



Notice of meeting of

West & City Centre Area Planning Sub-Committee

- To:** Councillors B Watson (Chair), Sue Galloway (Vice-Chair), Horton, Galvin, Reid, Gillies, Gunnell, Jamieson-Ball and Sunderland
- Date:** Thursday, 18 October 2007
- Time:** 3.00 pm
- Venue:** The Guildhall, York

AGENDA

Site visits for this meeting will commence at 11.00 am on Wednesday 17th October 2007 at Memorial Gardens.

1. Declarations of Interest

At this point Members are asked to declare any personal or prejudicial interests they may have in the business on this agenda.

2. Exclusion of Press and Public

To consider excluding the public and press from the meeting during consideration of agenda item 8 (Enforcement Cases Update) on the grounds that they contain information classed as exempt under Paragraphs 6 of Schedule 12A to Section 100A of the Local Government Act 1972, as amended by the Local Government (Access to information) (Variation) Order 2006. This information, if disclosed to the public would reveal that the authority proposes to give, under any enactment, a notice under or by virtue of which requirements are imposed on a person or that the Authority proposes to make an order or directive under any enactment.

3. Minutes (Pages 5 - 12)

To approve and sign the minutes of the meeting of the West & City Centre Area Planning Sub-Committee held on 20th September 2007.

4. Public Participation

It is at this point in the meeting that members of the public who have registered their wish to speak can do so. The deadline for registering is by 5pm the working day before the meeting. Members of the public can speak on specific planning applications or on other agenda items or matters within the remit of the committee.

To register please contact the Democracy Officer for the meeting, on the details at the foot of this agenda.

5. Plans List

Members will consider a schedule of reports of the Assistant Director (Planning and Sustainable Development), relating to planning applications with an outline the proposals and relevant policy considerations and the views and advice of consultees and officers.

a) 218 Salisbury Terrace, York (07/02105/FUL) (Pages 13 - 20)

Conversion of existing church hall to 3 no. 1 bed apartments and external alterations (resubmission) [*Holgate Ward*]

b) The Blue Fly Cafe Bar (07/02146/FUL) (Pages 21 - 28)

Variation of condition 3 of planning permission 06/01336/FUL for 10 New Street and variation of condition 4 of planning permission 06/00339/FUL for 10A New Street to alter opening hours of existing Cafe/bar to 0900-0430 Mon-Sun [*Guildhall Ward*]

6. Enforcement Cases Update (Pages 29 - 100)

Members will consider a report which provides a continuing quarterly update on the number of enforcement cases currently outstanding for the area covered by the Sub-Committee.

7. Any other business which the Chair considers urgent under the Local Government Act 1972

Democracy Officer

Name: Tracy Wallis

Contact Details:

- Telephone (01904) 552062
- Email – tracy.wallis@york.gov.uk

For more information about any of the following please contact the Democracy Officer responsible for servicing this meeting:

- Registering to speak
- Business of the meeting
- Any special arrangements
- Copies of reports

Contact details are set out above.

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WEST AND CITY CENTRE AREA PLANNING SUB COMMITTEE**SITE VISITS****Wednesday 17th October 2007****The bus for members of the sub-committee will depart from
Memorial Gardens at 11.00am**

TIME (Approx)	SITE	ITEM
11.10	218 Salisbury Terrace	a

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- Monitor the performance and effectiveness of services;
- Review existing policies and assist in the development of new ones, as necessary; and
- Monitor best value continuous service improvement plans

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City of York Council

Minutes

MEETING	WEST & CITY CENTRE AREA PLANNING SUB-COMMITTEE
DATE	20 SEPTEMBER 2007
PRESENT	COUNCILLORS B WATSON (CHAIR), SUE GALLOWAY (VICE-CHAIR), HORTON, GALVIN, REID, GILLIES, GUNNELL, SUNDERLAND AND HOLVEY (SUBSTITUTE)
APOLOGIES	COUNCILLORS JAMIESON-BALL

31. INSPECTION OF SITES

The following sites were inspected before the meeting:

Site	Attended by	Reason for Visit
34 Grantham Drive	Cllrs B Watson, Gillies, Galvin, Gunnell, Horton Sunderland and Reid	Objections have been received, and the application is recommended for approval
11 Slingsby Grove	Cllrs B Watson, Gillies, Galvin, Gunnell, Horton Sunderland and Reid	Objections have been received, and the application is recommended for approval
The Lowther Public House	Cllrs B Watson, Gillies, Galvin, Gunnell and Horton	Objections have been received, and the application is recommended for approval

32. DECLARATIONS OF INTEREST

At this point Members were asked to declare any personal or prejudicial interests they may have in the business on the agenda.

Cllr Horton declared a personal and prejudicial interest in Agenda Items 4(g) and 4(h), 4, Ogleforth York (minute 35 g & h refers) as the agent for the applicant is known to him, and left the room and took no part in the discussion or the decision thereon for both items.

Cllr Reid declared an interest under the provisions of the Planning Code of Good Practice, in Agenda Item 4(d), The Lowther 8 Cumberland Street York (minute 35 d refers), as she had deemed to have pre-judged the

issue as she had sat on the panel of a Licensing Hearing connected with this matter. She left the room and took no part in the discussion or the decision thereon.

33. MINUTES

RESOLVED : That the minutes of the meetings held on 16 August 2007 and 28 August 2007 be approved and signed by the Chair as a correct record, subject to the following amendment:

That minute 28 of the minutes of the meeting of 28 August 2007 be amended as Cllr Horton did not attend the site visit for 42 Monkgate.

34. 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 Sub-Committee.

35. 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.

35a 11 Slingsby Grove, York (07/01628/FUL)

Members considered a full application, submitted by Mr Kevin Marsden, for the erection of a two storey detached dwelling to side.

