

## COMMITTEE REPORT

**Date:** 9 October 2025      **Ward:** Guildhall  
**Team:** East Area      **Parish:** Guildhall Planning Panel

**Reference:** 25/01151/FUL  
**Application at:** Spark York Piccadilly York  
**For:** Continued use of multi-unit mixed-use development, including commercial, business and service uses (Class E), food and drinking establishments and multi-purpose event space (Sui Generis) for a temporary period of 5 years (until September 30 2030).  
**By:** Mr Samuel Howarth-Leach  
**Application Type:** Full Application  
**Target Date:** 10 October 2025  
**Recommendation:** Approve

### 1.0 PROPOSAL

1.1 The application relates to the Spark complex at Piccadilly. The application was made valid on 25.06.2025; it seeks to allow continued use of the facility as the previous permission 22/00195/FUL had an expiry date of 30.9.2025. The continued use is requested for 5 years.

1.2 Also, there is a request to omit condition 3. Condition 3 stated that there shall be no performance of amplified music on-site; in the interests of residential amenity. The reason for removal of condition 3 is that condition 4 is sufficient in respect of preventing noise having an adverse effect on amenity. Condition 4 requires that there shall be no playing of amplified sound that would exceed background noise levels at the site boundary with noise sensitive receptors. It also requires there shall be no playing of amplified sound (including speech and recorded music) in external areas after 21:00 on Sundays, Mondays, Tuesdays, Wednesdays and Thursdays.

1.3 The venue comprises of multiple small commercial units and outside amenity space. The commercial units are occupied as a social hub / studios co-working space and multi-purpose event space, retail and food and drink outlets

1.4 The site is owned by the Council and the Spark venue has been subject to temporary permissions only since permission was first granted in 2017. Spark being a temporary use of the site until a permanent scheme is developed for the site. The Council's aspirations in the medium to long-term are for residential lead redevelopment of the site.

1.5 The site is within the Central Historic Core Conservation Area – Piccadilly Character Area. It is surrounded by residential and commercial uses, a public house with outside seating area, and the street Piccadilly.

1.6 The planning history of Spark is as follows –

<b>Application</b>	<b>Proposals</b>	<b>Decision</b>
22/00195/FUL	Permission to extend duration of permission to 30.09.2025.	Granted 08.04.2022
20/00561/FUL	Permission to extend duration of permission to 31.03.2022.	Granted 02.09.2020
20/01181/FUL	Permission for covering canopy to be in-situ between 1 September in any year and 1 May the following year.	Granted 24.08.2020
17/00274/FUL	Original temporary permission (to 1.7.2020)	Granted 12.05.2017

## **2.0 POLICY CONTEXT**

### Legislation

2.1 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 or appearance of designated conservation areas. Section 66 of the Act requires 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 any features of architectural or historic interest which it possesses.

2.2 Section 72 of the Town and Country Planning Act 1990 enables planning permission to be granted for a limited period (that a use be discontinued or that buildings or works be removed at the end of a specified period).

2.3 Section 38 (6) of the Planning and Compulsory Purchase Act 2004 requires that an application is determined in accordance with the development plan unless material considerations indicated otherwise. The development plan is the City of York Local Plan. There is no Neighbourhood Plan covering this site.

### Policies of the Local Plan

#### SS3 York City Centre

2.4 SS3 states York City Centre is identified as a priority area for a range of employment uses and is fundamental to delivering the plan's economic vision. During the plan period it will be the principal location in the City of York area for the delivery of economic growth in the tourism, leisure and cultural sectors.

#### SS5 Castle Gateway

2.5 Castle Gateway (ST20) is allocated as an Area of Opportunity, as indicated on the Policies Map. The York Castle Gateway ('Castle Gateway') has been identified as a major regeneration area of the city centre. The purpose of regeneration includes to bring forward new commercial and other development that improves the area and complements and facilitates the implementation of the public realm enhancements. For Piccadilly development should have regard to the regeneration objective to ensure active ground floor frontages to new developments fronting Piccadilly.

