

COMMITTEE REPORT

Committee: West & City Centre Area **Ward:** Guildhall
Date: 30 January 2007 **Parish:** Guildhall Planning Panel

Reference: 06/02789/FUL
Application at: Bar 38 Coney Street York YO1 9QL
For: Variation of condition 12 of planning permission 97/01825/FUL to extend opening hours from 0900 - 2400 Mon - Sun to 0900 - 0200 Mon - Wed and 0900 - 0300 Thurs - Sun
By: Inventive Leisure
Application Type: Full Application
Target Date: 9 February 2007

1.0 PROPOSAL

1.1 The application seeks planning permission to extend the permitted opening hours of the premises. It is sought to open between the hours of 09:00 to 02:00 (the following day) Mondays to Wednesdays and between 09:00 to 03:00 Thursdays to Sundays. The premises are presently required to close by 24:00 (midnight).

1.2 The application does not include the external seating area. This was granted temporary permission only, which expired in August 2001. The external seating is the subject of a separate application presently under consideration – 06/2788/FUL.

1.3 The application relates to Bar 38, which is one of the three bars / restaurants developed as part of the City Screen development. There are bars / restaurants to each side (Orgasmic and City Screen), all three have an external seating area overlooking the River Ouse. The site is within the Central Historic Core conservation area.

1.4 The application suggests that the premises would in future operate as a Revolution, described as 'a high quality stylish bar and food operation' for 'a range of social groups'.

1.5 The application is brought to planning committee at the request of Councillor B. Watson.

2.0 POLICY CONTEXT

2.1 Development Plan Allocation:

Areas of Archaeological Interest City Centre Area 0006
Conservation Area Central Historic Core 0038
City Boundary York City Boundary 0001
DC Area Teams Central Area 0002
Floodzone 2 Flood Zone 2 CONF
Floodzone 3 Flood Zone 3

2.2 Policies:

CYHE3	Conservation Areas
CYS6	Control of food and drink (A3) uses

3.0 CONSULTATIONS

3.1 Internal

- Highway Network Management - No objection.
- Urban Design and Conservation - No objection.
- Environmental Protection Unit - No objection. Recommend that music emanating from the premises should not be audible from the nearest residential facade and that the outdoor area is closed at 23:00 hours.

3.2 External

- North Yorkshire Police - No objection.
- Planning Panel – No response to date (15.1).
- Publicity - No written representations have been made to date.

4.0 APPRAISAL

4.1 Relevant planning history

Bar 38

97/1825 Original application for City Screen requires premises to close by 24:00
00/1295 Temporary permission granted to allow internal area of Bar 38 to open until 01:00. The permission expired in August 2001. Committee decision.
00/813 Temporary permission for external seating area (allowed to open until 24:00). Expired August 2001.

City Screen Bar

05/2711 permission granted for internal bars to open until 01:30 Sundays to Thursdays and 02:30 Fridays and Saturdays. External area is required to close by 24:00 in accordance with planning permission 97/1825.

Orgasmic

05/1229 permission granted to allow internal bar to open until 01:00 each day. Application applied for 02:00, this was revised to 01:00 at committee.

Pitcher and Piano

06/447 permission granted to allow internal bar area to open until 03:00 each day, apart from Sunday when 02:00. External seating area restricted until 24:00. Committee decision.

4.2 Key issues

Crime and public order
Residential amenity
Character and appearance of the conservation area.

Relevant planning policy

4.3 Planning Policy Statement 6: Planning for Town Centres (2005) contains current government guidance on a range of development in town centres. Paragraphs 2.23 to 2.26 provide advice on managing the evening and night-time economy. Local Authorities are encouraged to develop policies, which encourage a range of complimentary evening, and night-time economy uses which appeal to a wide range of age and social groups. Key issues are the cumulative impact on the character and function of the centre, anti-social behaviour, crime and the amenities of nearby residents. Local Planning Authorities should adopt an integrated approach so that planning policies and proposals complement their Statement of Licensing Policy and the promotion of licensing objectives under the Licensing Act 2003.

