

COMMITTEE REPORT

Date: 9 August 2012 **Ward:** Clifton
Team: Major and **Parish:** Clifton Planning Panel
 Commercial Team

Reference: 12/01807/FUL
Application at: Howards Of Clifton 61 Clifton York YO30 6BD
For: Change of use from hairdressers (Use Class A1) to a mixed use
 retail bakery/cake shop and tearoom
By: Mrs Nelson
Application Type: Full Application
Target Date: 26 July 2012
Recommendation: Approve

1.0 PROPOSAL

1.1 The application relates to the change of use of 2-storey hairdressers (class A1) to a mixed use bakery/cake shop and tea room. Cakes would be baked and sold at the ground floor front of the shop. The ground floor rear of the shop and possibly the first floor landing would operate as a tea room for up to 30 covers. The application states that the business would provide/sell 'cakes, scones, pastries, sandwiches, soup, jacket potatoes, quiches, toast, etc.' There would be no external alterations to the building. The food would be prepared in a kitchen at the back of the property. Refuse/recycling facilities would be under cover in the enclosed yard to the rear of the building.

1.2 The application is before Members because the applicant is an employee of the Council.

1.3 In 2002 planning permission was refused (02/02592/FUL) for the change of use from a butchers to a "food and drink" use (Class A3). No details about the use were provided. The use was considered unacceptable due to the location of the site in a mainly residential area which could lead to an unacceptable impact on neighbouring properties from noise disturbance and smells, particularly late in the evening.

2.0 POLICY CONTEXT

2.1 Development Plan Allocation:

Areas of Archaeological Interest GMS Constraints: City Centre Area 0006

Conservation Area GMS Constraints: Clifton CONF

City Boundary GMS Constraints: York City Boundary 0001

DC Area Teams GMS Constraints: East Area (2) 0005

Floodzone 2 GMS Constraints: Floodzone 2

2.2 Policies:

CYS6

Control of food and drink (A3) uses

CYS9

No loss of local or village shops

CYGP1

Design

CYT4

Cycle parking standards

CYHE3

Conservation Areas

CYHE2

Development in historic locations

3.0 CONSULTATIONS

3.1 INTERNAL

Environmental Protection Unit - No objections to the change of use to a tearoom. However we would not want to see other types of A3 use, such as a takeaway, opening in this property at some point in the future, as there is totally inadequate kitchen extraction for that purpose. Also it is likely that commercial kitchen extraction equipment would affect the amenity of nearby residents due to noise and/or vibration. In addition, due to the proximity of residential premises, any business wanting later opening hours would more than likely affect the amenity of residents. Therefore I would recommend that any permission given should restrict the use to the tearoom use only and the hours of use applied for. The type of (non-commercial) kitchen extraction they plan to use has been discussed with the Food Safety Unit who say it is adequate.

Design, Conservation and Sustainable Development - The works appear to be internal to the building. If no flue is required, assess the application on grounds of amenity.

3.2 EXTERNAL

Clifton Planning Panel - No objections.

Public Consultation - The consultation period expired on 4 July 2012. One objection has been received from a local business: Another food establishment would not benefit Clifton. It would put more pressure on the existing shops, who are struggling to keep afloat.

4.0 APPRAISAL

4.1 KEY ISSUES

Loss of retail use
Highway issues
Impact on the conservation area
Neighbour amenity.

4.2 POLICY CONTEXT

4.21 The National Planning Policy Framework (NPPF) states that there is a presumption in favour of sustainable development which, for decision-taking, means approving without delay development proposals that accord with the development plan (paragraph 14). Where the development plan is absent, silent or relevant policies are out of date, planning permission should be granted unless: (1) any adverse impacts would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole; or (2) specific policies in the Framework indicate development should be restricted.

4.22 Local Planning Authorities should approach decision-taking in a positive way to foster the delivery of sustainable development (paragraph 186). Local planning authorities should look for solutions rather than problems and seek to approve applications for sustainable development where possible. Local planning authorities should work proactively with applicants to secure developments that improve the economic, social and environmental conditions of the area (paragraph 187).

4.23 The City of York 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 NPPF.

The following local plan polices are still applicable:

4.24 GP1 - Development proposals should be of a density, layout, scale, mass and design that is compatible with neighbouring buildings, spaces and local character; respect or enhance the local environment; provide/protect amenity space; protect residential amenity; accord with sustainable design principles; include refuse facilities; and include, where appropriate, landscaping.

4.25 S6 - Planning permission for the extension, alteration or development of food and drink uses will be granted provided: (i) any impact on surrounding occupiers would be acceptable; and (ii) the opening hours of takeaways and premises where alcohol is consumed are to be restricted as necessary to protect the amenity of surrounding occupiers; and (iii) car and cycle parking meet council standards; and (iv) acceptable flues and means of extraction have been proposed; and (v) security issues where the consumption of alcohol is involved have been addressed.

