

COMMITTEE REPORT

Committee: West/Centre Area **Ward:** Micklegate
Date: 16 September 2008 **Parish:** Micklegate Planning Panel

Reference: 08/01750/FUL
Application at: Salt And Peppers 19 Tanner Row York YO1 6JB
For: Removal of condition 1 of planning permission (06/00253/FUL)
to allow 24 hour opening
By: Mr C Altin
Application Type: Full Application
Target Date: 3 October 2008

1.0 PROPOSAL

The site

1.1 The application relates to the Salt and Peppers hot food takeaway, which is located in Tanner Row, and fronts onto an area known as 'The Square', where George Hudson Street meets Rougier Street. There are a number of late night uses in this area; restaurants, drinking establishments and a taxi pick up point. The site is within the Central Historic Core Conservation Area.

The application

1.2 The application is for planning permission to remove any planning restrictions regarding the opening hours of the takeaway. This was initially permitted in 2006, for a trial period only. The takeaway was granted a premises license in July 2008 for 24-hour opening (see paragraph 1.7).

Site history

1.3 Planning permission for the hot food takeaway was originally granted on appeal in July 2000. At that time the Inspector imposed a condition restricting opening hours to 7 am to 24:00 (midnight) Mondays to Saturdays and 9 am to 23:00 on Sundays and Bank Holidays. Since that time the premises has been the subject of a number of applications to extend the opening hours.

1.4 In April 2003 planning permission was granted to extend the hours of opening to 02:30 on Thursdays, Fridays and Saturdays, 01:30 on Mondays to Wednesdays and 12.30 am on Sundays. Planning permission was granted for a temporary period, expiring on 3 April 2004, in order that impact of the extended hours on the surrounding area could be assessed.

1.5 In October 2004 planning permission was applied for, for the hours previously granted temporary permission. The application was refused. It was determined that the proposed hours would be detrimental to the amenity of adjacent occupiers by significantly increasing the potential for late night noise, nuisance, crime and anti-social behaviour.

1.6 The applicants successfully appealed against the decision. In allowing the appeal, the Inspector concluded that "the proposed extended opening hours would

not add significantly to existing levels of noise and disturbance or crime and disorder and there would, therefore, be little additional harm to the living conditions of the adjacent residents". Furthermore it was found the Council had acted unreasonably in refusing the application and costs were awarded to the applicant.

1.7 In April 2006 temporary permission was granted to allow 24 hour opening at the premises. This was required to cease by December 2006.

Reason for committee

1.8 The application is brought to planning committee at the request of Councillor Watson, on the grounds of amenity. Furthermore previous applications for the extension of hours of this premises have been determined at planning committee.

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
Listed Buildings Grade 2; 17-22 George Hudson Street York YO1 1LP 0108

2.2 Policies:

CYS6
Control of food and drink (A3) uses

CYHE3
Conservation Areas

3.0 CONSULTATIONS

Internal

Design, Conservation and Sustainable Development

3.1 The application proposes no change to the fabric or appearance of the site. A late night economy is already well established in this part of the conservation area; consequently it is officers opinion that this application for the removal of a condition relating to opening hours will preserve the amenity, and hence the character of the conservation area.

Environmental Protection Unit

3.2 Advise they have not received complaints about the premises, thus do not object to the application.

Highway Network Management

3.3 No objection.

External

Planning Panel

3.4 No response to date.

Safer York Partnership

3.5 Report the crime figures within the premises and since 2005. These are included at the back of this report.

Publicity

The application was publicised by site notice and letters of neighbour notification. The deadline for comments is 9 September. Two letters in objection have been received, from the occupants of 7A Tanner Row and the Corner Pin Public House. The reasons for objection are as follows -

