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MEETING	WEST & CITY CENTRE AREA PLANNING SUB-COMMITTEE
DATE	13 SEPTEMBER 2012
PRESENT	COUNCILLORS WATSON (CHAIR), FUNNELL, GILLIES (VICE-CHAIR), JEFFRIES, LOOKER, REID, SEMLYEN AND BROOKS (AS A SUBSTITUTE FOR CLLR GALVIN)
APOLOGIES	COUNCILLORS GALVIN AND ORRELL

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## 19. INSPECTION OF SITES

The following sites were inspected before the meeting.

Site	Attended by	Reason for Visit
18 The Horseshoe	Councillors Gillies, Reid, Semlyen and Watson.	As objections had been received and the officer recommendation was to approve.
Vudu Lounge, 39 Swinegate, York	Councillors Gillies, Semlyen and Watson.	As objections had been received and the officer recommendation was to approve.

## 20. DECLARATIONS OF INTEREST

At this point in the meeting, Members were asked to declare any personal, prejudicial or disclosable pecuniary interests they might have in the business on the agenda.

Councillor Gunnell declared a personal and prejudicial interest in plans item 4a (39 Swinegate) as she knew the objector (who was speaking at the meeting) well. She left the room during discussion of the application and took no part in the debate or vote.

Councillors Reid and Semlyen advised the Committee that they had been contacted by residents with regard to the plans item 4c (18 The Horseshoe) but had not expressed an opinion on the application.

Councillor Semlyen declared a personal non prejudicial interest in Plans item 4a (39 Swinegate) as she knew someone who worked at the Vudu Lounge.

## **21. PUBLIC PARTICIPATION**

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

## **22. PLANS LIST**

Members considered a schedule of reports of the Assistant Director (Planning and Sustainable Development), relating to the following planning applications, outlining the proposals and relevant policy considerations and setting out the views and advice of consultees and officers.

### **22a Vudu Lounge, 39 Swinegate, York, YO1 8AZ (12/01223/FUL)**

Members considered a full application from Mrs Pavlou for the change of use of the upper floors at no 37 and 39 from mixed use restaurant and drinking establishment (Use classes A3/A4), to drinking establishment (Use class A4) (retrospective).

Officers advised the Committee that the correct address for the premises is Vudu Lounge 39 Swinegate. They advised that proposed conditions 1 and 4 be deleted and the new conditions be proposed as follows. Condition 1 would restrict opening hours to 10:00 to 01:00 the following day between Sunday to Thursday and 10:00 to 03:00 the following day on Fridays and Saturdays to protect the living conditions of adjacent residential occupiers. Condition 2 would grant temporary planning permission until 13.09.13 for opening to customers between the hours of 1000-0400 hours the following day, after which the opening hours would revert to the times stated in condition 1.

This is in order that the impact of this use on neighbouring residents, the effect of the noise management plan, and the impact on the character of the area could be monitored.

Officers proposed that additional conditions be required to restrict the emptying of bottles and glass into bottle bins and to prevent amplified, recorded or live music being played which is audible outside the building in order to protect the amenity of nearby residents.

Members discussed the opening hours of nearby premises including the Biltmore and Oscars and questioned why officers had suggested a temporary 4am closing time. Officers advised that this was what the applicant had requested and they had assessed this request and suggested the trial period. They stated that Members could impose whatever hours they felt suitable but they should take into account that permission for mixed use was granted in 2006 until 1am Mon to Fri and 3am Saturdays and Sundays.

Representations were received from a local resident in objection to the application. He stated that residents are disturbed by noise emanating from the premises and the passageway. He asked Members to consider the following initiatives if they were minded to approve the application:

- CCTV to cover the passageway between St Sampson's Square and Swinegate
- A gate should be installed at both ends of the passageway which should be closed at 7pm and reopened in the morning.
- The premises should be soundproofed
- No bottles should be emptied into bins between midnight and 8am
- There should be better liaison between the club and residents.

Representations were also received from the Manager of the Roman Bath Public House. He explained that he had lived in the pub living quarters which were behind Vudu Lounge for 3 years and had experienced noise at ridiculous levels, and heard the throb of the heavy base music until 4am seven days a week. He confirmed that he and his young daughter were kept awake by the noise and rowdy behaviour from customers at closing time as well as by the bottles being emptied into bins until 3-4am. He

accepted that he should expect some late night noise living in the city centre but believed that he should not have to experience this type of disturbance to these hours. In response to a question, he agreed that noise in this area after 2am could be attributed to the Vudu Lounge and he confirmed that paying guests staying at the pub were also disturbed by the noise. Officers advised the Committee that the impact of the disturbance on an adjacent business can be a planning consideration.

