

COMMITTEE REPORT

Date: 3 May 2018 **Ward:** Guildhall
Team: Major and **Parish:** Guildhall Planning Panel
 Commercial Team

Reference: 18/00221/FUL
Application at: Public Toilets, Clarence Street, York
For: Conversion of part public convenience to a café
By: Mr Malcolm Holt
Application Type: Full Application
Target Date: 7 May 2018
Recommendation: Approve

1.0 PROPOSAL

1.1 This application seeks permission for the part conversion of the public toilets within the Union Terrace car park adjacent to Clarence Street to a cafe with outside seating and takeaway facilities.

1.2 In 2014 the toilet facilities were refurbished and the number of toilets reduced and consequently the former men's toilet area has remained out of use. It is proposed to provide 20 covers internally and an area of outside seating with up to 20 covers. A service hatch accessible from the north elevation would facilitate a take-away service. Food will be prepared on the premises and will include hot and cold breakfast, soup, sandwiches, cakes, cream teas, snacks, tea, coffee and a range of cold drinks. It is proposed that the cafe would operate between 0700hrs and 2100 hrs Monday to Sunday inclusive. The proposed extraction system discharge would be through the existing high level vent. External security shutters are proposed for the hatch, window and door.

2.0 POLICY CONTEXT

2.1 Development Plan Allocation:

Areas of Archaeological Interest GMS Constraints: City Centre Area 0006

2.2 Policies:

Draft Development Control Local Plan 2005

CYSP7B York City Centre and Central Shopping Area
CYGP3 Planning against crime
CYGP4B Air Quality
CYS6 Control of food and drink (A3) uses

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Emerging Local Plan Publication Draft 2018

Policy SS3 York City Centre

Policy R1 Retail Hierarchy and Sequential Approach

Policy ENV2 Managing Environmental Quality

Policy D14 Security Shutters

3.0 CONSULTATIONS

INTERNAL

Public Protection

3.1 No objection to the proposal. However the following comments have been provided:

- Noise issues are not anticipated during daytime hours, however opening later into the evening has the potential to attract groups to the area which could have anti-social noise implications for residents of Claremont Terrace. Condition operating and delivery hours.
- The site is in an area already exposed to air pollution and exposure of individual members of the public is likely to be short term.
- Further details required for extraction and proposed methods of odour control.

Design, Conservation and Sustainable Development (Archaeology)

3.2 Due to the small scale nature of the proposed works and expected levels of disturbance on the site no archaeological condition will be imposed. However, in line with the Area of Archaeological Importance procedure an Operations Notice should be secured by condition.

Forward Planning

3.3 The site is located with York City Centre on the Local Plan Draft Policies Map 2018. It is outside of the Local Centre of Gillygate. Policy R1 is therefore of relevance (Publication Draft Local Plan February 2018). Policy R1: Retail Hierarchy and Sequential Approach is set out for you below. Essentially Policy R1 sets a threshold of greater than 200 sqm floorspace for impact assessment outside a local centre. The unit on the Clarence Street Car Park is 41.7 sqm which is below the 200sqm threshold. This would make it difficult to make a policy objection on Retail Impact Assessment grounds.

EXTERNAL

North Yorkshire Police (Designing Out Crime)

3.4 An analysis of police record incidents highlights the presence of crime and anti-social behaviour in the area which could impact on the security of the scheme. In addition the public toilets have suffered repeated acts of vandalism and any new development has the potential to increase these levels and therefore it is important that a management and maintenance plan is submitted addressing issues such as staff safety, litter removal and damage repair.

3.5 With regards to the proposed outside seating, this needs to be clearly demarcated from the public seating provided for the users of the car and coach park so that it is clear which seating is managed by the cafe. Any outside seating should be contained within an approved area using barriers and poles.

3.6 It is recommended that all windows and the entrance door should be protected with security shutters as the site has suffered from vandalism.

