



Notice of meeting of

West & City Centre Area Planning Sub-Committee

- To:** Councillors Livesley (Chair), Bartlett (Vice-Chair),
Sue Galloway, Horton, Macdonald, Reid, Simpson-Laing,
Sunderland and B Watson
- Date:** Tuesday, 30 January 2007
- Time:** 12.00 pm
- Venue:** The Guildhall, York

AGENDA

**Site visits for this meeting will commence at 12.00 pm on Monday
29 January 2007 at 42 Neville Terrace, York.**

1. Declarations of Interest

At this point Members are asked to declare any personal or prejudicial interests they may have in the business on this agenda.

2. Public Participation

It is at this point in the meeting that members of the public who have registered their wish to speak can do so. The deadline for registering is by 5pm the day before the meeting. Members of the public can speak on specific planning applications or on other agenda items or matters within the remit of the committee.

To register please contact the Democracy Officer for the meeting, on the details at the foot of this agenda.

3. Plans List

Members will consider a schedule of reports of the Assistant Director (Planning and Sustainable Development), relating to planning applications with an outline the proposals and relevant policy considerations and the views and advice of consultees and officers.

a) 42 Neville Terrace, York (06/02557/FUL) (Pages 3 - 12)

Two storey pitched roof side extension and garage to the rear, after demolition of outside WC. *[Guildhall Ward]*

b) 2 Clifford Street, York (06/02690/FUL) (Pages 13 - 20)

Removal of condition 6 of planning permission 06/00372/FUL to allow 24 hour opening Monday to Sunday (Current hours 0800 - 0100 hrs Monday - Thursday and 0800 - 0300 hrs Friday - Sunday). *[Guildhall Ward]*

c) 218 Salisbury Terrace, York (06/02777/FUL) (Pages 21 - 28)

Conversion of the existing church hall to 3 no. 1 bed apartments and external alterations. *[Holgate Ward]*

d) Bar 38, Coney Street, York (06/02789/FUL) (Pages 29 - 36)

Variation of condition 12 of planning permission 97/01825/FUL to extend opening hours from 0900 - 2400 Monday - Sunday to 0900 - 0200 Monday - Wednesday and 0900 - 0300 Thursday – Sunday. *[Guildhall Ward]*

4. Any other business which the Chair considers urgent under the Local Government Act 1972

Democracy Officer

Name: Simon Copley

Contact Details:

- Telephone (01904) 551078
- Email – simon.copley@york.gov.uk

For more information about any of the following please contact the Democracy Officer responsible for servicing this meeting:

- Registering to speak
- Business of the meeting
- Any special arrangements
- Copies of reports

Contact details are set out above.

**WEST AND CITY CENTRE AREA PLANNING SUB COMMITTEE
SITE VISITS****Monday 29 January 2007****There will be no bus for this visit – Members should meet at the site**

TIME	SITE	ITEM
(Approx)		

12:00	42 Neville Terrace	3a
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COMMITTEE REPORT

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

Reference: 06/02557/FUL
Application at: 42 Neville Terrace York YO31 8LN
For: Two storey pitched roof side extension and garage to rear after demolition of outside WC
By: Mr And Mrs Martin
Application Type: Full Application
Target Date: 15 January 2007

1.0 PROPOSAL

1.1 The application is for the following, a two-storey side extension that would be located in the gap between the side of 42 Neville Terrace and 76 Park Grove and a garage with a flat roof that would be attached to the kitchen which projects from the rear of the host dwelling. Associated with the proposed garage are alterations to the rear boundary treatment.

1.2 The application relates to an end terraced dwelling, where Neville Terrace meets Park Grove. Both streets are residential in character consisting of terraced dwellings. To the rear of the host is stable cottage, a residential conversion that is part single, part two storey.

1.3 The application is brought before members at the request of Councillor J. M. Looker.

2.0 POLICY CONTEXT

2.1 Development Plan Allocation:

City Boundary York City Boundary 0001
DC Area Teams Central Area 0002
Schools Park Grove Primary 0214

2.2 Policies:

CYGP1 Design
CYH7 Residential extensions

3.0 CONSULTATIONS

3.1 Internal

Highway Network Management - No objection to the proposal. Request that the existing crossover be reinstated to kerb.

Environmental Protection Unit (EPU) - Confirm that they are currently dealing with complaints of loud music coming from Stable Cottage. A warning letter was sent and EPU have not witnessed any further noise nuisance to date. A warning letter due to a complaint was also sent in 2004, after which, no further complaints were received until 2006. A watching brief for contamination is also required and the hours of construction to be controlled.

3.2 External

Planning Panel - Object. Consider that the roller shutter doors will spoil the appearance of the street, and will also be noisy. It is suggested that the existing gateway is used for vehicle access into the site.

Publicity - Letters in objection to the application have been received from the owner and occupant of 76 Park Grove and the occupants of 45 and 47 Park grove. The reasons for objection are as follows,

- Increased noise levels in the area - 42 Neville Terrace and Stable Cottage are student occupied and have a history of causing noise nuisance
- Loss of owner occupied accommodation and increased number of students in the Groves area
- Inaccuracy of plans
- Dwelling would be a HMO, no planning application for a HMO has been submitted
- Lack of car parking
- Side extension would be out of keeping and detrimental to appearance of the area
- Side extension should not prevent access to maintain 76 Park Grove.

4.0 APPRAISAL

4.1 Key issues

Design
Residential amenity
Other matters

Relevant policies of the City of York Draft Local Plan

4.2 GP1 states that development proposals must, respect or enhance the local environment; be of a density, layout, scale, mass and design that is compatible with the surrounding area; avoid the loss of open spaces which contribute to the quality of the local environment; provide and protect amenity space; provide space for waste storage; ensure no undue adverse impact from noise disturbance, overlooking, overshadowing or overdominance.