4.26 S9 - Planning permission will only be granted for a change of use that would result in the loss of a local or village shop where it can be demonstrated that (a) the need for the shopping facility no longer exists or (b) appropriate facilities exist within the local area.

4.27 T4 - Seeks to promote cycling and states that all new development should provide storage for cycles in accordance with the standards in appendix E of the Local Plan.

4.28 HE2 - Within or adjoining conservation areas and in locations that affect the setting of listed buildings, scheduled monuments or archaeological remains, development proposals must respect adjacent buildings open spaces, landmarks, and settings and have regard to local scale, proportion, design and materials. Proposals will be required to maintain or enhance existing urban spaces, views, landscapes and other townscape elements that contribute to the character or appearance of the area.

4.29 HE3 - Within conservation areas demolition of a building, external alterations or changes of use that are likely to cause environmental or traffic problems will only be permitted where there is no adverse effect on the character and appearance of the area.

4.3 THE APPLICATION SITE

4.31 The property is a vacant, 2-storey retail shop fronting onto a main road. The building is set back from the public footway by 2m-2.5m. To the rear is a small enclosed yard. The building is unlisted but is within the conservation area. The area is mixed including residential, retail and commercial. The immediate neighbours to the sides and rear are residential.

4.4 LOSS OF RETAIL

4.41 The shop is not in a protected retail frontage and alternative retail facilities exist in the area. Policy S9 allows for the loss of a local or village shop where a local need for the shop no longer exists or appropriate alternative facilities exist within the local area. Whilst the shop is not in a predominantly retail frontage other retail premises exist locally and within easy reach by public transport. Part of the building would stay in retail use.

4.42 One local business is concerned that the establishment of another food business would not benefit Clifton and would put more pressure on the existing shops in the area. Commercial competition in unprotected retail frontages is not a planning matter and is not a factor in determining this planning application.

4.5 HIGHWAY ISSUES

4.51 The application has no material highway implications. Traffic and parking generated by the use are unlikely to differ significantly from the existing lawful retail use. The site is in a sustainable location within walking distance of local facilities and the city centre. It is also served by frequent public transport. A condition should be attached requiring cycle stands in accordance with council standards to be provided on the front forecourt.

4.6 IMPACT ON THE CONSERVATION AREA

4.61 The building contributes to the character of the conservation area. The external appearance of the building would not change. The only material alteration to the appearance of the site would be the provision of cycle stands on the forecourt, to which the Council's Conservation Officer has no objections.

4.7 NEIGHBOUR AMENITY

4.71 The scale of the proposed business is small and does not require a commercial extraction system. The use is unlikely to cause a significant impact on neighbouring occupiers. Nevertheless a different food and drink use could have an unacceptable impact, particularly on the residents to the sides and rear of the site. If the application had been solely for a food and drink use (no retail bakery or cake shop) a condition would be needed to prevent other (more-intrusive) food and drink uses occupying the premises. However, as the current application is for a mixed use any other use or uses would need planning permission, so a condition preventing their use of the premises is not necessary. In order to protect local residents from noise and other nuisance the hours of use should be restricted to those sought by the applicant, i.e. 08.30-18.00 Monday to Friday, 08.30-16.00 Saturday and at no time on Sunday.

5.0 CONCLUSION

5.1 The proposal accords with the National Planning Policy framework and relevant policies of the City of York Local Plan Deposit Draft and is acceptable.

COMMITTEE TO VISIT

6.0 RECOMMENDATION: Approve

1 TIME2 Development start within three years -

2 The development hereby permitted shall be carried out only in accordance with the un-numbered floor plans received by the City of York Council on 30 April 2012.

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

3 Prior to the development commencing details of secure cycle storage for four cycles shall be submitted to and approved in writing by the Local Planning Authority. The use shall not be commence until the cycle facilities have been provided in accordance with such approved details and shall not be used for any purpose other than the parking of cycles.

Reason: In the interests of sustainable transport.

INFORMATIVE

Suitable cycle facilities to satisfy this condition would comprise two Sheffield-type cycle stands located on the front forecourt of the site, close to the boundary with 63 Clifton, 1m apart and parallel to the front elevation of the building.

4 The hours of operation of this approved use shall be confined to 08.30-18.00 Mondays to Fridays, 08.30-16.00 Saturdays with no opening on Sundays and Bank Holidays.

Reason: To safeguard the amenities of adjoining occupants.

5 There shall be no primary cooking or preparation of food on the site that would result in a requirement for any kitchen extraction or ventilation outlets.

Reason: To protect the amenity of adjacent residential occupiers and to avoid an adverse impact on 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 loss of a retail use, the control of food and drink uses, the impact on the character and appearance of the conservation area, highway issues, cycle parking and neighbour amenity. The application therefore complies with the overall aims and objectives of the National Planning Framework and policies GP1, S6, S9, T4, HE2 and HE3 of the City of York Local Plan.

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