3.7 There are no objections to the proposed scheme providing the above issues are addressed and prior to the commencement of development a management and maintenance plan are submitted and adhered to.

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3.8 No comments received.

Publicity

3.9 Six letters of objection have been received. The following issues have been raised:

- Local businesses on Gillygate rely on trade from the coach and car park and the creation of a cafe in the car park would have a huge detrimental impact on trade and the livelihood of local businesses, not only for the existing cafes and eateries but also to the local shops who benefit from trade whilst people wait for coaches.
- the Clarence Street toilets are currently not operating at their full capacity and therefore the users of the car park (usually tourists) require the use of toilets within local businesses.
- the existing toilets should remain as a fully functioning toilet block not converted to another cafe.
- there is an abundance of cafes in the area as well as empty premises in the city centre that need filling before allowing new units further out of the centre, in an area where many cafes already exist.

4.0 APPRAISAL

RELEVANT PLANNING POLICY

National Planning Policy Framework 2012

4.1 The National Planning Policy Framework (March 2012) sets out 12 core planning principles that should underpin both plan-making and decision-taking. Of particular relevance is that planning should always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings, and to encourage a strong and competitive economy. Paragraph 70 advises that planning decisions should aim to achieve places where there is no unnecessary loss of public facilities, and ensure facilities are able to develop and modernise in a sustainable way, so they are retained for community benefit. Paragraph 23 seeks to promote competitive town centres.

Publication draft Local Plan 2018

4.2 On 21 February 2018 the Publication Draft York Local Plan 2018 ("2018 Draft Plan") was published for the final six week consultation. The emerging Local Plan policies contained within the 2018 Draft Plan can only be afforded limited weight at this stage of its preparation, and subject to their conformity with the NPPF and the level of outstanding objection to the policies in accordance with paragraph 216 of the NPPF. However, the evidence base underpinning the emerging Local Plan is capable of being a material consideration in the determination of planning applications.

4.3 Policy R1: Retail Hierarchy and Sequential Approach states that the vitality and viability of the city centre, district and local centres and neighbourhood parades will be maintained and enhanced. An impact assessment may be required below these thresholds where a proposal would have an independent or cumulative impact on the vitality and viability including local customer choice and trade on a defined centre. Also policy SS3: York City Centre.

4.4 Policy ENV2: Managing Environmental Quality - Development will not be permitted where future occupiers and existing communities would be subject to significant adverse environmental impacts such as noise, vibration, odour, fumes/emissions, dust and light pollution without effective mitigation measures.

Draft Development Control Local Plan 2005

4.5 The York Development Control draft Local Plan was approved for development control purposes in April 2005. Its policies are material considerations in the determination of planning applications although it is considered that their weight is

limited except when they are in accordance with the NPPF. Draft Local Plan policy SP7b promotes commercial development in the city centre, GP3 Planning Against Crime states that new development will be required, where deemed appropriate, to incorporate crime prevention measures. GP4b Air Quality Proposals for development in an air quality management area are required to assess their impact on air quality, S6 Control of food and drink (A3 uses) planning permission for the development of premises for A3 uses will be granted provided there is no significant detrimental impact on the amenity of surrounding occupiers, the opening hours of hot food takeaways is restricted to protect the amenity of surrounding occupiers, acceptable means of extraction are proposed.

APPRAISAL

4.6 Paragraph 70 of the NPPF advises that planning decisions should aim to achieve places where there is no unnecessary loss of public facilities, and ensure facilities are able to develop and modernise in a sustainable way, so they are retained for community benefit. The application site is within the city centre as defined by the Proposals Map (of both draft Local Plans) with developments for food and drink (A3/A4/A5 uses) being considered acceptable in principle within Publication Draft Local Plan policy SS3.

