

## COMMITTEE REPORT

**Committee:** West & City Centre Area    **Ward:** Micklegate  
**Date:** 22 March 2007    **Parish:** Micklegate Planning Panel

**Reference:** 06/02811/FUL  
**Application at:** 49 Blossom Street York YO24 1AZ  
**For:** Variation of condition 2 of planning permission 98/01664/FUL to extend opening hours from 1130-2300 Mon-Sun to 1130-2400 Mon-Sun  
**By:** Deniz Dogan  
**Application Type:** Full Application  
**Target Date:** 7 March 2007

### 1.0 PROPOSAL

1.1 The application is for planning permission to allow an existing fish and chip shop (hot food takeaway) to open an additional hour at night so it may trade until 24:00 (midnight) opposed to 23:00.

1.2 The application relates to premises in the Central Historic Core conservation area. It has the takeaway at ground floor level, there is residential above.

1.3 The application is brought to committee because a previous application to extend opening hours at the premises was refused at planning committee in 2006 (application 06/184/ful see 4.1).

### 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

2.2 Policies:

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

### 3.0 CONSULTATIONS

3.1 Internal

Urban Design and Conservation - No objection.

Highway Network Management - No objection.

Environmental Protection Unit - No objection.

### 3.2 External

Planning Panel - object - residents would be affected by late night nuisance.

Publicity - seven letters in objection have been received. The reasons in objection are as follows,

- proximity of the site to residential and the adverse effect suffered by nearby residents
- increase in noise and litter
- anti social behaviour / vandalism occurring in surrounding streets
- takeaways in this area of Blossom Street already open beyond permitted hours
- approving the application would encourage other premises to extend opening hours
- noise does not reduce after premises on Blossom Street have closed
- why do people need to eat fast food so late at night

Also been suggested that the takeaways contribute toward installing CCTV in the area.

## 4.0 APPRAISAL

### Relevant planning history

#### 4.1 Fryways fish and chip shop 49 Blossom Street

98/01644/ful - requires premises to cease trading at 23:00 hours each day.

06/00184/ful - refused permission to open until 03:00, which was upheld on appeal

#### 4.2 Yorkcastle Takeaway 51 Blossom Street

97/02348/ful - permission granted at appeal for hot food takeaway, required to close at 23:30 Sundays, 24:00 on other days.

03/01304/ful - refused permission to open until 02:00 on Fridays and Saturdays.

06/02689/ful - refused permission to open until 01:45 on Fridays and Saturdays.

### 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 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.

4.4 Policy HE3 of the City of York Draft Local Plan states that within Conservation Areas, proposals will only be permitted where there is no adverse effect on the character or appearance of the area.

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 hours 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.

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

4.6 No alterations are proposed that would affect the character and appearance of the conservation area.

#### Crime and disorder

4.7 Nearby residents are concerned that people using the host premises and those nearby can be unruly, this is clear from the objections listed in 3.2. This is largely because people frequent the premises, or pass through it late at night after the consumption of alcohol. Under the Licensing Act 2003, the premises are required to have a premises license, which attaches conditions in the interests of preventing crime and disorder; this extends to deterring litter creation. Any problems specific to the premises could be resolved through the licensing legislation. The premises license can subsequently be revoked if deemed necessary. As such there are no grounds for refusal of the application because of crime and disorder or litter generation. The use of CCTV has been discussed with Highway Network Management who advise that the costs involved would be excessive. It would be unreasonable to require CCTV given the nature of this proposal and the costs involved with CCTV.

#### Amenity

4.8 Immediately beyond the rear of the site are dwellinghouses; there are also flats above ground floor at the host and also at Nos. 51 and 53 Blossom Street. At present persons are unlikely to congregate in the immediate area after the closure of the late night uses; they are more likely to be either walking past the site (leaving the city centre) or across the road near the taxi rank. In previous applications relating to both the host site and No.51 the hours of operation have been controlled in the interests of residential amenity. Planning permission has not been granted to allow any premises to open after midnight. In dismissing a recent appeal at the host premises, the Inspector commented that 'noise levels in the surrounding area would be significantly quieter when activity associated with these hot food uses and the convenience store (Sainsbury's) ... reduces, particularly after midnight'.

4.9 This application would allow the host to open in line with the other takeaways in the vicinity. It could not be proven that customers of this premises would be any more likely to cause disturbance than patrons of other premises, which already open later. As there are other hot food takeaways in the city centre allowed to open beyond midnight it would be unlikely that people would go out of their way to frequent these premises, the fish and chip shop would thus only offer an alternative

to the existing takeaways and would not generate a significant amount of additional custom in the area. As such it is considered there would not be a significant affect on resident's amenity if the chip shop were permitted to open an extra hour.

### Highways

4.10 The use is existing. The extension of hours does not give rise to any concerns regarding traffic or highway safety.

## **5.0 CONCLUSION**

5.1 It is considered that the proposed extension of hours would have an acceptable impact in terms of crime and disorder and amenity. There would be a neutral affect on the conservation area. Approval is recommended.

## **COMMITTEE TO VISIT**

**6.0 RECOMMENDATION:** Approve

1 The opening hours of the premises shall be confined to the following hours:

11:30 to 24:00 (midnight) each day of the week

Reason: In the interests of the amenity of nearby occupants.

## **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 amenity, crime and disorder and the character and appearance of the conservation area. As such the proposal complies with Policy E4 of the North Yorkshire County Structure Plan (Alteration No.3 Adopted 1995) and Policies S6 and HE3 of the City of York Local Plan Deposit Draft.

### **Contact details:**

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