

COMMITTEE REPORT

Date: 6 February 2014 **Ward:** Guildhall
Team: Major and **Parish:** Guildhall Planning Panel
Commercial Team

Reference: 13/03503/FUL
Application at: The Blind Swine, Unit 3 24 Swinegate York YO1 8AZ
For: Change of use from restaurant (use class A3) to mixed use restaurant and bar (use class A3/A4) with alterations to front to form terraced dining
By: Mr Joseph Moore
Application Type: Full Application
Target Date: 6 January 2014
Recommendation: Approve

1.0 PROPOSAL

1.1 The application relates to one of the three ground floor commercial units within 24 Swinegate. The host building dates from the late C20; it is 2.5-storey and the commercial units at ground floor level have timber shop fronts, which are coherent and of traditional design.

1.2 Planning permission is sought for a bar/restaurant with opening hours of 11.00 to 03.00 the following day. The premises already have a license to this extent.

1.3 The previous planning permission for the property was 00/00136/FUL, which granted permission for a restaurant with a condition specifying the closing time as 23.30.

1.4 The application has been called to committee by Councillor B Watson. The call-in was to assess crime and disorder, and given that the site is within part of the city where it is proposed to extend the Cumulative Impact Zone, for licensing purposes.

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
City Boundary GMS Constraints: York City Boundary 0001
DC Area Teams GMS Constraints: Central Area 0002

2.2 Policies:

CYS6	Control of food and drink (A3) uses
CYHE6	Shopfronts in historic locations
CYHE7	Security shutters in historic locations

3.0 CONSULTATIONS

Police Architectural Liaison Officer

3.1 Officers do not object to the proposals and advise they are content that crime and disorder can be controlled through the premises licence.

3.2 It is noted that North Yorkshire Police have recently submitted an application, supported by robust crime figures, to include the Swinegate Quarter in the City of York Council Cumulative Impact Zone (CIZ). This application has not as yet been determined. The Swinegate Quarter has been identified as an area under 'stress', because the cumulative effect of the concentration of late night and entertainment premises has led to serious problems of disorder and/or public nuisance affecting residents, visitors and other businesses.

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3.3 No objection.

Publicity

3.4 The initial expiry for comments was 13.12.2013. Additional neighbour notification, to residents in Lund's Court and Petergate, was sent out asking for comment by 5 February. No representations have been made to date.

4.0 APPRAISAL

4.1 Key Issues

- Whether the proposed use would have an acceptable impact on the vitality of the street
- Amenity of surrounding occupants
- Visual Impact

Whether the proposed use would have an acceptable impact on the vitality of the street

4.2 Both the National Planning Policy Framework and Local Plan policy seek to preserve or enhance the vitality of the city centre. Swinegate is not a primary shopping street and is therefore one where a bar/restaurant would be appropriate. The premises previously operated as a restaurant and there would be no material

impact on vitality as a consequence of this proposal, which acknowledges a mixed use rather than a restaurant only.

Amenity of surrounding occupants

4.3 The National Planning Policy Framework and Local Plan policies GP1: Design (which relates to all development proposals) and S6: Control of food and drink uses all require a reasonable level of amenity. In this case the considerations are noise, cooking smells and litter.

4.4 There are a number of bars and night clubs already along Swinegate and the surrounding area. In particular The Biltmore / Oscars and Vudu Lounge opposite are able to trade until 04.00 on weekends. The premises the subject of the application already have a license which allows them to open and sell alcohol until 03.00. The nearest residential properties are at Lund's Court; the alley between Swinegate and Petergate, to the NW side of the application site.

4.5 Recent appeal decisions at bars/restaurants nearby, at Vudu, Lucia's and Bora Bora (the latter two on Back Swinegate) have been consistent in the view that in this particular city centre location, only noise from the premises itself should be the focus of planning control. It would be ineffective to attempt to manage noise disturbance in the area in general, by controlling the opening hours of only a few premises within the Swinegate area, when there are already premises not the subject of such control. The decisions advise that the opening hours should be controlled through the premises license, which applies to all premises and can impose adequate conditions in the interests of securing a reasonable level of residential amenity. It is also consistently mentioned in the appeal decisions that, in applying planning conditions, to duplicate controls imposed through other legislation is normally unnecessary, and this is established in Planning guidance in Circular 11/95 which advises on the types of planning conditions that are reasonable.