#### D1 Place-making

2.6 The policy supports proposals that improve the urban environment and includes detailed design points proposals should adhere to in respect of urban grain, density and massing, streets and spaces, building heights and views and character and design standards.

#### D3 Cultural Provision

2.7 Cultural wellbeing is identified as one of the twelve core planning principles underpinning both plan-making and decision-making in the National Planning Policy Framework. Development proposals will be supported where they are designed to sustain, enhance, and add value to the special qualities and significance of York's cultural character, assets, capacity, activities, and opportunities for access.

#### D4 Conservation Areas

2.8 Harm to buildings, plot form, open spaces, trees, views or other elements which make a positive contribution to a conservation area will be permitted only where this is outweighed by the public benefits of the proposal.

ENV5: Managing environmental quality

2.9 Development will be permitted where it does not unacceptably harm the amenities of existing and future occupants on the site and in neighbouring communities.

### National policy

2.10 Key sections of the NPPF are as follows -

- 7. Ensuring the vitality of town centres
- 12. Achieving well-designed places
- 15. Conserving and enhancing the natural environment
- 16. Conserving and enhancing the historic environment

2.11 The National Planning Practice Guidance (NPPG) under the heading “When can conditions be used to grant planning permission for a use for a temporary period only?” advises that under section 72 of the Town and Country Planning Act 1990 the local planning authority may grant planning permission for a specified temporary period only. It goes on to advise -

“Circumstances where a temporary permission may be appropriate include where a trial run is needed in order to assess the effect of the development on the area or where it is expected that the planning circumstances will change in a particular way at the end of that period.

A temporary planning permission may also be appropriate to enable the temporary use of vacant land or buildings prior to any longer-term proposals coming forward (a ‘meanwhile use’).

It will rarely be justifiable to grant a second temporary permission (except in cases where changing circumstances provide a clear rationale, such as temporary classrooms and other school facilities). Further permissions can normally be granted permanently or refused if there is clear justification for doing so. There is no presumption that a temporary grant of planning permission will then be granted permanently”.

### **3.0 CONSULTATIONS**

#### City Development / Economy and Regeneration Team

3.1 This site occupies an important component part of the Castle Gateway masterplan area, with ultimate plans for redeveloped for residential-led uses. The temporary Spark facility plays an important role in the economic and social function of the City Centre as well, with wide-ranging benefits. Given the medium to long-term nature of the Castle Gateway masterplan, key development moves and sequencing, and essential enabling activity to facilitate this, the proposed extension in operating term is not prejudicial to our aspirations for this part of the City and would be supported.

#### Public Protection

3.2 In respect of the request for 6 unrestricted amplified events per year (since omitted from the proposals) – Public Protection would not support this element of the proposal.

3.3 Public Protection have produced local guidance on outdoor music events which is based on national guidance. Any condition for controlling noise or any noise management plan would have to adhere to these limits. Our experience is that when these limits are exceeded there is a greater chance of local residents making complaints of noise and this can result in very large numbers of complaints.

3.4 The site is surrounded in close proximity by residential dwellings, with the nearest residential property being approximately 2 metres from the rear of the development site boundary at Mawson's Court. It is difficult to see how noise from outdoor music events at the venue can be mitigated to a level whereby it will be within the guidance limits and not result in either a loss of amenity to nearby residents and potentially even a statutory nuisance. To have amplified music on the site would require significant investment in the infrastructure of the building. For example, a specially constructed internal area with an acoustic lobby that is sufficiently sound insulated to a level whereby noise and vibration from music does not emanate from the building.

3.5 Public Protection have historically received approximately 11 complaints from around 6 different addresses about noise from music and films when they were

taking place at the venue which resulted in numerous warning letters being sent to the owners about the potential for a statutory nuisance being witnessed. Noise was also witnessed from a property that would have been loud enough to be a statutory nuisance had it continued. We have also received 2 complaints about noise from music since the last extension was granted.

