



## PROPOSALS

1.5 This application is to allow a gym, which is within the D2: Assembly and Leisure use class, within the commercial units. The applicants have agreed to a restriction, which would be secured through a planning condition, to limit the amount of floor-space that could become D2 use, meaning that one of the two larger units (as shown on the submitted plans) would need to remain in a class A (i.e. retail, restaurant or drinking establishments) use. The condition would relate to floor-space rather than specific units to allow reasonable flexibility (bearing in mind it would not be development to vary the internal configuration of the units as permitted).

1.6 The external appearance of the building, landscaping and the proposed residential use of the upper floors would be as per the approved scheme.

## 2.0 POLICY CONTEXT

### 2.1 Development Plan Allocation:

Areas of Archaeological Interest City Centre Area  
Conservation Area Central Historic Core

Draft Local Plans

2.2 The City of York Draft Local Plan Incorporating the Fourth Set of Changes was approved for Development Management purposes in April 2005. Whilst the 2005 York Draft Local Plan does not form part of the statutory development plan, its policies are considered to be capable of being material considerations in the determination of planning applications where policies relevant to the application are consistent with those in the NPPF. The relevant draft policies applicable to this application include

L1a Leisure development

2.3 The emerging Local Plan (2014 draft) policies can only be afforded very limited weight at this stage of its preparation (in accordance with paragraph 216 of the NPPF). However, the evidence base that underpins the proposed emerging policies is capable of being a material consideration in the determination of the planning application. Relevant plan policies include;

DP2 Sustainable Development  
SS4 City Centre  
R3 City Centre Retail  
D4 Conservation Areas

### **3.0 CONSULTATIONS**

#### Highway Network Management

3.1 No response

#### Guildhall Planning Panel

3.2 No response

#### Public Protection

3.2 Officers have no objection to this application. It is noted that local noise levels are already high due to the composition of uses in the area. Conditions are recommended regarding delivery times and plant and machinery to protect amenity.

#### Police Architectural Liaison Officer

3.3 No objection.

#### Publicity

3.4 One comment has been made regarding landscaping. The application makes no reference to the landscaped area by Whip-Ma-Whop-Ma-Gate. What is intended for the tree and cycle parking in this area is questioned.

### **4.0 APPRAISAL**

#### **KEY ISSUES**

4.1 This application is made to allow a gym in the commercial space within the building. A full application, rather than change of use, is made as the building renovation previously approved is yet to be undertaken. The other aspects of the scheme (listed in the description of the proposed development) have been considered under the previously approved application 16/01003/FUL. There is no change to these aspects of the scheme and there have been no material changes to relevant planning policy.

4.2 The key issues around accommodating D2: Assembly and Leisure uses at the lower level of the building are as follows -

- Principle of the proposed uses
- Amenity
- Character and Appearance of the Conservation Area

## ASSESSMENT

### Principle of the proposed uses

4.3 The site is within the defined city centre where, according to policy SS4 in the emerging Local Plan, the leisure use proposed is acceptable in principle. Emerging plan policies for the city centre are consistent with the NPPF as they establish the local approach for ensuring the vitality of the town centre.

4.4 In the emerging plan the south side of Stonebow House lies in the primary shopping area and is designated as a secondary frontage (the boundary line is drawn where there is currently the elevated walkway between St Saviourgate and The Stonebow).

4.5 Policy R3 supports retail growth in the area. In particular the policy promotes additional retail provision on secondary frontages in Hungate and the Stonebow Area. R3 acknowledges the increasing role of A3 and A4 uses in the primary shopping area and advises that non retail can be permitted in the primary shopping areas and on secondary frontages where the use would complement the retail function, contribute to the vitality and have an active frontage.

4.6 The previous permission allowed a mix of class A uses, including non-retail at lower level. The key gain in the scheme was the introduction of active, predominantly glazed and visually enhanced facades at street level and an improved wider footpath. These benefits remain under this application which proposes no external works/alterations.

4.7 The proposed D2 assembly and leisure use is applied for to allow a gym within the building. The D2 use would also allow for the use of the space as a cinema, concert hall, a dance hall (but not a night-club) or other indoor sports and recreations. A condition is proposed to limit the amount of floor-space that could become D2: Assembly and Leisure use, to continue to provide a mix of uses which, compared to the building in its previous form, enhance vitality and viability.

4.8 The proposals would be consistent with emerging Local Plan policy R3 which seeks to extend the retail offer within the central shopping area out and link it with the Hungate regeneration area to the north.