Officers updated that two additional letters of objection had been received, raising issues regarding "garden grabbing", the cost of the proposed dwelling and that it does not meet affordable housing issues, the area at the end of Slingsby Grove is a flood area, concerns about the design and there being no rendered elements, loss of light and overlooking from the dormer window. They also updated regarding the size of the proposed development and the proposed dormer window.

Representations were received in objection to the proposals from two local residents. They raised issues regarding the design not being in keeping with other properties in the area, the proposed dormer at the front of the property, impact on privacy of residents, width of the driveway, materials proposed to be used, and that the proposal is not in accordance with planning policies.

Representations were received in objection to the proposals from Dringhouses and Woodthorpe Planning Panel, stating that the proposal is more than two storey and has a higher roofline than other houses in the area, it dominates a dwelling on Tadcaster Road, there would be minimal

residential amenity, no cycle or bin storage, and it would affect the character of the road.

Members discussed the size of the proposed dwelling, materials proposed to be used, lack of amenity space, the dormer window, and design.

RESOLVED : That the application be refused.

REASON : (i) The proposed two storey detached dwelling by virtue of its overall size, height, site coverage and design is considered to be out of character with surrounding properties and would therefore harm the appearance of the street scene, contrary to Policies GP1 and H4a of the City of York Development Control Draft Local Plan.

(ii) The proposed front dormer would result in unacceptable overlooking of nearby residential properties, contrary to Policy GP1 of the City of York Development Control Draft Local Plan.

35b 34 Grantham Drive, York (07/01897/FUL)

Members considered a full application, submitted by Mr Nick Squire, for the erection of a detached dwelling with dormer window (amended house type).

Officers updated that additional comments had been received, stating that the new plans should show what was previously agreed, that the dormer on the plans is smaller than the existing, that the window will look directly into a neighbouring landing window, and concerns regarding the overall height of the proposals. Officers also updated that the porch would be permitted under Permitted Development Rights.

Representations were received in objection from a neighbour, stating that what has been built is not as per the plans, including the dormer window, there would be overlooking, and raising concerns about the height of the building.

Members discussed the height, the dormer window, the house and it fitting it in with the character of the area, overlooking issues, and the size.

RESOLVED : That the application be refused.

REASON : (i) The proposed detached dwelling by virtue of the height of the roof and the size of the dormer window is considered to be out of scale and character with surrounding properties and would therefore harm the appearance of the surrounding street scene, contrary to Policies GP1 and H4a of the City of York Development Control Draft Local Plan.

(ii) The proposed side dormer would result in unacceptable overlooking of the adjacent residential property and is contrary to Policy GP1 and GP4a of the City of York Development Control Draft Local Plan.

35c 34 Grantham Drive, York (07/01712/FUL)

Members considered a full application, submitted by Mr Nick Squire, for new rooflight windows to the rear of plot two.

Representations were received in objection from a neighbour, stating that the plans shows no windows and windows are in place.

Members discussed the dormer windows, rooflights, and overlooking issues.

RESOLVED : That the application be approved, subject to the condition outlined in the report.

RESOLVED : The proposal, subject to the condition outlined in the report, would not cause undue harm to interests of acknowledged importance, with particular reference to neighbouring amenity. As such the proposal complies with policies GP1 and H7 of the City of York Development Control Draft Local Plan.

35d The Lowther, 8 Cumberland Street, York (07/01756/FUL)

Members considered a full application, submitted by Mr S Binns, for an outside seating area on Kings Staith for use by The Lowther Public House and Plonkers Wine Bar (resubmission).

Officers updated that a letter had been received from the Boating Association withdrawing their objections, and a sample of the plastic glass to be used was shown to Members. Officers updated that if Members were minded to approve the application they would recommend the following additional/amended conditions; temporary consent be given for the period of one year, the gap from the chain to the river wall edge be 3 metres, and that the site be cleared by 21:00 hours.

Representations were received in objection to the application from a local resident, raising issues regarding noise and the effect of the proposals on the historic centre of the city, including the riverside walk and listed buildings.

Representations were received in support of the application by the agent for the applicant. He stated that significant changes had been made since the earlier application was refused, that the application has restrictive conditions, and detailed the arrangements for the ordering and serving of drinks. He stated that there had been no objections from statutory consultees.

Members discussed noise, usage of the outside area, furniture and seating arrangements, and arrangements for ordering and serving drinks.

RESOLVED : That the application be approved subject to the conditions and informatives outlined 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 character and appearance of the conservation area, vitality and viability of the city centre, amenity and safety. As such the proposal complies with Policy E4 of the North Yorkshire County Structure Plan (Alteration No.3 adopted 1995); Policies HE3 and S6 of the City of York Local Plan Development Control Local Plan – incorporating the Proposed 4th Set of Changes (2005); and national planning guidance contained in Planning Policy Statement 6 “Planning for Town Centres”, Planning Policy Guidance Note No.15 “Planning and the Historic Environment”.

35e 46 Hobgate, York (07/01914/FUL)

Members considered a full application, submitted by Ian and Mary Macbeth, for the erection of a new dwelling after demolition of existing (amendment to planning permission 07/00121/FUL).

Officers updated that there had been objections received regarding the side facing bathroom windows and the position of the rooflight at the front.

Members discussed the position of the rooflight.

RESOLVED : That the application be approved subject to the conditions and informatives detailed in the report.

REASON : The proposal, subject to the conditions outlined in the report, would not cause undue harm to interests of acknowledged importance, with particular reference to the residential amenity of the neighbours, and the visual amenity of the dwelling and the locality. As such the proposal complies with Policies GP1 and H4a of the City of York Development Control Local Plan (2005).

35f Lidgett Grove School, Wheatlands Grove, York (07/01120/REMM)

Members considered a major reserved matters application, submitted by CALA Management Ltd, for the approval of reserved matters for the erection of 16 two storey dwellings including associated detached garages and 3 three storey dwellings with integral garages.

