

## COMMITTEE REPORT

**Date:** 6 June 2013                      **Ward:** Micklegate  
**Team:** Major and                      **Parish:** Micklegate Planning  
                    Commercial Team                      Panel

**Reference:** 13/00577/FUL  
**Application at:** Nicholas Associates Architects 42 Oxford Street York YO24  
4AW  
**For:** Change of use to B1 (offices) and D1 (therapeutic massage)  
on upper floors  
**By:** Mr Martin Walker  
**Application Type:** Full Application  
**Target Date:** 9 May 2013  
**Recommendation:** Approve

### 1.0 PROPOSAL

#### APPLICATION SITE

1.1 The application site, 42 Oxford Street, is located at the end of a terrace and fronts onto Holgate Road. The building is 2.5 storey; the room within the roof-space has windows on the end gable and a rear dormer that was added in the late 1980's. The premises is in use as offices. Parking is available to the forecourt at the front and the hard-standing behind the host building. The garages behind the premises are not owned by the applicants. Residential uses surround the application site; at 50 and 52 Holgate Road and the 3-storey flats to the north at Catesby House, Cambridge Street.

#### PROPOSALS

1.2 Planning permission is sought for a mixed use of offices and D1 use (therapeutic massage) on the upper floors.

#### PLANNING HISTORY

1.3 Planning permission was granted to change the ground floor of the premises to offices in 1988. The ground floor had been a shop previously, with living accommodation above. Earlier in 1988 permission was refused to use the entire building as offices. The proposals were dismissed at appeal, on the grounds that the loss of the upper flat would be an unacceptable loss to the required housing stock in the city (application 7/09/4416B/PA).

Despite the appeal decision we understand the upper floors have been used as office space since the late 1980's.

## **2.0 POLICY CONTEXT**

2.1 Development Plan Allocation:

Areas of Archaeological Interest City Centre Area 0006

Conservation Area Central Historic Core CONF

York North West Boundary York North West Boundary CONF

2.2 Policies:

CYC1 Criteria for community facilities

## **3.0 CONSULTATIONS**

### **HIGHWAY NETWORK MANAGEMENT**

3.1 No objection. Officers consider the site has adequate car parking and adequate cycle parking can be provided.

### **MICKLEGATE PLANNING PANEL**

3.2 The panel were advised on the 8 April of the proposed mixed use. The clerk of the panel was also contacted by an objector to the scheme. As this was after the meeting, the panel cannot change its previous comments (which were that there were no objections), but the clerk would like to clarify that the panel had understood when looking at this application that this was a regularization of the existing use as architects' offices, not a proposal for a new "business centre" or additional offices/consulting rooms for new businesses.

### **PUBLICITY**

3.3 The deadline for comment was 30 April. Four objections have been made on the following grounds

- The increased level of commercial activity within the building would be inappropriate in what is now a residential area.
- There is a lack of car parking in the area, and inadequate parking for the proposed use. The proposed occupation of the building would add more staff and also visitors. There are only 5 or 6 parking spaces on site and 4 of these are already in use on a daily basis. The junction of Holgate and Oxford Street has limited visibility and additional traffic could lead to accidents.

- Proposals would lead to increased activity within the host building and undue overlooking of neighbouring buildings. The side elevation has multiple windows which overlook the rear yard opposite and there will be overlooking into windows on dwellings to the rear.
- Noise disturbance from persons coming and going and increased traffic in the road. Also the proposed use would open on weekends and evenings, causing additional disturbance.
- Inadequate facilities within the proposed building (toilet facilities and means of inclusive access).

## **4.0 APPRAISAL**

### **4.1 KEY ISSUES**

- Principle of the proposed use
- Amenity of surrounding occupants
- Highway safety

## **ASSESSMENT**

### **PRINCIPLE OF THE PROPOSED USE**

4.2 The National Planning Policy Framework advises that the Government is committed to ensuring that the planning system does everything it can to support sustainable economic growth. To help achieve economic growth, local planning authorities should plan proactively to meet the development needs of business and support an economy fit for the 21st century. The NPPF also seeks to boost housing supply. Local Plan policy C1 advises that community facilities will be permitted where they are of appropriate scale and where there is a need for the use.

4.3 The NPPF advises proposals should be approved unless they conflict with policies within the framework or where any adverse impacts of doing so would significantly and demonstrably outweigh the benefits.

4.4 Local Plan policy H9 relates to the loss of dwellings. The thrust of the policy is to avoid the loss of housing, it advises that where this is proposed individual site circumstances will need to be considered, including the character of the area and what uses are desirable. The need to provide community services can be ground to allow the loss of housing. Although an appeal was dismissed in 1988 to use the upper floor of the premises as offices, we understand this has been the use of the area since then.