3.6 Further to this a noise report was commissioned with the original application “17/00274/FUL” which took measurements of the background noise levels at and around the site during the period when live and recorded music is proposed to be played. The report demonstrated that even if only acoustic music was played the noise levels from such an event would likely exceed acceptable noise limits at the nearest residential dwellings to the premises. A decision was therefore made by the applicants to remove any performance of live and recorded music from the proposal.

3.7 In terms of other aspects of the application, historically the Environmental Protection team have only received a very low volume of complaints about the site. 1 complaint about raised voices, 2 complaints about smoke from extraction flues, one about construction work one about smoke which pertained more to a query about smoke control areas.

3.8 Since the last extension was granted Public Protection have received 2 complaints about noise from music, 2 complaints about alarms, 2 complaints about noisy waste collections, 1 complaint about smells from rubbish and 1 complaint about odour from a commercial kitchen. These have generally been resolved efficiently or not been established as a nuisance.

3.9 In summary Public Protection do not support the proposal for the performance of live and recorded music on the site. No objections in principle to the continued use of this site for its current use. Recommend conditions -

- Cooking odours – a condition to approve details of the means of dealing with cooking odours.
- A condition restricting times of construction (if applicable).

Previous conditions re-applied –

- No amplified sound that would exceed background noise levels and no playing of amplified sound (including speech and recorded music) in external areas after 22:00 on Sundays, Mondays, Tuesdays, Wednesdays and Thursdays.
- The site shall only be open to customers between 07.00 and 23.00 each day of the week.

- All customers consuming food and drink on the premises shall be seated; there shall be no vertical drinking.
- Details of plant / machinery to be installed to be approved.
- Waste management.

### Safer York Partnership – Police Architectural Liaison Officer

3.10 Crime and disorder for this site continues to be low. No further comment to make.

### Guildhall Planning Panel

3.11 Object – the project was approved as temporary and this period has now lapsed. The operation has proved to be harmful in respect of noise, odour and visual impact. The proposal of 6 live events is insult to injuries. Enough is enough.

## **4.0 REPRESENTATIONS**

4.1 30 contributors have been logged as a consequence of consultation. 18 in support and 12 objections. This includes objections from residents of Nelsons Yard which neighbours the site. Representations were as follows –

### 4.2 Use of site

- Property purchased on the assumption that Spark was only to be temporary.
- Planning guidance advises temporary uses should not be given repeated consent without special circumstances.
- The Council as landowner has not obtained best value from the site and alternative uses would generate more revenue.
- The benefits from the site are limited and there are empty properties in the city centre which could accommodate the same uses.
- The landlords (the Council) have made no effort to redevelop the site.
- Support for the venue itself but consider the location inappropriate & a permanent location/venue should be secured.
- Reluctant to see the use cease and yet another vacant site on Piccadilly result.
- Venue has a positive effect in providing a platform for new business.
- Generates 60 jobs
- Valued community venue

- Provides a venue for many local groups with varying interests: art, politics, environmental issues, consultations, and are an important member of the York Social Enterprise Coalition.
- The site is a valuable local amenity and appropriate in the city centre. People who choose to live in the city centre should not complain about activities expected to be within the city centre.

#### 4.3 Amenity

- Complaints made directly to Spark in respect of noise and smoke from cooking.
- Discarded food is an environmental health issue
- Essentially an open-air venue with no sound attenuation. Noise from amplified music causes significant harm to residential amenity.
- Noise can still be heard, even with windows closed. It is constant from 10am opening to closing.
- That residents would be given advance warning of a live music event does not address the resultant harm to amenity.
- There is a what's app group with Spark where neighbours can raise concern. There have been numerous noise complaints raised. It is a constant issue.
- Other representations from residents on Piccadilly and Walmgate comment that they have rarely found the noise to be excessive and generally it is acceptable. There is always a security presence and the venue closes reasonably early, therefore it has never felt messy, unsafe or like a major nightlife destination.
- Concerns about safety following event when the fire alarm was sounding for 1.5hours. There have been 2 further incidents reported of the fire alarm sounding for long periods during the night since comments from Public Protection reported in paragraph 3.2.