Officers updated that two further objections had been received regarding the revised plans. An e-mail from Cllr Simpson-Laing, Ward Councillor, on behalf of local residents, was distributed to Members, detailing concerns regarding the height of the proposed dwellings, density of dwellings, the

proposed lockable gate, consultation with the Minister of the Methodist Church on Wheatlands, and that the proposal is not against planning policy.

Representations were received in objection to the application from a local resident. She raised issues regarding the proposed three-storey dwellings, that the revised proposals are not compatible with the local area nor sympathetic towards the present population, the proposed lockable gate and increased traffic.

Members discussed the proposed lockable gate, and consultation with residents on this issue.

RESOLVED : (i) That the application be approved subject to the conditions outlined in the report.

Members also requested that the applicants consult with the occupiers of 13 and 15 Lidgett Grove prior to submitting details in respect of condition no.7, regarding the lockable gate to Lidgett Grove.

REASON : (i) The proposal, subject to the conditions outline din the report, would not cause undue harm to interests of acknowledged importance, with particular reference to visual and residential amenity. As such the proposal complies with PPG 3 and Policies GP1, H4 and T4 of the City of York Development Control Draft Local Plan.

35g 4 Ogleforth, York (06/02042/FULM)

Members considered a major full application, submitted by House & Son Ltd, for the conversion, part demolition and extension of vacant warehousing and offices to form 12 apartments with associated parking.

Officers updated that if Members were minded to approve the application the condition with plans details would be amended to include the details of the revised plans.

Representations were received in support of the application from the agent for the applicant. He stated that the application was a viable scheme and the comments of the City of York Council Conservation Officer had been taken into account.

Members discussed the revised scheme, the Conservation Officer's comments and the new window arrangements.

RESOLVED : That the application be approved subject to the conditions and informatives outlined in the report and subject to the following amended condition:

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

Drawing no. 05:38:23 Rev D received on 2 August 2007 (Proposed floor

plans)

Drawing no. 05:38:24 Rev C received on 2 August 2007 (Proposed floor plans)

Drawing no. 05:38:25 Rev:D (Proposed Elevations)

Drawing no. 05:38:30 received on 20 March 2007 (Proposed section)

or any plans or details subsequently agreed in writing by the Local Planning Authority as amendment to the approved plans.

Reason: For the avoidance of doubt and to ensure that the development is carried out only as approved by the Local Planning Authority.

REASON : The proposal, subject to the conditions outlined in the report and the amended condition above, would not cause undue harm to interests of acknowledged importance, with particular reference to the principle of residential conversion/loss of employment site, effect on character and appearance of the conservation area, effect on neighbouring properties, living conditions of future occupiers, and highway and parking issues. As such the proposal complies with policies E4 and H9 of the North Yorkshire County Structure Plan (Alteration N0.3 adopted 1995) and Policies H4, E3, H12 and HE2 of the City of York Local Plan Deposit Draft.

35h 4 Ogleforth, York (06/02052/LBC)

Members considered a listed building consent application, submitted by House And Sons Ltd, for the conversion, part demolition and extension of vacant warehousing and offices to form 12 apartments.

Officers updated that if Members were minded to approve the application they would recommend an additional condition relating to an illustrated recording of the building to be demolished.

RESOLVED : That the application be approved subject to the conditions outlined in the report and subject to the following additional condition :

An illustrated recording of that part of the building to be demolished (the addition of 1892 – 1909) shall be carried out in accordance with the recommendations of the “Descriptive Assessment” of the buildings (Colin Briden 2006) following the approval of a specification to be submitted in writing to the Local Planning Authority.

Three copies of the document shall then be submitted to the Local Planning Authority prior to the commencement of any development on the site.

Reason : To ensure that a record of the building is made and retained in accordance with advice

contained in PPG 15 (Planning and the Historic Environment)

REASON : The proposal, subject to the conditions listed in the report and the additional condition above, would not cause undue harm to interests of acknowledged importance, with particular reference to the impact on the special architectural and historic character of the listed building. As such the proposal complies with Policy E4 of the North Yorkshire County Structure Plan (Alteration No.3 Adopted 1995) and Policy HE4 of the City of York Local Plan Deposit Draft.

36. ANY OTHER BUSINESS WHICH THE CHAIR CONSIDERS URGENT UNDER THE LOCAL GOVERNMENT ACT 1972

COUNCILLOR B WATSON
CHAIR

The meeting started at 3.00 pm and finished at 5.20 pm.

COMMITTEE REPORT

Committee: West/Centre Area **Ward:** Holgate
Date: 18 October 2007 **Parish:** No Parish

Reference: 07/02105/FUL
Application at: 218 Salisbury Terrace York YO26 4XP
For: Conversion of existing church hall to 3 no. 1 bed apartments and external alterations (resubmission)
By: Rev Karen Burnett-Hall
Application Type: Full Application
Target Date: 26 October 2007

1.0 PROPOSALApplication site

1.1 The application relates to St Barnabas Church Hall that is located within a terrace of houses on Salisbury Terrace. The church hall is used as a community facility, which hosts dance classes three days a week and Brownies on Wednesday evenings. The site is within an area where the risk of flooding is deemed to be high (flood zone 3).

Proposal

1.2 The application is for planning permission to convert the building into three 1.bed residential dwellings. It is proposed to consolidate the activities which take place at the church hall at St Barnabas' Church (160 metres to the east), which is already in community use. A schedule of works are established for improving facilities at the church, to improve access and enlarge the size of the community space. The works are subject to the sale of the church hall, which would generate the required funds.

Background

1.3 This is a resubmission of application 06/02777/ful which was refused by the planning committee in January 2006. The reason for refusal was that the application failed to adequately demonstrate that the existing facility was surplus to requirements or that alternative sites have been provided.

