

## COMMITTEE REPORT

**Committee:** West/Centre Area  
**Date:** 15 May 2008

**Ward:** Guildhall  
**Parish:** Guildhall Planning Panel

**Reference:** 08/00392/FUL  
**Application at:** Temporary Moorings Museum Street York  
**For:** Mooring of floating coffee bar with waiter service seated area on the river bank (Resubmission of 07/00266/FUL to allow use throughout the year)  
**By:** Mr Andrew Gill  
**Application Type:** Full Application  
**Target Date:** 24 April 2008

### 1.0 PROPOSAL

1.1 This is a revised application for the mooring of a floating cafe with a waiter service seating area on the riverbank. The previous application (07/00266/FUL) was approved by the Centre and West Planning Sub- Committee on 19 April 2007. The two-year temporary permission allowed the use to operate through the months of April- September (inclusive), until April 2009. The applicant now seeks consent to operate throughout the year.

1.2 The site lies in the Central Historic Core Conservation Area adjacent to the Museum Gardens which is a Grade II Garden of Special Historic Interest.

1.3 Currently, the floating cafe is moored at the Council moorings on the River Ouse from April until September, and operates from 0800-2000 provided the river conditions are acceptable. The area on the embankment ( 50 squ. m ) is cordoned off with a demountable post and rail fence and accommodates 10 tables and chairs that are removed from the site at night. Similarly, the vessel is moored outside the city centre on a private mooring when the cafe is not operating. There is no loss of mooring as boats can moor alongside the cafe boat and 1.5m platforms to either end of the boat allow safe access to the riverbank. In the event of the moorings nearing capacity, private boaters have priority and the cafe temporarily ceases to trade. The applicant indicates that 2 full time staff and 4 part- time staff are employed, recycling litterbins are provided and removed daily, there is no delivery of supplies, and there are no permanent structures, fixtures or fittings to the riverbank.

### 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

Floodzone 3 Flood Zone 3

## 2.2 Policies:

CYHE2

Development in historic locations

CYHE3

Conservation Areas

CYHE4

Listed Buildings

CYGP4

Environmental sustainability

CYGP15

Protection from flooding

CYV1

Criteria for visitor related devt

CYL4

Development adjacent to rivers

## 3.0 CONSULTATIONS

### 3.1 INTERNAL CONSULTATIONS

HIGHWAY NETWORK MANAGEMENT- No objections

DESIGN CONSERVATION AND SUSTAINABLE DEVELOPMENT- No objections but consider that permission should remain temporary so that any longterm objectives fro improving the general appearance and amenity of the esplanade could be implemented. The area is the subject of suggested improvements within the forthcoming LDF city centre area action plan.

PUBLIC RIGHTS OF WAY- Esplanade is a public right of way, not recorded as such on the Definitive Map, but accepted as such by the public at large. It would appear

that the proposal would not affect the public right of way, and at no time should the operation obstruct the path. The Authority would be duty bound to remove and prevent any obstruction.

LEISURE SERVICES - No objections

CITY DEVELOPMENT- No objections

### 3.3 EXTERNAL CONSULTATIONS

GUILDHALL PLANNING PANEL- Object as consider that the year round use of the river bank is inappropriate for a park-style setting, and represents creeping colonisation of the water's edge.

BRITISH WATERWAYS- No objections

CAAP- Consider that the application is premature and any decision should take account of the City Centre Action Area Plan with consultation with Leisure Services.

The application was advertised by site and press notices. The expiry period for comments was 16 April 2008 and no representations have been received.

## 4.0 APPRAISAL

### 4.1 KEY ISSUES

1. Land use impact of extending period of operation
2. Visual impact of extending the period of operation

### 4.2 RELEVANT SITE HISTORY

06/00282/FUL Proposed mooring of floating temporary coffee bar and waiter serviced seated area on riverbank REFUSED 31.3.2006

07/ 00266/FUL Proposed mooring of floating coffee bar with waiter serviced seated area on the riverbank ( April- September, inclusive ) PER 20.4.2008

### 4.3 ADDITIONAL PLANNING POLICY

PPS 1 " Delivering Sustainable Development "

PPG15 " Planning and the Historic Environment "

PPS 25 " Development and Flood Risk "

### 4.4 ASSESSMENT

#### PRINCIPLE OF EXTENDED USE

4.5 The proposal relates to the extension of the use of the riverbank and moorings for an existing floating cafe beyond the approved months of April - September to an operate throughout the year. The cafe is moored off the riverbank adjacent to the Museum Gardens, a registered historic park and gardens. It is anticipated that the operation of the cafe over the additional period of operation over the winter season ( October- March ) would be restricted by weather conditions, and would have less impact on surrounding uses than over the summer period. The proposal would allow the cafe use to take advantage of appropriate weather and river conditions throughout the year e.g. to meet tourist demands if Easter is earlier than April and if good weather conditions permit during the autumn period. No objections or have been raised to the extension of the temporary cafe use from the Leisure Services Department who operate the Council moorings, the river agencies or bodies associated with the operation or protection of the river. There would be no further impingement on the adjacent footpath provided the relevant planning conditions on the previous application that control the riverbank use are re-applied to any new planning permission.