4.3 Policy H7 states that planning permission will be granted for house extensions where: the design and materials are sympathetic to the main dwelling and the locality of the development; the scale is appropriate; there is no adverse impact on residential amenity; proposals respect space between dwellings; and that the proposed development does not result in an unacceptable loss of private amenity space within the curtilage of the dwelling.

4.4 The proposed side extension would fill the gap between the host and 76 Park Grove. The extension would be setback 300mm from the front building line, 1.3m from the rear. The roof ridge would be set down around 1.7m from that of the host dwelling. The bricks and roof tiles would be to match those on the host; the shape, dimension and cill of the front windows would match the existing window at first floor level (above the bay window). The first floor window would also have a matching lintel. The proposed garage would be at the rear; it would extend from the existing kitchen and be against the side boundary with 40 Neville Terrace. The garage would end at the rear boundary, and be 3m wide maximum. It would have a roller shutter door and flat roof, concealed by a parapet wall, the top of which would be around 2.75m from ground level. Also associated are changes to the rear boundary treatment. The proposed appearance would be that of a 2.1m high brick wall, a gate for pedestrian access and a double garage with roller shutter doors.

Design

4.5 The proposed side extension would be a subordinate addition, setback from the front elevation and set down from the roof. Because of the setback from the front elevation and the size and position of the proposed extension, it would not be prominent when looking toward the site from either direction in the street. Although the two blocks of terraced dwellings to each side of the host are reasonably uniform in appearance, the block comprising of 2 to 30 Neville Terrace and surrounding streets such as Eldon Street consist of terraced dwellings with a subtle mix of building heights, brickwork and detailing. The variations contribute to the street scene. The detailing of the windows on the front elevation are considered to be an acceptable relation to the host dwelling. Overall it is considered that the proposed front elevation is of acceptable design.

4.6 At the rear the main visual change would relate to that at the boundary. The side extension would be inconspicuous from the public realm. The site is not within a conservation area and normally the Local Planning Authority would not control the choice of materials for garage doors. It is considered that roller shutter doors would have an acceptable visual impact provided they are coloured accordingly to blend into their surrounds. A colour can be agreed by condition. The elevation can be constructed from reclaimed brick to ensure the new areas of wall blend with those existing.

Residential amenity

4.7 The side extension because of its location and height would not cause unacceptable overshadowing over either 76 Park Grove or Stable cottage. The windows are positioned so as not to directly overlook into the windows of any surrounding dwellings.

4.8 The garage would not exceed the height of the existing boundary wall with 40 Neville Terrace. As such no overshadowing would occur over that dwelling. It is considered that there would be adequate outlook retained into the communal yard from Stable Cottage, despite the presence of the garage proposed. As the garage is single storey, there would be no unacceptable overshadowing of Stable Cottage.

Other matters

Highways

4.9 The application site is close to the city centre, transport links and local amenities. As such there is no requirement to provide additional off street parking, in accordance with Planning Policy Guidance Note 13: Transport, which seeks to reduce car dependence and improve linkages between housing, jobs, local services and local amenity. However, there is off street parking on site and on street parking is available to residents via a residents parking scheme which operates in the Groves. Importantly there is covered secure cycle storage proposed to encourage more sustainable transportation, in accordance with PPG13. Overall there is no objection to the application on highways grounds.

Noise

4.10 Noise nuisance caused by the occupants should be reported to EPU, as has been done previously. If a statutory nuisance occurs, they have powers to act accordingly. The application cannot be refused on noise grounds, as there is no proposed development that would directly cause undue levels of noise that would harm the amenity of nearby residents.

Lawful use of 42 Neville Terrace

4.11 The agent has advised that the dwelling would accommodate no more than six persons, as such the use of 42 Neville Terrace continues to be a dwellinghouse falling under Class C3 of the Use Classes Order 2005. Should the number of persons residing at the premises increase above six, it is officer's opinion that a change of use would occur, if it is the case that each room is let individually, which based on evidence received, appears to be the case. A change of use to a House in multiple occupation (HMO) would then be required. This would allow the Local Planning Authority to assess the impact of such a use, including the amenity of nearby residents. It is added that Stable Cottage is a separate dwelling, granted planning permission in 1996. The occupants of Stable Cottage and those of 42 Neville Terrace are not combined when determining the number of persons residing at the application site.

Party wall issues

4.12 These are covered under the Party Wall Act; it is not for the Local Planning Authority to resolve such matters. The accuracy of the plans (depicting 76 Park Grove) is subjective. It is maintained that the proposed appearance can be adequately ascertained from the proposed plans.

Tenure of property / character of The Groves area

4.13 It is the discretion of the owner whom occupies the dwelling. The Local Planning Authority cannot control this in this instance. The loss of owner occupied accommodation and increased number of students in the Groves area is a wider issue that should be addressed through the Local Plan / Local Development Framework. However, it is not a material planning consideration in determining this application.

5.0 CONCLUSION

5.1 It is considered that the proposed buildings would be of acceptable appearance and would not harm residents' amenity by virtue of overlooking or overdominance. Approval is recommended.

COMMITTEE TO VISIT

6.0 RECOMMENDATION: Approve

- 1 PLANS2 Apprvd plans and other submitted details
- 2 TIME2 Development start within three years
- 3 The roof materials to be used externally shall match those of the existing building in colour, size, shape and texture and the window cills and lintels on the front elevation shall match those on the front of 42 Neville Terrace.

Reason: To achieve a visually acceptable form of development.

- 4 VISQ7 Sample panel ext materials to be approved
- 5 The part of the rear boundary wall which requires rebuilding shall be to match in all respects the remainder of the bricks on this elevation, with reclaimed bricks used where possible.

Reason: To ensure that the finished appearance is to the satisfaction of the Local Planning Authority.

- 6 Within one month of their installation the roller shutters and gate shall be painted in a colour and finish that shall be previously agreed in writing with the Local Planning Authority. The roller shutter and gate shall be maintained in accordance with the agreed details unless otherwise approved in writing with the Local Planning Authority.