4.9 Emerging policy CF2 supports new leisure facilities provided they are meeting an identified gap in provision and are in accessible locations. Section 8 of the NPPF also supports such facilities. In the 2005 Draft Plan policy L1a states the council is keen to encourage leisure developments and such uses should be located in the city centre. The policy identifies the nearby Hungate area as an appropriate site for leisure uses.

4.10 The site is in an area of population growth, considering Hungate and recent student developments between the site and Walmgate Bar. The site is by a bus stop in the city centre and therefore the location is sustainable. The application is not speculative which indicates market demand. There is no evidence there are an over-supply of similar facilities in this part of the city. The proposed use is policy compliant.

### Amenity

4.11 The National Planning Policy Framework requires that developments always seek to secure a good standard of amenity for all existing and future occupants of land and buildings. This includes preventing noise from having a serious adverse effect.

4.12 The site is in a mixed use area, where there have previously, and still are various late night uses. The proposed use, or other D2 uses, would not be out of place in this respect. A planning condition is proposed to ensure adequate sound insulation be incorporated prior to any new leisure uses opening, in accordance with the relevant British Standard which is 8233:2014. This would prevent noise from amplified music and the general use of gym equipment for example affecting the local environment.

### Character and Appearance of the Conservation Area

4.13 The site is within the Central Historic Core Conservation Area. The proposed use would be accommodated without alteration to the building's exterior and the use is compatible with the composition of uses within the relevant part of the conservation area. There would be no adverse effect on the conservation area.

## **5.0 CONCLUSION**

5.1 The commercial space within the building was predominantly occupied by night-time uses. The recently approved scheme did not restrict the amount of commercial space that could be used as restaurants and drinking establishments. The proposed addition of a limited amount of D2: Assembly and Leisure use within the approved flexible uses for the commercial space would be acceptable in principle in this city centre location; the buildings refurbishment will still enhance the vitality and viability of the locality or the city centre as a whole. There are no additional external changes proposed; in this respect the scheme is as was previously approved by members.

5.2 The scheme is policy compliant and can be acceptable subject to conditions; those imposed on the previous permission and the addition of conditions (proposed conditions 14 and 17) to limit the extent of D2 use, so it does not dominate the ground floor area and a condition to prevent noise pollution.

**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:-

Site Location Plan 2014-222/100 Rev H  
Proposed Site Plan 2014-222/801 Rev C

Proposed floor plans

Proposed Basement Floor Plans 2014-222/201 Rev F  
Proposed Ground Floor Plan 2014-222/202 Rev F  
Proposed First Floor Plan 2014-222/203 Rev E  
Proposed Second Floor Plan 2014-222/204 Rev E  
Proposed Third Floor Plan 2014-222/205 Rev F  
Proposed Fourth Floor Plan 2014-222/206 Rev E  
Proposed Fifth Floor Plan 2014-222/207 Rev E  
Proposed Sixth Floor Plan 2014-222/208 Rev E  
Proposed Roof Plan 2014-222/209 Rev D

Proposed elevations

2014-222\_210 Rev F  
2014-222\_211 Rev F

Design Intent Commercial 2014-222/151 Rev E  
Design Intent Residential 2014-222/152 Rev E  
Design Intent Duplex 2014-222/153 Rev G  
Design Intent Juliet Balcony 2014-222/154 Rev C  
Design Intent Terrace Balcony 2014-222/155 Rev C

Sample Panel Detail - 2014-222/149 Rev A

Landscaping

Ground Level - 2014-222/9101 Rev F  
Ground level west end - 222/9108  
1st Floor Deck - 222/9102 Rev E

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

Application Reference Number: 16/02856/FUL

Item No: 4a

### 3 HWAY40 Dilapidation survey

### 4 Adoptable layout to be agreed

Prior to commencement of development full detailed drawings showing the design and materials for roads, footways, other highway areas and amenity space at the east side of the building (and which shall comply with the requirements set out in the NYCC Residential Design Guide and Specification - second edition) shall be submitted to and approved in writing by the Local Planning Authority. Such areas shall be constructed in accordance with the approved details prior to first occupation of the development hereby approved.

Reason: In the interests of visual amenity and road safety. These details need to be agreed prior to commencement to assist with the programme of construction, and avoid any abortive works.

