

## COMMITTEE REPORT

**Committee:** West/Centre Area  
**Date:** 19 March 2009

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

**Reference:** 09/00224/FUL  
**Application at:** York Divan Centre 10 Clifford Street York YO1 9RD  
**For:** Change of use from retail to restaurant with extract louvres at roof level  
**By:** Mr Michael Grey  
**Application Type:** Full Application  
**Target Date:** 14 April 2009

### 1.0 PROPOSAL

#### APPLICATION SITE

1.1 The application relates to 10 Clifford Street, which is located on the corner of Cumberland Street and Clifford Street. The building is grade II listed and in the Central Historic Core Conservation Area. The site was last used as a retail premises - York Divan Centre, but has been vacant for over a year.

#### PROPOSALS

1.2 Planning permission is sought for a change of use to restaurant, with storage in the basement, dining at ground and first floor levels, and kitchen/staff room at second floor level.

1.3 Externally changes are proposed to the shopfront and extraction flues would be installed in the roof, which are to be used in connection with the air-conditioning and kitchen extraction. Internal alterations are also proposed, which are also covered in a companion application for listed building consent (09/00228/LBC). The LBC application is waiting to be validated.

#### PLANNING HISTORY

1.4 An application to convert the upper floors of the premises to flats (07/02099/FUL) was refused in November 2007, on the grounds of inadequate amenity for future occupants, due to noise levels. The proposal, which involved installation of partition walls was considered to be acceptable in terms of impact on the listed building. An application for listed building consent for the works, 07/02100/LBC, was approved.

#### REASON FOR COMMITTEE

1.5 The application is brought to committee at the request of Councillor Watson on the grounds of impact on residential amenity.

### 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

Listed Buildings Multiple (Spatial)

## 2.2 Policies:

CYS5

Non-retail uses in shopping streets

CYS6

Control of food and drink (A3) uses

CYS7

Evening entertainment including A3/D2

CYHE3

Conservation Areas

CYHE4

Listed Buildings

CYGP15

Protection from flooding

CYSP7B

York City Centre and Central Shopping Area

## 3.0 CONSULTATIONS

### CITY DEVELOPMENT

3.1 No response to date.

### DESIGN, CONSERVATION AND SUSTAINABLE DEVELOPMENT

3.2 No response to date.

#### ENVIRONMENTAL PROTECTION UNIT

3.3 No response to date.

#### HIGHWAY NETWORK MANAGEMENT

3.4 No response to date.

#### PLANNING PANEL

3.5 No response to date.

#### BRITISH WATERWAYS

3.6 No objection. Ask that the applicant be informed that the developers contact British Waterways to ensure any necessary consents are obtained from them and that the works comply with British Waterways code of practice.

#### PUBLICITY

3.7 The application was publicised by site notice, press notice and letters of neighbour notification. The deadline for comments will be 18.3.09. No representations have been made to date.

### **4.0 APPRAISAL**

#### 4.1 KEY ISSUES

Principle of the change of use  
Impact on amenity  
Special historic interest of the listed building  
Character and appearance of the conservation area  
Highway safety  
Flood risk

#### PRINCIPLE OF THE CHANGE OF USE

4.2 The application site is within the central shopping area, as defined in the Local Plan. Policy SP7b of the Local Plan states that the central shopping area will be the main focus for commercial, leisure and tourism, and retail development. The policy seeks to continue to enhance the attractiveness and vibrancy of the centre, and promote accessibility by non-car modes of transport.

4.3 Clifford Street is not a primary shopping street. Policy S5 of the Local Plan states that in non-primary shopping streets, planning permission will be granted for Class A (shops, financial & professional, restaurants, drinking establishments and takeaways) uses at ground floor level where this would not harm the vitality of individual streets or the vitality and viability of the City Centre as a whole. The policy

acknowledges Central Government advice in Planning Policy Statement 6 that a more flexible approach in streets outside the Primary Shopping Area is appropriate. In particular, it accepts that different uses, during the day and in the evening, can complement and reinforce each other.

4.4 The application seeks permission for a restaurant with a bar downstairs for guests waiting to be seated. The site is at the edge of the shopping area, where planning policy established in PPS6, SP7 and S5 advises such uses are appropriate. The building is prominent, grade II listed and presently vacant. Bringing the building back into occupation would enhance the appearance, and vitality and viability of the city centre, also in accordance with the aforementioned policies.

#### IMPACT ON AMENITY

4.5 Policy S6 states that planning permission for the extension, alteration or development of premises for food and drink uses will only be granted in the 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 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.