Reason: To ensure a satisfactory visual appearance to the development.

- 7 The garage hereby approved shall be used for domestic vehicles / cycles and storage only and shall not be converted or altered in any way without prior approval from the Local Planning Authority.

Reason; To ensure that adequate storage and secure cycle parking provision is retained in accordance with policies GP1 and T4 of the City of York Draft Local Plan.

- 8 HWAY29 IN No gate etc to open in highway

- 9 Notwithstanding the approved plans the development shall not commence until the existing vehicular crossing outside the previous vehicle entrance has been removed by reinstating the kerb to match adjacent levels.

Reason: In the interests of good management of the highway and road safety.

- 10 Any contamination detected during site works shall be reported to the local planning authority. Any remediation for this contamination shall be agreed with the local planning authority and fully implemented prior to any further development on site.

Reason: To protect the health and safety of workers on site, future occupiers of the site and the integrity of any proposed underground services.

- 11 No work or ancillary operations during construction and demolition, including deliveries, shall take place on site except between the hours of 0800 and 1800 on Mondays to Fridays and 0900 to 1300 on Saturdays and not at all on Sundays or Bank Holidays.

Reason: To safeguard the amenities of local residents.

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 and residential amenity. As such the proposal complies with Policies GP1 and H7 of the City of York Local Plan Deposit Draft.

2.

You are advised that should the number of occupants of the dwelling increase beyond six it may be considered that a change of use has occurred, to a house in multiple occupancy, which would require full planning permission.

3.

The work shall be carried out in such a manner so as to comply with the general recommendations of British Standards BS 5228: Part 1: 1997, a code of practice for "Noise and Vibration Control on Construction and Open Sites" and in particular Section 10 of Part 1 of the code entitled "Control of noise and vibration".

All plant and machinery to be operated, sited and maintained in order to minimise disturbance. All items of machinery powered by internal combustion engines must be properly silenced and/or fitted with effective and well-maintained mufflers in accordance with manufacturers instructions.

The best practicable means, as defined by Section 72 of the Control of Pollution Act 1974, shall be employed at all times, in order to minimise noise emissions.

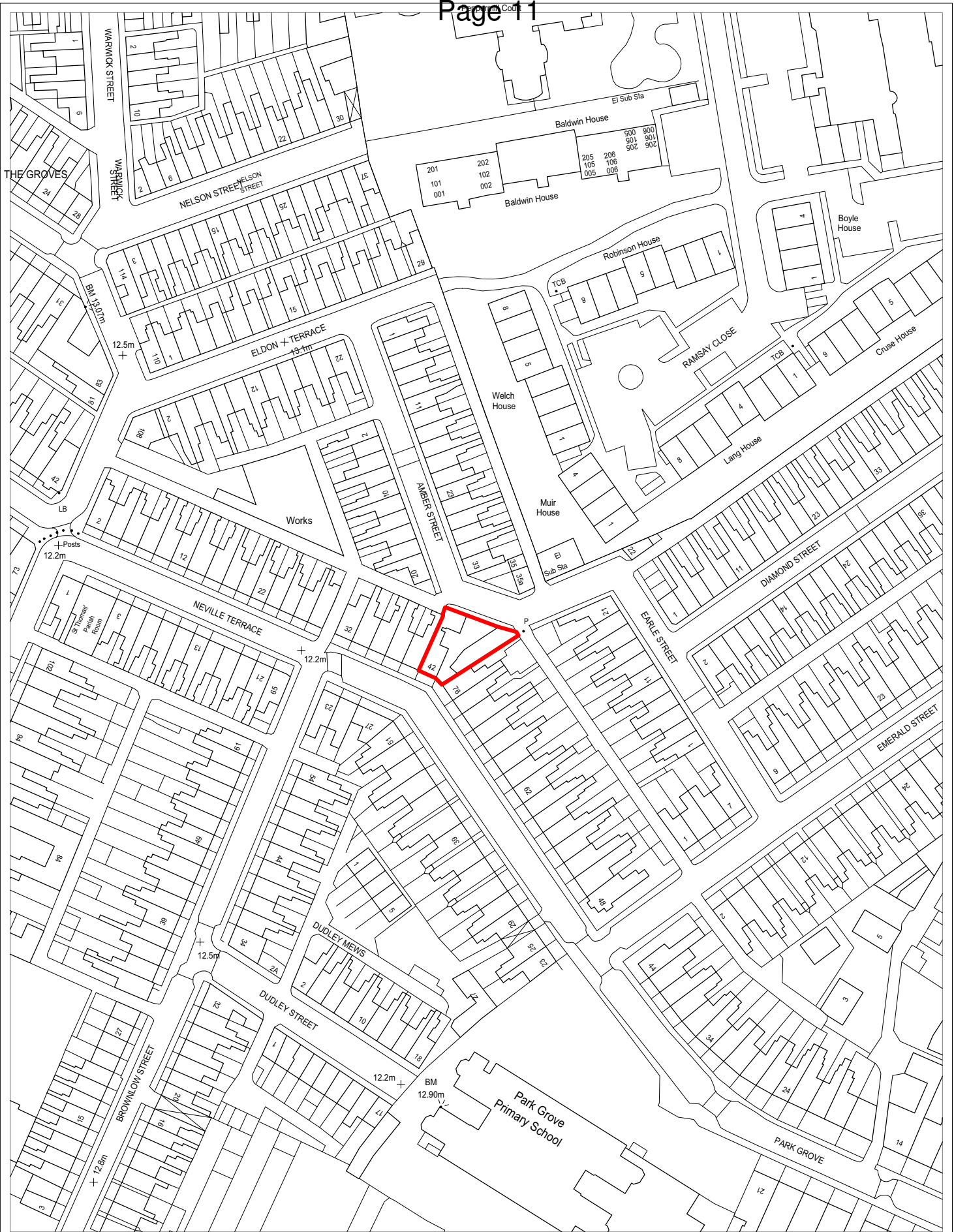
All reasonable measures shall be employed in order to control and minimise dust emissions, including sheeting of vehicles and use of water for dust suppression.