### 5 Bus stop and cycling provision

A detailed methodology identifying the temporary removal and relocation of adjacent bus stops and their associated infrastructure on the Stonebow frontage and the cycle stands within the site during development activities, together with their reinstatement upon completion of the development, shall be submitted to and approved in writing by the Local Planning Authority prior to such works commencing. The aforementioned methodology shall be implemented as agreed, unless otherwise agreed in writing by the Local Planning Authority.

Reason: To ensure that the existing public transport infrastructure is protected during development and to ensure that public transport in the vicinity of the site can continue to operate in a reliable manner.

### 6 Method of Works

Prior to the commencement of development, a detailed method of works statement shall be submitted to and approved in writing by the Local Planning Authority. The statement shall include the following information;

- a phasing plan setting out the scheduled works and anticipated timescales
- a Traffic Management Plan identifying how pedestrian and cycle access along the Stonebow corridor will be maintained during development activities
- the routing that will be promoted by the contractors to use main arterial routes and avoid the peak network hours
  
- where contractors will park
- where materials and waste material will be stored within the site

- measures employed to ensure no mud/detritus is dragged out over the adjacent highway.

Reason: To ensure that the development can be carried out in a manner that will not be to the detriment of amenity of local residents, free flow of traffic or safety of highway users.

## 7 Large scale details

Large scale details of the items listed below shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of the relevant part of the development and the works shall be carried out in accordance with the approved details.

- Typical sections showing shop-fronts along St Saviourgate and new doors and their surrounds
- Stonebow glazed elevation - Details supplemented with design code rationale for the proposed mullion spacing pattern, mullion/transom type, door treatment type and situation selection criteria (in order to ensure design integrity).
- Roof vent to duplex apartment
- Any gate / barrier on the vehicle access ramp

Reason: So that the Local Planning Authority may be satisfied with these details, in the interests of the character and appearance of the conservation area.

INFORMATIVE: In design of the St Saviourgate elevation the developers are requested to note comments by Historic England who recommended a design approach which would add interest and contribute positively to the character of the host building and appearance of the street.

## 8 Materials

A sample panel of the materials to be used for the tower, in accordance with drawing 2014-222/149 A, shall be approved in writing by the Local Planning Authority prior to the commencement of the relevant works. The development shall be carried out using the approved materials.

Reason: So as to achieve a visually cohesive appearance, in particular in the interests of the character and appearance of the conservation area.

## 9 Times of construction



Unless otherwise agreed by the Local Planning Authority, all demolition and construction works and ancillary operations, including deliveries to and dispatch from the site shall be confined to the following hours:

Monday to Saturday 07:00 to 18:00  
Not at all on Sundays and Bank Holidays.

Reason: To protect the amenity of existing occupants from noise, in accordance with the National Planning Policy Framework, in particular paragraph 17.

#### 10 Tree protection

The tree shown as being retained on the approved plans shall be protected in accordance with BS: 5837: Trees in relation to construction. Protective fencing shall be in situ at all times during development (apart from undertaking of approved landscaping works within the tree protection area) to create an exclusion zone, which shall be avoided by construction traffic and associated storage.

Reason: To protect a tree which has been identified as being of high amenity value and makes a positive contribution to the setting.

#### 11 Hard landscaping

The hard landscaping, including areas shown on the approved plans for parking and manoeuvring of vehicles and cycles, as shown on the approved drawings shall be implemented prior to first occupation of the development hereby approved and thereafter such areas shall be retained solely for such purposes.

There shall no additional structures, including lighting, added on the deck of the podium, to those as shown on the approved plans.

Reason: In the interests of visual amenity and the character and appearance of the conservation area and in the interests of highway safety.

#### 12 Landscaping

A detailed landscaping scheme, following the principles shown on the approved landscaping plan 2014-222/9108, shall be submitted to and approved in writing by the Local Planning Authority prior to occupation of the development hereby approved.

The hard landscaping measures shall be implemented in accordance with the approved scheme prior to first occupation.

The soft landscaping measures shall be implemented in accordance with the approved scheme within 6 months of first occupation.

Any trees or plants which within the lifetime of the development die, are removed, or become seriously damaged or diseased shall be replaced in the next planting season with others of a similar size and species, unless alternatives are agreed in writing by the Local Planning Authority.

The public seating areas and cycle parking shall be retained for such use at all times, unless otherwise agreed in writing by the Local Planning Authority.

