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Meeting	Planning Committee
Date	11 May 2017
Present	Councillors Reid (Chair), Derbyshire (Vice-Chair), Boyce, Ayre, Cullwick, Cuthbertson, D'Agorne, Dew, Doughty, Funnell, Galvin, Looker, Richardson, Shepherd and Warters

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### 102. Site Visits

Application	Reason	In Attendance
Site of 17-21 Piccadilly, York	As the officer recommendation was for temporary approval and objections had been received	Councillors Boyce, Cullwick, Dew, Galvin, Hunter, Richardson and Shepherd.

### 103. Declarations of Interest

Members were asked to declare, at this point in the meeting, any personal interests, not included on the Register of Interests, or any prejudicial or disclosable pecuniary interests they may have in respect of business on the agenda.

Councillor Ayre declared a personal non prejudicial interest in plans item 3a (Site of 17-21 Picadilly, York) as he had a professional relationship with one of the registered speakers through his work with Healthwatch North Yorkshire.

### 104. Public Participation

It was reported that there had been no registrations to speak at the meeting under the Council's Public Participation Scheme on general matters within the remit of the Planning Committee.

### 105. Plans List

Members considered a schedule of reports of the Assistant Director, Planning and Public Protection, relating to the following planning applications, outlining the proposals and relevant

policy considerations and setting out the views of consultees and officers.

**106. Site of 17 to 21 Piccadilly, York (17/00274/FUL)**

Members considered a full application by Leach, McKenzie and Gardham for the erection of a two storey multi-unit mixed use development containing retail units and food kiosks (Class A1), cafes/restaurants (Class A3), drinking establishments (Class A4), studio/workspace (Class B1), meeting/exhibition space (Class D1) and ancillary facilities including outdoor seating areas.

Officers advised that an anonymous letter had been circulated to Members which expressed concern that the proposed scheme would have an adverse effect on the appearance of the conservation area and cause noise, smells, litter and would also impede future redevelopment of the Piccadilly area.

They advised that a further letter had also been received from a resident of Mawsons Court who had attended the site visit but was unable to attend the committee meeting, and this had also been circulated to Members. In summary the letter raised concern over the predicted noise levels after 7pm and suggested mitigation as follows:

- the Spark noise management policy specifically details how this issue is going to be robustly managed at an operational level, and precisely how noise levels are going to be assessed.
- (artistic) notices be put on display reminding the customers they are in a residential area and asking for their respect
- notices on the entrance advising groups of 8 or more that a reservation is required
- a monthly meeting with the neighbours to engage and listen to feedback
- a noise survey to be done at 7pm, 8pm, 9pm and 10pm on Friday 14th July and again on Saturday 15th July 2017 at NSR1,2,3 and Mawsons Court (assuming the project is fully functional by this date, if not, the survey to be done on the 4th Friday and Saturday of Spark's normal operation), and these results shared with the neighbours.

Officers advised that at the site meeting it had been confirmed that there would be no smoking on site.

Officers advised that amendments were recommended to condition 4 (cycle parking), condition 5 (storage areas), condition 13 (hours of operation) and condition 16 (music).

In response to the queries raised in the written representation re noise, the Environmental Protection Officer advised that from his perspective, the applicant could choose the most appropriate method to monitor noise levels through a suitable management plan and licensing controls.

Mike Proctor, a local resident, addressed the committee in objection to the application. He acknowledged that the Spark consultant had endeavoured to provide a balanced and fair response to the concerns raised by residents but advised he still had still concerns in relation to both noise and opening hours. He stated that the open air first floor area was only 4 to 5 metres from his living room window and balcony and requested that opening hours be restricted further to close at 9pm.

Matthew Laverack, a local architect, addressed the committee in relation to the application. He circulated copies of a pre application enquiry at 64 Moor Lane, Dringhouses, a proposal to replace an old warehouse with relocatable buildings which required a temporary permission pending long term development and suggested that the same reasons put forward by officers in objection to that pre-application should apply to this application and asked Members to take this into account.

Brian Watson then spoke, also in objection to the application. He expressed the following concerns:

- that a vacant plot of land would be easier to sell to investors rather than one with temporary permission
- that 3 year permission would end up being extended further
- the new business starter image had disappeared and revised plans now involved a number of drinking establishments
- Noise controls in place would not work - premises should close completely at 11pm – to customers and staff, with outside seating areas to be vacated at 9pm

Michael Hjort, a local businessman addressed the committee in support of the application. He advised that he was proprietor of Walmgate Ale House and Bistro, Managing Director of York Festival for Food and Drink and Chairman of York Business Improvement District and was speaking on behalf of all three organisations. He advised the committee that, compared to Fossgate and Walmgate, this area of Piccadilly needed regeneration, which could be achieved by Spark and the Spark tenure was likely to be over before site was required for future development.

