

COMMITTEE REPORT

Date: 5 October 2017 **Ward:** Guildhall
Team: Major and **Parish:** Guildhall Planning Panel
Commercial Team

Reference: 17/00580/FULM
Application at: 54 Gillygate York YO31 7EQ
For: Conversion of ground floor pub (use class A4) to retail (use class A1) with new shop front and change of use of first and second floors to student residential accommodation (18no. studio apartments) with first floor rear extension
By: Mr Neil Beard
Application Type: Major Full Application (13 weeks)
Target Date: 11 September 2017
Recommendation: Delegated Authority to Approve

1.0 PROPOSAL

Application site

1.1 The application relates to an early C20 non-listed building with Art Deco styling, located within the Central Historic Core Conservation Area. The site is in Gillygate which is typified by C18 and C19 buildings of varying style ranging in height. The main building is 2-storey with mansard roof. There have been multiple extensions at the rear at ground floor level and a dormer type extension added to the mansard roof at the back. There is an out-building in the rear yard. The yard is used for car parking.

1.2 The building was last used as a public house, with associated accommodation on the floors above. It is now vacant.

Proposals

1.3 This application is for change of use to retail at ground floor level and student accommodation above. To facilitate the scheme a rear extension is proposed, adding a further storey above the existing out-shot; there would be a 2-storey access core to the side. A new shop-front is proposed also.

1.4 The scheme has been revised, both the proposed shop-front and rear extension following the consultation process.

Recent planning history

1.5 The public house in the recent past had multiple changes in its format and periods of vacancy. Recent relevant planning applications are as follows -

14/01817/FUL - permission was granted for the upper floors to be used as a hostel.

15/01009/FUL - permission to use ground floor area as a cafe

15/00028/FUL & 15/00029/FUL – applications refused for a new shop-front

2.0 POLICY CONTEXT

2.1 Section 38(6) of the Planning and Compensation Act 2004 requires that determinations be made in accordance with the development plan unless material considerations indicate otherwise. There is no adopted Local Plan in York. In the absence of a formally adopted local plan the most up-to date representation of key relevant policy issues is the NPPF and it is against this Framework and the statutory duties set out below that the application proposal should principally be addressed.

NPPF

2.2 Paragraph 14 of the National Planning Policy Framework (NPPF) says that at the heart of the NPPF is a presumption in favour of sustainable development for decision taking this means that where the development plan is absent, silent or relevant policies are out-of-date granting planning permission unless specific policies in the framework indicate development should be restricted.

2.3 Most relevant sections of the NPPF to this application are as follows –

1. Building a strong, competitive economy
2. Ensuring the vitality of town centres
6. Delivering a wide choice of high quality homes
7. Requiring good design
12. Conserving and enhancing the historic environment

“Development Control Local Plan” 2005 (DCLP)

2.4 Although there is no formally adopted local plan, the “City of York Draft Local Plan Incorporating the Fourth Set of Changes” was approved for development control purposes in April 2005. Whilst it does not form part of the statutory development plan for the purposes of S38, its policies are considered to be capable of being material considerations in the determination of planning applications, where policies relevant to the application are in accordance with the NPPF.

2.5 Policies considered to be compatible with the aims of the NPPF and most relevant to the development include

ED10	Student Housing
HE3	Conservation Areas
HE6	Shop-fronts in historic locations
GP1	Design

3.0 CONSULTATIONS

Design, Conservation & Sustainable Development (Conservation Officer)

3.1 Officers commented on the proposed shop front and rear extension as follows –

Shop-front

3.2 The proposed principle to convert the ground floor to retail is completely in keeping to the character of the street, but architecturally it is a challenge to design this successfully where converting a building not originally designed for it- and even more challenging to do this for a 20th century building in a historic street with architectural complexity and older (often original) shop fronts.