#### 4.4 Visual impact

- Harmful to the conservation area prominent site and shipping containers are out of character.
- Venue is an eyesore

### 5.0 APPRAISAL

#### Key issues

##### 5.1 The key issues are as follows –



- Principle of the proposed use and whether granting temporary consent is appropriate
- Impact on designated heritage assets (setting of listed buildings / character and appearance of the conservation area)
- Impact on residential amenity

Principle of the proposed use and whether granting temporary consent is appropriate

5.2 Use of the site is consistent with policy SS3 of the Local Plan which relates to York city centre and NPPF policy in respect of the vitality of town centres and economic growth. The economic benefits are required, under the NPPF, to be given significant weight in decision making.

5.3 The scheme generally accords with the regeneration aspirations for the Castle Piccadilly area in policy SS5. However, it is not fully aligned as within Piccadilly, development should have regard to the regeneration objective to ensure active ground floor frontages to new developments fronting Piccadilly. Spark is intentionally inward looking around its own communal area which is a fundamental component of this venue type. The layout is also influenced heavily by the shape of the site. The vitality and footfall the venue brings to the area and its success in achieving a further policy aspiration which is to integrate Piccadilly with the broader city centre is considered to outweigh and justify the departure from the recommendation to ensure active frontages.

5.4 The national planning practice guidance (NPPG) explains where it may be appropriate for the Local Planning Authority to impose a condition granting permission for a temporary period only. The applicant has specifically applied for a temporary 5-year permission; the justification to allow such is aligned with the scenario presented in the guidance, to enable the temporary use of vacant land or buildings prior to any longer-term proposals coming forward; the Council's longer-term aspirations for the site (as reported in paragraph 3.1) prevent the applicants from permanently using the site. There is nothing in policy or guidance that prevents such an approach. It is not the case that the temporary period is being justified on amenity grounds; matters of amenity have always been addressed by planning conditions. Nor has a temporary permission been used to justify any identified harm as a consequence of the scheme due to the current iteration of the conservation area.

## Impact on designated heritage assets (setting of listed buildings / character and appearance of the conservation area)

### Assessment of significance of heritage assets affected and impacts

5.5 The site is within the Central Historic Core Conservation Area. The site, and its main entrance, is adjacent the Grade II listed Red Lion public house and its curtilage. As set out in policy Local Plan D4 and NPPF paragraph 215, if less than substantial harm is identified, it will be permitted only where this is outweighed by the public benefits of the proposal.

5.6 The heritage assets affected, and their significance, as established in the original application, is unchanged. There would be no harm to the setting of listed buildings and less than substantial harm, at the lower end of less than substantial, to the character and appearance of the conservation area.

5.7 The Central Historic Core Conservation Area has 24 character areas. The site is within the Piccadilly Character Area. Within the area appraisal the overview to the Piccadilly Character Area explains the area and the justification for inclusion within the Central Historic Core Conservation Area as follows “Piccadilly was developed much later than the rest of the medieval city centre and has larger scale building plots, reflecting its industrial past. Although Piccadilly does not have the obvious architectural interest of other parts of the Conservation Area, historically the land was within, and formed part of, the city's defences. Therefore, its inclusion is justified as part of the historic core”.

5.8 At the site (17-21 Piccadilly) the land was previously occupied by the trolleybus garage, described in the character area appraisal as a utilitarian building, of art deco style dating from 1921. At the time of its demolition, it was derelict and deemed unsafe. Since the Conservation Area allocation, the site has always contained development utilitarian in appearance. There is no material impact on the setting of the Grade II Listed Red Lion public house – there continues to be utilitarian development beyond the rear of the building, along Piccadilly and the Spark development is not materially different in scale to previous structures on the site.

5.9 The area appraisal issues and opportunities section identifies no “strengths”. In terms of weaknesses and opportunities, there is a focus on revealing views and increasing access to the Castle Area and River Foss to the south and public realm

improvements. The Spark development is, in no way, at variance with the aspirations for the area in the conservation area appraisal.