Sam Leach, founding director of Spark: York addressed the committee in support of the application and provided additional information in response to numerous questions put by Members. He made the following points:

- No objections received from public protection
- Re-consultation measures had led to a strengthened approach to noise management. Outside performance space had been removed, no live or amplified music would be played and part of the courtyard would now close at 9pm.
- He accepted neighbours' concerns and intended to prepare a code of ethics and noise management policy with residents' input. An ongoing dialogue with residents would be maintained and if the outside seating area was not compatible with nearby residential use, he would sit down and investigate options.
- No advertising would appear on external walls, only own logo and information on events.

Councillor Denise Craghill, Ward Councillor for Guildhall Ward, expressed her support for the application and made the following comments.

- This was an innovative socially responsible development that York city centre needed which would contribute to regeneration of Piccadilly area.
- Proposal would help York's early evening economy and would provide opportunities for young people in York to get new businesses off the ground.
- A number of months of consultation has taken place in response to residents' concerns and mitigation had been provided.
- Applicant has agreed to manage any inappropriate levels of music

Andy Kerr, CYC Commercial Project Manager responsible for the Castle Gateway area in which this application falls, was in attendance to answer any questions from Members in relation to how the application related to the wider regeneration of the area. He confirmed that the temporary permission was clearly limited to three years, acknowledging the long term need to realise a financial return for the site. He advised that these proposals would facilitate the site being used in the short term and there was potential for the site to increase in value.

Members discussed the proposals and fully acknowledged the concerns which had been raised by residents regarding noise. Some Members raised concern about the open aspect of first floor area and potential for noise disturbance. However they noted the following points:

- Any issues regarding opening hours, noise and security would be dealt with through licensing process.
- There is a similar existing use at Red Lion Pub which residents are aware of– even if the outdoor seating area is not used much at present, it could be in the future.
- The applicant has worked hard to allay concerns of residents and provided mitigation to this effect. They have given assurance that they will manage any noise issues themselves and will maintain regular consultation with residents.
- Piccadilly is within the central core conservation area but is very tired looking and site is currently untidy. If these proposals aren't approved nothing will happen for some time. This will provide opportunity to start regeneration of that end of York and will encourage visitors and residents to Piccadilly.
- The proposals are for small independent outlets which offer something different for York. The proposed food and drink establishments will attract starter businesses due to their compactness and provide an affordable option to those who want to try a new venture without incurring excessive costs.
- Although flyposting on the boundary to the site should be restricted it would be good to have something other than a plain boundary such as a mural.

It was suggested that an informative should be added encouraging the applicant to maintain an ongoing dialogue with

the neighbouring residents to address any issues arising from the operations of the development.

Resolved: That the application be approved for a temporary period until 1 July 2020 subject to the conditions listed in the report, the following amended conditions and an informative stating that the applicant is encouraged to maintain an ongoing dialogue with the neighbouring residents to address any issues arising from the operations of the development.

#### Amended Condition 4 – External landscaping & cycle parking

A detailed hard and soft landscaping scheme shall be approved by the Local Planning Authority prior to completion of construction. The scheme shall follow the principles detailed on the approved plans and shall include planting, provision of visitor cycle parking using Sheffield type stands or similar, and any changes/removal of street furniture to avoid clutter.

*The approved scheme shall be implemented prior to first use of the development.* Any trees or plants which die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of a similar size and species, unless alternatives are agreed in writing by the Local Planning Authority.

Reason: In the interests of the character and appearance of the area in accordance with paragraph 58 of the National Planning Policy Framework.

#### Amended Condition 5 - Storage areas

Details of arrangements for storage areas, *including times of operation/activities* shall be submitted to and approved in writing by the Local Planning Authority prior to the first use of the site and the development shall be carried out in accordance with the approved details. The details shall explain how such areas will be managed without an adverse impact on neighbour's amenity.

Reason: In the interests of residential amenity

Amended Condition 13 - Hours of operation

The site shall only be open to customers between 07.00 and 23.00 each day of the week.

*The site shall be vacated by all staff, lighting (apart from any essential safety/security lighting) turned off and the site closed by 24.00 each day.*

Reason: In the interests of residential amenity.

Amended Condition 16 - Music

*There shall be no performance, playing of amplified or recorded music that would exceed background noise levels at the site boundary.*

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

Reason: The scheme is of a temporary nature and this is evident by virtue of the design and the approach to managing flood risk. The proposed design would lead to a low adverse impact on the character and appearance of the conservation area. The harm carries considerable weight in assessment of the scheme and requires justification in the form of public benefits (as explained in NPPF paragraph 134). There are public benefits in the vibrancy, and the needed community and business facilities the scheme would provide in an accessible area which it has been an aspiration to enhance and regenerate for some time. Even when attributing considerable importance and weight in the planning balance to the desirability of avoiding such harm, it is considered that the public benefits of this temporary meanwhile use (in advance of the long-term regeneration of this site and Piccadilly) outweigh the harm. The adverse impact on the amenity of local residents can be suitably mitigated by proposed conditions.

Cllr A Reid, Chair

[The meeting started at 4.30 pm and finished at 6.05 pm].

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