4.6 Policy S7 states that proposals for new leisure uses (including restaurants) that complement York City Centre will be permitted provided that there is no adverse cumulative effect on the vitality and viability of the Centre, and there is no adverse effect on residential amenity. It also asks that public order be addressed and that there are no additional pubs, clubs and takeaways on certain streets, including Low Ousegate which is nearby the application site.

4.7 Due to the location, scale and type of proposed development there would be no material adverse impact from traffic, noise, smell or litter.

4.8 Permission is sought to operate until 24:00 hours. On Clifford Street, and the streets which run down to the River Ouse there is a nightclub, taxi ranks and a number of bars/pubs, all of which operate beyond 24:00 hours. These premises, along with persons frequenting the facilities in the area and traffic on Clifford Street create noise disturbance. Allowing the premises to operate until 24:00 hours would not have a material impact on existing noise levels.

4.9 It is proposed to vent air-conditioning and kitchen extraction through the roof of the building. It can be secured by condition that smells are treated adequately and noise levels are acceptable, although due to the location of the extraction/ventilation it is unlikely nearby premises would be adversely affected.

4.10 Waste from the restaurant would be stored internally, there is a bin store proposed to the side of the second entrance and glass/bottles will be stored in the basement.

4.11 The proposed restaurant use accords with policies S6 and S7 in that it is unlikely that the use would raise security concerns. The required premises licence would also take steps in respect of such.

4.12 In accordance with policies S6 and S7 the proposed use would contribute positively to the vitality and viability of the city centre (see para. 4.4).

#### SPECIAL HISTORIC INTEREST OF THE LISTED BUILDING

4.13 The building is grade II listed. Policy HE4 of the Local Plan states that listed building consent will only be granted when there is no adverse effect on the character, appearance or setting of the building.

4.14 PPG15 Planning and the Historic Environment advises that applications for listed building consent must be able to justify their proposals. They will need to show why works which would affect the character of a listed building would be desirable or necessary. PPG15 also acknowledges that it is the role of the planning system to strike a balance between promoting sustainable economic growth, making provision for development to meet the economic and social needs of the community and ... preserving the built and natural heritage. It advises that generally the best way of securing the up-keep of the building is by keeping it in active use.

4.15 The alterations required to convert the building are as follows -

- Install a dumb waiter from top floor kitchen down to the basement.
- Remove the lift shaft currently located behind (the redundant) Cumberland St entrance.
- Locate services (bin storage at ground floor level, service void accommodating air-conditioning on the floors above) in a partitioned area to the left hand side of the Cumberland Street entrance.

#### Ground floor

- Re-use the side entrance, which will provide a means of escape from the upper floors. Partition walls around proposed toilet.
- Remove the suspended ceiling

#### First floor

- Partition walls installed around the proposed toilets and lobby area outside the stairwell.
- Remove walls around corner office.

#### Second Floor

- Install/remove partition walls around the lobby, changing area, toilets and corner office.

#### Roof

- Kitchen extract and air conditioning plant housed in roofspace, extract through roof.

#### Shopfront

- Re-expose pilasters at each side of corner entrance and frieze course below the cornice.

4.16 In accordance with PPG15 the works proposed are justified as they are necessary to provide a restaurant which meets modern requirements in terms of customer comfort, fire safety, building regulations and inclusive access. They also allow each floor of the listed building to be in active use, which is a prudent use of the building, and will aid in its continued up-keep and good health.

4.17 Most of the original features inside the building have been lost. Two which remain, the internal stair and the roof trusses will be retained. The internal alterations involve works to partition walls which would be reversible and can be controlled so they would not damage any cornices or similar detail which may remain - this will be a requirement of the companion listed building consent application. The listed building consent granted in 2007 for the proposed conversion of the building to flats included the installation of partition walls to the upper floors and was supported by conservation officers.

4.18 The dumb waiter and service voids would go through the floors (first to roof) although these (x3) are only around 500mm in diameter each, and would not cause undue harm the historic/architectural interest of the building.

4.19 The external shopfront detail would be altered by restoring two pilasters, the frieze (vertical stone band) below the cornice and reducing the depth of the fascia panel. These alterations would remove unsympathetic alterations and enhance the appearance of the listed building, as its (originally intended) vertical emphasis would be restored and the depth of the fascia better related to the proportions of the building. Some lighting is also annotated on the proposed plans. This appears prominent and cluttered, and would detract from the appearance of the building. This will be dealt with in applications for listed building and advertisement consent.