The upper floors are laid out as, and have the character of, offices. A mixed use of offices and independent flat is not suited to the building layout because of the location of the staircase which is between the front rooms and those at the rear. As such if the access to the upper floors were independent, the office and the ancillary facilities rooms at the rear of the premises would be inaccessible. It is logical to have the entire building within the same use, be it offices/consultation rooms or residential.

4.5 To use the building as offices and the D1 use proposed will allow comprehensive use of the building, in the interests of its economic viability, preventing such without good reason would be contrary to the National Planning Policy Framework. There is no material loss of housing stock, because the premises have not been in residential use for over 10 years and given that typically the current trend is for offices to be converted back to residential use rather than the opposite approach in this instance.

4.6 The proposals do not unduly conflict with Local Plan policy C1 as the health facility will be of a small scale and therefore can serve the locality. The proposal is a change of use only and therefore there would be no visual impact.

## AMENITY OF SURROUNDING OCCUPANTS

### Overlooking

4.7 The premises have been occupied as offices for sometime with unrestricted opening hours. The gable end elevation looks towards the rear yard of 52 Holgate Road which is enclosed by an approx 2m high wall. Because of the height of the side wall and width of the yard, views into the yard are limited. Due to the juxtaposition of the two properties a level of overlooking is inevitable if both properties are occupied. There would not be a material difference in overlooking between an office use and a mixed use of offices and consultancy/therapeutic massage. Residential use could also lead to overlooking. The applicants have agreed to apply a film to the inside of the windows which will alleviate overlooking.

### Noise disturbance

4.8 The application site fronts onto a main road and is in a mixed use area, at the edge of the city centre. Although the D1 use would lead to more visits from members of the public than the office use, there would not be a material impact on the character of the area and nor would there be a material change in noise level, considering existing noise levels due to traffic and activity.

## HIGHWAY SAFETY

4.9 There are numerous commercial properties which face onto Holgate and are reliant upon trade from the public.

This site has 5/6 off street car parking spaces which can be accessed from Oxford Street, it is within walking distance from the city centre and public transport links and a condition can require that secure cycle parking is provided on site. There are no objections to the proposals on highway safety grounds.

## **5.0 CONCLUSION**

5.1 The proposals are deemed to be in compliance with national planning policy within the NPPF and do not conflict with local planning policy, considering the principle of the proposed use, the amenity of surrounding occupants and highway safety.

## **COMMITTEE TO VISIT**

### **6.0 RECOMMENDATION: Approve**

1 TIME2 Development start within three years

2 The premises shall only be used as offices on the ground floor and for therapeutic massage and/or offices on the upper floor.

Reason: To ensure the premises are not used for any other D1 use, which would, need to be assessed considering the impact on residential amenity.

3 The opening hours of the D1 use shall be restricted to the following times:

07.00 and 21.00 Mondays to Fridays

07.00 and 17.00 Saturdays

07.00 and 13.00 Sundays

Reason: In the interests of the amenity of surrounding occupants.

4 Prior to first use of the use hereby permitted the means of preventing overlooking from the upper floor windows on the side elevation shall be approved by the Local Planning Authority and the development occur in accordance with the approved details.

INFORMATIVE: The requirements of this condition could be met by applying an internal obscure film to the bottom half of the windows, or similar.

Reason: In the interests of residential amenity.

5 Prior to implementation of the use hereby approved at least two secure cycle parking spaces shall be provided on site.

Reason: To ensure adequate space for, and to encourage cycle use in accordance with policies GP1, and T4 of the City of York Draft Local Plan and section 3 of the National Planning Policy Framework.

6 The use hereby approved shall not come into use until a travel plan (for employees and visitors, setting out measures to promote sustainable travel and reduce dependency on private car journeys) has been approved in writing by the Local Planning Authority. The travel plan shall be developed and implemented in line with Department of Transport guidelines and be updated annually. The site shall thereafter be occupied in accordance with the aims, measures and outcomes of said Travel Plan.

Reason: To reduce private car travel and promote sustainable travel in accordance with paragraph 36 of the National Planning Policy Framework and policy T13a of the City of York deposit Draft Local Plan.

## **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, would not cause undue harm to interests of acknowledged importance, with particular reference to the principle of the proposed use residential amenity and highway safety. As such the proposal complies with Policies GP1, H9 and C1 of the City of York Development Control Local Plan.

#### **2. 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: the use of planning conditions.

### **Contact details:**

**Author:** Jonathan Kenyon Development Management Officer

**Tel No:** 01904 551323