2.0 POLICY CONTEXT

2.1 Development Plan Allocation:

City Boundary York City Boundary 0001

Floodzone 2 Flood Zone 2 CONF

Floodzone 3 Flood Zone 3

Schools St. Barnabas' CE Primary 0224

2.2 Policies:

CYGP1 Design
CYGP4A Sustainability
CYGP15 Protection from flooding
CYH4A Housing Windfalls
CYC3 Change of use of community facilities
CYL1C Provision of New Open Space in Development

3.0 CONSULTATIONS

Internal

3.1 Highway Network Management - No response. At pre application stage stated that there would be no objection to the development and car parking spaces would not be required, but covered secure cycle spaces would be.

3.2 Drainage - No response.

External

3.3 Planning Panel - No response to date.

3.4 Environment Agency - No objection. Ask that if permission is granted that it is subject to conditions that the finished floor levels are 300mm above ground level (which is proposed) and that flood warning notices are placed in the building.

3.5 The application was publicised by site notice and letters of neighbour notification. The deadline for comments was 4.10.07. To date one letter has been received. This raises the following points -

- the building seems to be in use at present. If it is to be converted, it should be a condition of approval that a new facility is provided.
- car parking is becoming increasingly difficult in the area, and potentially 3 more flats would make this problem worse.

4.0 APPRAISAL

4.1 Key issues

Loss of the existing community facility
Principle of residential use
Residential amenity
Flood risk
Sustainability
Highways

Loss of the existing community facility

4.2 Chapter 13 of the City of York Draft Local Plan has the objectives of promoting new community facilities and the protection and enhancement of existing facilities. Policy C3 states permission will only be granted for the change of use of community facilities where the proposed development is of a scale and design appropriate to the character and appearance of the locality and when it can either be demonstrated that the existing facility is no longer needed or that alternative sites can be provided. It is not a requirement that facilities are provided prior to the closure of an existing facility.

4.3 The Church Hall is used on Monday, Thursday and Saturday for ballet classes and for Brownies on Wednesdays. Previously the hall was more active, being used by a playgroup, toddler group, as a polling station and by the neighbourhood forum and ward committee. The playgroup and polling station have now relocated to St Barnabas School. The toddler group ceased in 2006 and the forum/committee is now held at St Barnabas Church. The church is also used by the National Childbirth Trust, for English classes and by a mothers and toddlers group. The Brownies and Ballet class were consulted over the proposed relocation. There was concern by the ballet class over the suitability of the church; whether its floor would be suitable for ballet. The proposed church floor would be timber, with a vinyl cover, similar to the floor at the church hall. While this is not the optimum surface for ballet practice, it is versatile and considered to be more appropriate given that the proposed facility would not be exclusive to ballet.

4.4 The development proposed complies with policy C3 of the draft Local Plan in that it is demonstrated that alternative facilities are available at the church and school; these are around 160m from the application site. The school provides a modern facility for community use. It is proposed that the church facilities would be enhanced, by using funds generated from the sale of the application site. The applicants have suggested a condition which requires such and advise that any surplus money would also go toward ecclesiastical purposes, which are defined as works to any church and also includes 'providing facilities for the spiritual moral and physical training of persons residing in or near the parish'. Compliance with such a condition would go beyond the requirements of policy C3.

Principle of residential use

4.5 H4a of the City of York Draft Local Plan states that proposals for land not already allocated on the proposals map will be granted permission where: the site is within the urban area and is vacant, underused or it involves infilling, redevelopment or conversion of existing buildings; the site has good accessibility to jobs, shops and services; and it is of an appropriate scale and density to surrounding development and it would not have a detrimental impact on existing landscape features.

4.6 The application proposes the conversion of an existing building. The location is sustainable; a built up residential area with local shops and services nearby, and on a public transport route to the city centre. The existing building is of an acceptable scale and adds variation to the terrace. The minor external alterations proposed would improve the condition and appearance of the host building, to the benefit of the visual amenity of the area. In principle the application site and building are suitable for residential use.

4.7 Internal space for bin and cycle storage is proposed. Bin storage is located conveniently as refuse is collected from the rear of the dwellings on Salisbury Terrace.

Residential amenity

4.8 There is no outdoor amenity space on site, hence the proposal for single bed units opposed to family sized dwellings. The applicant has agreed to a contribution of £1,080 toward upgrading existing open space in accordance with Local Plan policy L1c. There is adequate outlook for potential residents.

4.9 The amenity of neighbouring residents would potentially be enhanced by the proposed use as there would be less activity and noise associated with residential use opposed to a community facility.

4.10 The host building's outlook would remain as existing; no new windows are proposed. None of the existing windows directly look into the rooms of surrounding residential properties, although the first floor side windows on the west elevation would serve a kitchen / living room and face the rear yard of No.220. A similar level of overlooking into rear yards is common in terraced areas where first floor windows are close to side boundaries. As such levels of overlooking would not be undue. No windows are proposed on the east elevation, so no overlooking would occur over No.216. It is considered unnecessary to prevent any new windows being inserted in the east elevation because of the internal layout; stairs are proposed on that side of the building, opposed to habitable rooms and the two-storey rear extension present on No.216 would block views into the rear rooms of that dwellinghouse.

Flood risk

4.11 The application site falls within an area where the risk of flooding is high. In accordance with policy GP15a of the Draft Local Plan an assessment of additional flood risk as a consequence of the development and measures to mitigate risk in the proposed development have been submitted.

4.12 Flood defences in the area provide an effective barrier up to 10.91 metres AOD (Above ordinance datum), the Environment Agency consider that the 1 in 100 chance of the area flooding could potentially see levels rise to 10.94 AOD. The ground level on the Salisbury Road frontage of the terrace is 10.38 AOD. The ground floor levels proposed in the building would be set at 10.7 AOD, 300mm above ground level and higher than other dwellings in the terrace (An increase to 10.94 cannot be achieved). The Environment Agency consider that this finished floor level is acceptable and thus do not object to the application. The development will include flood protection measures such as the use of air bricks, one way valves on outlet pipes, water resilient seals to openings, the insertion of a damp proof course and the occupants would be expected to sign up to the Environment Agencies local flood warning service.

