

COMMITTEE REPORT

Date: 5 December 2012 **Ward:** Guildhall
Team: Major and **Parish:** Guildhall Planning Panel
Commercial Team

Reference: 12/02166/FUL
Application at: 1 Church Street York YO1 8BA
For: Change of use from retail (use class A1) to mixed retail/cafe use (retrospective)
By: Mr Holder
Application Type: Full Application
Target Date: 27 September 2012
Recommendation: Approve

1.0 PROPOSAL

1.1 Planning permission is sought for a change of use of 1 Church Street from Class A1 (retail) to a mixed retail / cafe use. Previously vacant for 6 months, the former optician's shop is Grade II listed and is situated on a Primary Shopping Street within the Central Historic Core Conservation Area.

1.2 The proposal would involve the use of the ground floor for A1 use with seating for a maximum of 10 customers and the use of the first floor for approximately 34 customers. No internal or external alterations are proposed as part of this application.

1.3 The applicant has provided a supporting statement which explains that during the first four months of trading, the take up of the upstairs seating has been 80% of the customer base. The ancillary seating at ground floor has been found to be essential in demonstrating to customers that seating within the premises is an option. However to make the business model work and pay the overheads, the cold food takeaway business needs to be increased and strategies are in place to achieve this. The entire menu is designed for takeaway consumption and on the ground floor, service is split between 50% self service from the multideck chillers with the remainder being assisted counter service.

1.4 The applicant states that he is York born and bred and left a successful career in London to start his dream deli in his home town and employ local people of whom they currently employ 12. During the search for the premises, it became clear that most landlords would only let to national chains and would not defer letting to someone else whilst planning approval was sought. The applicant was fortunate to find a landlord who supported their planned change of use for the premises.

1.5 The application has been brought to Committee at the request of Councillor Watson due to concerns relating to the effect of non retail businesses in this part of the City Centre.

2.0 POLICY CONTEXT

2.1 Development Plan Allocation:

Areas of Archaeological Interest GMS Constraints: City Centre Area 0006

Conservation Area GMS Constraints: Central Historic Core CONF

Listed Buildings GMS Constraints: Grade 2; 1A Church Street York YO1 2BA 0661

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2.2 Policies:

CYS3 Mix of use in certain shopping streets

CYS6 Control of food and drink (A3) uses

CYHE3 Conservation Areas

3.0 CONSULTATIONS

Internal

Design, Conservation and Sustainable Development

3.1 The proposed change of use would preserve the character of the building as one of special architectural or historic interest.

External

Guildhall Planning Panel

3.2 No objections

4.0 APPRAISAL

4.1 The key issues are:

- The principle of the change of use, considering the retail functions of what is a primary shopping street.
- The amenity of surrounding occupants.
- Any impact on heritage assets - the listed building and the Central Historic Core conservation area.

4.2 The National Planning Policy Framework stipulates that local planning authorities should define the extent of town centres and primary shopping areas, based on a clear definition of primary and secondary frontages in designated centres, and set policies that make clear which uses will be permitted in such locations.

4.3 The Development Control Local Plan was approved for Development Control purposes in April 2005: its policies are material considerations where they reflect the National Planning Policy Framework. Policy S3a of the Local Plan identifies Church Street as a primary shopping street, where change of use from shop (class A1) uses will only be permitted when they will not dilute the shopping function of the street, or the centre as a whole. Factors to consider in assessing the impact will be: location and prominence of the premises, the amount of non-retail uses (as a guide a maximum of 35% non-retail premises are given), the level of activity associated with the proposed use, and the proportion of vacant premises in the area.

The principle of the change of use

4.4 The application site is located at the south western end of Church Street opposite the St. Sampson's Centre. The non A1 frontage of Church Street consists of the St. Sampson's Centre, a pub, two cafes/restaurants and a takeaway. There are 2 vacant units. Including the street frontage relating to the church, which City Strategy confirms should be included in the calculations, the non A1 uses currently comprise 35% of the frontage. The change of use of 1 Church Street to part retail and part cafe would bring the level of non A1 uses to 38%. However it is material that the use aims to retain a strong retail presence at ground floor to provide 50% of trade as cold food to takeaway (an A1 use) and the proposal to largely restrict the cafe use to the upper floor.