3.3 For the shop front officers suggested either keeping the width of existing windows and enlarging them, so they run down to ground level, or to design a contemporary shop front intervention that is good and interesting in its own way. However it would have to be designed and executed exceptionally well and in being different, it is likely to be relatively modest in scale to fit comfortably within the street scene- which might not have sufficient visibility into the shop for the applicants' wishes. The creation of a shop front as proposed, incorporating fragments of existing windows and surrounds into two very large single-panel shop fronts is an unnatural compositional development and is not supported by officers.

Rear extensions

3.4 The rear of the building is currently in a less tidied up architectural state and architecturally lower quality: the rear of many neighbouring properties on this side of Gillygate are similarly ad hoc and less considered. A lot of these rear aspects are visible from the city walls. Nearly all building forms to the rear of these properties are substantially lower in height to the street block, get incrementally lower as they extend outwards, and are a variety of shapes and sizes within the same plot, often representing an organic accretion of extensions and replacements over time.

3.5 The rear extension design should take a contextual approach to massing in this context: it should modulate and step down as it extends outwards to the rear. This is the only way it will not look out of character. There are opportunities for the building

line to go further back into the plot than currently proposed, if designed in an appropriate way.

Design, Conservation & Sustainable Development (Archaeology)

3.6 Officers request a watching brief be required on any groundworks. It is possible that groundworks associated with this proposal may reveal or disturb archaeological features particularly relating to the Roman and medieval period. It is difficult to assess how disturbed this site may already be therefore, it will be necessary to record any revealed features and deposits through an archaeological watching brief on all groundworks.

Highway Network Management

3.7 Officers made comment on the car parking and cycle parking provision.

- The car park is very tight with limited space to manoeuvre. Operationally, this may cause some issues when deliveries are accepted for either residents or occupiers of the retail unit. The site is situated in a particularly sustainable location in York city centre close to amenities public transport. Guildhall ward has the lowest number of cars per household in York with 51% of households not owning a car and 40% owning just 1.
- Cycle parking - secure and covered facilities are required at a rate of (1 per dwelling unit). 3-4 cycle parking spaces for the retail unit (1 per 60 retail area), preferably within the footprint of the building, are also required.

Public Protection

3.8 Historically Public Protection have received a number of complaints regarding noise from former uses of 54 Gillygate, primarily due to music, and as a result the proposed conversion is welcomed. However, the property is located on a major route around York and as a result noise levels experienced to the front of the property are very high. A condition is required to ensure suitable internal noise levels for residents; to comply with the requirements of BS8233 and the World Health Organisation Guidelines on Community Noise.

3.9 The site lies within an Air Quality Management Area (AQMA), where levels of nitrogen dioxide are currently breaching health based objective levels. An Air Quality Statement has been submitted that states in order to mitigate exposure to nitrogen dioxide, all windows (for the dwellings) facing Gillygate will be non-opening and rooms serviced by means of mechanical ventilation with heat recovery, bringing in fresh air in from the rear of building at roof level. Officers ask for this requirement and details of the system to be secured through planning condition.

3.10 Officers seek for a condition to approve construction management arrangements and noise levels of plant/machinery.

Public Realm

3.11 Officers advise an open space contribution is not requested as there are no projects/facilities in the locality that have received fewer than 5 contributions.

Historic England

3.12 No comment

Police Architectural Liaison Officer

3.13 The development lies within an area with relatively high crime & disorder levels. Any new development has the potential to increase these levels if the designing out of crime is not considered and implemented. A condition is recommended to approve measures to prevent crime. Officer's recommendations are as follows -

Access

- The location of the stairway providing access to the studio apartments is accessed via the car park at the rear and therefore there is no natural surveillance provided from the street, which reduces the potential for offenders to be seen and deter their criminal or anti-social activity. This in turn compromises both the safety and security of residents of the studio apartments. This is exacerbated by the proposed mixed use for the car park (see section below on car parking) and the fact that there is no access control to the car park.

Car Park

- Although it is accepted that car ownership amongst the residents of the studio units is likely to be low, by having a mixed use parking area, this creates the potential for conflict between residents, staff of the retail unit and shoppers.