4.13 Proposed is a conversion of an existing building, and it is regretful that the finished floor level cannot be inline or above the worst case potential flood level. However the increase in floor level and the proposed measures to mitigate harm

from flooding meets the requirements of policy GP15a. The applicant's flood risk assessment also demonstrates that although water discharge from the site may be increased, the occupation of the building for residential use would not increase the risk of flooding in the area.

Sustainability

4.14 GP4a states all proposals should have regard to the principles of sustainable development. A sustainability statement has been submitted which identifies the following measures that could be implemented that would enhance the sustainable performance of the building

4.15 Design - the proposal will conserve and improve the appearance of the building, which is distinctive in the terrace

4.16 Materials - wall and roof insulation of the building can be implemented, along with secondary glazing, this would reduce heat and energy loss.

4.17 Bat and bird boxes could be included in the development in accordance with policy NE7 of the local plan which seeks to encourage new habitats for wildlife.

4.18 Recycling - space would be provided internally within the allocated bin stores.

Highways

4.19 The host building is in an area reliant upon on-street parking. The location is near to services and public transport routes, and the proposed provision of cycle parking on site encourages occupants to use modes of transport alternative to the car, which is in accordance with the thrust of National planning guidance note PPG13: Transport. There is no requirement to provide further car parking and there is no objection to the scheme on highways grounds.

5.0 CONCLUSION

5.1 The proposal would have an acceptable impact on residential amenity, highway safety and flood risk, and it has been demonstrated the development can be sustainable and that there are existing community facilities nearby, at the school and the church. The latter would be enhanced should this development go ahead. As such the proposal is compliant with policy.

COMMITTEE TO VISIT

6.0 RECOMMENDATION: Approve

- | | | |
|---|--------|--------------------------------------|
| 1 | PLANS1 | Approved plans |
| 2 | TIME2 | Development start within three years |

3 The bricks to be used externally shall reasonably match those of the existing building in colour, size, shape and texture and samples of the railings on the rear elevation (including their finish) shall be submitted to the Local Planning Authority for approval prior to development commencing and the development implemented in accordance with the approved details.

Reason: To achieve a visually acceptable form of development.

4 S106OS IN Section 106 Open Space

5 The development shall be implemented in accordance with the Flood Risk Assessment, received on 03.09.2007.

Reason: To prevent and manage flood risk.

6 Details of how the building shall incorporate sustainable design features (as suggested in the sustainability statement, submitted on 3.10.07) shall be submitted to the Local Planning Authority, agreed, and implemented in accordance with the agreed details prior to occupation of the first dwelling.

Reason: To ensure high quality development through good and inclusive design, and the efficient use of resources in accordance with policy GP4a of the Draft Local Plan and PPS1: Delivering Sustainable Development.

7 Prior to the commencement of the development, a timescale for the implementation of the schedule of works to upgrade the community facilities in the St Barnabas Church building, as detailed in the supporting statement shall be approved in writing by the local planning authority and thereafter implemented in accordance with that timescale.

Reason: To provide and enhance community facilities in accordance with the objectives of the City of York Draft Local Plan.

7.0 INFORMATIVES:

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 visual amenity, residential amenity, provision of community facilities, flood risk and highway safety. As such the proposal complies with Policies GP1, GP4a, GP15, H4, C3 and L1c of the City of York Local Plan Deposit Draft.

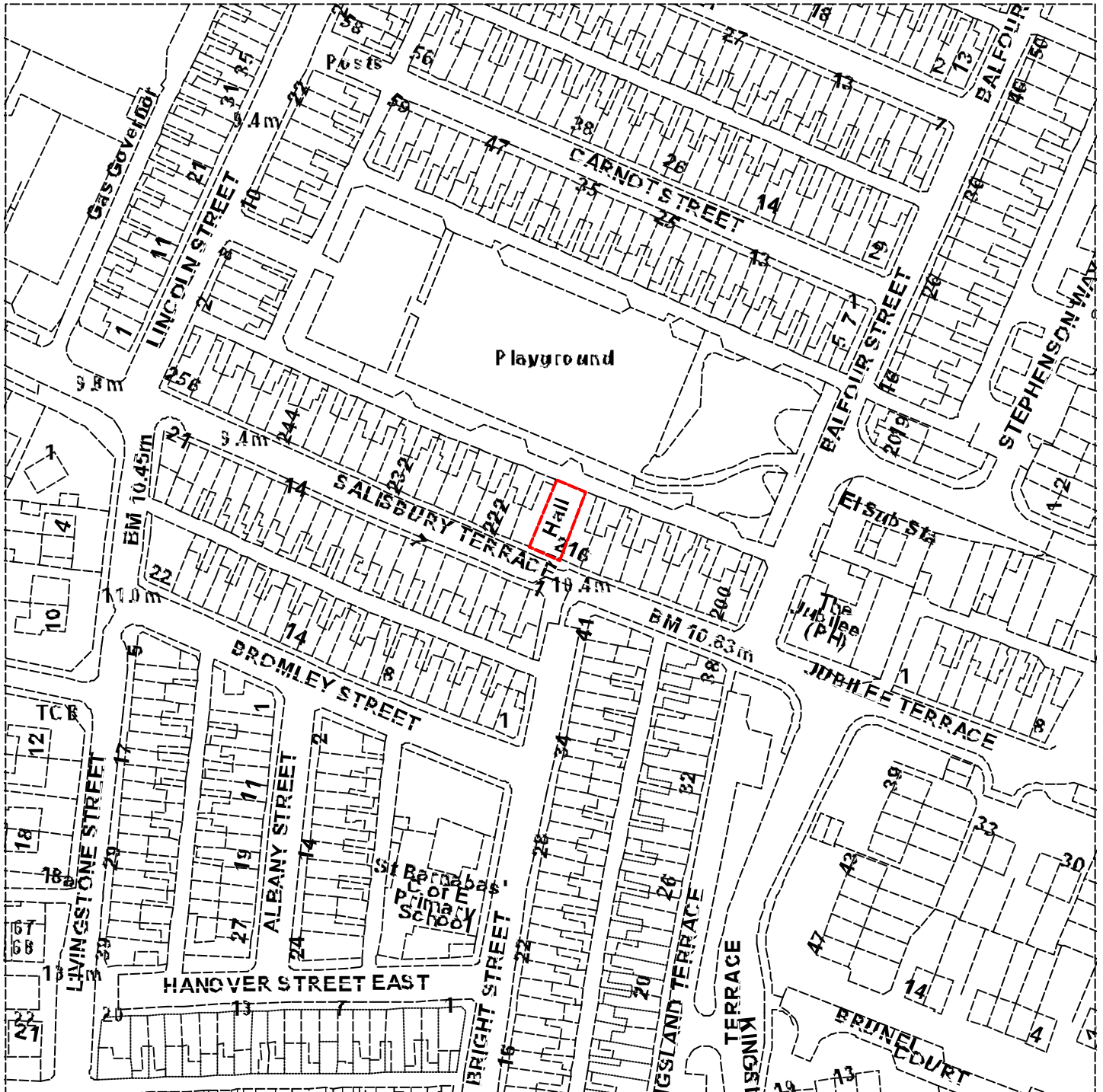
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Organisation	City of York Council
Department	Development Control
Comments	Application Site
Date	05 October 2007
SLA Number	