Any asbestos containing materials shall be removed by licensed contractors to a licensed disposal site.

Contact details:

Author: Jonathan Kenyon Development Control Officer
Tel No: 01904 551323

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42 NEVILLE TERRACE - 06/2557/FUL

SCALE 1:1250 DRAWN BY PSL DATE 18/1/2007
 Originating Group Project Drawing No.

9, St. Leonards Place, York, YO1 2ET
 Telephone: 01904 613161

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COMMITTEE REPORT

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

Reference: 06/02690/FUL
Application at: 2 Clifford Street York YO1 9RD
For: Removal of condition 6 of planning permission 06/00372/FUL to allow 24 hour opening Mon-Sun (Current hours 0800 - 0100 hrs Mon - Thurs and 0800 - 0300 hrs Fri - Sun)
By: Wayne Dixon
Application Type: Full Application
Target Date: 1 February 2007

1.0 PROPOSAL

1.1 The application relates to Subway sandwich franchise that was granted permission in June 2004 (04/1592/ful). In granting permission the Local Planning Authority restricted hours of operation, requiring the premises to open only between 08.00 and 00.00 each day. A full planning history of the permitted hours can be found in 4.1.

1.2 The application proposes to align the allowed opening hours with those granted by the Licensing Act 2003. The premises would be able to open 24 hours each day of the week.

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
 Listed Buildings Grade 2; 6 Clifford Street York 0485
 Listed Buildings Grade 2; 4 Clifford Street York 0486
 Listed Buildings Grade 2; 2 Clifford Street York YO1 1RD 0487

2.2 Policies:

CYS6 Control of food and drink (A3) uses
 CYHE3 Conservation Areas
 CYHE4 Listed Buildings

3.0 CONSULTATIONS

3.1 Internal

- Highway Network Management - No objection.
- Environmental Protection Unit (EPU) - No objection.
- Urban Design and Conservation - No objection.

3.2 External

- Planning Panel - Object - Consider that 24 hour opening would harm residential amenity.
- Safer York Partnership (Police) – No response.
- Theatres Trust – No response.

Publicity - Two letters in objection from 15 King's Staith and 5 South Esplanade, reasons as follows,

- detrimental to residential amenity,
- additional nuisance, litter and anti-social behaviour,
- applicant does not comply with licensing conditions (this came to light at the 20.11.06 hearing) - specifically, failed to join pub watch, door staff not always on duty when required to be,
- Problems would be exacerbated in summer when people are more likely to remain in the surrounding area.

4.0 APPRAISAL

4.1 Planning history

- 06/372/ful requesting to open until 01.00 the following day on Mondays to Thursdays, until 03:00 the following day on Fridays, Saturdays and Sundays - approved on 16.5.06.
- 05/1259/ful requesting a temporary permission to open until 01.00 the following day on Saturdays and Sundays - refused.
- 04/03318/ful requesting to open until 03.00 the following day Monday - Saturday and until 02.00 Sunday - refused.

4.2 Key issues

- Impact on the character and function of the area, which is a conservation area
- Crime and disorder
- Amenity
- Effect on the special historic interest of the listed building

Relevant 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 that 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 premises.

4.5 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 such premises subject to no adverse impact on the amenity of surrounding occupiers. Opening hours are to be restricted where necessary to protect the amenity of surrounding occupiers.

4.6 The key difference between licensing and planning is that a premises license can be revoked if problems arise at a premises. The Council's licensing policy specifically states that "The Licensing Authority may review premises licenses when representations are received from a responsible authority (such as the police or fire authority), or interested parties (such as local residents), to indicate that problems associated with crime and disorder, public safety, public nuisance or protection of children from harm are occurring". However, 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.

4.7 The host building is listed and within a designated conservation area (Central Historic Core). Within such areas, the Council has a statutory duty to consider the desirability of preserving or enhancing the character or appearance of the area. Policy HE3 states that within Conservation Areas, proposals will only be permitted where there is no adverse effect on the character or appearance of the area. Policy HE4 seeks to ensure proposals have no adverse effect on the character, appearance or setting of the building.

Appraisal

Impact on the character and function of the area, which is a conservation area

4.8 It is considered that the proposal to extend the opening hours would have little, if any, impact on the character of the conservation area. The application site is in an area with a number of late night uses. These include the gallery night club and also public houses, taxi offices and restaurants / takeaways which open late into the night. No alterations are proposed that would affect the appearance of the area.

Crime and disorder

4.9 In previous applications submitted prior to the Licensing Act 2003 there were significant objections from the police architectural liaison officer (ALO). However since the Licensing Act 2003 (which takes steps to mitigate the effects of late night opening) there has been no objections from the police regarding crime and disorder. Conditions are attached to the premises license such as the requirement for door staff (until at least 03:00 on Fridays - Sundays) and 24 hour CCTV coverage. If crime and disorder were to result at the premises, the premises license could be revoked. There is no evidence at present that crime and disorder occurs specifically at the premises, or as a consequence of it. As such there are insufficient grounds to refuse the planning application on such basis. This would also apply to anti-social behaviour.

Amenity

4.10 There are no residential units on Nessgate or Clifford Street. The nearest are at 11 King Street, 4 Cumberland Street, Gloucester House on Castlegate and the flats at 2-16 Friargate. The written objections come from 15 King's Staith and 5 South Esplanade, which are at least 100m from the application site. EPU have received no complaints regarding the premises.

