

COMMITTEE REPORT

Date: 17 November 2011 **Ward:** Guildhall
Team: Major and **Parish:** Guildhall Planning Panel
 Commercial Team

Reference: 11/01437/FUL
Application at: British Heart Foundation 34 Piccadilly York YO1 9NX
For: Conversion of first and part of ground floor to create 9no flats
By: Mr Martin Burgess
Application Type: Full Application
Target Date: 26 July 2011
Recommendation: Refuse

1.0 PROPOSAL

1.1 The application relates to 34 Piccadilly which faces the junction between Piccadilly and Merchantgate and is bound by the River Foss to the west. The site falls just outside the central shopping area, as allocated in the Local Plan. It is in the Central Historic Core Conservation Area and within the Castle Piccadilly action area, which is designated for regeneration in the Local Plan (policy SP9).

1.2 The host premises is a commercial building of early C20 origin. It is 2-storey high with a basement level. The ground floor area has planning permission for retail use (a certificate of lawfulness was granted in January 2010). The building is presently vacant. It is undergoing refurbishment and Tesco are set to occupy the ground floor. Permission was granted for refurbishments/alterations to the buildings exterior, including a new shopfront, replacement/upgraded windows and a new roof covering (application 10/01095/FUL).

1.3 Planning permission is sought for 9 flats, one of which would be at ground floor level, the others at first floor level. There would be 2 x 1-bed, 6 x 2-bed and 1 x 3-bed and storage/car parking space within the basement.

1.4 The application comes to committee at the request of Councillor Watson, to assess the impact on the area.

2.0 POLICY CONTEXT

2.1 Development Plan Allocation:

Areas of Archaeological Interest GMS Constraints: City Centre Area 0006
Conservation Area GMS Constraints: Central Historic Core CONF
Floodzone 3 GMS Flood Zone 3

2.2 Policies:

CYGP15	Protection from flooding
CYL1C	Provision of New Open Space in Development
CYED4	Developer contributions towards Educational facilities
CYH3	Sequential test for new housing
CYH4	Housing devp in existing settlements
CYSP9	Action Areas
CYH11	Conversion of upper floors to housing
CYHE3	Conservation Areas

3.0 CONSULTATIONS

City Development

3.1 Ask that the scheme be refused. The Castle Piccadilly Planning Brief (March 2006) identifies that the vision and benefits of the redevelopment of the Castle Piccadilly area as a whole can only be brought forward through a comprehensive regeneration scheme, rather than piecemeal proposals. The application site occupies a crucial location in the wider redevelopment of the Castle Piccadilly scheme. Its development for residential at this time could have a significant impact on the design, layout and wider integration of the future redevelopment of the area.

3.2 PPS1 (Delivering Sustainable Development) supporting document 'The Planning System: General Principles' deals with the question of prematurity when a Development Plan Document is not adopted. Paragraph 17 of the document states that in some circumstances it may be justifiable to refuse planning permission on the grounds of prematurity where a DPD is being prepared or is under review, but has not yet been adopted. The test seems to be whether what is proposed would prejudice the principles underpinning the emerging plan. Given the location of the site within the wider redevelopment of Castle Piccadilly; the benefits and importance of the redevelopment of Castle Piccadilly for York; a comprehensive approach is deemed necessary to meet the principles set out in the adopted development brief for the area and the emerging City Centre Area Action Plan. Consequently, the proposal is considered premature at this stage.

Design and Conservation

3.3 In principle, the proposed alterations can be supported. Following comments have been made:

- Subdivision of the loading bay would be detrimental to the appearance of the building, and its contribution to the street-scene to some extent, but this should be weighed against the benefit of finding a more viable economic use for the building which has been underused for many years.

- The re-positioning of the stair to the first floor is an improvement over the extant consent. However, justification is nevertheless required for its position and design as it remains incongruous in what remains a display window.
- The positions of the subdivisions and the access doors differ from the extant consent; revised elevation drawings should be required prior to the determination of the application. Details are also required of the sub-division between the shop and the residential entrance.
- The position and design of external vents and flues will have may have an impact on the historic character of the building. Full details should be required prior to the determination of the application.

Landscape officers

3.4 Being right on the riverbank, the local area is very good for bats; there are good foraging habitat and commuting corridors within close proximity, and potential roosting sites. There is some potential for supporting roosting bats within the building, possibly within gaps between the brickwork. Officers ask if habitat features can be introduced, to benefit bats as well as some bird species, to retain or create new suitable roosting opportunities. This can very easily be done during the roofing work or other alterations, for example through the creation of bat tiles, or by simply leaving some un-pointed crevices and this would be particularly beneficial along the river side elevation.

Environmental Protection

3.5 Officers are concerned that residents may be adversely affected due to noise disturbance and report there are air quality issues on Piccadilly. With regards noise, concern is that disturbance would occur due to traffic noise, deliveries to the ground floor retail premises and internal plant. Future changes to deliveries (times, amount, frequency) and internal plant cannot be controlled through the planning system as the retail use is extant. Piccadilly is within the Air Quality Management Area. As such officers have asked that alternative means of ventilation, rather than the windows, be provided for the rooms with windows onto Piccadilly.