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COMMITTEE REPORT

Committee: West/Centre Area **Ward:** Guildhall
Date: 18 October 2007 **Parish:** Guildhall Planning Panel

Reference: 07/02146/FUL
Application at: Pavement Cafe Bar 10 New Street York YO1 8RA
For: Variation of condition 3 of planning permission 06/01336/FUL for 10 New Street and variation of condition 4 of planning permission 06/00339/FUL for 10A New Street to alter opening hours of existing Cafe/bar to 0900-0430 Mon-Sun
By: James Doughty
Application Type: Full Application
Target Date: 31 October 2007

1.0 PROPOSAL

1.1 This application relates to the Blue Fly cafe bar premises at 10a New Street and its forthcoming extension at the ground and upper floors of 10 New Street.

1.2 The application seeks permission to allow the premises to operate between the hours of 09:00 and 04:30 the following day. The allowed hours would include the inside of both premises and their associated pavement cafe areas, which are to the front of 10 and 10a New Street. At present the internal and external areas have planning permission to operate until 03:30.

1.3 The application is to be determined at planning committee at the request of Councillor Watson, who is concerned about noise and disturbance that may occur.

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
Floodzone 2 Flood Zone 2 CONF
Listed Buildings Grade 2; 10A New Street York YO1 8RA 0582

2.2 Policies:

CYHE4 Listed Buildings

CYHE3 Conservation Areas

CYS6 Control of food and drink (A3) uses

3.0 CONSULTATIONS

Internal

3.1 Highway Network Management (HNM) - Ask that the application be deferred. Advise that presently pavement cafe licenses, which are allocated by HNM can only be given between the hours 10:00 and 20:00.

3.2 Design, Conservation and Sustainable Development - Response pending.

3.3 Environmental Protection Unit - No objections. Advise there are no residents nearby.

External

3.4 Planning Panel - Support the application.

3.5 Police Architectural liaison Officer (ALO) - No objection. Adds that crime reduction initiatives have been discussed with the applicant, these will be carried out through the premises license process.

3.6 The application was publicised by site notice, press notice and letters of neighbour notification. The deadline for comments being 3.10.07. No written representations have been made.

4.0 APPRAISAL

Relevant site history

4.1 Permission was granted for a retail/café unit at 10a New Street in February 98 (97/02453/ful). It was allowed to open until 11:30. An outdoor seating area was first allowed in December 98 (98/02385/ful). It was allowed to operate until 23:30, 23:00 on Sundays.

4.2 In August 06 permission was granted for an extension to the café bar, at the ground floor of 10 New Street (06/01336/ful). Another extension to the premises, to include the upper floors of 10 New Street and 14 Coney Street was approved in November 06 (06/02081/ful). Concurrently an application was approved to allow the whole premises to operate until 03:30 (06/02080/ful).

4.3 The latest permission for the outside seating area was allowed March 07 (07/00170/ful). Conditions of approval are that trading ceases at 03:30 and the permission expires (temp permission only) in March 2010.

Key issues

4.4 The key issues are:

Amenity of surrounding occupants

Character and function of the area
Security, crime and disorder
Highway safety and management

Policy

4.5 Planning Policy Statement 6: Planning for Town Centres (2005) contains current government guidance on a range of development in town centres. Local Authorities are encouraged to develop policies, which encourage a range of complimentary evening, and night-time economy uses which 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. Local Planning Authorities should adopt an integrated approach so that planning policies and proposals complement their Statement of Licensing Policy and the promotion of licensing objectives under the Licensing Act 2003.

4.6 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 premises within York City Centre subject to there being no adverse impact on amenity of surrounding occupiers. S6 recommends that the opening hours are restricted, where necessary, to protect the amenity of surrounding occupiers. The Fourth Set of Changes to the Local Plan requires security issues to be addressed where the consumption of alcohol is involved.

4.7 HE3 states that within conservation areas, proposals will only be permitted where there is no adverse effect on the character or appearance of the area.

