

COMMITTEE REPORT

Committee: West/Centre Area
Date: 16 October 2008

Ward: Guildhall
Parish: Guildhall Planning Panel

Reference: 08/01863/FUL
Application at: 14 Goodramgate York YO1 7LQ
For: Change of use from bar (use class A4) to restaurant with hot food take away (use class A3/A5)
By: Mr David Leedham
Application Type: Full Application
Target Date: 1 October 2008

1.0 PROPOSAL

1.1 No. 14 Goodramgate comprises a two storey Grade II Listed Georgian shop most recently in use as a restaurant and bar. It also lies in a prominent corner site within the Historic Core Conservation Area at one of the principal approaches to the City Centre and the Minster at the junction of Ogleforth with Goodramgate. The proposal envisages the change of use from the existing bar use to a fish restaurant with some takeaway use. No material alterations are envisaged to the building; no parallel application for Listed Building Consent has thus been submitted.

2.0 POLICY CONTEXT

2.1 Development Plan Allocation:

Conservation Area Central Historic Core 0038

2.2 Policies:

CYS6 Control of food and drink (A3) uses

CYS7 Evening entertainment including A3/D2

CYHE2 Development in historic locations

CYHE3 Conservation Areas

CYHE4 Listed Buildings

3.0 CONSULTATIONS

Internal:-

3.1 Design, Conservation and Sustainable Development raise no objection in principle to the proposal subject to an informative relating to the requirement for Listed Building Consent being appended to any approval

3.2 Environmental Protection Unit raise no objection to the proposal subject to a number of detailed conditions covering matters such as hours of operation and extraction of fumes and odours being appended to any permission.

External:-

3.3 Guildhall Planning Panel were consulted with regard to the proposal on 6th August 2008. No response has been forthcoming within the consultation period.

3.4 The National Trust object to the proposal on the grounds that late night opening would detract from the peaceful ambience of the area and also the increased quantity of litter arising from the proposal would detract from the historic character of the Conservation Area.

3.5 Some six letters of objection together with an 11 signature petition have been submitted in connection with the proposal. The following is a summary of their contents:

- i) Concern at increases in litter and odours arising from the proposal;
- ii) Concern at possible increases in anti-social behaviour arising from late-night opening in conjunction with the proposal;
- iii) Concern at increased traffic and on-street parking in relation to both customers and deliveries.
- iv) Concern at the impact of the proposal on the Character and Appearance of the Historic Core Conservation Area and the setting of the Minster.

4.0 APPRAISAL

4.1 Key Issues:-

- Impact of the proposal on the residential amenity of adjoining properties by virtue of odours, noise and litter;
- Impact of the proposal upon the level of anti-social behaviour in the locality;
- Impact of the proposal on the setting of York Minister and the character and appearance of the wider Conservation Area.;
- Impact of the proposal on local amenity through increased traffic and on-street parking.

4.2 Policies S6 and S7 of the York Development Control Local Plan set a firm policy framework in relation to Food and Drink Uses in the City Centre area. There is a presumption in favour of development where any impact upon the amenity of adjoining occupiers as a result of traffic, noise, smell and litter would be acceptable,

opening hours are restricted to protect the amenity of surrounding occupiers and acceptable external flues and means of extraction have been proposed. The current proposal envisages the change of use of a currently disused bar which had previously served hot food to a restaurant with take-away use specializing in fish and fish and chips. The upper floor would be used as the main restaurant area with the ground floor utilized for the take-away use with an internal sitting area for takeaways to be consumed. Concern has been expressed within the locality in relation to the level of odours, noise and litter associated with the scheme. In terms of odours the premises are already fitted with the means of odour extraction arising from the previous hot-food and bar uses which has been retained and is deemed to be adequate. To cover the event of additional facilities being required an informative requiring the submission of an application for Listed Building Consent will be appended to any permission. In terms of litter the applicant has stated his intention to retain take-away use as firmly subsidiary to the overall restaurant activity and has emphasized his intention to provide an internal sitting area for customers. A similar establishment in Swinegate operates without difficulty on the same basis.

4.3 In terms of the generation of anti-social behaviour in the locality the proposal envisages significantly shorter opening hours than those appertaining to the previous bar use causing the premises not to be open at the normal pub and night club closing time. The premises would also be used solely as an eating establishment and would not serve alcohol other than to accompany a meal.

4.4 In terms of additional traffic and parking generation Goodramgate and Ogleforth are subject to a strict regime of parking restrictions. The premises are geared as they have been previously to customers arriving on foot and as with the overwhelming majority of business premises within the walled City there is no staff or customer parking. Delivery to the premises as with other sites in the vicinity is generally by vehicles arriving in the early morning and late evening. This pattern would not change or intensify should the proposal be implemented.

4.5 Policy HE2 of the York Development Control Local Plan sets a firm policy presumption in favour of new development in historic locations which would maintain or enhance existing urban spaces and other townscape elements. The current proposal lies within the wider setting of the Minster a Grade 1 Listed Building. It would be one of a number of food related businesses in the direct vicinity and has previously been in use as a restaurant serving hot food. It would thus not have an adverse impact upon the setting of the building.

