

COMMITTEE REPORT

Date: 15 November 2012 **Ward:** Guildhall
Team: Major and **Parish:** Guildhall Planning Panel
Commercial Team

Reference: 12/03096/FUL
Application at: West Cornwall Pasty Company 38 Parliament Street York
YO1 8RU
For: Retention of pavement cafe on public highway
By: West Cornwall Pasty Co
Application Type: Full Application
Target Date: 28 November 2012
Recommendation: Approve

1.0 PROPOSAL

1.1 Planning permission is sought for the retention of the existing pavement cafe on highway land to the front of the West Cornwall Pasty Company, 38 Parliament Street. The pavement cafe was granted a temporary two year planning permission in April 2010 (Ref. 10/00173/FUL). The planning permission expired on 30 April 2012.

1.2 The previously approved details and proposed details are the same. The pavement cafe area (about 16 sq. m) accommodates 4 No. black aluminium tables and 12 No. black aluminium chairs. The tables and chairs are enclosed at each side by ropes that attach to free standing metal posts, approximately 1m high. The furniture is stored within the retail unit and the cafe does not operate at times when the space is required for events that require the space as managed by the Town Centre Management Team.

1.4 The cafe operates during the following hours-

08:00-18:00, Mondays- Fridays
09:00-18:00, Saturdays
09:00-16:00, Sundays and Bank Holidays

1.5 It is noted that the site is currently enclosed by canvas banners with advertising. There is no planning permission for this form of enclosure and the permission is sought for the rope enclosures as previously approved. The Council enforced against the use of canvas banners in 2011, and they were replaced with rope barriers.

CONTEXT

1.6 The site is situated in the Central Historic Core Conservation Area No. 1. The shop premises is a Grade II Listed Building that was originally a house and shop, dating from 1836-39, with later nineteenth century alterations and a twentieth century shopfront. Extensive alterations to the ground and first floors interiors were made during the 1980's.

RELEVANT PLANNING HISTORY

1.7 In August 2009, a previous application for a larger pavement cafe was refused planning permission due to its conflict with the use of the area for events; its size, location and design; and insufficient detail about the storage of the furniture when the use was not in operation- LPA Ref. 09/ 01109/FUL.

1.8 Planning permissions has been granted for two nearby pavement cafes, Pret A Manger (No.35) and O'Briens (No. 32). The former had a temporary consent (Ref. 07//01080/FUL) for a pavement cafe that was granted planning permission in 2011 (Ref. 11/02903). The pavement cafe to the front of O'Briens was granted planning permission in 1997 (Ref. 97/00870/FUL).

1.9 This application is presented to the West/ City Centre Sub-committee at the request of Councillors Crisp and Watson due to the encroachment of the pavement cafe on the public area for viewing street entertainment detrimental to the street scene, and the creation of another pinch-point for the public using Parliament Street that causes difficulties on busy days in the city centre.

2.0 POLICY CONTEXT

2.1 Development Plan Allocation:

Areas of Archaeological Interest GMS Constraints: City Centre Area 0006

Conservation Area GMS Constraints: Central Historic Core CONF

Listed Buildings GMS Constraints: Grade 2; 38 Parliament Street York YO1 2RU 0686

Listed Buildings GMS Constraints: Grade 2; 36 Parliament Street York YO1 2RU 0684

Listed Buildings GMS Constraints: Grade 2; 39 Parliament Street York YO1 2RU 0687

2.2 Policies:

CYHE2 Development in historic locations

CYS6 Control of food and drink uses

CYGP1 Design

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3.0 CONSULTATIONS

INTERNAL

- 3.1 Design, Conservation and Sustainable Development- No comments at time of writing
- 3.2 Traffic Network Management - No complaints have been received
- 3.3 City Centre Manager- No objections
- 3.4 Highway Network Management- No objections

EXTERNAL

- 3.5 Guildhall Planning Panel- No objections
- 3.6 Safer Neighbourhoods/ North Yorkshire Police Architectural Liaison Officer- No comments to make

4.0 APPRAISAL

4.1 KEY ISSUES

- principle
- visual impact
- impact on the amenity of surrounding occupants / nearby residents
- highway safety/ management
- crime and disorder.

POLICY CONTEXT

National policy

4.2 The National Planning Policy Framework has a stated presumption in favour of sustainable development. Relevant specific policy topics include ensuring the vitality of town centres, conserving and enhancing the historic environment, and encouraging good design.

Local Plan Policy

4.3 The Development Control Local Plan was approved for Development Control purposes in April 2005; its policies are material considerations although it is considered that their weight is limited except where in accordance with the National Planning Policy Framework. The relevant planning policies are:

Policy S6 relates to the control of food and drink uses. The policy permits the extension, of premises within York City Centre subject to there being no adverse impact on amenity of surrounding occupiers. Policy S6 recommends that the opening hours are restricted, where necessary, to protect the amenity of surrounding occupiers. Policy HE2 states that within conservation areas and/or the setting of a listed building, proposals must respect adjacent buildings, urban spaces and views. Policy GP1 is a general design policy in the Local Plan that, inter alia, seeks to ensure that new development respects its surroundings. Policy HE2

ASSESSMENT

Principle

4.4 The use of public spaces for outdoor cafes is generally supported in the city centre, as it is recognised they can add to the vitality and viability of areas. In Parliament Street, there are nearby premises that have been granted permission for outside seating areas on the highway. As with this proposal, each of the pavement cafes is separated from the premises to allow pedestrians to pass.