Cycle Store

- As the storage will be used by a number of residents, it should have independent cycle anchorage points available within the store and the door should be fitted with a good quality lock operated by a fob or swipe card and not a keypad.

Surveillance

- Natural overlooking, CCTV and lighting are recommended to help deter crime.

York Civic Trust

3.14 The trust objected to the original scheme due to - inappropriate shop front design and over-development at the rear. The plans have been revised since the trust's comment.

Shop-front

3.15 The proposed shop-front would be unprecedented in width and scale in Gillygate. Once more, this is unjustified and unwelcome. The Trust suggests retaining and using the current fenestration, which is in keeping with a building of this date, and of aesthetic interest.

Rear extension

3.16 Any rear extension requires sensitivity in terms of size and aesthetic; however, the proposal lacks both. The proposed two-storey rear extension would make this the largest building on this side of Gillygate and be prominent from the City Walls. This massing is unprecedented and has no justification in terms of any historic or aesthetic importance of the site, which are negligible. The three-storey rear extension would also be visible down the access lane on Gillygate, creating a gloomy and over-developed impression of the rear courtyards behind Gillygate.

Publicity

3.17 One comment has been made that agrees with comments made by the Civic Trust.

4.0 APPRAISAL

4.1 Key Issues

- Principle of the proposed uses
- Impact on Heritage Assets
- Amenity
- Highway Network Management

Principle of the proposed uses

4.2 To change the ground floor use from a public house to retail would make an improved contribution to the vitality and viability of the street, which is predominantly commercial and in the city centre. What would be a daytime use would also improve amenity for neighbours and allow the host building to be comprehensively occupied, with a residential use above. The proposed uses of the building accord with policy for competitive town centres in the NPPF, specifically as set out in

paragraph 23 which explains how town centres should be managed to encourage growth.

4.3 The upper floors would be used for student accommodation. There was previously a flat associated with the public house on the upper floors. There would be an increase in accommodation overall and the site is within walking distance of the university. The proposals in this respect are consistent with NPPF policy and principles; to boost housing supply and re-use empty commercial buildings to help meet housing need as set out in paragraphs 47, 50 and 51. The proposals also accord with the criteria for off campus student accommodation, as detailed in policy ED10 of the Local Plan.

Impact on Heritage Assets

4.4 The site is in the Central Historic Core Conservation Area and the rear of the property can be viewed from the City Walls which are listed at Grade I.

4.5 The Council has a statutory duty (under section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990) to consider the desirability of preserving or enhancing the character and appearance of designated conservation areas. Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 advises that in considering whether to grant planning permission for development which affects a listed building or its setting, the local planning authority shall pay special regard to the desirability of preserving the building or its setting or exercise of any features of special architectural or historic interest which it possesses.

4.6 The NPPF in section 12 establishes the approach to determining applications affecting heritage assets. Paragraph 131 states that in determining planning applications, local planning authorities should take account of:

- the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation;
- the positive contribution that conservation of heritage assets can make to sustainable communities including their economic vitality; and
- the desirability of new development making a positive contribution to local character and distinctiveness.

Conservation Area Appraisal

4.7 The site is within the Gillygate area of the Central Historic Core Conservation Area. The appraisal explains that buildings along Gillygate date predominantly from the C18 and C19, in a range of heights and styles, which creates an interesting street scene. The appraisal identifies key views, none of which look towards the application site.

4.8 There are views of the street from the City Walls. Gillygate is defined in this respect generally by narrow plots and buildings with a vertical emphasis. Rear outshots generally step down in scale compared to the main building.

Assessment

4.9 The scheme has been revised; the rear extension reduced in scale and the shop front revised in detailing. The changes proposed respect the host building and there would be no harm to the character and appearance of the conservation area, specifically considering the occasional views of the rear of the plot beyond tree cover from the grade I listed City Walls.