5.10 Less than substantial harm to the appearance of the conservation area, at the lower end of less than substantial, has been (consistently) identified as a consequence of the development, because of its temporary nature and the appearance of the venue.

5.11 The building has a very functional and low-cost appearance (always justified due to its temporary nature). In the current context the less than substantial harm to the character and appearance of the Conservation Area is very low. Whilst in land use terms this is an appropriate location for the venue in principle, the building's visual qualities are not consistent with the long-term aspirations for Piccadilly, specifically the type of cladding and temporary /season roof. Whilst conditions and site management are in place to mitigate noise, it is evident that a higher cost solution (compared to the seasonal canopy covering) could provide an architecturally more appropriate scheme visually and in terms of containing noise and providing an internal environment better suited to all seasons.

#### Assessment of public benefits

5.12 National planning guidance states “public benefits may follow from many developments and could be anything that delivers economic, social or environmental objectives, as described in NPPF paragraph 8”.

5.13 The public benefits in favour of the scheme are the same as under the previous application for the site. The public benefits are both economic and social. As in determining previous schemes for the development; the benefits are deemed to outweigh the low level, non-permanent harm to the conservation area.

5.14 The site is in a prominent location, was previously vacant and hard-landscaped; it made a negative impact to both the appearance of the conservation area and the vitality of the area. The economic benefits are provision of affordable, small-scale commercial and communal spaces; a hub for a certain business sector, not otherwise provided for in the city centre. The venue itself makes a strong contribution to the vitality and viability of the city centre and local distinctiveness. Sections 6 and 7 of the NPPF on building a strong competitive economy and ensuring the vitality of town centres require significant weight to be given to these benefits. NPPF paragraph 86 states “planning decisions should help create the

conditions in which businesses can invest, expand and adapt. Significant weight should be placed on the need to support economic growth and productivity, taking into account both local business needs and wider opportunities for development”.

5.15 The social objective of the NPPF is to support strong, vibrant and healthy communities, which involves providing services which reflect communities’ health, social and cultural well-being. The development does provide community space and facilitates activities and events for a variety of individuals and community groups. This provides a local asset; a public benefit.

#### Impact on residential amenity

5.16 Local Plan policy ENV5 states development should avoid causing detrimental impacts on the environment, however where an impact cannot be avoided mitigation measures should be incorporated into the proposals so that any impacts can be reduced to an acceptable level or controlled ... Where mitigation measures have been identified, planning conditions may be used to secure the protection required and maintenance needed in the future to ensure continued benefit. In some cases mitigation measures may still not be sufficient to prevent loss of amenity or to protect human health from environmental impacts. In such cases planning permission will not be granted.

#### Noise

5.17 The previous planning permission for the venue included conditions to mitigate noise. When the original application for the venue was submitted it was supported by a noise assessment. The assessment (revision 3 dated February 2017) advised that in respect of live music on-site (on the assumption the source would be a central stage, where the exhibition space is located on the ground floor plan) “noise levels do not meet the criteria stated in “IOA Code of Practice on the Control of Noise from Pubs and Clubs”. It is the recommendation of Dragonfly Consulting that this aspect of the development be removed from the application”. Subsequently proposals to have live music were removed from the application. Planning conditions have prevented performance of amplified music on site on amenity grounds. When initially submitted the application requested the relaxing of conditions to allow up to 6 unrestricted amplified music events per year. This has since been omitted from the proposals.

5.18 Of the complaints received by Public Protection, a complaint was received in January 2025 in respect of a live music event. Following the grant of planning permission for the venue 8 April 2022 (application 22/00195/FUL) there was a Planning Enforcement case opened 19 April 2022 this was closed 25 September 2023. The complaint included noise; the site was monitored on weekends and no enforcement action was undertaken.

5.19 Conditions imposed to manage noise from the typical operation of the venue are sufficient in the interests of amenity. A condition will require that any live or amplified sound / performance does not exceed background noise level at site boundaries with neighbouring residential uses. The background noise level would be taken as the average noise level for 90% of the time each hour and informed by an up-to-date noise assessment for the site. The use of conditions will satisfy policy ENV5 which advises development will be permitted where it does not unacceptably harm the amenities of existing and future occupants on the site and in neighbouring communities.