4.11 Residents in the city centre, especially around the Gallery nightclub (open until 03.00 the following day during the week and until 04.00 on Friday and Saturday evenings), and also takeaways nearby which people convene around before they disperse, either by foot or when waiting for a taxi, after leaving the nearby pubs and clubs, will suffer from some loss of amenity as a consequence of the late night uses in the area.

4.12 In support of the application the applicant has previously stated that the premises is popular with the emergency services - the nearby fire station and also members of the police and ambulance services. The presence of such 'responsible' customers is likely to assist in deterring noise and nuisance (source Safer Places 2004 ODPM 2.6).

4.13 It cannot be proven that the extended opening of the application unit would bring a substantial number of extra people to the area late at night / early morning. The operation of the application site would thus not materially add to disturbance. Such findings were evident in a similar case approved on appeal - Salt and Peppers (04/2089) where the inspector found that the operation of an A5 use had no significant effect on the surrounding area, "the proposed extended opening hours would not add significantly to existing levels of noise and disturbance or crime and disorder and there would, therefore, be little additional harm to the living conditions of the adjacent residents". Furthermore the Inspector awarded costs after the Local Planning Authority refused the application to extend opening hours.

4.14 It is considered that to allow the premises to potentially open 24 hours a day is unlikely to have a significant effect on existing levels of amenity. Given the extant character of the area it would be difficult to prove that the opening of the sandwich

bar through the night would significantly add to the levels of disturbance that occurs at present.

4.15 As this would be the first example of such hours in the city centre, it is considered to be wise to allow the proposed hours for a temporary period only, to assess impact.

4.16 No flues or means of extraction are in use at the premises. No complaints have been received from EPU since the premises began trading regarding cooking smells. Furthermore there are no residential premises immediately nearby, which would be affected by any smells emanating from the premises. As such it is considered not to be necessary to control cooking times, which has been done previously.

Effect on the special historic interest of the listed building

4.17 The application unit is within a Grade II listed building. No building operations are proposed. The extension of the opening hours would not have any affect on the architectural or historic importance of the building.

Other matters

4.18 The creation of litter can only be controlled to a certain extent, by providing incentives for people to act responsibly. It is a condition of the premises license that bins are provided, customers are encouraged to use them and they are emptied daily. As such litter management need not be duplicated in the planning application.

5.0 CONCLUSION

5.1 It is considered that the application is unlikely to harm residential amenity, and that there would be no undue adverse effect on the conservation area and the listed building. However, it is recommended a temporary permission for two years be granted to assess impact.

6.0 RECOMMENDATION: Approve

- 1 PLANS1 Approved plans
- 2 The hours of operation shall revert to those previously approved in application 06/372/FUL (08.00 to 0100 the following day Mondays to Thursdays, and 08.00 to 03.00 the following day on Friday, Saturday and Sundays) by 01.02.2009 unless prior to that date the consent of the Local Planning Authority has been obtained for alternative hours of operation.

Reason: So that the Local Planning Authority may assess the impact of this use upon the surrounding area.

- 3 The premises shall be used primarily for the sale of cold food purchased and consumed on or off the premises and for no other purpose in Classes A3, A4

or A5 of the Town and Country Planning (Use Classes) Order 2005 or in any provision equivalent to that Class in any Statutory Instrument revoking and re-enacting that Order.

Reason: So that the Local Planning Authority may re-assess alternative uses which, without this condition, may have been carried out without planning permission.

- 4 Details of all machinery, plant and equipment to be installed in the proposed premises including any means of extraction, and the proposed noise mitigation measures, shall be submitted to the local planning authority. These details shall include maximum ($L_{Amax}(f)$) and average (L_{Aeq}) sound levels (A weighted), and octave band noise levels they produce. All such approved machinery, plant and equipment shall not be used on the site except in accordance with the prior written approval of the local planning authority. The machinery, plant or equipment and any approved noise mitigation measures shall be appropriately maintained thereafter.

Reason: To protect the amenity of nearby occupiers.