Shop front

4.10 Of the Draft Local Plan policy GP16: Shop-fronts states alterations to shop-fronts will be granted planning permission where they reflect the scale, proportion, materials and architectural style of the building to which they are attached and the area in which they are located. Policy HE6 relates to shop-fronts in conservation areas. It states that new or alterations to existing shop-fronts in conservation areas will only be granted planning permission where the proposed design preserves or enhances the character of the area or building.

4.11 At the front the new shop front originally proposed had a traditional design which did not suit the age and architectural style of the building. The revised design proposes a pair of display windows and gives a more defined entrance by placing this centrally. The large display windows will be moderated using detailing which will respect the proportions and detailing of the host building. Details will be secured through condition.

4.12 The proposals have been revised to address concerns raised by the Civic Trust and officers. A more open shop front is required to suit the proposed commercial use. As amended the scheme respects the host building and would maintain the character and appearance of the conservation area.

Rear extensions

4.13 Currently there are single storey flat roof extensions at the rear. The mansard roof of the main building is interrupted by a flat roof extension which detracts from the appearance of the rear elevation and is evident in views from the walls. There are external escape stairs which also appear unsightly in glimpsed views from the walls.

4.14 The rear plots along the east side of Gillygate are viewed from the City Walls when there are breaks in the trees which sit the embankment to the walls. The

buildings have typically been extended at the rear over time. Later extensions are of varying scale and form but typically they are consistent in that they step down in scale from the main building.

4.15 The proposed extension would respect the form, shape, materials and details used on the main building. It would step down in scale, characteristic of the setting; the ridge level of the roof would be aligned with the parapet/eaves level on the main building. The external metal fire escape staircases which currently detract from the building's appearance would be replaced.

4.16 To break up the massing, ensure the extension is not too bulky and add visual interest, the rear extension would have a dual pitched roof and the rear entrance and means of circulation to the accommodation on the upper floors has been designed to read as a separate and contemporary intervention. The contemporary element would be setback from the rear elevation, as such and due to its position, and surrounding tree cover, it would not be prominent in views.

Amenity

4.17 The National Planning Policy Framework requires that developments always seek to secure a good standard of amenity for all existing and future occupants of land and buildings. It states decisions should avoid noise from giving rise to significant adverse impacts on health and quality of life as a result of new development.

Future occupants

4.18 Conditions are proposed that require suitable internal noise levels for future occupants. This would require compliance with national standards. Mechanical ventilation (drawing fresh air from the rear of the site) to rooms at the front will be required also due to air quality as a consequence of traffic on Gillygate.

4.19 A condition would also require that the proposed covered and secure cycle facilities are provided for future occupants.

Safety / crime prevention

4.20 The student accommodation access and associated cycle storage remain at the rear. Conditions are proposed to secure a reasonable environment for future occupants. Specifically surfacing and lighting would be required to define the route from Gillygate to the access/cycle facilities and the entrances and cycle store will also need to be lit. The cycle store will be covered and secure (as illustrated on the site plan).

Neighbour amenity

4.21 The extension is offset from the north side boundary the extent of the vehicular access to the rear car park. There is a flat to the north with windows in the rear outshot facing the application site. The side windows are set a further 3m from the boundary. Due to the separation between buildings and considering the context the proposed extension would not be over-dominant and it would not lead to an undue loss of light or outlook.

4.22 To the south there are two storey and single storey extensions by the side boundary to the public house and there would be no undue impact to the setting or the amenity of the public house.

Open Space Provision

4.23 The NPPF advises that access to high quality open spaces and opportunities for sport and recreation can make an important contribution to the health and well-being of communities. However it is only possible to require off site contributions towards open space when compliant with the CIL regulations. How contributions would be used must be clearly described and no more than 5 contributions towards any one infrastructure project can be provided.

4.24 In the central area, based on the 2014 Open Space study by amec, there is a shortfall of all open space types, apart from parks. As such it would be reasonable to require a contribution towards off site open space. However the Council are unable to identify any projects which are CIL compliant (i.e. there are no projects for open space in the locality that have not had 5 or more contributions previously). As such a contribution has not been required.

