

COMMITTEE REPORT

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

Reference: 12/02521/FUL
Application at: Borders 3 Little Stonegate York
For: Change of use from retail (Use Class A1) to Bar/Restaurant
(Use Class A4/A3)
By: ARC Inspirations LLP
Application Type: Full Application
Target Date: 13 September 2012
Recommendation: Approve

1.0 PROPOSAL

1.1 The application relates to 3 Little Stonegate, which is grade 2 listed. The building was originally a Methodist Chapel, built in 1851. In 1901 it was altered and converted into a printing works, in 1998 it was converted into a retail premises, and linked to 1-5 Davygate. The Borders store closed in 2010 and the host premises have been vacant since. In 2011 1-5 Davygate became a separate retail unit, the connecting stairs between the premises were removed and most of the openings on the side of the host building were sealed or in-filled.

1.2 Little Stonegate is within the central shopping area, the street is not defined as a primary shopping street. The site is within the Central Historic Core Conservation Area.

1.3 Planning permission is sought for a change of use to a mixed use of A3 - restaurant and A4 - drinking establishment. The applicants have agreed to the closing times of 02.00 Thursdays, Fridays and Saturdays and 12.30 otherwise. The internal alterations required are the subject of companion application 12/02879/LBC.

1.4 The application is brought to committee at the request of Councillor B Watson, to assess the impact on the area and also the listed building.

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; 3 Little Stonegate York YO1 2AX 0650

2.2 Policies:

HE3 Conservation Areas

HE4 Listed Buildings

S6 Control of food and drink uses

S7 Evening Entertainment

3.0 CONSULTATIONS

Environmental Protection Unit

3.1 No objections. Recommend conditions to agree the details of the kitchen extraction by way of cooking odour and noise. An informative is suggested, in case of contaminated materials on site, and to inform the developers of the requirements of the Control of Pollution Act 1974.

Police Architectural Liaison Officer

3.2 No objection.

Guildhall Planning Panel

3.3 Object to the loss of a further retail premises in the street and replacement with another bar/restaurant.

Publicity

3.4 Three representations have been made. Comments as follows -

Vitality of the street

- Objection to the loss of retail space and increasing number of bars and restaurants and the subsequent reduction in daytime activity in the street. It has been noted that an option within the City Centre Action Plan 2008 was to include Little Stonegate, Swinegate and Grape Lane as primary shopping streets (to strengthen the retail core in the city centre).

Noise disturbance, litter, crime and disorder

- The area is becoming dominated by bars and there is increased noise and disturbance at night.
- If an outside seating area were introduced, the applicants should keep the area in a tidy manner and it should not impact upon servicing of surrounding premises.

4.0 APPRAISAL

4.1 Key issues

- Vitality of the city centre
- Amenity of surrounding occupants
- Impact on the listed building and the conservation area

Relevant policy

4.2 The National Planning Policy Framework advises planning should positively promote competitive city centres and enhance their vitality and viability. The National Planning Policy Framework notes that residential development can play an important role in ensuring the vitality of town centres. Amenity for future and existing occupants is material consideration. The National Planning Policy Framework advises that it is desirable that the significance of listed buildings is maintained and that they are kept in viable uses which are consistent with their conservation.

4.3 Local Plan policy S6 states that planning permission for the extension, alteration or development of premises for food and drink uses will only be granted provided:

- There is no unacceptable impact on the amenities of surrounding occupiers as a result of traffic, noise, smell or litter.
- Opening hours are restricted where this is necessary to protect the amenity of surrounding occupiers.
- Where security issues have been addressed.

Vitality of the city centre

4.4 The host building has been vacant since 2010 when the Borders store closed. Permission was granted in July 2011 - 11/00399/FUL - for a change of use to youth cafe although this development was not implemented. Due to the plan form of the building and its exterior (where there is limited opportunity for advertising or display windows) the building does not lend itself to retail use, hence it has been vacant for sometime. Little Stonegate is not designated in the Local Plan as a primary shopping street, and is therefore recognised as a street where other service uses including A3 and A4 uses can be accommodated where this would not harm the vitality of individual streets or the vitality and viability of the city centre as a whole.

4.5 Objections made to the application raise concerns that there is becoming an excessive amount of A3 and A4 uses within this street and Back Swinegate and consequently a lack of footfall during the daytime. However there would not be harm to the vitality of this part of the city centre as a consequence of this proposal as the host premises has been vacant for almost 3 years. It has also been raised in

third party comments that it was suggested in the City Centre Area Action Plan the street may become a primary shopping street. This proposal was made in 2008, and there have been considerable changes in the economy since that date and the Core Strategy has now been withdrawn, in part to reconsider the retail policies. As such no weight can be given to the action plan.