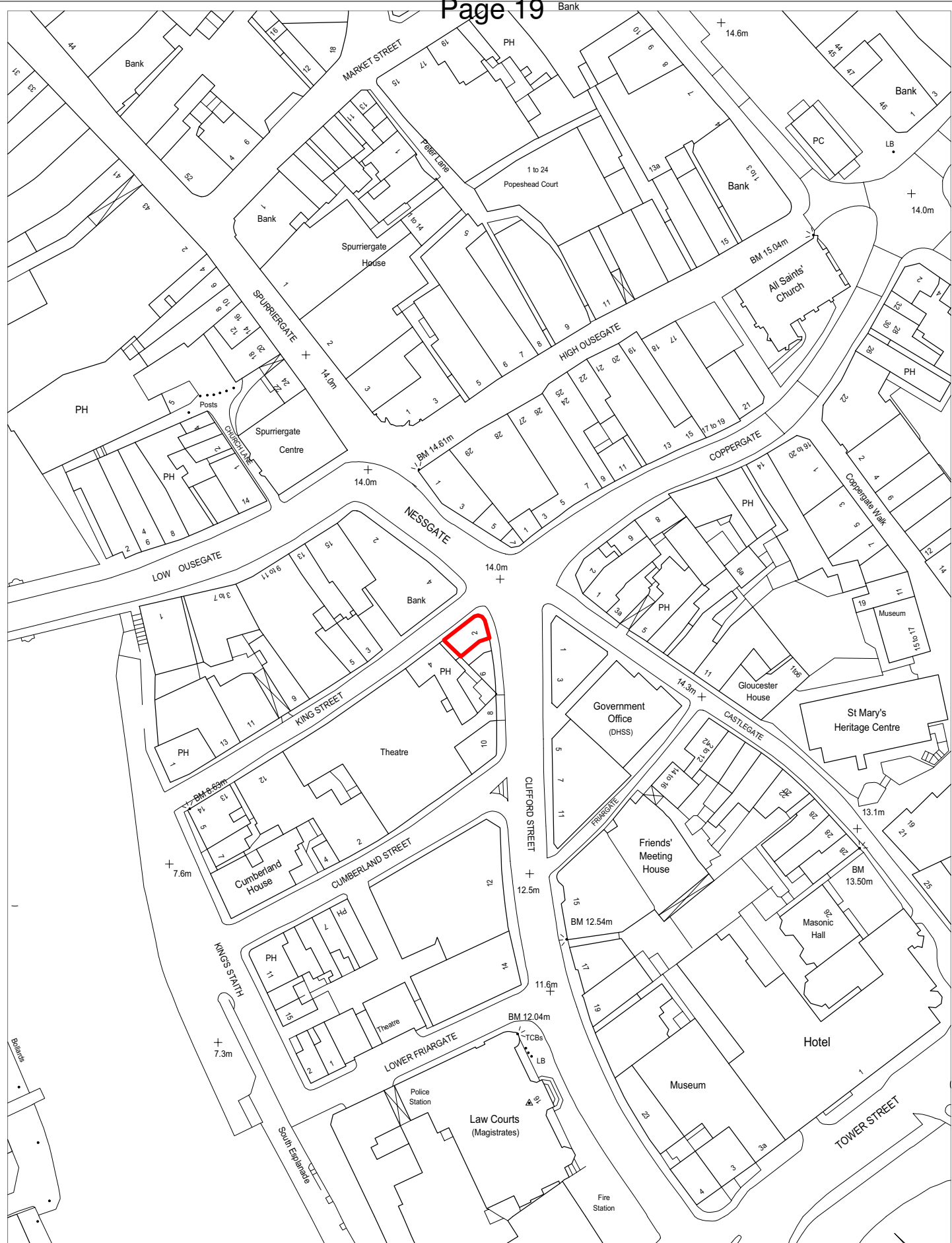
7.0 INFORMATIVES: Notes to Applicant

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 residential amenity, the character and appearance of the conservation area and the special historic interest of the listed building. As such the proposal complies with Policy E4 of the North Yorkshire County Structure Plan (Alteration No.3 Adopted 1995) and Policies S6, HE3 and HE4 of the City of York Local Plan Deposit Draft.

Contact details:

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CITY OF
YORK
COUNCIL

2 CLIFFORD STREET - 06/2690/FUL

SCALE 1:1250
Originating Group

DRAWN BY PSL
Project

DATE 18/1/2007
Drawing No.



9, St Leonards Place, York, YO1 2ET
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COMMITTEE REPORT

Committee: West & City Centre Area **Ward:** Holgate
Date: 30 January 2006 **Parish:** No Parish

Reference: 06/02777/FUL
Application at: 218 Salisbury Terrace York YO26 4XP
For: Conversion of existing church hall to 3 no. 1 bed apartments and external alterations
By: The York Diocesan Board Of Finance Ltd
Application Type: Full Application
Target Date: 8 February 2007

1.0 PROPOSAL

1.1 The application is for change of use, to convert the building into three flats. The existing use is a church hall, associated with St Barnabas' Church and used as a community facility.

1.2 The proposed works include new and altered windows and doors on the external elevations. No extensions to the building are proposed.

2.0 POLICY CONTEXT

2.1 Development Plan Allocation:

City Boundary York City Boundary 0001
DC Area Teams West Area 0004
Floodzone 2 Flood Zone 2 CONF
Floodzone 3 Flood Zone 3
Schools St. Barnabas' CE Primary 0224

2.2 Policies:

CYGP1 Design
CYGP15 Protection from flooding
CYH4A Housing Windfalls
CYC3 Change of use of community facilities
CYL1C Provision of New Open Space in Development

3.0 CONSULTATIONS

3.1 Internal

Highway Network Management - No response. At pre application stage stated that car parking spaces would not be required, but covered secure cycle spaces would be.

Drainage - No objection.

3.2 External

Environment Agency - No response to date.

Publicity - No written representations have been made.

4.0 APPRAISAL

4.1 Key issues

Principle

Residential amenity

Loss of existing community facility

Flood risk

Highways

Principle of residential

4.2 H4a of the City of York Draft Local Plan states that proposals for land not already allocated on the proposals map will be granted permission where: the site is within the urban area and is vacant, underused or it involves infilling, redevelopment or conversion of existing buildings; the site has good accessibility to jobs, shops and services; and it is of an appropriate scale and density to surrounding development and it would not have a detrimental impact on existing landscape features.

4.3 The application proposes residential use in an existing underused building. The location is sustainable; a built up residential area with local shops and services nearby, and linked by public transport to the city centre. In principle the application site is suitable for residential use.

4.4 The existing building is considered to be of an acceptable scale and general appearance; it fits in with the row of terraces within which it is located. The minor external alterations proposed would improve the condition and appearance of the host building, to the benefit of the visual amenity of the area.

4.5 Internal space for bin and cycle storage is proposed. Bin storage is located conveniently as refuse is collected from the rear of the dwellings on Salisbury Terrace.

Residential amenity

4.6 There is no outdoor amenity space on site. The applicant has agreed to a contribution of £384 toward upgrading existing open space in accordance with Local Plan policy L1c. There is adequate outlook for potential residents, with living and bedrooms overlooking Salisbury Terrace at the front and open space at the rear.

4.7 The amenity of neighbouring residents would potentially be enhanced by the proposed use as there would be less activity associated with residential opposed to a community facility, by virtue of the number of visitors to the site and its internal use.

4.8 The host building's outlook would remain as existing, from windows and on the front and rear elevations, and two side windows on the rear outshot at first floor level. None of these windows directly look into the rooms of surrounding residential properties, although the side windows would serve the kitchen / living room and face the rear yard of No.220. Overlooking into rear yards is common in terraced areas where first floor windows are close to side boundaries. As such this is arrangement not objected to.