4.5 Concern has been expressed that the use of the area as a pavement cafe could potentially conflict with the events that take place within this designated event space, and conflict with the Council's strategy for sustaining and developing city centre events. This strategy was approved by Council in December 2006 and seeks to make York a more "eventful" city. Many of the events rely on the full use of Parliament Street, provide the Council with income, offer a community facility for events and activities in a central location, and are an important tourist attraction in the City. The site is one of 3 defined spaces in Parliament Street that the Council is able to offer for community events and activities for free. It is also an area that the Council use for promotional activities and is an income generating area as it is close to the pavement side of Parliament Street.

4.6 The cafe use only operates during the days when events and activities are not required for pre-planned events, and the applicant has been operating for two years with the restricted opportunities to use the highway as a pavement cafes. The Town Centre Management Unit raises no concerns about the dual use of the area. The pavement cafe is a small scale operation sited close to a larger pavement cafe and public cycle parking. There is no conflict with the adjacent uses.

4.7 The principle of a pavement cafe in this location therefore accords with Policy S6 of the Local Plan and the intentions of the National Planning Policy Framework that seek to maintain vibrant city centres that offer a range of services to meet the needs of its users in a sustainable location.

Visual impact

4.8 The relationship between the proposed area for outdoor seating and the host building is similar to other cafes in the area. Its size is appropriate to the host listed building and does not detract from its setting in the conservation area. The outdoor seating area does not unduly intensify the use of this part of Parliament Street for pavement cafes to the extent that it would detract from the character and appearance of this part of the conservation area.

4.9 The design of the furniture, the previously approved rope barriers of a simple design with no advertising to the tables and chairs or freestanding barriers, and the internal storage arrangements are appropriate in appearance and do not clutter or detract from the character and appearance of the conservation area or the setting of the listed building. The proposal would comply with Policy HE2 of the Local Plan.

Amenity

4.10 In this busy city centre location there are no amenity concerns associated with the operation of an outdoor café during the daytime and early evening till 6.00pm. It is considered that conditions controlling the hours of operation and to prevent the playing of amplified music could be reapplied if planning permission is granted. The proposal does not conflict with Policy GP1 of the Local Plan.

Highway safety/ management

4.11 Temporary planning permission was granted for the use of highway land in April 2010 for two reasons. It was unclear whether the dual use of the area could operate successfully. Secondly, to ensure that the use would not prejudice any future decisions of the local highway authority in this area as it was considered that the circumstances and status of the highway may be subject to future change. Neither circumstances nor status have changed in the intervening period that would affect its current use as a pavement cafe. There are no highway related concerns, since unhindered pedestrian access along Parliament Street is retained along the pavement adjacent to the building frontage. Additionally, the Highway Licence contains a clause preventing seating on dates to be determined by the Markets Superintendent and this operates without major problems. It is recommended that given the highway licensing regime safeguards that are in place a permanent planning permission is granted.

4.12 Concerns have been expressed that the pavement cafe creates a pinchpoint in Parliament Street. The site extends no further into the event space than the adjacent to public cycle parking and is small in scale in comparison to the larger pavement cafe at Pret-a-Manger.

Crime and Disorder

4.13 Matters of crime and disorder/security are predominantly dealt with through the licensing legislation. No objections have been raised by the Police Architectural Liaison Officer following consultation with Safer Neighbourhoods.

5.0 CONCLUSION

5.1 The pavement cafe is compatible with existing uses, does not affect the amenity of neighbouring properties, is visually acceptable and does not compromise highway safety or management. There would be no conflict with Policies HE2, S6 and GP1 of the Local Plan and related national planning guidance contained in the NPPF. Approval is recommended subject to the following conditions.

COMMITTEE TO VISIT

6.0 RECOMMENDATION: Approve

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

Drawing No. WCPC/PARLIAM/006/REV B, Received 3.2.2010

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consisting of 4 No. 700mm diameter aluminium and black powder coated tables, 12 No. aluminium and black chairs, and freestanding 1000mm barriers in stainless steel with 120mm rope

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

2 The tables and chairs associated with the use hereby approved shall be stored within No. 38 Parliament when not in use.

Reason: In the interests of the safety and rights of way of users of the public footway, and in the interests of visual amenity of the listed building and the wider conservation area.

3 No outdoor speakers or external lighting shall be used at any time in association with the use hereby approved.

Reason: To protect the amenity of the local environment and the wider conservation area.

4 There shall be no change or addition to the furniture used in association with the outdoor seating area without the prior written approval of the Local Planning Authority. The presently approved furniture consists of tables, chairs and barriers only.

Reason: In the interests of the appearance of this part of the Central Historic Core Conservation Area.

5 The hours of operation of this approved use shall be confined to;

Mondays- Fridays: 08.00 -18:00

Saturdays: 09:00-18:00

Sundays: 09:00-16:00

Reason: To protect the amenity of the local environment and the wider conservation area.

7.0 INFORMATIVES: Notes to Applicant

1. REASON FOR APPROVAL

In the opinion of the Local Planning Authority the proposal, subject to the conditions listed above, causes no undue harm to interests of acknowledged importance, with particular reference to the vitality and viability of the city centre, the visual amenity and character of the listed building and the wider conservation area, highway safety and the amenity of adjacent users. As such, the proposal complies with Policies S6, HE2, HE4 and GP1 of the City of York Development Control Local Plan (2005) ; and national planning guidance contained in the National Planning Policy Framework.

2. CAFE LICENCE INFORMATIVE:

You are advised that a cafe licence is also required from the Highway Authority, under the Highways Act 1980. Further information can be obtained from:

Cafe Licence - Section 115 - Heather Hunter or Anne-Marie Howarth (01904) 551418

3. MEANS OF ENCLOSURE

It is noted that the application site is currently enclosed by the unauthorised canvas banners with advertising that were the subject of the enforcement action by the Council in May 2001. These should be removed from the site and replaced with the approved rope barriers.

Contact details:

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