4.6 The Guildhall Planning Panel and the Conservation Area Advisory Panel raise concerns that the riverbank use represents creeping colonisation of the water's edge and is premature given the intention of the Local Development Framework City Centre Action Plan to tidy up the esplanade area. At present there are no adopted Council plans for the area that would preclude this use on the esplanade area. The Local Plan Development Framework is not at a stage that would include any proposals that would preclude the extended use of the riverbank as a cafe area. Given that the extant planning permission is a temporary consent, there is the opportunity to review the impact of the activities on the riverbank in a year's time. It is therefore considered that it would be unreasonable to resist the proposed extension of use on the grounds of prematurity. In relation to the colonisation of the water's edge, it is likely that there would be relatively few opportunities to operate the floating cafe bar over the remaining months of the year and the resulting intensification above the presently approved time period would be minimal.

4.7 It is therefore concluded that the proposal to extend the use throughout the year would not conflict with Policies L4, HE2, HE3, H12 of the Local Plan and related national planning guidance.

## VISUAL IMPACT

4.8 The mooring and the use of the riverbank as a seating area are adjacent to the Museum Gardens, a registered park and garden that is situated within the Central Historic Core Conservation Area. Planning permission was granted approximately one year ago with conditions that aimed to ensure that the extent of seating was limited and that all associated paraphernalia associated with the use was removed outside operating hours. The Local Planning Authority is unaware of any circumstances that have affected the amenity of the conservation area and the Museum Gardens during the time that the cafe use has been in open e.g. litter, vandalism. With reduced tree screening from the riverbank trees, the cafe use may be more prominent in winter months in the wider area. However the use of the

riverbank/temporary moorings would be infrequent and would not detrimentally impact on the character or amenity of the conservation area. There would be no further conflict with local and national planning policy.

4.9 It is suggested to Members that a temporary permission until 19 April 2009 be granted for the extended operational period to tie in with the temporary period of consent granted under Planning Reference 07/00266/FUL. This was considered appropriate at the time to enable the impact of the proposal on the river walkway and the operation of the temporary moorings to be assessed.

## **5.0 CONCLUSION**

5.1 It is considered that the impact of extending the period of operation of the use of the river bank and the mooring for the floating cafe would have a limited impact on the area due to the likely restricted opportunity to operate as a winter activity. If Members are minded to approve the application, it is suggested that the temporary consent is tied to the extant permission and that the relevant conditions from this permission that aim to control the impact of the use are reapplied.

## **6.0 RECOMMENDATION:            Approve**

1        The use of the riverbank as a seating area shall cease by 19 April 2009 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 in the interests of the character and visual amenity of the area.

2        The development hereby permitted shall be carried out only in accordance with the following plans and other submitted details:-

Drawing No. AG01, dated 18.2.2008 and the submitted details received 24.5.2007

or any plans or details subsequently agreed in writing by the Local Planning Authority as an 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.

3        The use hereby permitted shall be confined to the following hours:

Monday- Sunday ( Including Bank Holidays )    0800-2000 hours

Reason: To minimise the impact that noise could potentially have on the nearby residents.

4 The external seating area shall not encroach upon the public highway and all furniture associated with the aforementioned area shall be fully removed when the premises are closed.

Reason: In the interests of the users of the public highway and the visual amenity of the area

5 No equipment other than the approved tables, chairs and barriers shall be installed within the seating area without the prior consent of the Local Planning Authority.

Reason: To ensure that the appearance of the development is suitable and that it contributes to the character and appearance of this part of the Central Historic Core Conservation Area in accordance with policy HE3 of the local plan and policy E4 of the structure plan.

6 There shall be no public address system or amplified music associated with the cafe boat and the seating area hereby approved.

Reason: In the interests of amenity

7 There shall be no primary cooking of unprepared food within the designated seating area hereby approved.

Reason: It is considered that this use would be inappropriate and would detract from the character and appearance of this part of the Central Historic Core Conservation Area and conflict with policy HE3 of the local plan and policy E4 of the structure plan.

8 The development shall proceed and operate at all times in accordance with the submitted flood risk statement.

Reason; To minimise the risk of flooding

## **7.0 INFORMATIVES:**

### **Notes to Applicant**

#### **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:-

-the visual amenity and character of the conservation area and the adjacent listed garden

- the use of the river including navigation and safety
- the amenity of the neighbours
- users of the adjacent public highway
- flooding.

As such, the proposal complies with Policy E4 of the North Yorkshire County Structure Plan; Policies HE2, HE3, HE4, HE12, L4, GP15a, and GP1 of the City of York Development Control Local Plan- Incorporating the Proposed 4th Set of Changes; and national planning guidance contained in Planning Policy Statement 1 " Delivering Sustainable Development, " Planning Policy Statement. 15 " Planning and the Historic Environment., " and " Planning Policy Guidance Note No. 25 " Development and Flood Risk. "

2. You are advised to contact the City of York's Highway Network Management as a pavement cafe licence may be required under the Highways Act.

3. The floating coffee bar shall have adequate facilities for the treatment and extraction of fumes so that there is no adverse impact on the amenity of local residents by reason of fumes, odour or noise. Details of the extraction plant or machinery and any filtration system required can be submitted to the Council's Environmental Protection Unit for approval.

**Contact details:**

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