Emergency Planners

3.6 Environment Agency maps show that the ground floor would not be inundated should the defences (Foss Barrier) be breached, even in the case of a 1 in 100 year flood. The roadway outside the premises would similarly not be flooded, and therefore, access and egress to the premises should not be affected significantly. The basement of the building, which the developers propose to use as a garage for

the residential properties and storage, would be flooded, and therefore, officers would recommend that the following course of action be taken.

- That the building managers and all residents “sign up” to the relevant Environment Agency flood warning scheme.
- That a plan be developed, whereby all vehicles and other valuables stored in the basement of the building, be removed to a safe area in the event of such a flood warning being issued.

Education Officer

3.7 A contribution of £35,117 has been requested for 2 places at the local secondary school (Fulford Secondary).

Lifelong Learning and Culture

3.8 Ask for a contribution toward amenity open space, play space and sports facilities. The contributions would go toward improving local sites such as Tower Gardens, Womad's Cut, and facilities within the South Zone of the Sport and Active Leisure Strategy.

Highway Network Management

3.9 No objection. Note that on the drawings doors within the roller shutters open outward - officers ask that this does not occur.

Environment Agency

3.10 Object to the scheme. Ask that a topographic survey be provided of evidence of risk to the site, the impact of a 1 in 100 year flood (to 10.92 AOD) and subsequent arrangements, considering evacuation and the impact on the premises if the basement floods, where services are shown as being located.

Police Architectural Liaison Officer

3.11 No objection. Note that cycle parking will be secure, windows and doors will be secure to BS standards and that entry to the building will be controlled.

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3.12 Support the application.

Publicity

3.13 Seven letters in support received; comments are as follows:

- The proposals accord with Government opinion, which is that there should be a presumption in favour of development unless it is contrary to up to date planning policy.
- Small scale incremental improvements to Piccadilly would be far more favourable than the comprehensive redevelopment required in the Castle Piccadilly Planning Brief, which also includes the opposite side of the river. The planning brief is viewed as controversial and inappropriate, hence the delay in its implementation.
- The introduction of residential will bring life to the area. Residential units are in demand, and required, whilst there is an existing supply of office space, which is more desirable than the first floor of the host premises.

4.0 APPRAISAL

4.1 Key Issues

- Principle of the proposed development and whether it would fit with the regeneration of Castle Piccadilly
- Flood risk
- Character and appearance of the conservation area
- Amenity for future occupants
- Open space and education contributions
- Highway safety
- Sustainability

Principle of the proposed development

4.2 It is proposed to retain the retail use at ground floor level and bring the upper floor into residential use. The upper floor was last used as ancillary space to the ground floor retail unit, though it has been redundant since the mid-1990's. The proposal would make prudent use of the building and provide housing stock, which the Housing Market Assessment advises is required. As such and given the city centre location, the development in principle accords with the thrust of PPS1 and PPS3 and the aspirations and strategies of the Local Plan.

4.3 The site is within the Castle Piccadilly area which has been identified for regeneration in the Local Plan (policy SP9). SP9 advises such areas will be subject to comprehensive development briefs. Development within the areas will be

resisted when they conflict with the brief or if they would compromise redevelopment as set out in the brief.

4.4 An initial scheme for regeneration of Castle Piccadilly was subject to a public inquiry in 2003. The inspector at the public inquiry dismissed the scheme on the grounds of design and appearance. An application to convert the building into flats was refused in 2005 on the grounds that such piecemeal development would be premature prior to the formulation of a development brief and comprehensive masterplan for the area.

4.5 The pertinent current planning documents produced by the LPA regarding the area are the Castle Piccadilly Planning Brief March 2006, the Central Historic Core Conservation Area Appraisal: Consultation draft, and the City Centre Area Action Plan, the two latter documents are presently going through consultation.

4.6 According to the Castle Piccadilly planning brief the key objectives and vision for the area can only be met by looking at the area comprehensively, to secure the high quality enhancements that the brief seeks to achieve. Officers understand that plans for the comprehensive regeneration of the area are at an advanced stage and it is likely proposals, which will include a masterplan for the area, will go out to public consultation by 2012. On this basis it would be premature to approve this scheme, which could compromise the wider regeneration of the Castle Piccadilly area.

4.7 The Conservation Area Appraisal identifies the opportunities for enhancement of the area, these include improving views of the Clifford's Tower and Castle Area, increased access to the river by providing gaps between buildings, a new footbridge over the river aligned with St Deny's Road and improvement of the appearance of Piccadilly and the riverside. The area appraisal identifies possible connection points with the river and buildings that detract from the area. Retention of the host building would not conflict with the aspirations within the conservation area appraisal.

Flood risk

4.8 The application site falls within Flood Zone 3 where the risk of flooding is high (annual probability of 1%). Dwellings are classed as a more vulnerable form of development in PPS25: Development and Flood Risk and need to pass the sequential and exception tests in order to be permitted in flood zone 3. York's Strategic Flood Risk Assessment classifies ground floor flats as highly vulnerable; such uses are typically unacceptable in flood zone 3.