Highway Network Management

4.25 The National Planning Policy Framework advises that developments should:

- Provide safe and suitable access to the site for all people and minimise conflicts between traffic and cyclists or pedestrians.
- Maximise sustainable transport modes and minimise the need to travel.
- Incorporate facilities for charging plug-in and other ultra-low emission vehicles.

4.26 Conditions are proposed to secure adequate and safe access for future residents and to ensure installation of the cycle store. The store would be covered and secure and is therefore acceptable.

5.0 CONCLUSION

5.1 The proposed uses are compliant with town centre policies in the NPPF and the proposed residential accommodation will contribute towards demonstrable housing need in the city.

5.2 The proposals have been revised and the character and appearance of the conservation area would be maintained. The quality of the proposed development would be secured through conditions covering detailing and materials. There would be no harm to neighbours amenity and conditions are proposed to secure suitable levels of amenity for future occupants.

5.3 Conditions are also necessary in the interests of heritage assets – archaeology, as the site is within the designated City Centre Area of Archaeological Importance and to control the proposed use as if the accommodation were not for students only there would be requirements for appropriate and justified planning obligations.

COMMITTEE TO VISIT

6.0 RECOMMENDATION: Delegated Authority to Approve at the end of the re-consultation period subject to consultation with the Chair and Vice-Chair if any further objections are received.

1 The development shall be begun not later than the expiration of three years from the date of this permission.

Reason: To ensure compliance with Sections 91 to 93 and Section 56 of the Town and Country Planning Act 1990 as amended by section 51 of the Compulsory Purchase Act 2004.

2 Approved Plans

A101, 103, 104, 105 All revision 4
A102 revision 5 received 19/9/2017

3 Archaeology – Watching Brief

No work shall commence on site until the applicant has secured the implementation of a programme of archaeological work (a watching brief on all ground works by an approved archaeological unit) in accordance with a specification supplied by the Local Planning Authority. This programme and the archaeological unit shall be approved in writing by the Local Planning Authority before development commences.

Reason: The site lies within an Area of Archaeological Importance and the development will affect important archaeological deposits which must be recorded during the construction programme.

4 Materials

External materials to be used shall be as annotated on the approved plans, unless otherwise approved in writing by the Local Planning Authority.

Notwithstanding the approved plans a colour scheme for the building (to include door and window frames, window cills and rendered areas) shall be submitted to, approved in writing by the local planning authority and carried out in accordance with the approved details prior to first use of the development hereby permitted.

A sample panel of the brickwork to be used on the new block shall be erected on the site and shall illustrate the colour, texture and bonding of brickwork and the mortar treatment to be used, and shall be approved in writing by the Local Planning Authority prior to the commencement of building works of the extension hereby approved. This panel shall be retained until a minimum of 2 square metres of wall of the approved development has been completed in accordance with the approved sample.

Reason: In the interests of the setting or heritage assets.

5 Large Scale Details

Large scale details of the items listed below shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of construction and the works shall be carried out in accordance with the approved details.

- i. New entrance and staircase at rear
- ii. New shop front display windows and entrance door in context/section, details to include configuration and profiles of glazing bars/mullions, which shall respect the proportions of the host building
- iii. Details of any external vents and external machinery required in conjunction with the required mechanical ventilation system, all shown in context

Reason: In the interests of the character and appearance of the conservation area and in the interests of good design.

6 Residential amenity

Prior to completion of the development hereby approved measures to provide safe and inclusive access into the residential accommodation shall be submitted to and approved in writing by the Local Planning Authority. The development shall be

carried out in accordance with the approved details prior to first occupation of the residential units.

The details shall include –

- Adequate lighting between the site entrance and the cycle store and residential entrance (lighting can be on a motion sensor in the interests of amenity).
- Surfacing details which identify a dedicated and well defined pedestrian and cycle route between the site entrance and the residential access and cycle store.
- CCTV coverage of the residential access and cycle store.