4.20 The roof alterations are minor and would not have a material visual impact.

4.21 The internal alterations will be covered in further depth in the application for listed building consent, which is awaiting validation. Although comment from conservation officers is yet to be received (committee to be updated), it is considered the change of use can be accommodated in the building without causing harm to fabric of historic or architectural importance.

## CHARACTER AND APPEARANCE OF THE CONSERVATION AREA

4.22 The site is within a designated conservation area (Central Historic Core). Within such areas, the Council has a statutory duty to consider the desirability of preserving or enhancing the character and appearance of the area. Policy HE3 of the Local Plan states that within Conservation Areas, proposals will only be permitted where there is no adverse effect on the character or appearance of the area.

4.23 The extraction/ventilation proposal involves alterations/additions to the building at high level on the gable and to the roof. These changes due to their scale, design and location would not have a material impact on the conservation area.

4.24 The proposed alterations to the shopfront and its surrounds are explained in 4.49. In accordance with policy HE3, the proposals would enhance the appearance of the conservation area.

## HIGHWAY SAFETY

4.25 It is expected that delivery vehicles would service the building from Cumberland Street. There is a service hatch into the proposed basement storage area at this side of the site. Due to the scale of the development deliveries would not unduly harm highway or pedestrian safety.

4.26 There is no space associated with the site for cycle or vehicle parking. Due to the city centre location, adequate facilities are available within walking distance.

## FLOOD RISK

4.27 The application site falls within an area where the risk of flooding is low to medium (flood zone 2). Both restaurants and shops are classified in PPS25: Development and Flood Risk as less vulnerable uses, which are appropriate in flood zone 2. In accordance with policy GP15 of the Local Plan the proposal should be safe from flooding and not create additional flood risk.

4.28 The development is likely to be safe as the ground floor level is at 13.14 AOD, which is above the predicted flood level which is (taking into account climate change) 12.5 AOD.

4.29 As renovation of the premises is proposed, flood resilient measures can be built into the proposed use, for example using flood resilient floors and walls and fitting electrical appliances significantly above ground level.

4.30 Surface water run-off would be as existing as the application relates to the conversion of a building only. As such there would be no material impact on flood risk elsewhere.

## 5.0 CONCLUSION

5.1 The development is acceptable in principle, it would maintain levels of amenity and enhance the appearance of the conservation area. It is considered that the proposals are sympathetic to the listed building and will be scrutinised in more detail in the companion listed building application. There would be no adverse impact regarding highway safety and flood risk. Approval is recommended.

## COMMITTEE TO VISIT

**6.0 RECOMMENDATION:** Approve

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

3 Use of the bar area shown on the approved plans shall be ancillary to the restaurant use.

Reason: As the application has been considered on the basis that the proposal is for a restaurant, with an ancillary bar area.

4 The use hereby permitted shall only be open to customers within the following hours:

09:00 to 24:00 each day of the week.

Reason: To protect the amenity of nearby occupants.

5 Any extraction system fitted in association with the use hereby approved must be adequate for the treatment and extraction of fumes so that there is no adverse impact on the amenities of nearby occupants 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. The extraction system shall be installed in accordance with the approved plans, appropriately maintained thereafter and fully removed once its use has ceased.

Reason: In the interests of residential amenity in accordance with policy S6 of the City of York Draft Local Plan.

6 Waste materials shall be stored in the areas annotated on the approved drawings or elsewhere within the building and not outside the building.

Reason: In the interests of the appearance of the conservation area.

7 Details of flood protection measures to be applied to the building shall be submitted to, and approved in writing by, the Local Planning Authority before the development commences and the development carried out in accordance with the approved details.

Reason: In the interests of protecting the building from flood risk.

## **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 special historic interest of the listed building, the



character and appearance of the conservation area, amenity, the vitality and viability of the city centre, highway safety and flood risk.

As such the proposal complies with Policies HE3, HE4, SP7, S5, S6, S7 and GP15 of the City of York Local Plan Deposit Draft.

#### LISTED BUILDING CONSENT

You are reminded that listed building consent is also required for the proposed alterations to the building. No works should commence until listed building consent has been granted.

#### ADVERTISEMENT CONSENT

Advertisement consent is likely to be required for the proposed fascia signage.

You are advised that notwithstanding the approved plans no lighting shall be fixed to the exterior of the building without listed building and advertisement consent from the Local Planning Authority.

Reason: As the lighting indicated on the approved plans would detract from the appearance of the listed building and the conservation area.

#### BRITISH WATERWAYS

The applicant is advised to contact British Waterways (Ken Fowler tel. 0113 281 6875) in order to ensure the necessary consents are obtained and that the

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