Representations were also received from the applicant in support of the application. She explained that they had not been aware that they were trading in breach of planning conditions and apologised for this. She stated that Vudu Lounge had opened in 2005 with planning permission for A3/A4 mixed use but they had struggled with the restaurant side of the business and had made a loss. They had tried to market the restaurant but after much deliberation had taken the decision that running a bar was the best way forward. Bar trade had flourished and they now employed 24 staff, 9 of whom were full-time. They had applied to stay open until 4am in response to customer demand although they closed their doors to new customers at 3am. She advised Members that they asked their customers to respect neighbours amenity and leave quietly. Furthermore the building was now fitted with acoustic glass on doors and windows. With regard to emptying bottles into bins, she explained that they had started to use stronger bin bags to minimise noise when transferring them. She stated that if she had to revert back to old opening hours she would not be able to lay some staff off as they did not get busy until between midnight and 3am. She provided clarification the amount of trade between 3am and 4am.

With regard to music, she acknowledged that the base beat of the music had been an issue and advised Members that since this had been raised during a visit by environmental officers, she had turned this off. Members noted that work was planned to make improvements to the sound insulation of the current chipboard floor of the archway by the Roman Bath.

Members stressed the importance of considering the effect of establishments such as this on residents' amenity, especially at a time when we are trying to attract residents back into city. The Three Cranes Passageway is very narrow which exacerbates

the noise created by people in the passageway and the emptying of bins. The potential gating of the alleyway (as suggested by the speaker) would need to be investigated through another route as it is a public highway.

Members acknowledged that the Vudu Lounge remains open beyond the opening hours of other premises in the area so it is not surprising that people tend to gravitate towards it. The Micklegate area is classed as an Impact Zone but people are now gravitating to other areas and it may be necessary to consider other possible impact zones in future.

With regard to opening times, they considered whether it would be appropriate to grant planning permission until 4am when other premises in the area close at 2.30am and what the cumulative effect of granting a 4am closing time would be. The applicant had stated that the business would not be viable if they were forced to close any earlier than they currently do but residential amenity must take priority over the viability of the business. Granting a standardised closing time across premises in the area would be a better way forward.

Members considered that the premises could currently remain open until 3am at the weekend with the existing mixed use planning permission which only required them to serve food until 11pm and suggested that it would be unfair to take hours away from them. However Officers reminded them that the premises were currently operating with no planning permission as they were not operating as a restaurant/bar.

With regard to noise emanating from the premises, Members discussed whether a condition requiring the owner to turn off the music at a specified time was necessary. Officers advised that a noise management scheme was a condition and the advice from the noise consultant was that the measures planned, including sound insulation and improved flooring, should resolve the issue of noise emanating from the premises.

**RESOLVED:**

That the application be approved subject to the conditions listed in the report and the new conditions below:

### New Condition 1

The use hereby permitted shall only be open to customers between the hours of –

Sunday to Thursday ; 1000-0100, following day

Friday and Saturday : 1000-0300, following day

Reason: To protect the living conditions of adjacent residential occupiers in accordance with policy S7 of the Development Control Local Plan.

### New Condition 2

Temporary planning permission is granted until 13.09.13 for opening to customers between the following hours :

Sunday -Thursday, 1000-0200, following day

Friday- Saturday, 1000-0300, following day

After 13.09.2013 the opening hours shall revert to those in condition 1 of this permission unless a further planning permission has been granted.

Reason: So that the Local Planning Authority may assess the impact of this use upon the living conditions of neighbouring residents by monitoring the effect of the Dragonfly noise management plan ( dated 8.8.2012), and the impact on the character of the area in accordance with policy GP23 of the Development Control Local Plan.

### New Condition

Bottles and glass shall not be placed into bottle bins between the hours of 24.00 hours (midnight) and 08.00 hours on any day.

Reason: To protect the living conditions of adjacent residential occupiers in accordance with policy S7 of the Development Control Local Plan.

### New Condition

No amplified, recorded, or live music shall be played which is audible outside the host building.

Reason: To protect the amenity of surrounding occupants and in the interests of the character of the conservation area.

REASON:

The proposal, subject to the conditions listed in the report and the new conditions above, would not cause undue harm to interests of acknowledged importance, with particular reference to the vitality and viability of the city centre; the character and appearance of the Central Historic Core Conservation Area; and the amenity of surrounding residents. As such the proposal complies with Policies GP1, S6, S7 and HE3 of the City of York Development Control Local Plan ( 2005) and national planning guidance contained in the National Planning Policy Framework.

