

COMMITTEE REPORT

Date: 15 October 2015 **Ward:** Osbaldwick and Derwent
Team: Major and **Parish:** Osbaldwick Parish
Commercial Team Council

Reference: 15/01278/FUL
Application at: 16 Farndale Avenue York YO10 3PE
For: Change of use from office (use class B1) to restaurant/ cafe
(use class A3)
By: Martyn Turnbull
Application Type: Full Application
Target Date: 7 September 2015
Recommendation: Approve

1.0 PROPOSAL

1.1 The application seeks planning permission for the change of use of the existing office to a restaurant/cafe use. The site is within a small parade of retail/commercial units located in a residential area. Whilst changes to the internal layout of the premises are proposed in order to accommodate the new use, no changes to the external appearance are proposed at this stage.

1.2 The application has been called to committee by Cllr Wartens on the grounds that there are no proposed opening hours making it difficult to assess its impact upon amenity. In addition concerns are raised in connection with parking for visitors and staff and deliveries to the site.

1.3 The application was deferred from the September 2015 committee in order for the proposed car parking arrangements to be examined further. Revised plans have been submitted which now indicate three car parking spaces to the rear of the site to be used by staff and visitors, an increase of one space.

Relevant History

1.4 No.14-16 Farndale Avenue - Conversion and change of use of building into 3no. shop and/or office units (use class A1 and A2) - Approved 27.12.2013

1.5 No.16A Farndale Avenue - Change of use from office (use B1) to chiropody and podiatry clinic (class D1) - Approved 30.04.2015

2.0 POLICY CONTEXT

2.1 Development Plan Allocation:

City Boundary GMS Constraints: York City Boundary 0001
DC Area Teams GMS Constraints: East Area (1) 0003

2.2 Policies: CYS6 - Control of food and drink (A3) uses

3.0 CONSULTATIONS

INTERNAL

Highway Network Management

3.1 No objections. The property is located within a parade of shops and is within walking/cycling distance of local residents. Three car parking spaces have been provided to the rear and an unrestricted lay-by is located to the front of the property which serves the whole parade. Cycle parking may be conditioned. It is not envisaged that an increase in levels of traffic generated from that of the permitted use as retail.

Public Protection

3.2 No objections are raised providing there is adequate control over noise and odour from the development. Conditions are proposed in connection with extraction equipment, delivery hours, amplified music, opening hours and facilities for the extraction of cooking odours.

EXTERNAL

Osballdwick Parish Council

3.3 Object on the following grounds:

- Parking and the volume of traffic is already a strong concern within this area and this new type of establishment will only add to this.
- Parking in this area is already at a minimum and there are insufficient parking spaces for the number of business that are present.
- Insufficient parking bays create highways issues including local peoples drives are blocked, cars are parked unsafely and junctions are blocked
- Given that no opening times have been indicated, the Parish Council feel that there is a serious lack of information provided with the application.
- Litter is already a problem within the area and this type of establishment will only add to this issue.
- The Parish Council also support other concerns raised by residents direct to CYC, including the increase of children hanging around the area this

establishment would create and the fact that Osbaldwick already has a number of hot food outlets and as such do not see a need or demand for anymore.

Neighbour notification and Publicity

3.4 Three letters of objection have been received raising the following concerns:

- Increased number of children hanging around
- It is primarily a residential area
- Limited on road parking at peak shopping times
- Existing problems occur when the Sainsbury's lorry is unloading at the site
- Residents drive ways are often blocked by cars
- Increased litter
- Increased vehicle movements during the evening
- Adequate cafes and take aways in the area already

4.0 APPRAISAL

4.1 KEY ISSUES

- Highway and parking issues
- Extraction and odour control
- Noise and disturbance

4.2 The National Planning Policy Framework (NPPF) sets out a presumption in favour of sustainable development which, for decision-taking, means approving without delay development proposals that accord with the development plan. Where the development plan is absent, silent or relevant policies are out of date, planning permission should be granted unless: (1) any adverse impacts would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole; or (2) specific policies in the Framework indicate development should be restricted (paragraph 14). Local planning authorities should seek to approve applications for sustainable development where possible and work with applicants to secure developments that improve the economic, social and environmental conditions of the area (paragraph 187).

4.3 The City of York Development Control Local Plan was approved for development control purposes in April 2005. Its policies are material considerations although their weight is limited except where in accordance with the NPPF. The relevant policy is S6. This states that planning permission for the extension, alteration or development of premises for food and drink uses will be granted provided: any likely impact on the amenities of surrounding occupiers as a result of traffic, noise, smell or litter would be acceptable; the opening hours are to be restricted where this is necessary to protect the amenity of surrounding occupiers;

car and cycle parking meets the standards; acceptable external flues and means of extraction have been proposed.