4.5 Officers acknowledge that the proposal brings the non A1 uses in Church Street over the threshold set down in Policy S3A, however it is considered that it would be difficult to object to the proposed use on the grounds of undue detrimental impact on the shopping function of the street. This conclusion is based on the consideration that the non retailing proportion is only marginally above the 35% threshold and the fact that the ground floor, as detailed above, would predominantly be in A1 type use as a sandwich shop. In order to ensure that the ground floor of the application site remains predominantly in A1 use so as not to dilute the main shopping function of this York Primary shopping street, it would be considered appropriate to apply a condition to ensure that seating is restricted on the ground floor.

4.6 Officer support of the principle of the change of use is also based on the consideration that the premises were vacant for six months before being occupied by the applicant, that 1 Church Street is a relatively small unit with a frontage of only 5.7 metres and that the proposal would result in opening the first floor up to the

public, which would add to the sense of activity and interest in this part of city centre. Furthermore, the use of the upper floors would help to ensure the continued maintenance of the listed building. In summary then, it is not considered that the proposal for a mixed use would be harmful to the vitality and viability of the Church Street. In accordance with the NPPF, the occupation of the premises would assist in boosting economic activity in a currently vacant property, in a sustainable location.

The amenity of surrounding occupants / impact on character of conservation area

4.7 Local Plan Policy S6 relates specifically to the control of food and drink uses and states that planning permission for the extension, alteration or development of premises for A3 uses (food and drink) will be granted in York City Centre provided that a) there is no unacceptable impact on the amenities of surrounding occupiers as a result of traffic, noise smell or litter; b) the opening hours of hot food takeaways are restricted where this is necessary to protect the amenity of surrounding occupiers; c) car and cycle parking meets standards referred to in the Local Plan, and d) acceptable external flues and means of extraction have been proposed.

4.8 It is not considered that the change of use of the property would generate environmental problems which in turn would affect the character and appearance of the conservation area. There are a limited number of residential properties in the vicinity of the application site including at the Golden Lion Pub and above 18 Church Street, in Patrick Pool and a recent approval for 3 No. flats at 12 Church Street. However given the existing uses in the area and the fact that the A3 element of the proposed mixed use is limited in scope in terms of it predominantly involving the sale of salads and sandwiches, it is not considered that the proposal would significantly impact on the residential amenity of local residents. The proposed opening hours are 08:00 - 18:00 Mondays to Fridays and 08:00 - 19:00 on Saturdays and Sundays. The proposal for a cafe at first floor is therefore considered to accord with Policy S6.

Impact on the listed building and the Central Historic Core conservation area.

4.9 Policy HE3 seeks to ensure that external alterations within Conservation Areas have no adverse effect on the character and appearance of the area. No external alterations are proposed as part of this application and the applicant has confirmed that there is no extraction in the kitchen as they do not use fryers or gas hobs. The business predominantly sells salads and sandwiches which requires some roasting of vegetables in the oven plus fresh scones. A sample menu has been provided reflecting this.

5.0 CONCLUSION

5.1 Officers do not consider that the proposal would cause harm to the vitality and viability of the city centre or to the character and appearance of the Conservation Area and therefore the application for the change of use of 1 Church Street is considered to accord with the National Planning Framework and Policies HE3, S3a and S6 of the Local Plan. Approval is recommended subject to the following conditions.

COMMITTEE TO VISIT

6.0 RECOMMENDATION: Approve

1 TIME2 Development start within three years -

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

Proposed floor plans received 1 August 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 No more than 10 seats shall be provided for the use of customers on the ground floor of the premises.

Reason: To ensure the A1 retail use is the predominant use at ground floor so as to preserve the vitality and viability of the primary shopping street in accordance with policy S3a of the Local Plan.

4 There shall be no primary cooking of raw ingredients on the premises unless otherwise approved in writing by the local planning authority.

Reason: To protect the amenity of the local residents as no kitchen extraction system is proposed and the local planning authority are of the opinion that an external extraction system may not be possible on these premises without causing harm to the character and appearance of the listed building and 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 vitality and viability of the city centre and the impact on the character and appearance of the conservation area. As such the proposal complies with the provisions of the National Planning Policy Framework and Policies S3, S6 and HE3 of the City of York Development Control Local Plan.

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