floor of the Rose Lane building as existing. Pedestrian access would only be possible via the proposed first floor enclosed link, which would also give access to existing steps that lead down to the existing external seating/smoking area. This area does not have the benefit of planning permission to be used in association with the existing bar. It should be noted that the site location plan submitted with Application 09/01330/U (see details in the table at paragraph 8), shows that the land on which the external smoking area is currently located was formerly the external yard area associated with 64-68 Rose Lane.
36. It is clear from the representations received that there is existing noise disturbance and occasional anti-social behaviour issues associated with this external space, which is overlooked by a number of first floor residential flats and is located in very close proximity to the main hall of the East Anglian Bangladeshi Islamic Centre.
37. The external seating/smoking area currently used by the Lost bar does not have the benefit of planning permission. Its use forms part of the application assessment, particularly as the proposal is likely to increase the number of additional patrons from an existing maximum of 600 up to approximate maximum of 1,000 people. As such, it is considered that the use of the external seating /smoking area is likely to intensify and could significantly increase the level of noise disturbance from this area.
38. An additional noise impact assessment regarding this rear external space was considered important to ascertain whether the principle of the use of this space is acceptable. However, the Applicants have declined to submit this information.
39. The Council's environmental protection team indicates that there is an existing noise disturbance issue from the unauthorised seating/smoking area. As such, and without an acoustic report for the external seating/smoking area, it is considered impossible to assess whether the principle of the use of the area is acceptable.

40. It is clear that policies DM2, DM11 and DM23 guard against proposals that would result in a significant detrimental impact on the amenity of the living or working conditions or operations of neighbouring occupants. Without evidence to the contrary, it is considered that the likely level of impact on the residential occupiers and place of worship is likely to be significantly detrimental to their amenities.

Main issue 4: Access and servicing

41. Key policies and NPPF paragraphs – JCS6, DM31, NPPF paragraphs 34 and 35.
42. Access to the extended premises for customers would be from the existing Lost bar entrance on Prince of Wales Road. Whilst Norfolk Police have concerns that the proposed fire doors to the Rose Lane elevation could be used in the future as the main entrance to the nightclub, the restriction of the fire doors for emergency access only could be imposed as a condition to control this.
43. Servicing and refuse / recycling would continue from the existing bar's St Vedast Street access, which is considered to be acceptable.
44. No operational objections have been raised by the Fire Service or Local Highways Authority in relation to the pavement width on Rose Lane being inadequate and as such, the proposal is considered to be acceptable in this regard.

Compliance with other relevant development plan policies

45. A number of development plan policies include key targets for matters such as parking provision and energy efficiency. The table below indicates the outcome of the officer assessment in relation to these matters.

Requirement	Relevant policy	Compliance
Cycle storage	DM31	Not applicable
Car parking provision	DM31	Not applicable
Refuse Storage/servicing	DM31	Yes, would continue from existing bar's access from St. Vedast Street
Energy efficiency	JCS 1 & 3 DM3	Not applicable
Water efficiency	JCS 1 & 3	Not applicable
Sustainable urban drainage	DM3/5	Not applicable

Equalities and diversity issues

46. The Council has a statutory duty to pay due regard to the potential impact on equality of opportunity between different racial groups, and good relations between different groups during its decision making process. Issues raised by the Islamic

Centre next to the proposed development have been carefully considered, and the potential negative impacts on community cohesion and perceptions of safety have been taken into account

47. It is noted that due to the change in levels between the existing bar, the proposed nightclub building and the external seating/smoking area, level access would not be achieved throughout the extended premises.

Local finance considerations

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

Enforcement

51. Given that the existing external seating/ smoking area is in use and that there is potential for continuing complaints from nearby residents and worshippers we recommend that authorisation is given to take enforcement action to secure the cessation of the unauthorised use of this rear external area.
52. It should be noted that the cessation of the use of the external seating/smoking area may have implications in relation to the Crime and Disorder Act (1998) as section 17 places a duty on the Police and local authorities, (including in their role as planning authorities), to do all they reasonably can to prevent crime and disorder in its area including anti-social and other behaviour adversely affecting the local environment. Without the rear external seating/smoking area, the existing drinking establishment at 63-67 Prince of Wales Road will need to provide an alternative external smoking area at the front of the premises on Prince of Wales Road which could result in customers spilling onto the street.

Conclusion

53. Without evidence to indicate otherwise, it is considered that the proposal would be significantly detrimental to the residential and general amenities of the nearby residential accommodation and adjacent Islamic centre and as such, the proposal is contrary to policies DM2, DM11 and DM23 of the Norwich Development Management Policies Local Plan.

Recommendation

- (1) To refuse application no. 14/00920/F - 63 - 67 Prince Of Wales Road And 64 - 68 Rose Lane Norwich NR1 1PT and refuse planning permission for the following reason:

In the absence of a supporting noise impact assessment covering the rear external seating/smoking area, it has not been demonstrated that the proposal would not have a significantly detrimental impact on the residential and general amenities of the nearby and adjoining residential accommodation and adjoining Islamic centre contrary to policies DM2, DM11 and DM23 of the Norwich Development Management Policies Local Plan, adopted December 2014.

- (2) To authorise enforcement action under section 172 of the Town and Country Planning Act 1990 (as amended) to secure the cessation of the unauthorised use of the external seating/smoking area and the taking of legal proceedings, including prosecution if necessary.

Article 31(1)(cc) statement

The local planning authority in making its decision has had due regard to paragraph 187 of the National Planning Policy Framework as well as the development plan, national planning policy and other material considerations. The proposal in question is not considered to be acceptable for the reasons outlined above. In addition, it should be noted that the local planning authority requested an additional acoustic report, which the Applicant declined to submit.