Amenity of surrounding occupants

4.6 There are similar uses to that proposed within the host building at Bobo Lobo and Kennedys, which are situated to each side of the application site. The bars along Little Stonegate and Back Swinegate and their opening times are listed below

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Premises	Closing time licensing	Closing time planning
Kennedys	02.30	None
Bobo Lobo	04.30 fri and sat 03.30 sun to wed	Inside none 20.00 outside area
Stonegate yard	02.20	None
Slug and Lettuce	02.30 fri & sat 00.30 sun-thurs	None
Oscars	02.30	02.00
La Tasca	No restrictions	Midnight

4.7 There is a hotel above Kennedy's next door to the application site and also flat at 1 Stonegate. A planning application is currently under consideration to change the use of the flat and incorporate it as part of the hotel. To avoid disturbance from the proposed development conditions are recommended to control the noise level of music played and that glass/bottles are not taken out after 23:00. The closing times of 02:00 Thursday to Saturday and 12.30 otherwise can also be controlled through a condition.

4.8 In terms of noise as a consequence of persons in the area late at night, given the number of drinking establishments already in the street, and their opening hours, it is likely there will already be a degree of disturbance. Whilst there is a concern that adding to the number of bars and restaurants in the area will increase late night disturbance, this is a city centre location and in this case the impact has to be weighed against the public benefit of bring the listed building back into use. The English Heritage guide to Planning for the Historic Environment advises Local Planning Authority's must be flexible in such cases in order to secure the heritage benefits of bringing vacant buildings into use.

4.9 Full details of the kitchen extraction equipment (so it can deal with odour and does not cause noise disturbance) need to be agreed, which can be secured through a condition. The extraction is proposed at the south-eastern corner of the

building. The location is suitable as it can not be viewed from the public realm and there is other plant/equipment in this area associated with surrounding premises.

Impact on the listed building and the conservation area

4.10 The application is for a change of use of the building only. Now the proposals have been amended and the external area omitted, no external changes are proposed apart from the external plant which would not be viewed from the public realm. As such there would be a neutral impact on the conservation area.

4.11 The applicants do wish to make internal changes, and these will be dealt with through the companion listed building consent - 12/02879/LBC. The essential component of the proposed use is the kitchen extraction, which can be accommodated without damaging architectural detailing or the historic importance/understanding of the building.

5.0 CONCLUSION

5.1 The host premises have been vacant since 2010. To allow occupation of the listed building would be in the interests of its viability and would not detract from the vitality of the area. This 'heritage' benefit is given considerable weight by officers. There are already a number of bars and restaurants in the area, and through using conditions the amenity of surrounding occupants as a consequence of the proposed development can be reasonably controlled. There would be no impact on the appearance of the conservation area and the change of use alone would not have a detrimental impact on the listed building. Approval is recommended.

6.0 RECOMMENDATION: Approve Committee to visit

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 and elevations as shown on drawings 208B and 209D

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

3 The use hereby permitted shall only be open to customers during the following hours:

Sunday to Wednesday 07.00 to 00.30 the following day
Thursday to Saturday 07.00 to 02.00 the following day

Reason: To protect the amenity of nearby occupants.

4 Bottles and glass shall not be placed into bins between the hours of 24.00 hours (midnight) and 08.00 hours on any day.

Reason: To protect the living conditions of adjacent residential occupiers in accordance with policy S7 of the Development Control Local Plan.

5 All electronically amplified music shall be controlled by a noise limitation device. The device shall set maximum noise levels which shall be approved in writing by the local planning authority before any such music is played at the premises (positions at the site where music from the within the premises shall be inaudible at all times are to be agreed). The maximum noise levels shall not be exceeded for the lifetime of the development. The noise limitation device shall be installed prior to opening of the use hereby approved.

Reason: To protect the amenity of the locality from noise generated by the use hereby approved.

6 Any extraction system fitted in association with the use hereby approved must be adequate for the treatment and extraction of fumes so that there is no adverse impact on the amenities of nearby occupants by reason of fumes, odour or noise. The following details of plant/machinery shall be approved by the Local Planning Authority:

a) Details of the extraction plant or machinery and any filtration system required. The extraction system shall be installed in accordance with the approved plans prior to first operation of the use hereby permitted, appropriately maintained thereafter and fully removed once its use has ceased.

b) Details of all machinery, plant and equipment, which would be audible outside the site, and any proposed noise mitigation measures, shall be implemented in accordance with the approved details, and appropriately maintained thereafter. These details shall include maximum ($L_{Amax}(f)$) and average (L_{Aeq}) sound levels (A weighted), and octave band noise levels they produce. The report shall be undertaken by a specialist noise consultant or suitably qualified person and conducted in accordance with BS4142:1997. The report shall assess the impact of the additional noise sources on nearby properties and include any mitigation measures that are required.

c) The external appearance of any extraction duct or vent.

Reason: in the interests of the amenity of surrounding occupants and visual amenity.

7.0 INFORMATIVES:

Notes to Applicant

1. CONTAMINATED LAND AND CONTROL OF POLLUTION ACT

2. 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 of the city centre, the impact on the listed building, the character and appearance of the conservation area and the amenity of surrounding occupants. As such the proposal complies with Policies HE3, HE4 and S6 of the City of York Development Control Local Plan.

3. LISTED BUILDING CONSENT

You are reminded that this permission does not give consent for any internal changes which require Listed Building Consent.

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