4.9 No windows are proposed on the east elevation, so no overlooking would occur over No.216. It is considered unnecessary to prevent any new windows being inserted in the west elevation because of the internal layout, as stairs are proposed on that side of the building, opposed to habitable rooms. Also the two-storey rear extension present on No.216 would block views into the rear rooms of that dwellinghouse.

Loss of community facility

4.10 Chapter 13 of the City of York Draft Local Plan has the objectives of the promotion of new community facilities and to protect and enhance existing facilities. Policy C3 states permission will only be granted for the change of use of community facilities where; the proposal is of a scale and design appropriate to the character and appearance of the locality; it can be demonstrated that the existing facility is no longer needed; or where alternative sites can be provided.

4.11 The existing facility is used sparsely, on Monday there is ballet in the evening, no use on Tuesdays, Wednesday toddler group am and Brownies pm, Thursday evening ballet and also Saturday morning. Of these three activities the toddler group suffers from a lack of demand and may cease to continue. The applicants intend to upgrade the nearby (around 160m) St Barnabas' Church and relocate the activities that occur at the application site there. The applicant's therefore reasonably demonstrate that the existing facility is underused and shall be relocated in more appropriate facilities within walking distance of the site. As such the proposal is compliant with policy C3.

Flood risk

4.12 The application site falls within an area where the risk of flooding is high (flood zone 3). In accordance with Local Plan policy GP15a the developer is obliged to produce an assessment of additional flood risk as a consequence of the development and measures to mitigate risk in the proposed development.

4.13 Flood defences in the area can protect the site should levels increase up to 10.91 metres AOD (Above ordnance datum). The applicant's flood risk assessment demonstrates that the occupation of the building for residential would not increase the risk of flooding in the area and that the development would be safe for future occupants.

Highways

4.14 The host building is within a row of terraced dwellings, reliant upon on-street parking, controlled by a residents parking scheme. The location, near to services and public transport routes, and proposed provision of cycle parking on site encourages occupants to use modes of transport alternative to the car, which is in accordance with the thrust of National planning guidance note PPG13: Transport.

5.0 CONCLUSION

5.1 The proposal would have an acceptable impact on residential amenity, highway safety and flood risk, and the existing community facility would be replaced. As such the proposed change of use is compliant with the relevant policies of the City of York Draft Local Plan. Approval is recommended.

6.0 RECOMMENDATION: Approve subject to the following conditions

- 1 PLANS1 Apprvd plans
- 2 TIME2 Development start within three years
- 3 The materials to be used externally shall match those of the existing building in colour, size, shape and texture.

Reason: To achieve a visually acceptable form of development.

- 4 No development shall commence unless and until details of provision for public open space facilities or alternative arrangements have been submitted to and approved in writing by the Local Planning Authority. The Open space shall thereafter be provided in accordance with the approved scheme or the alternative arrangements agreed in writing by the Local Planning Authority and thereafter implemented, prior to first occupation of the development.

Reason: In order to comply with the provisions of Policy L1 of the City of York Draft Local Plan.

INFORMATIVE:

The alternative arrangements of the above condition could be satisfied by the completion of a planning obligation made under Section 106 of the Town and Country Planning Act 1990 by those having a legal interest in the application site, requiring a financial contribution towards off site provision of open space. The obligation should provide for a financial contribution calculated at £384.

No development can take place on this site until the public open space has been provided or the Planning Obligation has been completed and you are reminded of the local planning authority's enforcement powers in this regard.

