

<b>West PLANNING COMMITTEE</b> <b>12-Oct-2009</b>	<b>AGENDA ITEM NO:</b>	
<b>Kings Place, 90, York Way, Islington, London, N1 9AG</b>		

LIBRARY (holding copy of application)	<b>See details at Contact Islington only</b>
WARD	<b>West Area - Caledonian Ward</b>
<b>APPLICATION NUMBER</b>	<b>P091689</b>
NAME OF APPLICANT	<b>Parabola Land Limited, C/O Lynne Evans</b>
NAME OF AGENT	<b>Ms Lynne Evans</b>
TYPE OF APPLICATION	<b>Full Planning Application</b>
APPLICATION RECEIVED	<b>07-Jul-2009</b>
APPLICATION COMPLETED	<b>08-Jul-2009</b>
AREA TEAM	<b>EAST/WEST</b>
CASE OFFICER	<b>Stella Bailey</b>
HERITAGE INFORMATION:	<b>Regents Canal West Conservation Area, King's Cross/St Pancras (GLC) C.A. Locally Listed Grade B</b>

Variation of condition 6 (hours of operation) pursuant to planning permission P032145 to allow the A3/A4 uses to operate from 08.00 to midnight on any day.

GROUND FLOOR PLAN; SITE LOCATION PLAN; SITE PLAN; BASEMENT LEVEL -1; BASEMENT LEVEL - 2;; BASEMENT LEVEL - 3

**RECOMMENDATION: Approve subject to Conditions**

1. **CONDITION:** The development hereby permitted shall be begun not later than the expiration of three years from the date of this permission.

**REASON:** To comply with the provisions of Section 91(1)(a) of the Town and Country Planning Act 1990 as amended by the Planning and Compulsory Purchase Act 2004 (Chapter 5).

2. **CONDITION:** No further public access to the outside terrace shall be permitted after 22.30 and all customers shall be cleared from the terrace by 23.00 on any day.

**REASON:** In order to minimise disturbance to neighbouring properties

3. **CONDITION:** The provision of a Management Plan as submitted shall be adhered to in all respects.

**REASON:** In order to protect residential amenity.

4. **CONDITION:** No amplified music shall be played on the external areas of the proposed A3 uses.

**REASON:** In order to protect residential amenity.

5. **CONDITION:** Access doors to the outside terrace area shall be closed at 23.00 and remain shut until no earlier than 08.00 the following day. No access shall be allowed for staff and/or customers between these hours except for emergency exit purposes.

**REASON:** In order to protect residential amenity.

6. **CONDITION:** The A3 use shall not operate outside the hours of 08.00 - 0.00 on any day.

**REASON:** In order to protect residential amenity.

INFORMATIVES (if any)

### **CASE OFFICERS REPORT**

1. Kings Place, 90 York Way Ref: P091689

2. **Proposal** An application has been made under Section 73 of the Town and country Planning Act 1990 to vary condition 6 (limited period to 24 October 2009) of planning permission Ref: P081436 dated 16 October 2008 which varied condition 6 (hours of operation of planning permission Ref: P032145 dated 27 October 2004 to allow the A3/A4 uses to operate from 8.00 to midnight on any day until 31 October 2009.

3. **Issues** The main issues arising from this proposal relate to the:

- Impact on amenity of neighbouring residents of the proposed hours of operation

4. **Site and Surroundings** The proposal site known as 90 York Way is an 8 storey building comprising commercial office space and concert hall and restaurants bars and cafes. The site is bounded to the north by the Regents canal and 57–81 Tiber Gardens, a 5 storey residential block. To the east of the site are Battle Bridge Basin and 6 storey residential blocks to the south. Across Battle bridge Basin is Ice Wharf, a residential block. Within the Basin are Barges and houseboats.

5. **Relevant Planning History**

27 October 2004 – Planning permission ( Ref: P032145) granted for redevelopment to provide eight storey plus three basement building of 51,403sqm comprising of B1 offices, restaurants/bars and cafes, 425 seat concert hall, art gallery, associated car parking and the servicing plus other incidental works. Various conditions were attached to this consent including one for the operation of the A3 use until 11pm, and one to restrict the use of the outside terrace for playing of amplified music.

No conditions were imposed limiting the noise emitted from the A3 use.

6. 16 October 2008 – Planning permission (Ref; P081436) granted for the variation of condition 6 of the original Kings Place permission to allow the A3/A4 uses to operate from 8.00am to midnight on any day. The application

was granted subject to a number of conditions which included condition 6 which reads as follows:

7. 'The limited period for the extension of hours hereby permitted shall be until 31 October 2009 after which date the hours of operation shall revert to those granted on 27 October 2004.

