

## COMMITTEE REPORT

**Committee:** West/Centre Area  
**Date:** 16 July 2009

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

**Reference:** 09/00742/FUL  
**Application at:** 14 Feasegate York YO1 8SQ  
**For:** Use of the highway as an outside seating area in connection with 'Subway' at 14 Feasegate  
**By:** Mr Michael Page  
**Application Type:** Full Application  
**Target Date:** 15 July 2009

### 1.0 PROPOSAL

1.1 This application seeks permission for the use of the highway as an outside seating area in connection with Subway with the provision of 6 tables and 12 chairs. The area will extend 2.8m into the highway and will occupy the entire shop frontage being 7.1m. An entrance will remain from the front of the seating area into the premises.

1.2 This unlisted property is situated in Feasegate, which is part of the Central Historic Core Conservation Area. The adjacent premises - Rioco cafe at 10 Feasegate - have a similar seating arrangement which was approved in 1998 - ref: 98/01127/FUL.

1.3 A revised seating plan was submitted on 05.06.09 which shows 6 tables and 14 chairs. The opening hours for the seating areas have been agreed to 11:00 - 16:00 Monday to Saturday and 12:00 to 16:00 on Sundays.

1.4 The application was called in by Cllr Brian Watson.

### 2.0 POLICY CONTEXT

2.1 Development Plan Allocation:

Areas of Archaeological Interest GMS Constraints: City Centre Area 0006  
Conservation Area GMS Constraints: Central Historic Core 0038  
City Boundary GMS Constraints: York City Boundary 0001  
DC Area Teams GMS Constraints: Central Area 0002  
Scheduled Ancient Monuments GMS Constraints: SMR No. 537; South Angle Tower Of Roman Fortress SE602518

2.2 Policies:

CYHE3  
Conservation Areas

CYS6  
Control of food and drink (A3) uses

CYGP1  
Design

### **3.0 CONSULTATIONS**

#### **INTERNAL**

3.1 Highway Network Management - No objections to the proposal, although as part of the seating is proposed in the highway, it would be subject to a Pavement Cafe Licence which is renewable annually.

3.2 Design, Conservation and Sustainable Development - Proposals in line with original approval of 10/12 Feasegate would be deemed acceptable in terms of projection into the highway. Restricted opening hours similar to previous approvals should be conditioned as well as street furniture.

#### **EXTERNAL**

3.3 Safer York Partnership - No objections providing that operating hours and conditions mirror those of other pavement cafe facilities in York.

3.4 North Yorkshire Police Traffic Management - No obstruction would be caused although full emergency access should be maintained as Feasegate is on the Fire Brigade response route to the eastern city centre area.

3.5 Guildhall Planning Panel - No objections to the proposal.

3.6 Publicity - the application was advertised by site notice, press advert and neighbour notification letter. Two objections have been received from:

- 12 Feasegate - the business above Subway. The entrance to 12 Feasegate is a small doorway only and the addition of seating to the other side of this door will practically hide the entrance thereby having a detrimental effect on the business.
- 23a Feasegate - concerns regarding litter from takeaway wrappers.

### **4.0 APPRAISAL**

#### **KEY ISSUES**

- Effect on the character and appearance of the conservation area
- Principal of proposed seating area
- Amenity
- Highway safety

## RELEVANT PLANNING POLICY

4.1 Draft Local Plan Policy HE3 states that within conservation areas, proposals will only be permitted where there is no adverse effect on the character and appearance of the area.

4.2 Draft Local Plan Policy S6 states that planning permission for the extension, alteration or development of premises for A3 uses (food and drink) 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.

4.3 Draft Local Plan Policy GP1 states that development proposals will be expected to (i) respect or enhance the local environment, (ii) be of a density, layout, scale, mass and design that is compatible with neighbouring buildings, spaces and the character of the area using appropriate building materials; (iii) avoid the loss of open spaces, important gaps within development, vegetation, water features and other features that contribute to the quality of the local environment; (iv) retain, enhance and/or create urban spaces, public views, skyline, landmarks and other townscape features which make a significant contribution to the character of the area, and take opportunities to reveal such features to public view; and (v) ensure that residents living nearby are not unduly affected by noise, disturbance, overlooking, overshadowing or dominated by overbearing structures.