APPLICATION SITE

4.4 The site lies within a parade of purpose built shops. Numbers 14, 16 and 16A were until recently used as an electrical services/plumbing and heating office for John Wright Electrical, which has relocated to Dunnington. Number 16A has been granted permission to be used as a Chiropodist and has recently opened. Number 14 and 16 remain vacant. The remainder of the parade is occupied by a hairdressers and a Sainsbury's Local. The parade is within a predominantly residential area and predominantly serves the local community. To the rear of the building there are nine off street car parking spaces and two garages are provided within a courtyard; three of these spaces are now allocated for number 16. On street parking is available in a lay-by to the front of the site.

SCHEME

4.5 The application seeks permission to change the use of the building from the existing office use to a restaurant/cafe. The scheme does not propose any external works and only minimal works to remove internal partition walls and brick up doorways leading to the neighbouring units are proposed.

APPRAISAL

4.6 The proposal does not have an end user so it is unknown whether the unit would be used as a cafe or restaurant. However the unit is small, with an internal seating area for customers measuring approximately 6m by 6m and a kitchen measuring 2.1m by 1.8m (although there is scope to extend the kitchen area).

PARKING

4.7 Concerns have been raised in connection with potential parking problems arising from the new use. Adequate staff car parking is located to the rear of the site. Off street parking bays are available to the front of the unit although residents state that these are often full. It is considered that the majority of the vehicular movements to the area are generated by the Sainsbury's Local which is at the end of the parade. The proposed cafe/restaurant unit is relatively small and would not be able to accommodate a large number of customers at any one time. It is located within a primarily residential area and the facility is likely to attract local residents, at least some of who would be making a linked trip to the adjacent shops and would arrive on foot. Furthermore, the site has a lawful use for retail purposes and it is considered that a small cafe/restaurant use is unlikely to generate significantly more vehicular movements.

4.8 Since previously being presented to Committee revised plans have been secured which indicate three car parking spaces being provided within the car park to the rear of the site, an increase of one space. The applicant has confirmed that all occupiers of the units have keys to the barrier to the rear car parking area and as such it could remain available for parking until the last unit closes. The occupiers would be responsible for the daily locking and unlocking of the barrier.

4.9 There have been no complaints made by the public to the Traffic Management Department in connection with unauthorised or illegal parking within the vicinity of the application site.

KITCHEN EXTRACTION

4.10 The applicant does not have an end user in place and as such no details in connection with extraction/odour control are proposed. The type of extraction and odour treatment required is dependant on a number of factors such as the type of food to be cooked, the level of moisture, grease and smoke and the volumes of food to be produced. As such a condition has been recommended to ensure adequate ventilation and extraction, and also ensures that should there be a change in the occupation of the unit in the future, that the type of food which is to be cooked and the associated odour is adequately controlled.

NOISE

4.11 The unit is unlikely to be able to accommodate a large number of customers. The Sainsbury's Local store currently operates from 06:00 to 23:00 and it is considered that this is likely to generate the majority of the vehicular movements to and from the parade of shops. Trips to this store are likely to be frequent and relatively short, generating numerous visits. In addition to generating linked trips, a cafe/restaurant use would be likely to result in longer visits to the site and accordingly few trips.

4.12 No opening hours are proposed as there is no end user at present. At the present time the only shop in the parade which opens late in the evening is Sainsbury's, which closes at 23:00 every day of the week. The other units have historically closed earlier in the evening. Given the small scale of the proposed cafe/restaurant, a closing time of 23:00 would appear to be reasonable. An earliest opening time of 08:00 is recommended.

4.13 The proposal is for a cafe/restaurant use and not a hot food takeaway. As such it is considered that it would be unlikely to generate additional litter problems in the area.

5.0 CONCLUSION

5.1 The proposal would return the vacant building to a use which is considered as being compatible within this predominantly residential area. It would be in keeping with the character of the area and provide a service to local people. Furthermore it would create a number of new jobs and support the local economy. The use is unlikely to cause a significant nuisance to adjacent occupiers, particularly bearing in mind that the site has been in commercial use (albeit vacant) and is situated within a row of existing retail uses. By nature of the use it is considered that it would serve a local need and due to the size of the unit vehicular trips would be likely to be low.

5.2 Following the November Planning Sub Committee revised plans have been submitted which indicate three car parking spaces to the rear to be used solely by staff and visitors. Condition 9 has been attached which prevents the spaces from being used for any purpose other than as staff and visitor parking in connection with the application site.