## Smells and odour

5.20 The venue is operational. Cooking odours from restaurants and takeaways is a matter policed by Public Protection who have powers under the Environmental Protection Act and therefore it is not necessary to have planning conditions to this effect.

## 6.0 CONCLUSION

6.1 The continued use of the site is considered acceptable; the land use is consistent with policy, public benefits outweigh the conservation area harm identified and the recommended conditions are deemed sufficient on amenity grounds, in particular in respect of noise from the venue and the amenity of surrounding residents. Condition 3 is necessary to ensure amplified or live music played at the venue is not unduly detrimental to neighbouring residential amenity whilst condition 4 restricts the opening times of the venue.

## 7.0 RECOMMENDATION: Approve

### 1 Approved Plans

The development hereby permitted shall be carried out in accordance with the

following plans:-

Floor plans and roof plan - 101, 102, 103  
Elevations 104, 105, 106

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

## 2 Temporary permission

The development hereby permitted shall cease trading by 30 September 2030. Prior to the specified closure date a schedule for the removal of all associated structures from site shall be submitted to the Local Planning Authority and approved in writing. These works shall take place in accordance with the approved schedule thereafter.

Reason: To enable a meanwhile use of vacant land prior to its expected longer-term regeneration, in the interests of vitality and viability of the city centre.

## 3 Amplified / recorded sound

Within 1 month of this permission a noise assessment shall be submitted to the Local Planning Authority for approval. The noise assessment shall accord with BS4142:2014.

At all times there shall be no playing of amplified sound (including speech and live or recorded music) that would exceed the background noise levels (LA90) (as established in the approved noise assessment) at the site boundary with noise sensitive receptors.

There shall be no playing of amplified sound (including speech and live or recorded music) in external areas after 21:00 on Sundays, Mondays, Tuesdays, Wednesdays and Thursdays.

Reason: In the interests of residential amenity.

## 4 Hours of operation

The site shall only be open to customers between 07.00 and 23.00 each day of the week. The site shall be vacated by staff, lighting (apart from any essential safety/security lighting) turned off and the site closed by 24.00 each day.

Reason: In the interests of residential amenity.

## 5 Customers to be seated when consuming food and drink

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All customers consuming food and drink on the premises shall be seated; there shall be no vertical drinking.

Reason: To prevent noise disturbance, in the interests of the amenities of surrounding occupants.

## 6 Plant & Machinery

The combined rating level of any building service noise associated with plant or equipment at the site shall not exceed 44dB(A) L90 1 hour during the hours of 07:00 to 23:00 or 35dB(A) L90 15 minutes during the hours of 23:00 to 07:00 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.

Reason: To protect the amenity of nearby properties and the environmental qualities of the area.

## 7 Waste Management

Waste shall only be emptied into bins between the hours of 07.00 and 21.00 each day of the week.

Reason: In the interests of residential amenity.

## 8 Composition of uses

There shall be no more drinking establishments on site than as shown on the approved floor plans (shown as kiosk 5, and units 25, 29,30 on drawings 101 and 102).

Reason: In the interests of residential amenity and to prevent crime and disorder.

## 9 Flood risk management

The development shall incorporate the proposed flood resilience measures as detailed in the revised Flood Risk Assessment approved under application 17/00274/FUL.

Reason: To reduce flood risk in accordance with section 14 of the NPPF.

## 10 Winter canopy

The winter canopy, as shown on drawings 107, 108, 109 and 110 shall only be in-

situ between 1 September in any year and 1 May the following year. Outside these dates the canopy and its associated fittings shall be removed from the site.

Reason: The temporary nature of the site is such that it is considered inappropriate on a permanent basis. The current use has been permitted for a temporary period prior to regeneration plans coming forward (i.e a meanwhile use), and the canopy will benefit the businesses on site, and vitality and viability of the wider area, by encouraging increased activity during the winter months.

## **8.0 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 (paragraph 39) 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:**

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