Reason: the use is such that the council is only prepared to grant permission for a limited period in the first instance in order that its impact on the amenities of the surrounding area can be monitored.'

8. **Consultation** Letters were sent out on 19 August 2009 to 400 occupants and residents of adjoining properties in New Wharf Road, wharfedale Road, Crinan Street, York Way, Goods Way, Tiber Gardens, Copenhagen Street, Treaty Street, Thorn hill Bridge Wharf and the barges and houseboats on Battle Bridge Basin. The consultation of the application therefore expired on 18 August 2009.

### External /Internal Consultees

9. At the time of writing the report 36 resident responses were received. The main issues of concern are summarised below.

- Objection to any extension of the current licensed hours on the grounds that it would adversely affect the amenity of residents of properties in the vicinity.
- Objection on the grounds that the past year has shown that the use of the terraces has generated a lot of noise. Object o use of terrace spaces until midnight. (The use of the terrace is not the subject of this application. The original conditions restricting its use still apply)

10. Environmental Health – The councils licensing officer has confirmed that since March 2008 there have been no complaints regarding the hours of operation.

## RELEVANT POLICIES

11. **Development Plan** The Development Plan is comprised of the London Plan 2004 (as amended) and the Islington Unitary Development Plan (2002). The following policies of the Development Plan are considered relevant to this application:

## Islington Unitary Development Plan (2002)

Env17 Protecting Amenity

D3 (ii) Site Planning (Minimising disturbance)

12. **UDP Designations** The site has the following designations under the Islington Unitary Development Plan (2002):
- W2 Walkway: Islington Park Walk ext
  - NC10 site of Borough Importance – Grade 1
  - FP: Finsbury Park – special policy area
  - AO52: Area of opportunity

## **EVALUATION**

13. Planning permission Ref: P072377 (as detailed above) was granted subject to conditions on 23 December 2009. It is important to note that the conditions was imposed for a limited period only in order to ensure that the council can monitor the impact of the proposed hours of operation on the amenities of the surrounding area. The applicants propose to vary the conditions in the manner highlighted above as they consider that since its opening and to date, there have been no complaints or concerns regarding the operation of the restaurant and the bar between the hours of 8.00am to midnight as proposed. The council's licensing department has not received any complaint regarding the use of the bar and restaurant over the proposed hours. The conditions imposed on the previous application in relation to the operation of the outside terrace still apply and will be liable to enforcement action if not rigorously followed and upheld by the applicants.
14. The proposed change to the conditions would allow for the continued operation of the bar and restaurant between the hours of 8 am to midnight on any day of the week, as is currently the case. In the light of this and having regard to the fact that no complaints have arisen as a result of the current operation of the premises in question the proposed variation is considered to be acceptable. The councils licensing department have also confirmed that no complaints have been received concerning these premises since March 2008. The original consent has a condition limiting the playing of amplified music on the outside terrace at any time in response to neighbour concerns. These controls are included on this application for the additional hour.
15. The conditions from the original consent are still in place as are the requirements set out on the Management Plan submitted with the original application. The proposed change in operating hours has been in place for 10 months and to date there has been no evidence of harm to residential amenity. It is therefore not anticipated that there will be any change in circumstance to the neighbours. The patrons of the venue will vacate the outside terrace from 11pm as per the original consent and will remain inside the premises. Thus the use of the terrace is precluded after 11pm. In the light of the above, officers are satisfied that the proposed variation will not adversely affect the amenities of nearby residents.

16. **Conclusion** The proposed variation to condition 6 is considered to be acceptable and is in accordance with relevant National and Regional Guidance, UDP policies for the reasons noted above. Approval is recommended.

17. **Reason for Grant**

If members are minded to approve this proposal officers recommend that the following summary forms the reason for grant to be published on the decision notice:

(1) The proposed variation to the conditions would encourage the exploitation of the full potential of the application site and ensure that appropriate social benefits are achieved through new development, and would not result in any adverse impact on the amenities of nearby residents in terms of noise disturbance caused by the prescribed hours of operation. The application is therefore considered to comply with policy Env17 (Protecting Amenity) and policy D3 (site Planning) of the Islington UDP.

Bibliography  
Unitary Development Plan  
Property case file

Louise Reid Head of Development Management	
Produced: 29-Sep-2009	APAS/1763/CTE1letter