4.4 The Council's Statement of Licensing policy sets out the procedure for determination of license applications. Particular consideration is given to location and impact of licensed activity, type of use and numbers likely to attend, proposed hours of operation, available public transport, car and cycle parking, scope for mitigating any impact and how often the activity occurs. A license is granted subject to conditions, which take steps to mitigate the effect of late night opening, however there are limited powers to deal with noise originating from customers entering or leaving the premises.

4.5 The key difference between licensing and planning is that licensing have the power to revoke consents if problems arise at a premises. Due to the permanent nature of a planning permission, proposals need to consider both the wider implications of extension of hours and the potential for harm as well as any known problems specific to the site.

4.6 Policy S6 of the City of York Draft Local Plan relates to the control of food and drink uses. The policy permits the extension, of premises within York City Centre subject to there being no adverse impact on amenity of surrounding occupiers and the opening hours being restricted, where necessary, to protect the amenity of surrounding occupiers. The Fourth Set of Changes to the Local Plan requires security issues to be addressed where the consumption of alcohol is involved.

Crime and disorder

4.7 There is no substantial reason to object to the extension of hours on the grounds that it would lead to increased levels of crime or public disorder. There is no evidence that there is a history of problems associated with the premises and no objection from the Police. It is considered that the Premises License would act as a safeguard with the interest of prevention of crime and disorder and public safety.

Residential amenity

4.8 The nearest residential property to the site is The Mansion House, residence of the Lord Mayor for the year in office. The Mansion House is approximately 60 metres from the entrance of Bar 38 and fronts Coney Street. No other residential properties have been identified in the immediate area around the site; Coney Street is one of the central shopping areas within the city and dominated by commercial properties. The rear of the Mansion House is separated from Bar 38 by a range of buildings associated with the Guildhall.

4.9 The principal windows serving Bar 38 are located on the riverfront elevation, with an outside area along the river walkway. There are some residential properties across the river, some 90m away. EPU have reported that there have been two complaints regarding music emanating from the premises (in July 05 and June 06). Such noise (playing of music) can be controlled by condition, requiring that amplified music or entertainment is inaudible from nearby noise sensitive premises.

4.10 The other issue with regard to amenity is the potential for noise and disturbance from people leaving the premises at the later time. Given the separation distance from the main exit to the nearest residential property, and that people are likely to disperse in different directions, it is not considered that this in itself is a reason for refusal of the application. Residents within City Centres are inevitably exposed to a greater degree of disturbance that would be the case for a rural or even a suburban area. It is noted that the Pitcher and Piano bar nearby has been granted later opening hours (03:00 latest) and there has been no evidence that suggests that the later hours have lead to any disturbance or complaint. Overall it is considered it would be unreasonable to refuse the application on the basis of the potential of such disturbance.

Character and appearance of the conservation area.

4.11 There are no building works that would visually affect the conservation area. The application would have a neutral impact upon the character and appearance of the area.

5.0 CONCLUSION

5.1 It is considered that crime and disorder can be controlled adequately by the premises license, which can be revoked if necessary, and that conditions regarding noise can reasonably protect the amenity of nearby residents. As such there are no grounds to refuse the application, approval is recommended.

6.0 RECOMMENDATION: Approve

- 1 The hours of operation of the premises shall be confined to 09:00 to 02:00 (the following day) on Mondays to Wednesdays and 09:00 to 03:00 on Thursdays to Sunday.

Reason: To safeguard the amenities of adjoining occupants.

- 2 Music emanating from the premises shall be inaudible at the nearest noise sensitive facade and no external speakers shall be mounted outside the premises.

Reason: to protect the amenity of local residents.

7.0 INFORMATIVES:

1. REASON FOR APPROVAL

In the opinion of the Local Planning Authority the proposal would not cause undue harm to interests of acknowledged importance, with particular reference to residential amenity, crime and disorder and the character and appearance of the conservation area. As such the proposal complies with national planning policy guidance note PPS:6, 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.

2. You are advised that in addition to planning permission the premises license should also be updated before the premises may open until 02:00 Mondays to Wednesdays.

Contact details:

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