## EFFECT ON THE CHARACTER AND APPEARANCE OF THE CONSERVATION AREA

4.4 The application proposes infilling an area of pavement and highway to add to the outdoor seating facilities in the street. There is already outdoor seating along Feasegate at Rioco cafe and Costa Coffee either side of Subway. Therefore it is considered that the proposed seating area would be of acceptable impact, provided the associated furniture is satisfactory. Security railings to mark the enclosure, tables and chairs of appropriate design, and a reasonable match to the existing furniture on Feasegate would be at a low level, and would maintain important views and not detract from the appearance of the street. It shall be required by condition that any furniture shall have to be agreed to in writing by the Local Planning Authority.

## PRINCIPAL OF PROPOSED SEATING AREA

4.5 The principle for external seating is already established on this side of Feasegate. The proposed area would infill only and project no further into the highway than the seating area previously approved next door at Rioco.

4.6 The seating area would be separated from Rioco by the entrance to the first floor hairdressers next door. Costa Coffee, whilst adjacent to Subway, restricts its seating to within the frontage of the premises and does not project onto the highway. It is quite clearly defined as belonging to Costa even though there are no barriers provided. As such it would be unlikely that customers would be confused as to which premises the proposed seating area is associated with, provided it is marked by its own enclosure.

4.7 The entrance to 12 Feasegate at first floor level is situated between Subway and Rioco and is currently adjacent to one seating area. Concerns have been raised by the owner of this business that the proposed seating area may reduce the accessibility and visibility of this business, however it is clearly advertised by fascia board and A board. The applicant has confirmed that the seating area will be confined to the window frontage of the property therefore leaving adequate access to the upstairs business.

4.8 The introduction of a seating area would not be detrimental to the amenity of customers or owners Rioco or Costa, and would not affect the vitality of the street. The main issue would be that of competition for trade, which is not a material planning consideration in this instance.

#### AMENITY

4.9 The applicants have agreed that the trading hours for the outside seating area will be restricted to 11:00 - 16:00 Monday to Saturday and 12:00 to 16:00 on Sundays as the area will be located within the public highway. Noise from people, such as raised voices, is already likely to occur to a certain extent because of the city centre location, and adjacent outside seating areas.

4.10 Objections have been raised regarding the possibility of litter caused by the outside seating area as Subway is a take away rather than a cafe as Rioco. However the proposals include the placement of an outside bin to dispose of food wrappers, which should minimise litter in the street.

#### HIGHWAY SAFETY

4.11 Two outdoor seating areas have already been approved on this side of Feasegate. This proposed area would infill between two existing areas and would not encroach any further into the highway than at present. However Feasegate is on the Fire Brigade response route to the eastern city centre and as such this area must remain clear for emergency access. As it is not projecting any further than at present the proposed seating area is not considered to impede pedestrians or vehicles using the highway. Also as the remaining premises within Feasegate are retail it is unlikely that there will be a requirement for further outside seating areas in Feasegate in the near future.

### 5.0 CONCLUSION

5.1 The proposed development would not have an adverse affect on the character and appearance of the conservation area. There would be no additional harm to highway safety. Approval is recommended.

**6.0 RECOMMENDATION:** Approve

- 1 TIME2 Development start within three years
- 2 PLANS1 Approved plans - Drawing received 05.06.09

3 The pavement cafe shall be restricted to the area of 2.8 metres from the building's front elevation by 6.8 metres as shown on the submitted drawing received 05.06.09

Reason: In the interests of highway safety and to allow for the flow of pedestrians, in accordance with policy S6 of the City of York Draft Local Plan.

4 The opening hours of the outdoor seating area shall be confined to the following hours: 11:00 - 16:00 Monday to Saturday and 12:00 to 16:00 on Sundays.

Reason: In the interests of amenity.

5 The seating shall be protected at all times by barriers throughout the period of the operating hours. Outside these hours, all equipment associated with the use, including the barriers, shall be removed from the public highway and stored in the premises or another location agreed in writing by the Local Planning Authority.

Reason: In the interests of users of the public highway and to avoid clutter, in the interests of the character and appearance of the conservation area.

6 Prior to the use hereby permitted commencing, dimensions and materials of the proposed tables, chairs, barriers and any other associated furniture shall be submitted to and agreed by the Local Planning Authority. The agreed furniture shall be used at all times unless agreed otherwise with the Local Planning Authority.

Reason: To ensure the preservation of the character and appearance of the Central Historic Core Conservation Area.

## **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, the amenities of nearby occupants and highway safety. As such the proposal complies with policies GP1, HE3 and S6 of the City of York Development Control Local Plan Deposit Draft, incorporating the 4th set of changes.

### **2. INFORMATIVE:**

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:

Cafe Licence - Section 115 - Anne-Marie Howarth (01904) 551418

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