

COMMITTEE REPORT

Team: Central Area
Date: 22 June 2006

Ward: Guildhall
Parish: Guildhall Planning Panel

Reference: 06/01099/FUL
Application at: Cafe Nero 16 Davygate York YO1 8RJ
For: Use of public highway for outside seating area in connection with Cafe use of 16 Davygate
By: Nero Holdings
Application Type: Full Application
Target Date: 13 July 2006

1.0 PROPOSAL

1.1 The application proposes the use of part of the public highway on New Street, between the two entrances to the premises, as an external seating area for patrons of the premises.

1.2 The application relates to Café Nero which occupies this corner building that is not listed, but is located in the Central Historic Core Conservation Area.

1.3 The application is brought before members at the request of Councillor Watson.

2.0 POLICY CONTEXT

2.1 Development Plan Allocation:

City Boundary York City Boundary 0001

Conservation Area Central Historic Core 0038

Areas of Archaeological Interest City Centre Area 0006

2.2 Policies:

CYHE3
Conservation Areas

CYT1
Pedestrians

CYS6
Control of food and drink (A3) uses

3.0 CONSULTATIONS

3.1 Internal

Urban Design and Conservation - Please condition details of railings, chairs, tables and awnings.

Highway Network Management -

- The practicality of introducing four chairs and a table within the width of 1.5m from the building frontage.
- The stability of the tables and chairs on a footway with the gradients to be found in this location.
- Recommends hours of operation restricted to the foot street hours only.

3.2 External

The application has been publicised by site notice (expiry 21.6), press notice (21.6) and neighbour notification (14.6).

No written representations have been made to date.

Planning Panel - Pending

4.0 APPRAISAL

3.1 Main issues

Effect on character and appearance of the conservation area
 Amenity
 Highway safety

3.2 Relevant policy

The site is within a designated conservation area (Central Historic Core). Within such areas, the Council has a statutory duty to consider the desirability of preserving or enhancing the character or appearance of the area. Policy HE3 states that within Conservation Areas, proposals will only be permitted where there is no adverse effect on the character or appearance of the area.

Both Davygate and New Street which the application site faces are within the city centre pedestrian priority zone. Vehicles are excluded from these streets during the hours of 11.00 to 16.00 Monday to Friday, 10.30 to 16.30 Saturday and 12.00 to 16.00 Sunday.

Policy S6 states that planning permission for the extension, alteration or development of premises for food and drink uses will only be granted in York City Centre provided there is no unacceptable impact on the amenities of surrounding occupiers as a result of traffic, noise, smell or litter and when car and cycle parking meets the standards defined in the Local Plan.

CONSERVATION AREA

The proposed enclosed area of seating would project 1.5 metres from the premises by 6.7 metres. It would accommodate a total of four tables that would be located on the highway.

Subject to appropriate details of the barriers, tables and chairs being agreed, then the external seating area should have an acceptable impact upon the appearance of the Conservation Area. All of the equipment, including the barriers, would have no fixings to the highway, such that there would be no evidence of the pavement café outside its hours of operation (a condition would require the removal of the facility outside hours of operation).

AMENITY

In terms of impact upon amenity, the site is in the heart of the commercial area where there are few residential properties. The proposed hours of operation, between 10.30 and 16.00 would limit the pavement café's operation to the busiest part of the day. As such any additional noise and activity generated would have a minimal effect upon amenity. It is felt that the use would have a beneficial impact, in terms of the atmosphere within the City Centre.

Based upon the present use, in such a location, it would be unnecessary to condition the hours of operation on the grounds of the amenity of nearby occupants.

HIGHWAY SAFETY

This would not be the first outdoor seating area to be introduced onto New Street. The principle of a pavement café is, in officer's opinion, acceptable on this street which forms a link between Coney Street and Davygate / Parliament Street. Starbucks (No.10) and two other café bars (No.10a and No.8) both have external seating areas which encroach upon the highway.

The key issue is to what extent should control be exercised over the times of operation and amount of seating.

The highways advisor has requested that the pavement café operates only when the area is pedestrianised (see 3.2 para. 2). In determining this, members attention is drawn to an appeal that was allowed, relating to 'Dusk' at No.8 New Street (05/00192). The inspector allowed the premises to operate a pavement café between the hours of 09.00 to 04.00 the following day. Subsequently, No.10a has also been permitted to extend its seating area and commence pavement café use at 09.00 hours (06/00339). Although the applicant proposes only to open between 10.30 and 16.00, it may be unnecessary to restrict the applicant to those hours by condition.

Pertaining the number of seating, a total of four tables, each with four chairs are proposed, encroaching 1.5 metres onto the highway. Based on the indicative layout (drawing CNE032/001) it appears that this is a tight fit, with unacceptable leeway for customers to occupy all the seats, without straying out of the proposed area. As such it shall be conditioned that tables and chairs should not be located out of the proposed area, in the interests of highway safety. This shall require a reduction in the number of chairs, likely the omission of one from each table. Thus, there would be around 5.5 metres of the highway left unobstructed for pedestrians during the pavement café's operation. Furthermore, emergency vehicles would have sufficient space to gain access past the proposed area. The proposal should not, therefore, create any additional hazard to highway safety.

5.0 CONCLUSION

5.1 The application is considered to be acceptable in principle. Subject to comment from highways, approval is recommended provided the proposed conditions are adhered to.

6.0 RECOMMENDATION: Approve

- 1 The development hereby permitted shall be carried out only in accordance with the following plans:-

Location plan date stamped 18 May 2006
Pavement area drawing CNE032/001 dated 18 May 2006
Indicative tables and chairs 18 May 2006
Barrier dated 18 May 2006

or any plans or details subsequently agreed in writing by the Local Planning Authority as amendment to the approved plans.

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

- 2 TIME2 Development start within three years
- 3 The pavement cafe shall be restricted to the area of 1.5 metres from the building's elevation by 6.7 metres as shown on drawing CNE032/001.

Reason: In the interests of highway safety and to allow for the flow of pedestrians, in accordance with policy S6 of the City of York Draft Local Plan.

- 4 The seating shall be protected at all times by barriers throughout the period of the operating hours. Outside these hours, all equipment associated with the use, including the barriers, shall be removed from the public highway and stored in the cafe premises.

Reason: In the interests of users of the public highway and to avoid clutter, in the interests of the character and appearance of the conservation area.

- 5 Prior to the use hereby permitted commencing, dimensions and materials of the proposed tables, chairs, barriers and any other associated furniture shall be submitted to and agreed by the Local Planning Authority. The agreed furniture shall be used at all times unless agreed otherwise with the Local Planning Authority.

Reason: To ensure the preservation of the character and appearance of the Central Historic Core Conservation Area.

- 6 INFORMATIVE

You are advised that advert consent would be required for any advertisement placed on the barriers. In submitting the details requested in condition 5, it is recommended that no advertisement is placed on any barrier.

Reason: To preserve the character and appearance of the 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, would not cause undue harm to interests of acknowledged importance, with particular reference to the character and appearance of the conservation area, highway safety and amenity. As such the proposal complies with Policy E4 of the North Yorkshire County Structure Plan (Alteration No.3 Adopted 1995) and Policies HE3 and S6 of the City of York Local Plan Deposit Draft.

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