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

### 13 Residential amenity: noise

Prior to first occupation of the dwellings hereby permitted a scheme of noise insulation measures for protecting the dwellings from externally generated noise shall be submitted to and approved in writing by the Local Planning Authority. No dwellings shall be occupied until a noise report demonstrating compliance with the approved noise insulation scheme has been submitted to and approved in writing by the Local Planning Authority.

INFORMATIVE: The noise insulation measures shall accord with BS:8233; 2014 recommendations. The building envelope of dwellings shall be constructed so as to achieve internal noise levels in habitable rooms of no greater than 35 dB LAeq (16 hour) during the day (07:00-23:00 hrs) and 30 dB LAeq (8 hour) at night. These noise levels shall be observed with all windows shut in the habitable room and other means of ventilation provided.

Reason: To protect the amenity of future occupants from externally generated noise, in accordance with the National Planning Policy Framework, in particular paragraph 17.

### 14 Noise insulation to any D2 use

Prior to first use of any D2: Assembly and Leisure use on site a scheme of noise insulation measures shall be submitted to and approved in writing by the Local Planning Authority. The development shall be implemented in accordance with the approved details at all times.

Reason: To protect amenity, in accordance with the National Planning Policy Framework, in particular paragraphs 17 and 123.

INFORMATIVE: The rating level of the noise emitted from any D2 uses shall not exceed the existing background noise level at the application site boundary. The measurements and assessment shall be made according to BS 8233:2014.

## 15 Electric vehicle charging points

At least two electric vehicle charging points shall be installed within the car parking area, as shown on the approved plans prior to occupation of the dwellings hereby approved.

REASON: To promote and facilitate the uptake of electric vehicles in accordance with the Council's Low Emission Strategy (LES) and the National Planning Policy Framework (paragraph 39).

INFORMATIVE: The points shall comprise of a three pin 13 amp electrical socket which is in a suitable location to enable the charging of an electric vehicle using a 3m length cable. Any socket provided must comply with BS1363 or an equivalent standard, Building Regulations and be suitable for charging electric vehicles.

## 16 Staff cycle parking

Staff cycle parking for each commercial unit shall be submitted to and approved in writing by the Local Planning Authority prior to first occupation of the relevant unit and retained for such use at all times.

Reason: To promote sustainable travel in accordance with section 4 of the NPPF.

## 17 Limited element of D2 uses

Notwithstanding the provisions The Town and Country Planning (General Permitted Development) (England) Order 2015 no more than 900 sq m of the floor space shall be occupied within the D2: Assembly and Leisure use class.

Reason: In the interests of the vitality and viability of the central shopping area, as designated in the emerging local plan, in accordance with section 2 of the NPPF and policies R3: York City Centre Retail of the emerging Local Plan.

## 18 Storage

The storage facilities for waste and cycles (both internal and external facilities) shall be provided in accordance with the approved plans prior to first use of the development hereby approved. The facilities shall be provided in accordance with the approved plans at all times.

Reason: In the interests of good design and visual amenity and to promote sustainable travel in accordance with policies GP1 and T4 of the City of York Draft Local Plan, design guidance in the National Planning Practice Guidance and section 4 of the National Planning Policy Framework.

## 19 Waste storage / collection

Waste from the commercial units hereby approved shall be stored within the building.

Waste shall only be collected during the following hours: 07:00 to 23:00 each day of the week.

Reason: To protect the amenity of existing and future occupants from noise, in accordance with the National Planning Policy Framework, in particular paragraph 17.

## 20 Delivery Times

Upon completion of the development, delivery vehicles to the commercial units hereby approved shall be confined to the following hours: 07:00 to 23:00 each day of the week.

Reason: To protect the amenity of existing and future occupants from noise, in accordance with the National Planning Policy Framework, in particular paragraph 17.

## 21 Doors

No doors shall open out onto the footpath, except if necessary to allow for means of escape.

Reason: In the interests of pedestrian movement and safety.

## 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: sought revised plans and through the use of planning conditions.

2 You are advised that prior to starting on site consent will be required from the Highway Authority for the works being proposed, under the Highways Act 1980 (unless alternatively specified under the legislation or Regulations listed below). For further information please contact the officer named:

Works in the highway - Section 171/Vehicle Crossing - Section 184 - Stuart Partington  
(01904) 551361

You are advised that this proposal may have an affect on Statutory Undertakers equipment. You must contact all the utilities to ascertain the location of the equipment and any requirements they might have prior to works commencing.

**Contact details:**

**Author:** Jonathan Kenyon, Development Management Officer

**Tel No:** (01904) 551323