- Since the takeaway opens until 05:00, there are now large, noisy groups of very drunk people gathered outside the premises eating take away food until after 05:00 on a regular basis. Noise will result from the premises if it is permitted to open later.
- The area outside the premises is a "hotspot" for fighting and rowdy, drunken behaviour and the noise from this impacts on the local residents, who suffer from noise disturbance and loss of sleep.
- The police are never in the vicinity (reported that they leave after around 01:00) when the shouting and screaming is going on until daylight.
- The people leaving the premises inevitably walk down Tanner Row chanting, shouting and singing and drop their "takeaway litter" in the road and in the park on North Street. If the premises open 24hr when would the street cleaners be able to sweep up the litter? The area outside the takeaway is currently left in a disgusting, filthy state and this is left for the Council to clean up - there are no litter bins provided and the only place to put the leftovers and empty boxes is on the streets. This has led to a dramatic increase in the rat and pigeon population in this area.
- There are no toilet facilities on the premises and this is why customers of the takeaway have to find alternatives. This usually occurs in the alleyway next to the Corner Pin or next to Flares - the whole area is like one smelly, filthy, disgusting toilet with rubbish strewn everywhere.
- 24 hour opening would affect surrounding business for food trade during the day.
- It has been suggested that the alley (All Saints Lane) between Tanner Row and North Street be gated/closed at night to prevent noise and anti-social behaviour. Also that shutters are provided for nearby premises to prevent noise and stop them being smashed (which has happened in the past).

4.0 APPRAISAL

4.1 Key issues

- Residential amenity
- Crime and disorder
- Impact on the conservation area

Policy relating to amenity and crime and disorder

4.2 Planning Policy Statement 6: Planning for Town Centres (2005) paragraphs 2.23 to 2.26 provide advice on managing the evening and night-time economy. 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 LPA's should consider in assessment of impact are the 'cumulative impact on the character and function of the centre, anti-social behaviour, crime and the amenities of nearby residents'. LPA's are encouraged to 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.

4.3 The Council's Statement of Licensing policy sets out the procedure for determination of license applications. Particular consideration is given to location and impact of licensed activity, type of use and numbers likely to attend, proposed hours of operation, available public transport, car and cycle parking, scope for mitigating any impact and how often the activity occurs. A license is granted subject to conditions, which take steps to mitigate the effect of late night opening, however there are limited powers to deal with noise originating from customers entering or leaving premises. The license can be reviewed when representations are made and if necessary revoked if problems arise at the premises.

4.4 Policy S6 of the Draft Local Plan states that planning permission for the extension, alteration or development of premises for food and drink uses will only be granted in York City Centre provided there is no unacceptable impact on the amenities of surrounding occupiers as a result of traffic, noise, smell or litter, the opening hours of hot food takeaways are restricted where this is necessary to protect the amenity of surrounding occupiers, car and cycle parking meets the standards defined in the Local Plan, acceptable external flues and means of extraction have been proposed and where security issues have been addressed.

Residential amenity

4.5 The application site is located in an area where there are a number of late night amenities. There are restaurants and bars/clubs, notably Flares on the corner of Tanner Row and Tanner Street, BPM, on the corner of Rougier Street and Tanner Row and Salvation, on the corner of Tanner Row and George Hudson Street. There is also the Corner Pin public house at 17 Tanner Row. Of these premises, Salvation can operate until 04:30, BPM 03:30 and Flares 02:30. However the opening times of

these premises are not restricted by planning permissions. When they are permitted to open is dependent upon their premises license. The road outside the takeaway is also used as a taxi pick up point.

4.6 The nearest residential premises to the site is 7a Tanner Row. There are also residential units at All Saint's Lane, northeast of the site and above the shops on George Hudson Street (27,29,31), the latter are used as staff accommodation for the 'Salvation' bar/club premises.

4.7 In analysing the impact on residential amenity, the consideration is whether allowing the takeaway to trade after 02:30 (earlier Sunday to Wednesday) will directly lead to additional noise and disturbance, which will cause significant harm.