6.0 RECOMMENDATION: Approve

1 TIME2 Development start within three years

2 The development hereby permitted shall be carried out in accordance with the following plans and other submitted details:-

Drawing number 607-P23 revision A received 17th September 2015

Reason: For the avoidance of doubt and to ensure that the development is carried out only as approved by the Local Planning Authority.

3 Details of all machinery, plant and equipment to be installed in or located on the use hereby permitted, which is audible at the boundaries of the nearest residential properties when in use, shall be submitted to the local planning authority for approval. These details shall include maximum sound levels (LA_{max} (f)) and average sound levels (LA_{eq}), octave band noise levels and any proposed noise mitigation measures. All such approved machinery, plant and equipment shall not be used on the site except in accordance with the prior written approval of the local planning authority. The machinery, plant or equipment and any approved noise mitigation measures shall be fully implemented and operational before the proposed use first opens and shall be appropriately maintained thereafter.

Note: The combined rating level of any building service noise associated with plant or equipment at the site should not exceed the background noise level at 1 metre from the nearest noise sensitive facades when assessed in accordance with BS4142: 2014, inclusive of any acoustic feature corrections associated with tonal, impulsive, distinctive or intermittent characteristics. Whilst it is acknowledged that at

background levels of less than 30dB(A) use of BS4142 is inappropriate, EPU consider that in such circumstances the combined rate level of plant inclusive of any character correction should not exceed 30dB(A).

Reason. To protect the amenity of local residents

4 Deliveries to the premises shall be confined to the following hours:

Monday to Saturday 08:00 to 18:00

Sundays and Public Holidays 09:00 to 16:00

Reason: To protect the amenity of local residents

5 The opening hours of the use hereby approved shall be restricted to between 08:00 and 23:00 Monday to Saturday.

09:00 to 23: 00 Sundays and Public Holidays

Reason: To protect the amenity of occupants of the nearby properties from noise

6 Any electronically amplified music emitted from the premises shall be played or reproduced through loudspeakers and a tamper-proof noise limitation device. The device, the levels set and the installation shall be approved in writing by the local planning authority before the use hereby approved commences. Thereafter the approved levels, equipment, installation and position and type of loudspeakers shall be maintained in accordance with the planning approval; at no time shall they be modified without the written approval of the local planning authority.

Reason: To protect the amenity of occupants of the nearby properties from noise.

7 There shall be adequate facilities for the treatment and extraction of cooking odours at all times. Details of the extraction plant or machinery and any filtration system required shall be submitted to the local planning authority for written approval. Once approved it shall be installed and fully operational before the proposed use first opens and shall be appropriately maintained and serviced thereafter in accordance with manufacturer guidelines.

Note: It is recommended that the applicant refers to the Defra Guidance on the Control of Odour and Noise from Commercial Kitchen Exhaust Systems (January 2005) for further advice on how to comply with this condition. The applicant shall provide information on the location and level of the proposed extraction discharge, the proximity of receptors, size of kitchen or number of covers, and the types of food proposed. A risk assessment in accordance with Annex C of the DEFRA guidance shall then be undertaken to determine the level of odour control required. Details

should then be provided on the location and size/capacity of any proposed methods of odour control, such as filters, electrostatic precipitation, carbon filters, ultraviolet light/ozone treatment, or odour neutraliser, and include details on the predicted air flow rates in m³/s throughout the extraction system.

Reason: To protect the amenity of future residents and nearby properties.

8 Prior to the development coming into use details of cycle parking for use by staff and visitors shall be submitted to and approved in writing by the Local Planning Authority. The building shall not be occupied until the cycle parking has been provided within the site in accordance with such approved details, and these areas shall not be used for any purpose other than the parking of cycles.

Reason: To promote use of cycles thereby reducing congestion on the adjacent roads and in the interests of the amenity of neighbours.

9 The car parking spaces identified on the approved drawing reference 607-P23 REV A shall be made available during the opening hours of the unit and shall be retained solely for use by staff and visitors in connection with the approved use at 16 Farndale Avenue and for no other purpose.

Reason: In order to reduce on street parking within the immediate vicinity

7.0 INFORMATIVES: Notes to Applicant

1. STATEMENT OF THE COUNCIL'S POSITIVE AND PROACTIVE APPROACH

In considering the application, the Local Planning Authority has implemented the requirements set out within the National Planning Policy Framework (paragraphs 186 and 187) in seeking solutions to problems identified during the processing of the application. The Local Planning Authority took the following steps in order to achieve a positive outcome:

Secured revised plans indicating off street parking for staff and visitors
Attached appropriate conditions

Contact details:

Author: Heather Fairy Development Management Officer

Tel No: 01904 552217