4.7 The existing toilet block was refurbished in 2014 to provide 4no. unisex toilets plus a changing place which provides unisex disabled facilities - 5no. toilets in total. Half of the building, the former men's toilets, is unused. The upkeep and ongoing maintenance is overseen by Healthmatic who are the applicants for this application. Whilst there has been an objection with regard to the loss of public toilet facilities, the decision to alter the provision of these facilities has already been made and implemented by the City Council in partnership with Healthmatic. It is considered that the provision of a cafe within the building would potentially assist with revenue for ongoing management and maintenance.

4.8 A number of objections have been raised regarding the detrimental impact a new cafe would have on local businesses in Gillygate, which rely on passing trade from tourists from the coach park. The site is within the defined city centre but outside of the Local Centre of Gillygate. Policy R1 of the Publication Draft Local Plan sets a threshold of greater than 200 sqm floorspace for impact assessment outside a local centre. The proposed unit would be 41.7 sqm which is below the 200sqm threshold and therefore it is considered that the proposed unit would not be of such a significant scale that it would have a significant detrimental impact on the vitality and viability of business on Gillygate or the city centre as a whole. As such whilst it is acknowledged that there may be some competition with local businesses, the proposal is consistent with the NPPF which states that the planning system should promote competitive city centres and enhance existing markets, and Local Plan (2005) policy SP7b which promotes commercial development in the city centre.

4.9 It is understood that the area experiences some crime and anti-social behaviour issues which could impact on the security and safety of staff and customers of the premises. It is considered that the use of the premises would provide active surveillance of the area which could help to reduce crime and anti-social behaviour in the immediate area during business hours. In order to minimise the amount of crime and antisocial behaviour a number of suggestions have been made by the police designing out crime officer including the provision of barriers to demarcate the cafe seating, as well as shutters for the windows and door and the submission of a management plan prior to the cafe coming into use. Whilst the principle behind the management plan is understood it is considered that the contents of such a plan would be difficult to enforce through the planning system and may be better addressed between the operator and the police. Issues of the appearance of the building because of vandalism can be dealt with via other mechanisms.

4.10 Solid security shutters are not normally considered to be appropriate as they can and can result in the appearance of a hostile environment which harms the amenity of the area (Policy D14 of the Publication draft Local Plan 2018). Externally mounted security shutters are proposed to the new window, serving hatch and door. These are on the north and west elevations which do not directly face Clarence Street. As the new openings are relatively small and given the lack of windows generally because of the function of the building it is considered on balance that shutters are acceptable in this case. It is noted that the kiosk at the entrance to the coach park has a roller shutter on its window.

4.11 Given the location of the proposed unit, there is an existing level of noise and air pollution both from the busy road and from vehicles idling in the car and coach park. As such there are no objections to the use of part of the building as a cafe providing the method of odour extraction is agreed though condition.

4.12 It has been suggested by CYC air quality officers that the provision of a cafe in this location may actually be able to reduce air pollution levels in the area as one of the main reasons coach drivers leave their engines running in this area is so that they can operate their onboard hot water facilities to provide themselves with hot drinks. It has been suggested that if the cafe could provide free hot water for the coach drivers, it would enable air quality officers to take a harder line on the issue of idling in the coach park resulting in benefits for users and neighbouring residents. It is not considered reasonable to impose this by condition, but an informative could be added to the planning permission.

5.0 CONCLUSION

5.1 The site is located within the city centre where A3 uses are considered acceptable in principle. There would be no harmful loss of public facilities. The unit is small and is not considered that it would have a significant detrimental impact on the vitality and viability of nearby businesses. Subject to planning conditions, the

development is considered acceptable and there would be no undue effect on amenity.

COMMITTEE TO VISIT

6.0 RECOMMENDATION: Approve

1 TIME2 Development start within three years

2 The development hereby permitted shall be carried out in accordance with the following plans:-

Proposed Site plan - Drg. No: A163/119 dated 22.12.17

Proposed Floor Plan - Drg. No: A163/120 Rev. A dated 20.03.18

Proposed Elevations - Drg. No: A163/125 dated 22.12.17

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 shall not operate outside of the hours of 0700 to 2100 hours Monday to Sunday.