4.9 The proposal is deemed to pass the sequential test on the grounds that there is an identified need for housing in the city (the RSS advised 850 dwellings per year 2011-2021, the Strategic Housing Market Assessment in 2007 found the figure to be higher), the site is in a sequentially appropriate location for housing, and the development is deliverable. Additionally significant weight has to be given to the

fact that although the site is in flood zone 3, because of the ground level the development is at the building would not be inundated, even in the case of a 1 in 100 year flood. The exception test is passed as the development constitutes efficient use of brownfield land and reduces the need to travel by private car by virtue of its location.

4.10 The residential element proposed would be reasonably safe from flooding as the finished floor level, 11.5 AOD, is 1.75 m above the 1:100 year predicted flood level. Also the land outside the premises would not flood, so there would be reasonable means of access and egress in such times. The basement is intended to be able to flood. It is though protected to the 1:75 year flood level. Council's Emergency Planners recommend that a mechanism be in place to ensure valuables are removed from the basement in times of flood, which could be achieved through a condition. Services will be above ground level (proposal has been revised in this respect) so the building would still have power in times of flood.

Character and appearance of the conservation area

4.11 Minor external works would be required in association with the proposed residential use, for extraction and ventilation. The applicants have advised these can be located on the roof and where they would be least prominent. The specific location and appearance could be secured via an appropriately worded condition. There would be no change to the loading bay doors which would be as the 2010 approval. It can also be required the entrance doors to the residential element be sliding doors, so there is symmetry and consistency to the shopfront area.

Amenity for future occupants

Air Quality

4.12 The building is in part of Piccadilly which is in the Air Quality Management Area. The proposed use would not be detrimental to levels of air quality, and potentially constitutes an improvement on the basis that residential in the city centre would reduce the need for private car travel in the area. However mitigation is required to ensure amenity for future residents is acceptable. The units on the road side elevation would be exposed to pollution from traffic. The proposed mitigation is to draw air to ventilate the units from the rear of the building. This would be acceptable and could be secured through an appropriate condition.

Noise

4.13 In 2002 permission was granted for apartments on the opposite side of Piccadilly. At that time a noise report found average external noise levels to be 62dB during the day, 57dB at night. The World Health Organisation advises reasonable living conditions are 30-40dB average in living rooms and 35dB in bedrooms. It is proposed to install secondary glazing, which would give a noise attenuation rating of 34dB. The attenuation would provide acceptable living

conditions. The occupants advise that noise from the ground floor plant room will be attenuated, as part of their standard protocol, which requires noise levels in residential areas to not exceed 35dB. Delivery arrangements may change over time, but this has to be expected in the city centre and such a potential issue cannot be used to resist housing in the city centre, which is promoted in national policy and the local plan.

Amenity for surrounding occupants and living space for occupants of the proposed building

4.14 The building is a conversion and there are no issues with the amenity of any surrounding occupants. The residential units have adequate space for living, including storage space in the basement.

Open space and education contributions

4.15 Policy ED4 advises that in considering proposals for residential development any consequences for existing schools will be assessed. When additional provision is required as a result of the proposals, developers will be required to make appropriate financial contributions. The approved supplementary planning guidance note; Developer Contributions Toward Education Facilities establishes trigger points for contributions and the necessary contributions. Policy L1c requires a contribution toward open space for all residential development.

4.16 A contribution, of £17,559 would be required towards a secondary school place in the catchment area and £9,716 toward open space. The applicants agreed to make the contributions should approval be recommended.

Highway safety

4.17 No changes to the buildings appearance or operation are proposed that would have an effect on highway safety. The doors to the basement were agreed under a previous application (in 2010) and they are remote opening roller shutters.

Sustainability

4.18 In accordance with York's Interim Planning Design Guidance on Sustainable Construction the development would achieve a BREEAM Very Good rating and at least 10% of energy demand from on-site renewable can be achieved from the proposed installation of air sourced heat pumps.

5.0 CONCLUSION

5.1 Although when considered in isolation the refurbishment and occupation of the building would be consistent with national planning policy, the development would

conflict with the Castle Piccadilly development brief which requires regeneration to occur in accordance with an approved masterplan for the entire Castle Piccadilly area. Such a document is under preparation and to grant planning permission for this scheme at this time would be premature and would be likely to compromise the forthcoming master plan. As such it is recommended that the scheme be refused.

COMMITTEE TO VISIT

6.0 RECOMMENDATION: Refuse

1 The proposed development is within the Castle Piccadilly action area and would conflict with the Castle Piccadilly Development Brief 2006 which requires regeneration to occur in accordance with an approved masterplan for the entire Castle Piccadilly area. Such a document is under preparation and to grant planning permission for this scheme at this time would be premature and would be likely to compromise the forthcoming master plan.

As such the proposal is contrary to policy SP9 of the Local Plan which advises development shall only occur within the identified action areas which accords with the development brief and when it would not prejudice comprehensive redevelopment of the areas.

7.0 INFORMATIVES:

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