Amenity of surrounding occupants

4.8 The premises are currently allowed to trade until 03:30 each day of the week, as there are no residential properties nearby. Permission has been granted for residential at 3 New Street although this has never been implemented (In 2004 and a revised proposal approved in 2005 to covert the upper floors only into residential). Environmental Protection Unit Officers report that the premises presently plays music which can be heard along New Street well into the evening. This would be contrary to a condition placed on all the recent approvals for the site, which reads "Any amplified music or entertainment shall be confined to the indoor cafe and in any case shall not be audible at any nearby noise sensitive premises". However despite this apparent breach of condition, no complaints have been made to the Council, and the site appears to be operating without causing any harm. On this basis, it is unlikely that an extra hour, 4:30 instead of 3:30 is likely to cause further harm.

4.9 It is considered to be reasonable to allow the extended hours for the outdoor area on a temporary basis only, as circumstances in the area may change, i.e. nearby upper floors may become residential. In principle the conversion of underused upper floors of buildings in the city centre is supported by planning policy (H11 of the Local Plan). If residents were to occupy premises nearby, it would be likely that the external seating area would become a noise nuisance, which could not be controlled as successfully as the indoor premises.

Character and function of the area

4.10 There would be a neutral effect on the character and appearance of the conservation area, as no physical alterations are proposed. As previous the appearance of the outside seating area would be controlled by attaching a condition that requires all furniture to be agreed by the Planning Authority prior to use. Allowing trade for an extra hour only would not harm vitality and viability of the city centre or affect its function.

Security, crime and disorder

4.11 The Police Architectural liaison Officer has reported that there is no objection to the extension of hours. It is considered that the issues of crime and disorder can be dealt with through the Licensing Act, which can be revoked if necessary. There is no evidence to suggest that the premises affects crime and disorder in the area.

Highway safety and management

4.12 The area of the outdoor seating area would be as per previous approvals and Highway Network Management have no objection to this on the grounds of highway safety. The additional hour opening required would have a neutral effect on highway safety. Under the Highways Act a pavement café license would also be required before the use can commence. Presently conditions of a pavement café license include that they can only operate until 20:00 and the operators of the pavement café are responsible for keeping their designated area in a clean and tidy manner.

5.0 CONCLUSION

5.1 It is considered that at present the site is operating without causing harm to amenity. The request to open an additional hour is unlikely to affect this. To safeguard against possible changes in circumstances in future, it is recommended that consent for the outdoor area is temporary.

6.0 RECOMMENDATION: Approve

1 PLANS2 Apprvd plans and other submitted details

2 The pavement cafe (outdoor seating area) use shall cease by 01 May 2010; unless prior to that date the consent of the Local Planning Authority has been obtained to extend the period of the permission.

Reason: So that the Local Planning Authority may assess the impact of this use upon the surrounding area.

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

09.00 - 04.30 hrs (the following day)

Reason: In the interests of amenity.

4 The outdoor seating area shall not extend beyond its existing boundaries, as shown on the plans referred to in condition 1, date stamped 05.9.2007.

Reason: To avoid the extension of the use, that would unduly restrict the flow of pedestrians and other users of the highway.

5 Any amplified music or entertainment shall be confined to the indoor cafe and in any case shall not be audible from the second floor of 10 New Street and at any other nearby noise sensitive premises.

Reason: In the interests of the amenities of nearby occupants and other users of the public highway.

6 Outside the permitted hours of operation, all equipment associated with the outdoor seating area shall be removed from the public highway and stored in the cafe premises.

Reason: In the interests of users of the public highway.

7 Any change in the furniture used in association with the outdoor seating area shall not be carried out unless first agreed to in writing by the Local Planning Authority.

Reason: In the interests of the appearance of this part of the City Centre Conservation Area.

8 Details of all machinery, plant and equipment to be installed in the premises including any means of extraction, and the proposed noise mitigation measures, shall be submitted to the local planning authority prior to installation. These details shall include maximum ($L_{Amax}(f)$) and average (L_{Aeq}) sound levels (A weighted), and octave band noise levels they produce. All such approved machinery, plant and equipment shall not be used on the site except in accordance with the prior written approval of the local planning authority. The machinery, plant or equipment and any approved noise mitigation measures shall be appropriately maintained thereafter.

Reason: To protect the amenity of nearby occupiers.

7.0 INFORMATIVES: Notes to Applicant

1. 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 the function of the area, the character and appearance of the Conservation Area, the setting and historic interest of the listed building, the amenities of nearby occupants and highway safety. As such the proposal complies with Policy E4 of the North Yorkshire County Structure Plan and

Policies HE3, HE4 and S6 of the City of York Development Control Local Plan Deposit Draft, incorporating the 4th set of changes.

You are reminded that premises license and pavement cafe licenses are also required for the premises.