Reason: To create safe and accessible environments where crime and disorder, and the fear of crime, do not undermine quality of life or community cohesion in accordance with NPPF paragraph 58.

7 Residential amenity - noise

The building envelope of all residential accommodation shall be constructed so as to achieve internal noise levels in habitable rooms of no greater than 35 dB LAeq (16 hour) during the day (07:00-23:00 hrs) and 30 dB LAeq (8 hour), with the internal LAFMax levels not exceeding 45dB(A) on more than 10 occasions in any night time period (23:00 to 07:00 the following day). Noise levels shall be observed with all windows open in the habitable rooms or with windows shut and other means of ventilation provided. The detailed scheme shall be approved in writing by the Local Planning Authority, fully implemented and a post completion noise assessment undertaken to demonstrate compliance with this condition before first occupation of the student accommodation hereby approved.

REASON: To protect the amenity of people living in the new properties from externally generated noise and in accordance with the National Planning Policy Framework.

8 Details of all machinery, plant and equipment

Details of all machinery, plant and equipment to be installed in or located on the premises, which is audible outside of the premises, shall be submitted to the local planning authority for approval. These details shall include average sound levels (LAeq), octave band noise levels and any proposed noise mitigation measures. 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.

Reason: In the interests of amenity.

INFORMATIVE: 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.

9 Cycle storage

Covered and secure cycle parking shall be provided in accordance with the approved details prior to first occupation of the student accommodation hereby approved. Such facilities shall be retained for the lifetime of the development.

Reason: To promote sustainable modes of transport, in accordance with policies GP1, GP4a and T4 of the City of York Draft Local Plan and the National Planning Policy Framework.

10 Window profiles to match existing

New window profiles and their setting in reveals shall be to match existing windows, unless otherwise approved in writing by the Local Planning Authority.

Reason: In the interest of visual amenity and the character and appearance of the conservation area.

11 Mechanical ventilation to front

Unless otherwise approved by the Local Planning Authority all windows to habitable rooms (bedrooms / living areas) facing onto Gillygate shall be non-openable (fixed shut), with ventilation provided through continuous mechanical supply and extract to the rear of the building at roof level. The continuous mechanical supply and extract ventilation system shall incorporate heat recovery (MVHR). The system shall be appropriately maintained at all times.

Reason: In the interests of future residents amenity because the site lies within an Air Quality Management Area (AQMA), where levels of nitrogen dioxide are currently breaching health based objective levels.

INFORMATIVE: The required system should be designed to meet current Building Regulations with respect to the provision of fresh air and the extraction of stale air.

12 Unexpected Contamination

In the event that contamination is found at any time when carrying out the approved development that was not previously identified, it must be reported in writing

immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken and where remediation is necessary a remediation scheme must be prepared, which is subject to the approval in writing of the Local Planning Authority. Following completion of measures identified in the approved remediation scheme a verification report must be prepared, which is subject to the approval in writing of the Local Planning Authority.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.

13 Student Accommodation only

The development hereby approved shall be occupied only for the purposes of student accommodation by either students engaged at all times in full-time or part-time further or higher education courses within the City of York administrative boundary or by delegates at all times attending courses or conferences within the City.

Reason: In order to control the future occupancy of the development in the event of it any part of it being sold or rented on the open market without securing adequate levels of affordable housing, open space contributions and measures towards promoting sustainable travel that would normally be secured for housing schemes in accordance with Policy H2a of the City of York Draft Local Plan and sections 4 and 8 of the NPPF.

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: provided advice on the required amendments required in order to make the scheme acceptable in terms of impact on the setting of heritage assets and amenity and through the use of planning conditions.

2. INF11 - Control of Pollution Act 1974

3. INF17 - Disposal Of Commercial Waste

Contact details:

Author: Jonathan Kenyon Development Management Officer

Tel No: 01904 551323