7.0 INFORMATIVES:

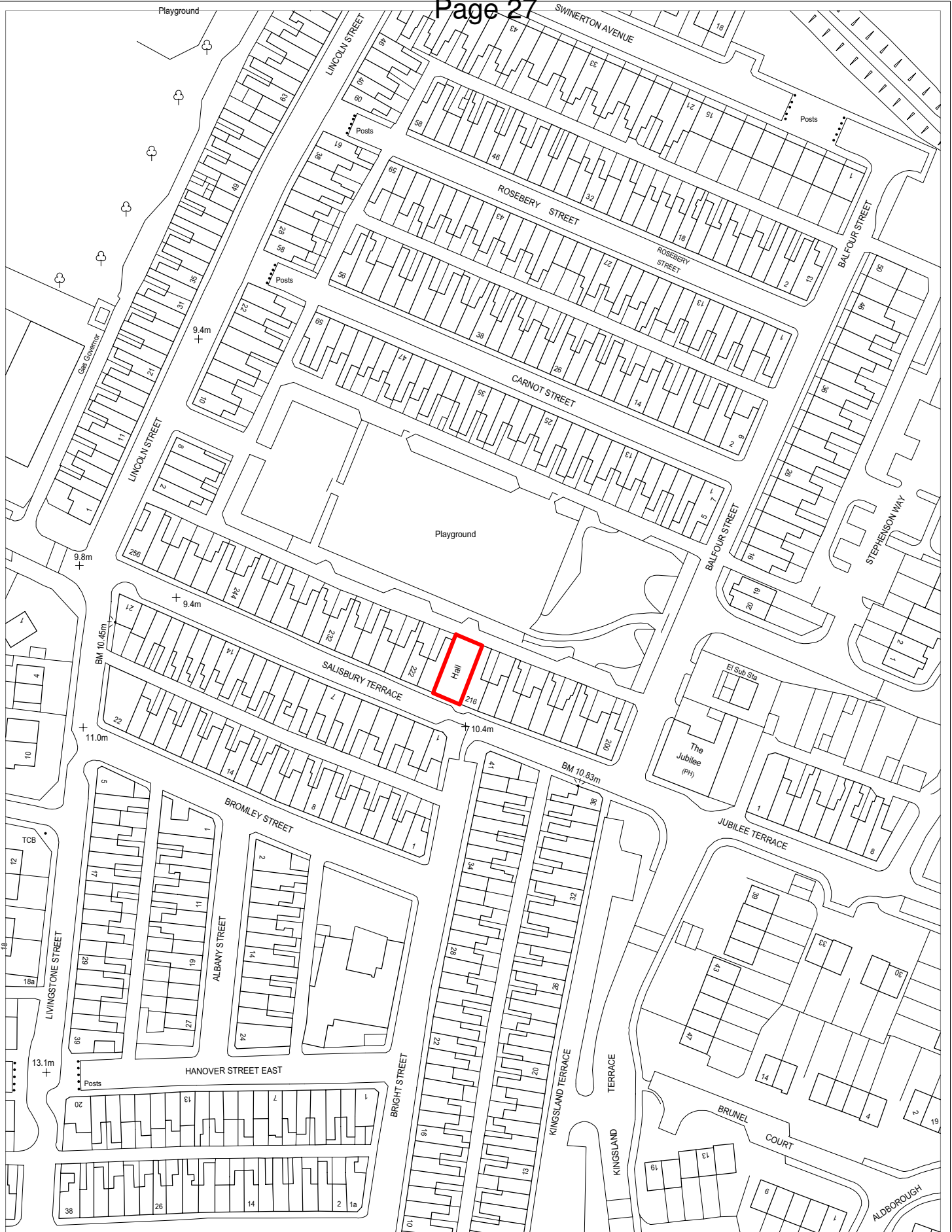
1. REASON FOR APPROVAL

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 design, residential amenity, provision of community facilities, flood risk and highway safety. As such the proposal complies with Policies GP1, H4, C3 and L1c of the City of York Local Plan Deposit Draft.

Contact details:

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Tel No: 01904 551323

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CITY OF
YORK
COUNCIL

218 SALISBURY TERRACE - 06/2777/FUL

SCALE 1:1250
Originating Group

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Project

DATE 18/1/2007
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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

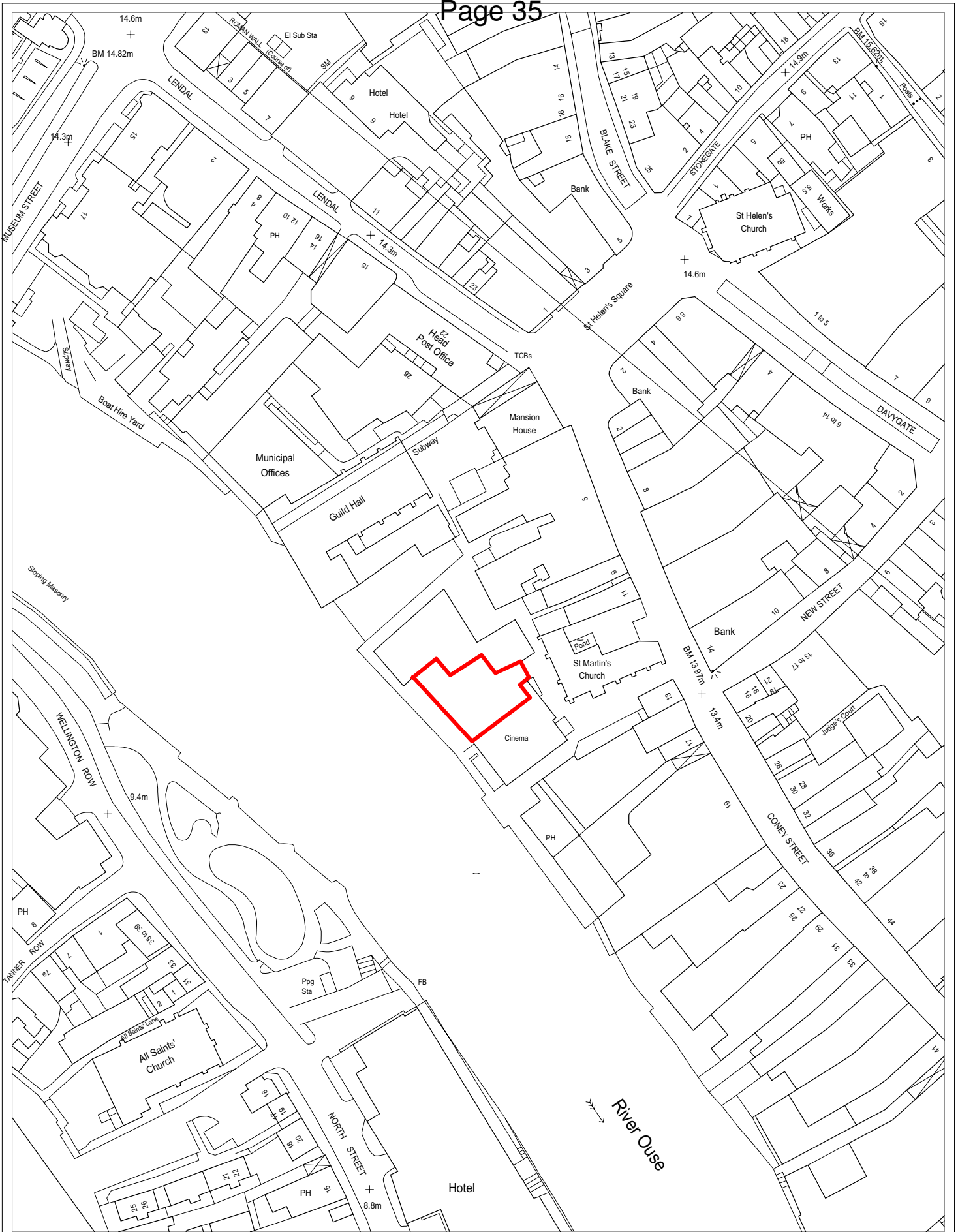
In the opinion of the Local Planning Authority the proposal would not cause undue harm to interests of acknowledged importance, with particular reference to residential amenity, crime and disorder and the character and appearance of the conservation area. As such the proposal complies with national planning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

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BAR 38, CONEY STREET - 06/2789/FUL

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