4.6 Policy HE3 of the York Development Control Local Plan sets a firm policy presumption in favour of new development within Conservation Areas which would not have an adverse effect on their character or appearance. The premises have been in use as either a restaurant or as a bar serving food for a considerable time. The surrounding area has a number of similar uses currently taking place without a significant adverse effect upon amenity. As one of the principle routes into the City Centre for tourists and other visitors to the City such uses help to secure the long term vitality and viability of the area. On balance therefore it could not be argued that the proposed use would have an adverse impact upon the character and appearance of the Conservation Area and the terms of Policy HE3 would thus be complied with.

4.7 Policy HE4 of the York Development Control Local Plan sets a firm policy presumption in favour of new development in relation to Listed Buildings which would not have an adverse impact upon their character , appearance or setting. The current proposal envisages a simple change of use making use of the existing facilities within the building with minimal impact upon character or appearance of the building. However in view of the significance of the building it would be reasonable to append an informative regarding the need to apply for Listed Building Consent to any planning permission given.

COMMITTEE TO VISIT

5.0 CONCLUSION

5.1 No. 14 Goodramgate comprises a Grade 11 Listed Georgian Shop unit previously in use as a bar/restaurant occupying a prominent corner site within the Historic Core Conservation Area. The current proposal envisages the change of use of the property to a combined take-away and fish restaurant. Significant concern has been expressed in relation to the potential impact of the proposal on the residential amenity of neighbouring properties and the character and ambience of the area. In view of the relationship to the surrounding pattern of land uses there would not be a demonstrable adverse impact upon the character or appearance of the Conservation Area or the setting of York Minster a Grade 1 Listed Building. The City's Environmental Health Officer has specified a series of conditions to deal with any concerns in respect of residential amenity.

6.0 RECOMMENDATION: Approve

1 TIME2 Development start within three years

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

Plans date stamped 23rd July 2008

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.

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

Monday to Friday	09:00 to 21:00
Saturday	09:00 to 21:00
Sunday	10:00 to 21:00

Reason: To safeguard the amenity of neighbouring residents

4 All deliveries to and despatch from the site shall be confined to the following

hours:

Monday to Friday 08:00 to 18:00

Saturday 09:00 to 18:00

Sundays and Bank Holidays 10:00 to 16:00

Reason: To safeguard the amenity of local residents

5 Details of all machinery, plant and equipment to be installed in or located on the use hereby permitted, which is audible outside of the site boundary when in use, shall be submitted to the Local Planning Authority for approval. These details shall include maximum(LA max(f)) and average sound levels(LAeq), octave band noise levels and any proposed noise mitigation measures. 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 proposed noise mitigation measures shall be fully implemented and operational before the proposed use first opens and shall be appropriately maintained thereafter.

Reason: To safeguard the amenity of local residents.

6 There shall be adequate facilities for the treatment and extraction of fumes so that there is no adverse impact on the amenities of local residents by reason of fumes, odour or noise. Details of the extraction plant or machinery and any filtration system required shall be submitted to the Local Planning Authority for approval ;once approved it shall be installed and operational before the proposed use first opens and shall be appropriately maintained thereafter.

Reason: To safeguard the amenity of neighbouring residents.

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 impact upon the residential amenity of neighbouring properties by virtue of noise, litter and odour, impact upon the levels of traffic generation and on street parking, impact upon the levels of anti-social behaviour occurring within the locality, impact of the proposal on the character and appearance of the Historic Core Conservation Area and the setting of York Minster. As such the proposal complies Policies S6, S7, HE2, HE3 and HE4 of the City of York Local Plan Deposit Draft.

2. NEED FOR LISTED BUILDING CONSENT.

The premises the subject of this permission are Listed Grade 11. The applicants attention is drawn to the fact that any works to the interior or exterior that would

materially affect its special character or appearance require the specific written consent of the Local Planning Authority. Failure to obtain the required Consent is an offence.

3. PROTECTION OF RESIDENTIAL AMENITY.

The developer's attention is drawn to the various requirements for the control of noise on construction sites laid down in the Control of Pollution Act 1974. In order to ensure that residents are not adversely affected by pollution and noise, the following guidance should be attached to any planning approval, failure to do so could result in formal action being taken under the Control of Pollution Act 1974, the following guidance should be attached to any planning approval:

i) All demolition and construction works and ancillary operations including deliveries to and despatch from the site shall be confined to the following hours:

Monday to Friday 08:00 to 18:00
Saturday 09:00 to 13:00
Not at all on Sundays and Bank Holidays.

ii) The work shall be carried out in such a manner so as to comply with the general recommendations of British Standards BS5228:Part1:1997, a code of practice for "Noise and Vibration Control on Construction and Open Sites" and in particular Section 10 of Part 1 of the code entitled "Control of Noise and Vibration".

iii) All plant and machinery to be operated, sited and maintained in order to minimise disturbance. All items of machinery powered by internal combustion engines must be properly silenced and/or fitted with effective and well maintained mufflers in accordance with manufacturers instructions.

iv) The best practicable means, as defined by Section 72 of the Control of Pollution Act 1974, shall be employed at all times in order to minimise noise emissions.

v) All reasonable measures shall be employed in order to control and minimise dust emissions, including sheeting of vehicles and use of water for dust suppression.

vi) There shall be no bonfires on the site.

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