

COMMITTEE REPORT

Committee: West & City Centre Area **Ward:** Micklegate
Date: 18 January 2007 **Parish:** Micklegate Planning Panel

Reference: 06/02603/FUL
Application at: Trentholme House 131 The Mount York YO24 1DU
For: Retention of safety railings at roof level
By: Mr W Legard
Application Type: Full Application
Target Date: 22 January 2007

1.0 PROPOSAL

1.1 On 6 January 2005, planning permission was granted for the conversion of a former antique showroom to five self contained flats, and work is now nearing completion. During the conversion works, a number of alterations have been made which did not form part of the original planning application, which were as follows:

- i) the erection of safety railings enclosing the roof area above a bay window facing The Mount, access to which is gained from a window in the first floor flat immediately above the bay window. Safety railings have also been erected enclosing a flat roof area above the entrance to the basement flat, also facing The Mount, access to which is gained through a door in the first floor flat above.
- ii) the erection of a brick built "services kiosk" bridging a narrow gap between the north (side) elevation of the building, and a coach house (in residential use) located within the curtilage of the adjacent property, 129 The Mount.
- iii) the provision of metal ducting on the rear courtyard and side elevation of the building between ground and first floor level, enclosing cabling and pipework.
- iv) the laying of external decking with safety railings to a flat roof area surrounded on three sides by pitched roofs, access to which is gained by a steep "ladder" staircase and access hatch from the first floor flat below.

1.2 Retrospective planning permission was refused at a meeting of the West and City Centre Area Planning Sub-Committee held on 19 October 2006 for two reasons. Firstly, it was considered that the decking and railings at roof level would be likely to result in an intensification of the use of the flat roof area, resulting in unacceptable overlooking and loss of privacy to the occupiers of the adjacent property, 129 The Mount. It was also considered that the erection of screening to this area, as proposed, would be visually intrusive and would be perceived as a loss of privacy by the adjacent occupiers, with a consequent loss of amenity. Secondly, it was considered that the service ducting, together with those services that have been left exposed, detracts from the appearance of the building, and from the character and appearance of the conservation area by virtue of its excessive size, scale and incongruous appearance.

1.3 Subsequently, planning permission has been granted in respect of items i) and ii) above, which were not specifically referred to in the reasons for refusal. An application has now been submitted for the retention of the safety railings referred to in item iv) above. The application does not include the retention of the timber decking, which the applicant now proposes to remove, or the erection of the louvered metal screen, both of which formed part of the previous application. The building is not listed but is located within the Central Historic Core conservation area.

2.0 POLICY CONTEXT

2.1 Development Plan Allocation:

Areas of Archaeological Interest City Centre Area 0006

Conservation Area Multiple (Spatial)

City Boundary York City Boundary 0001

DC Area Teams Central Area 0002

2.2 Policies:

CYHE3
Conservation Areas

CYGP1
Design

3.0 CONSULTATIONS

3.1 INTERNAL

URBAN DESIGN AND CONSERVATION - This is an unlisted building within the Central Historic Core conservation area. The steep ladder type access existed prior to the recent conversion. It enabled routine maintenance to be carried out on the wide central valley gutter. A health and safety audit has specified the minimum criteria for guarding the area under the new use. The Head of Building Control has endorsed the need for the safety measures. The railings have additional upright

members to the ones required as a minimum standard. However they are of simple design and located in an unobtrusive location when viewed from the public realm. The high level alteration will have a minimal impact on the conservation area and would appear to be justified. Any decking must be removed.

3.2 EXTERNAL

MICKLEGATE PLANNING PANEL - No objections

NEIGHBOURS - No replies

4.0 APPRAISAL

4.1 Key Issues

- visual impact of the proposal on the character and appearance of the conservation area
- impact on the amenity and privacy of neighbours
- health and safety

4.2 The property to which the application relates is a substantial detached two storey building (with "split level" basement) located within an extensive curtilage, with a frontage to The Mount. It is undergoing conversion to five self contained flats, having formerly been in use as an antique showroom with living accommodation on the upper floor, and work is nearing completion. The application is retrospective and relates to the retention of safety railings erected around the perimeter of a flat roof area located above one of the first floor apartments. Access to the flat roof area is available via a steep ladder stair and hatch, both of which appear to be long established, from the first floor apartment immediately below. The applicant states that the railings are required for health and safety reasons, on the grounds that the flat roof needs to be accessed for routine inspection and maintenance purposes.

4.3 The building is not listed but is located within the Central Historic Core conservation area. When determining planning applications within conservation areas, the Council has a statutory duty to consider the desirability of preserving or enhancing the character and appearance of the area. This duty is re-iterated in Central Government advice contained within Planning Policy Guidance Note 15: "Planning and the Historic Environment", and is reflected in Policy E4 of the Approved North Yorkshire Plan, which states that buildings and areas of special townscape, architectural or historic interest will be afforded the strictest protection.

4.4 Draft Local Plan policies GP1 and HE3 are also relevant to this application. Policy GP1(Design) states that development proposals will be expected to respect or enhance the local environment and be of a scale and design that is compatible with neighbouring buildings, spaces and the character of the area, using appropriate building materials, and ensure that residents living nearby are not unduly affected by noise, disturbance, overlooking, overshadowing or dominated by overbearing structures. Policy HE3 states that within conservation areas, proposals involving

external alterations will only be permitted where there is no adverse effect on the character and appearance of the area.

4.5 It is generally accepted that the mere use of a flat roof area for sitting out purposes does not constitute development requiring planning permission. However, the carrying out of other operations, such as the erection of railings etc, are considered to be operational development for which planning permission is required. The safety railings are enclosed by pitched roofs on three sides and are not visible from public viewpoints outside the site. The railings are painted black and are of an unobtrusive design and appearance, and are not considered to be harmful either to the appearance of the building or the wider conservation area.