Reason: To protect the amenity of neighbouring residents.

4 There shall be adequate facilities for the treatment and extraction of cooking odours. Details of the extraction plant or machinery and any filtration system required shall be submitted to the local planning authority for written approval. Once approved it shall be installed and fully operational before the proposed use first opens and shall be appropriately maintained and serviced thereafter in accordance with manufacturer guidelines.

Reason: To protect the amenity of occupants of the nearby properties from noise.

5 Details of all machinery, plant and equipment to be installed in or located on the premises (including kitchen extraction) which is audible outside of the premises, shall be submitted to the local planning authority for approval. These details shall include average sound levels (LAeq), octave band noise levels and any proposed noise mitigation measures. The machinery, plant or equipment and any approved noise mitigation measures shall be fully implemented and operational before the proposed use first opens and shall be appropriately maintained thereafter.

Note: The combined rating level of any building service noise associated with plant or equipment at the site should not exceed the representative LA90 1 hour during

the hours of 07:00 to 23:00 or representative LA90 15 minutes during the hours of 23:00 to 07:00 at 1 metre from the nearest noise sensitive facades when assessed in accordance with BS4142: 2014, inclusive of any acoustic feature corrections associated with tonal, impulsive, distinctive or intermittent characteristics.

Reason: To protect the amenity of nearby properties and the environmental qualities of the area.

6 Details of the location and design of a post and barrier system to enclose the outside seating area shall be submitted to, and approved in writing by the Local Planning Authority prior to the cafe coming into use:

The outside tables and chairs and approved barrier system shall be stored inside the building when the cafe is closed.

Reason: So that the Local Planning Authority can be satisfied with these details in the interest of the visual amenity of the area.

7 There shall be no storage of waste or recyclable materials outside of the building.

Reason: In the interests of the visual amenities and environmental qualities of the area.

8 Details, including colour, of the external security shutters including the shutter box and channels shall be submitted to and approved by the local planning authority prior to their installation.

Reason: In the interests of the visual amenities and environmental qualities of the area.

7.0 INFORMATIVES:

Notes to Applicant

1. STATEMENT OF THE COUNCIL`S POSITIVE AND PROACTIVE APPROACH

In considering the application, the Local Planning Authority has implemented the requirements set out within the National Planning Policy Framework (paragraphs 186 and 187) in seeking solutions to problems identified during the processing of the application. The Local Planning Authority took the following steps in order to achieve a positive outcome:

Officers requested further information with regard to the scope of operation, types of food to be offered, extraction details, signage etc.

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2. LIGHTING

Artificial lighting to the development must conform to requirements to meet the Obtrusive Light Limitations for Exterior Lighting Installations for Environmental Zone E3 contained within the Institute of Light Professionals Guidance Notes for the Reduction of Obtrusive Lighting.

3. DEMOLITION AND CONSTRUCTION

The developer's attention is drawn to the various requirements for the control of noise on construction sites laid down in the Control of Pollution Act 1974. In order to ensure that residents are not adversely affected by air pollution and noise, the following guidance should be adhered to, failure to do so could result in formal action being taken under the Control of Pollution Act 1974:

(a) All demolition and construction works and ancillary operations, including deliveries to and despatch from the site shall be confined to the following hours:

Monday to Friday 08.00 to 18.00

Saturday 09.00 to 13.00

Not at all on Sundays and Bank Holidays.

(b) 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".

(c) 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.

(d) 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.

(e) 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.

(f) There shall be no bonfires on the site

REGISTERING THE BUSINESS

4. As this application relates to a business that will sell or supply food and/or drink (including alcohol), the proprietor of the business should make contact by email at

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public.protection@york.gov.uk or by telephone on 01904 551525 at their earliest opportunity to discuss registering the business as a food premises (a legal requirement) and to obtain advice on food hygiene & standards, health & safety, odour extraction etc.

Contact details:

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