

COMMITTEE REPORT

Committee: West & City Centre Area **Ward:** Guildhall
Date: 15 February 2007 **Parish:** Guildhall Planning Panel

Reference: 06/02788/FUL
Application at: Bar 38 Coney Street York YO1 9QL
For: Retention of external seating area
By: Inventive Leisure
Application Type: Full Application
Target Date: 2 March 2007

1.0 PROPOSAL

1.1 The application is for permission for the retention of the external seating area at Bar 38. Bar 38, is one of the bars / restaurants developed as part of the City Screen development, along with Orgasmic, City Screen and the Pitcher and Piano. Each premises have an external seating area overlooking the River Ouse. The site is with the Central Historic Core conservation area.

1.2 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'.

1.3 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

Urban Design and Conservation - No objection.

Highway Network Management - No objection.

Environmental Protection Unit - Pending.

3.2 External

Planning Panel - No objection, provided proposal complies with policy S6 of the Draft Local Plan.

Publicity - No written representations to date.

4.0 APPRAISAL

4.1 Relevant planning applications

- The external seating area for Bar 38 has existed for some time. It was granted temporary permission in 2000 (00/813) to open until 24:00. The permission expired in August 2001, however the external seating area has since continued to operate without planning permission.
- The external seating areas at Orgasmic and City Screen are controlled by application 97/1825 which requires them to close by 24:00.
- The Pitcher and Piano external seating area has always been required to close at 24:00. This was recently re-emphasised in application 06/447 which was approved at committee.

4.2 Key issues

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

Crime and public order

4.3 There is no substantial reason to object to the application on the grounds that it would lead to increased levels of crime or public disorder. There is no evidence of a history of problems associated with the premises and no objection from the Police. It is considered that the Premises License acts as a safeguard with the interest of preventing crime and disorder and maintaining public safety.

Residential amenity and noise

4.4 There is concern that external seating along the waterfront, associated with bars and restaurants will create a noise problem, affecting properties across the river. To prevent noise nuisance, it has been conditioned on other approvals at the group of bars that noise is inaudible from the nearest noise sensitive facade and that no external speakers are placed on the buildings. These conditions have recently been applied in allowing the extension of opening hours (internal area only) at the host. As such it would only be noise from patrons, such as raised voices that would potentially harm amenity. Such noise is expected to a certain extent in the city centre. It is considered that 24:00 is a reasonable closing time, after which persons would be required to return to the internal area or leave the premises. It has already been established through other permissions that the internal area of the host and the other nearby bars are allowed to open to a later time and that this would not have an undue affect on amenity. The 24:00 closing time would be consistent with other permissions granted for the bars in the vicinity (City Screen, Orgasmic and Pitcher and Piano) and has been agreed to by the applicants.

Character and appearance of the conservation area.

4.5 The outdoor seating area overlooks the river and is visible from various vantage points including the adjacent bridges, the opposite bank and the river itself. The night time use of the seating area does require consideration in terms of lighting and the visual impact this will have on the river frontage after dark. It has been established for some time and the Council's Conservation Section consider that the outdoor seating area does not detract from the appearance of the frontage of the building facing the river. As the appearance is considered to be acceptable, it is only required to condition any change in furniture and lighting, to ensure this situation remains.

5.0 CONCLUSION

5.1 It is considered that the external seating area has an acceptable visual impact; it creates activity along the waterfront and provides a facility that allows the public to enjoy views of the city and this setting. It is considered that the restriction of hours and other conditions regarding noise emanating the premises will prevent any undue disturbance or loss of amenity. Approval is recommended.

6.0 RECOMMENDATION: Approve

1 PLANS1

- 2 The external seating area hereby approved shall be restricted to the area within the red line on the location plan referred to in condition 1. Any changes to the furniture associated with the outdoor area shall first be approved to in writing by the Local Planning Authority and the changes implemented in accordance with the approved details.

Reason: In the interests of pedestrian safety and the character and appearance of the conservation area.

- 3 The outdoor seating area shall not be open to customers of the premises after 24:00 hours (midnight) on each day of the week.

Reason: To safeguard the amenities of adjoining occupants.

- 4 No external speakers shall be mounted outside the premises.

Reason: to protect the amenity of local residents.

7.0 INFORMATIVES:

Notes to Applicant

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.

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