4.8 Due to the nature of this area, it inevitably suffers from a certain amount of noise and disturbance late at night. This is detrimental to nearby residents amenity, and is highlighted in the objections to the application by the occupants of the Corner Pin Public House and occupant of 7a Tanner Row.

4.9 Evidence was submitted at the 2006 appeal (against refusal of permission to open until 02:30 at weekends) relating to the premises which demonstrated that noise levels and the amount of people in the area did not materially alter whether or not the application premises were open. It unlikely that if the premises are allowed to open later, to the times requested, this would change as there would still be the activity associated with the other facilities in the area and there are alternative takeaway facilities in other parts of the city centre, including mobile trailers, that operate through the night. As such it is unlikely that a significant amount of customers would come to the area specifically to visit the application premises, were it permitted to operate to the desired hours.

4.10 Overall noise in the area and the behaviour of persons after consuming alcohol cannot be attributed to the presence of the application site and would be an issue in this part of the city regardless of whether the takeaway is trading. Furthermore it could be argued that the provision of the facility, which offers food and non-alcoholic drinks, helps manage/deter noise and disorder.

4.11 It is a requirement of the premises license that a litter pick is carried out in the nearby area at or around 05:00 each day. This is considered to be reasonable in terms of controlling litter in the vicinity and there is no need to duplicate this legislation.

4.12 The takeaway is existing and has adequate means of extraction for food odours.

Crime and disorder

4.13 The 2006 appeal decision is a material consideration in determining the present application. With reference to crime and anti-social behaviour in the surrounding area, it was concluded that in general there is no evidence that persons eating food has a material detrimental impact on behaviour, thus causing additional noise/disturbance. Studies carried out by the Home Office were referred to (at the

appeal) which advise that food is likely to reduce the risk of persons being aggressive, whereas alcohol consumption on the other hand is a trigger for violent crime and aggression. The inspector reported that 'it cannot be concluded that the recent increase in recorded crime close to the premises is a direct result of later opening hours of the takeaway'.

4.14 At the public inquiry (2006 appeal), the Council produced police crime statistics associated with the premises for the period September 2004 to September 2005. There were 7 crimes reported that occurred inside the host premises. The Inspector concluded that the 7 crimes recorded were an extremely small proportion of the 555 assault and criminal damage crimes recorded in the Micklegate area in 2004. Monitoring of the site has been continued by the police, the results are as follows -

Year	Total crimes inside premises
2005	19
2006	9
2007	11
2008 (to end of June)	6

(stats are at the back of this report)

4.15 This issue was flagged up by the police as a concern when the premises applied for a license to extend hours of operation. A premises license, allowing the takeaway to trade 24 hours was granted in July 2008. In addition to the requirement for CCTV, the premises are also required to provide door supervision each day of the week. It is expected that these measures will significantly deter crime within the premises. Crime and anti-social behaviour is an issue which the Licensing Act has powers to tackle and should incidents continue to occur at the premises, it would be expected that the license would be reviewed accordingly.

Impact on the conservation area

4.16 Policy 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.

4.17 Policy HE3 relates to visual appearance and there are no physical changes to the premises proposed that would affect the appearance of the conservation area. The impact would thus be neutral.

5.0 CONCLUSION

5.1 The application site is located in a part of the city centre renowned for its late night activity, which affects the amenity of its occupants. This is an extant issue. There is no evidence that the takeaway has a material impact on either the character and function of this area, noise levels, anti-social behaviour or crime. Noise levels cannot be attributed to the application site and conditions of the premises license seek to control anti-social behaviour, crime and litter. As such it is considered there is no justification to restrict the opening hours of the premises

6.0 RECOMMENDATION:

Approve planning permission for 24 hour opening.

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 character and appearance of the conservation area, residential amenity, crime and disorder, anti-social behaviour and highway safety. As such the proposal complies with Policies HE3 and S6 of the City of York Local Plan Deposit Draft.

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