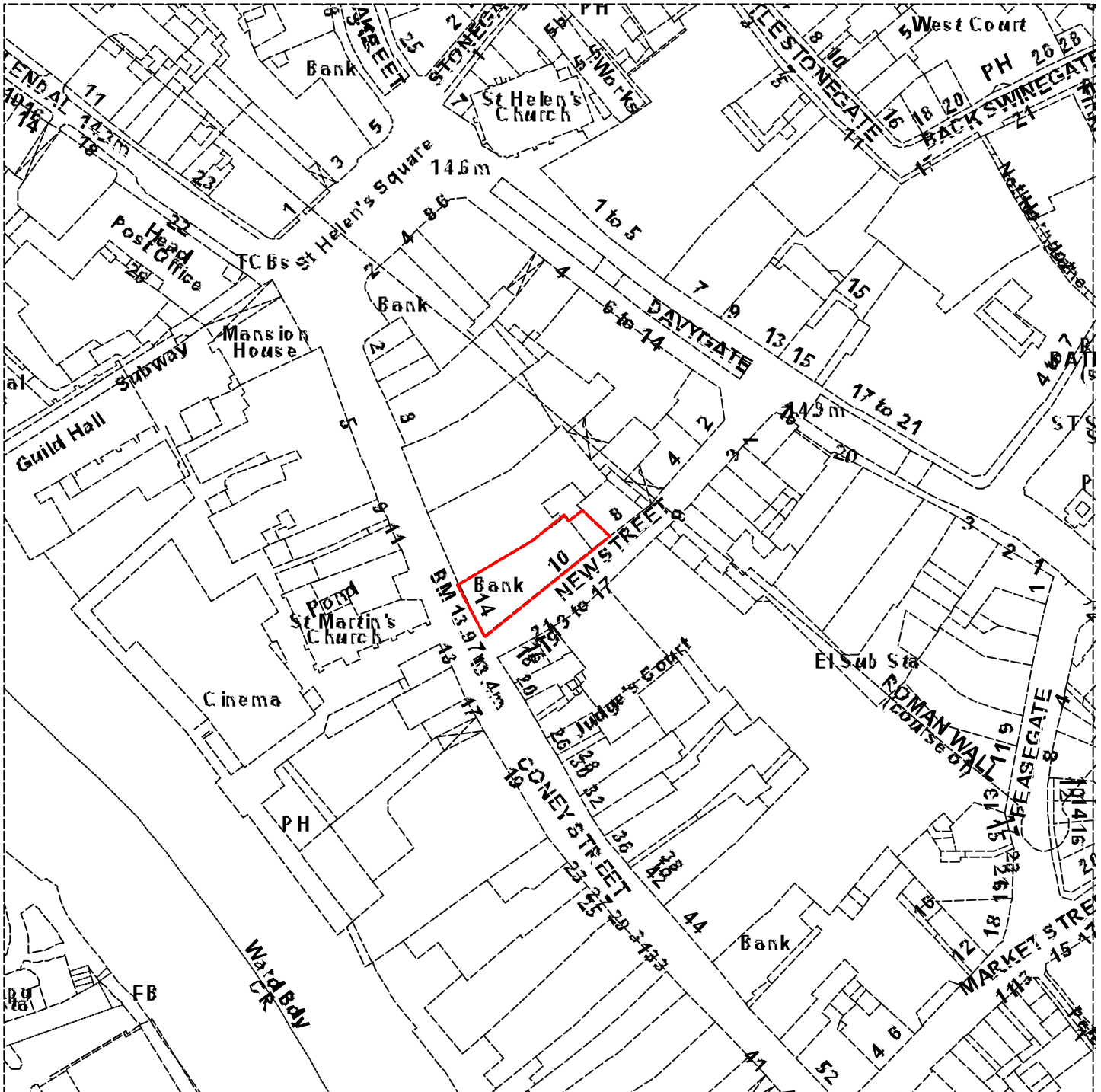
Contact details:

Author: Jonathan Kenyon Development Control Officer

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Blue Fly Cafe Bar

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Organisation	City of York Council
Department	Development Control
Comments	Application Site
Date	05 October 2007
SLA Number	

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West & City Centre Area Planning Sub-Committee

18th October 2007

Report of the Director of City Strategy

Enforcement Cases - Update

Summary

1. The purpose of this report is to provide Members with a continuing quarterly update on the number of enforcement cases currently outstanding for the area covered by this Sub-Committee.

Background

2. Members have received reports on the number of outstanding enforcement cases within the Sub-Committee area, on a quarterly basis, since July 1998, this report continues this process.
3. Some of these cases have been brought forward as the result of information supplied by residents and local organisations, and therefore "The annexes to this report are marked as exempt under Paragraph 6 of Schedule 12A to Section 100A of the Local Government Act 1972, as amended by the Local Government (Access to Information) (Variation) Order 2006, as this information, if disclosed to the public, would reveal that the Authority proposes to give, under any enactment a notice under or by virtue of which requirements are imposed on a person, or that the Authority proposes to make an order or direction under any enactment".
4. In order to give Members an up to date report, the schedules attached have been prepared on the very latest day that they could be to be included in this report on this agenda.

Current Position

5. Members should note that 87 new cases were received for this area within the last quarter. 60 cases were closed and 167 remain outstanding. There are 43 Section 106 Agreement cases outstanding for this area after the closure of 12 for the last quarter .

Consultation

6. This is an information report for Members and therefore no consultation has taken place regarding the contents of the report.

Options

8. This is an information report for Members and therefore no specific options are provided to Members regarding the content of the report.

Corporate Priorities

9. Improve the actual and perceived condition and appearance of city's streets, housing estates and publicly accessible spaces.

10. **Implications**

- **Financial** - None
- **Human Resources (HR)** - None
- **Equalities** - None
- **Legal** - None
- **Crime and Disorder** - None
- **Information Technology (IT)** - None
- **Property** - None
- **Other** - None

Risk Management

11. There are no known risks.

Recommendations

12. That Members contact the relevant Enforcement Officers to discuss any particular case detailed in the attached ongoing annex and also note the cases closed annex.

Reason: To update Members on the number of outstanding enforcement cases within the Sub-Committees area.

Contact Details

Author:

Hilary Shepherd/
Andy Blain
Planning Enforcement Officers

Chief Officer Responsible for the report:

Chief Officer's name

Michael Slater
Assistant Director (Planning and Sustainable
Development)

Dept Name City Strategy
Tel No. 551647/551314

Report Approved

Date 04.10.2007

Specialist Implications Officer(s)

None

Wards Affected: *All Wards in the West and City Centre area*

All

For further information please contact the authors of this report

Background Papers:

Environment and Development Services Business Plan (2000/2001).

Report to Area Sub-Committee in July 2006 – Enforcement Cases Update.

Annexes

Annex A - Enforcement Cases – Update (Confidential)

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of the Local Government Act 1972.

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