4.6 In this case the proposed hours are in line with the premises license and are not materially different to the opening hours of other premises nearby. There are conditions on the premises license which require that noise from within the premises is not audible at noise sensitive locations and that windows and doors are kept shut after 23.00.

4.7 Noise from the premises can be reasonably controlled by the imposition of a condition which requires that noise due to amplified music and plant / equipment is below background noise levels. A condition can also be used to keep the opening hours in line with the premises license. As such to allow the application site to trade in accordance with its license, and in a similar way to other bars/restaurants within the immediate area, would have no material impact on existing levels of amenity.

4.8 There is no new cooking equipment proposed and to our knowledge the existing set-up adequately deals with cooking smells.

Visual Impact

4.9 The site is within the Central Historic Core Conservation Area. National Planning Policy Framework and policies on conservation areas within the Local Plan require that proposals preserve or enhance, if there is harm, this may only be allowed where there are public benefits which justify the harm.

4.10 The proposals include alterations to the windows within the shop front, replacement of the front door, the installation of a roller shutter and the insertion of a window on the side elevation, facing into Lund's Court.

4.11 It is proposed to remove the redundant setback entrance door which is fixed shut and have a continuous row of display windows. The existing single glazed windows would be replaced with glazing which will provide improved acoustic and environmental performance. The windows will be timber framed and bi-folding. A timber framed sash window will be added on the side elevation where it appears a previous opening has been bricked up. The side window would match the style of the windows on the upper floor, and it would improve surveillance along Lund's Court. These changes will maintain the architectural integrity of the building.

4.12 It is proposed to replace the existing door with a predominantly glass door with timber frame. The existing door has solid timber panels which are aligned with the stall-riser on the shop. The change would detract from the appearance of the building, but the amount of harm would be low as the door is setback and the remainder of the shop front would retain its appearance, and this does not form grounds to resist the application.

4.13 A roller shutter is proposed in front of the door. Roller shutters are discouraged in the conservation area, as set out in Local Plan policy HE7. In this case the housing will all be hidden within the soffit. As such the shutter would only be noticeable between 03.00 and 11.00 the following day. It will be an open type, as there are at The Biltmore opposite. On this basis there would be very little visual harm. Conditions can control the final design and the time the shutter is on view.

5.0 CONCLUSION

5.1 The proposed variation in use of the premises would have no undue impact on the vitality of the street and the amenity of surrounding occupants can reasonably be controlled through the imposition of conditions. The external changes proposed, as shown on the revised plans, will not have an undue adverse impact on the host building and there will be no undue impact on the character and appearance of the conservation area.

6.0 RECOMMENDATION: Approve

- 1 TIME2 Development start within three years -
- 2 PLANS1 Approved plans - Proposed plans, revised drawing 7362-0C
- 3 The premises shall not be open to customers between the hours of 03.00 and 07.00.

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

- 4 The setting out and fixing of the roller shutter housing shall be approved by the Local Planning Authority prior to installation and carried out in accordance with the approved details. The housing shall be fixed so it avoids timber panelling within the soffit area and the shutter shall be open type (as at The Biltmore opposite).

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

- 5 The roller shutter shall only be drawn down between closing time on a night and 10.30 the following day.

Reason: In the interests of the character and appearance of the conservation area and following the principles of Local Plan policy HE7: Security Shutters in Historic Locations.

- 6 The window on the side elevation hereby approved shall be to match, in all respects, the first floor windows on the front elevation of the host building.

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

- 7 The combined rating level of any amplified or recorded music and building service noise associated with plant or equipment at the site shall not exceed 5dB(A) below the background noise level at 1 metre from the nearest noise sensitive facades when assessed in accordance with BS4142: 1997.

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

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: negotiation to agree the external alterations of the host building and the use of planning conditions.

Contact details:

Author: Jonathan Kenyon Development Management Officer

Tel No: 01904 551323