4.6 Access to the flat roof area is by way of a steep "ladder stair" and access hatch from one of the upper floor flats. Both the access stair and hatch are long established and thus would have been available for use by the previous occupiers of the building. Notwithstanding the removal of the decking, it is reasonable to assume that the introduction of safety railings would make it more likely that the flat roof area would be used for sitting out by the occupants of the apartment, particularly bearing in mind the lack of any alternative private amenity space within the site. It is considered, therefore, that the intensification of use of the flat roof area as outside amenity space is a material consideration in this case.

4.6 At the present time, there are views from the flat roof towards the adjacent property, 129 The Mount, and the intervening coach house, which is also in residential occupation in the form of an annex. The side elevation of 129 The Mount contains a number of windows, serving an entrance hall at ground floor, a storage cupboard, en-suite bathroom and corridor at first floor, and a further corridor at second floor level. Although these windows could be regarded as serving non-habitable rooms, the bathroom window contains clear glass and the corridor at first floor level runs the full length of the house, giving access to a number of bedrooms and bathrooms. Furthermore, because these windows are at a similar height to the flat roof, there are clear views towards these windows, with the potential for loss of privacy to occur. It is apparent that when viewing the railings from these windows, anybody sat out on the flat roof would be readily visible and identifiable, creating an uncomfortable perception of "being watched". However, the separation distance between the edge of the flat roof and the windows is approximately 18 -19 metres, only marginally less than the 20 - 21 metres which is normally regarded as acceptable between habitable rooms in order to maintain privacy.

4.7 There are also views from the flat roof down to roof lights installed in the rear roof slope of the adjacent coach house, which is located directly below the flat roof, serving a bedroom and en-suite bathroom. Although these roof lights are screened by louvered blinds, there will inevitably be occasions when the occupiers would wish them to be opened for ventilation purposes. With the roof light open, the railings are clearly visible from inside the bedroom, resulting in the possibility (or perception) of overlooking and loss of privacy. In addition, it is possible that conversations taking place on the flat roof, in addition to other noise sources such as a radio, could be audible within the bedroom, resulting in nuisance and disturbance to the occupiers. However, it is considered that a condition preventing the use of any form of artificial

lighting, whether fixed or portable, on the decking would prevent this from occurring during the hours when the bedroom is most likely to be occupied.

4.8 Oblique views are available from the flat roof towards the rear garden of 129 The Mount, including a patio area, although substantial areas of the garden are not visible at all, being screened by mature trees and the intervening coach house. It is also reasonable to assume that people using the flat roof for amenity purposes would normally be seated, further restricting the field of vision available over the adjacent garden area. In these circumstances, it is considered that the separation distance, which is in excess of 20 metres, is satisfactory and that any overlooking would not result in an unacceptable loss of privacy.

4.9 The applicant states that there are essential health and safety reasons for the provision of the railings to the open side of the flat roof area, even if it was to be used solely for maintenance purposes, there being a long and otherwise unprotected fall down to ground level. The application is supported by a report prepared by a Health and Safety Consultant, Bielby and Charles Associates. The report refers to the Work at Height Regulations 2005, which apply in any situation where people work on a flat roof, and which require the safest practical means to be implemented to prevent people falling. Permanent edge protection is preferred to temporary measures or fall arrest equipment, particularly bearing in mind the permanent nature of the ladder stair and access hatch. The Council's Building Control Section consider the request to install safety railings to be "reasonable" and point out that if this was a new building, they would expect some form of barrier to be erected for the safety of anyone accessing the roof. The applicant has pointed out that the steepness of the access stair and the exposed and elevated nature of the flat roof would be likely to limit the degree of useage as an amenity area. However, a key issue is that the stair and access hatch are long established and would be available for use by the occupiers of the flat irrespective of whether the safety railings are provided.

4.10 Given the applicants contention that the railings are required primarily for safety reasons, it is reasonable to expect that they are constructed to the required specification in terms of protection, loadings etc. This matter is being investigated and a further report will be given at the meeting. However, bearing in mind that lawful access is already available to the roof, and the health and safety case for the railings advanced by the applicant, it is not considered that planning permission could be reasonably refused. Indeed, it could be argued that the Council would not be exercising its proper "duty of care" if the application to retain the railings is refused.

5.0 CONCLUSION

5.1 Bearing in mind that access is already available to the flat roof, and the health and safety case advanced by the applicant, the proposal is considered to be satisfactory. However, this is an "on balance" recommendation, as clearly the retention of the railings could make the use of the flat roof as an amenity area more likely, thus impacting on the amenity and privacy of the occupiers of the neighbouring property. The installation of permanent screening to mitigate against this has already been rejected by virtue of the previous refusal of planning permission. It is considered that a condition preventing the use of any form of

artificial lighting, whether fixed or portable, on the decking would at least prevent the use of the flat roof during the hours when the adjacent bedroom is most likely to be occupied.

6.0 RECOMMENDATION: Approve

- 1 No artificial lighting (either fixed or portable) shall be installed on the flat roof area enclosed by the railings for which planning permission is hereby granted.

Reason: In the interests of the amenity and privacy of the occupiers of the adjacent property.

**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:

- visual impact of the proposal on the character and appearance of the conservation area
- impact on the amenity and privacy of neighbours
- health and safety

As such the proposal complies with Policy E4 of the North Yorkshire County Structure Plan (Alteration No.3 Adopted 1995) and Policies GP1 and HE3 of the City of York Local Plan Deposit Draft.

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