**22b 11 Runswick Avenue, York, YO26 5PP (12/02643/FUL)**

Members considered a full application from Mr John Gaughan for a conservatory to the rear.

RESOLVED:

That the application be approved subject to the conditions listed in the report.

REASON:

The proposal, subject to the conditions listed in the report, would not cause undue harm to interests of acknowledged Importance, with particular reference to the impact on the residential amenity of neighbours and the impact upon the streetscene. As such the proposal complies with Policies H7 and GP1 of the City of York Development Control Local Plan and City of York Supplementary Planning Guidance to Householders (Approved March 2001)

**22c 18 The Horseshoe, York, YO24 1LX (12/02150/FUL)**

Members considered a full application from Mr and Mrs Griffiths for a replacement dwelling with detached summerhouse to the rear.

Officers advised the committee of a further request they had received from the occupants of 20 The Horseshoe which asked for:

- In addition to obscured side windows, the roof lights and windows of the summer house should be obscure glazed to prevent overlooking. *Officers recommended clarifying condition 5 so it refers to the side window on the 2 storey outshot and roof-lights on the side elevations of the main roof.*
- Permitted development rights should be removed to prevent any later extensions to the building *Officers noted that the garden would remain a reasonable size and officers consider such a condition would not be necessary.*
- Construction Management should be a condition of the planning permission rather than an informative, in the interests of neighbours' amenity. Officers advised that *Members may add a condition on construction management if they see fit.*
- The street light may need to be removed to accommodate the additional driveway. The neighbours would not want the street light to be relocated in front of their house. *Officers advised that this would be a matter for interested parties to resolve.*

Representations were received from Councillor Hodgson, Ward Member for Dringhouses and Woodthorpe. He stated that he was speaking against the application on behalf of the residents at 17 and 19 the Horseshoe. He conveyed their concerns that the proposed building would be out of character with the area, raised concerns with building traffic (potential loss of building materials) and potential flooding. He asked the committee to reject the application for the benefit of nearby residents and the wider community. Members queried whether these concerns related to the original scheme rather than the revised scheme and noted that, at the site visit, the Chair of the Planning Panel had not raised any concerns on the revised scheme. Councillor Hodgson confirmed that the points he had raised applied to the original plans but that he was still opposed to the demolition and rebuilding of a house which would then be out of character with the area.

Representations were received from the applicant in support of the application. He explained that he had bought the house which was very run down and in need to extensive



modernisation and this meant it was more economic to demolish it and rebuild it to current standards. He confirmed that he had worked with planners to address concerns raised by residents concerns and the revised plans now meet their concerns. This included removing the decorative stone and slate roof from the proposals so the property is more in keeping with other properties on the Horseshoe. He advised that all the adjacent neighbours except number 20 were supportive of his proposals. He acknowledged that the mass and scale of the proposed property was large but that it was comparable with number 24 and barely half the size of number 20. He stated that the rear extension incorporated a home study for his wife who works from home and the property would not overlook other properties, although rear and side windows were to be mainly obscured glass. He explained that where possible they would reuse existing roof tiles for the front of the house, that extensive greenery was proposed and that the dual aspect driveway required moving lamppost by approx 2ft and he had suggested this be towards the boundary of his property. In response to a question, he provided clarification of the floor space of the existing and proposed property and how this compared to his neighbour's property.

Members acknowledged residents concerns regarding development based on experiences of what had happened with a neighbouring plot. However they agreed that the applicant had done everything possible to mitigate the concerns of neighbours and that the revised proposals would enhance rather than detract from the street scene. They agreed that it would be useful to include a condition on working hours.

RESOLVED:

That the application be approved subject to the conditions listed in the report.

Amended Condition 5

The first floor windows in the side elevations (including the room shown as 'dressing room' on drawing D384/5G) and roof-lights on the side elevations of the main roof (i.e. where the building is 2-storey) shall be obscure glazed to a minimum level of Pilkington Glass Level 3 (or the equivalent standard) and once installed shall be thus maintained at all times.

Reason: In the interests of the amenities of occupants of adjacent residential properties.

Additional Condition 9

The hours of construction, loading or unloading on the site shall be confined to 8:00 to 18:00 Monday to Friday, 9:00 to 13:00 Saturday and no working on Sundays or public holidays.

Reason: To protect the amenities of adjacent residents.

REASON:

The proposal, subject to the conditions listed in the report and the amended and additional conditions above, would not cause undue harm to interests of acknowledged importance, with particular reference to the effect on residential amenity, the impact on the streetscene, flood risk and highway safety. As such the proposal complies with Policy GP1 of the City of York Development Control Local Plan.

Councillor B Watson, Chair

[The meeting started at 3.00 pm and finished at 4.40 pm].