

COMMITTEE REPORT

Committee: West/Centre Area
Date: 16 July 2009

Ward: Westfield
Parish: No Parish

Reference: 08/02738/FUL
Application at: Hunters The Estate Agents 47 York Road Acomb York YO24 4LN
For: Change of use from Estate Agents (A2) to hot food takeaway (A5) with rear kitchen extract flue
By: Mr John Waterhouse
Application Type: Full Application
Target Date: 2 June 2009

1.0 PROPOSAL

1.1 The application seeks permission for the change of use of the existing Hunters Estate Agency at 47 York Road, Acomb, to a hot food takeaway.

1.2 The application is being presented to Committee due to Officer concern.

2.0 POLICY CONTEXT

2.1 Development Plan Allocation:

Air safeguarding : Air Field safeguarding 0175

City Boundary : York City Boundary 0001

DC Area Teams : West Area 0004

2.2 Policies:

CYS6
Control of food and drink (A3) uses

CYS3
Mix of use in certain shopping streets

CYGP18
External attachments to buildings

3.0 CONSULTATIONS

3.1 Internal

City Development - No objections raised

Highway Network Management - No objections in principle although the applicant should provide 2 Sheffield style cycle stands to the forecourt area

Environmental Protection Unit - No objections subject to conditions

3.2 External

Neighbours - 12 letters of objection from 4, 10, 20, 30 and 31 Beaconsfield Street, 26, 32, 36, 38, 40 and 48 York Road and the Leeds Building Society adjacent to the application site, who are objecting on the following grounds:

- Additional parking problems on neighbouring streets
- Loss of parking on York Road
- May lead to accidents at the traffic lights
- Late night noise
- Youths congregating
- More litter in the streets and in the back lanes
- Noise and smell from the rear extraction system
- Loss of amenity to the residential properties opposite the site
- Should be encouraging more retail
- Already a number of takeaways and cafes in the area
- Would detract from the vitality and viability of the shopping area

Safer York Partnership - A 50m area around the site indicated 25 incidents of crime within a 12 month period with 6 being classed anti-social behaviour. The wider area, around Front Street and York Road shows higher levels of crime, mainly shop lifting and criminal damage and a high number of recorded anti-social behaviour incidents at 57.

When looking at Hacı's, at 2 Front Street, this suffered from two crimes and one incident of anti-social behaviour within a twelve month period and Yans Cantonese, at 11 York Road, suffered from one crime and one incident of anti-social behaviour. However, the proposal differs from these two due to the large pavement area to the front, which may create potential for youths to congregate, which could lead to anti-social behaviour.

4.0 APPRAISAL

4.1 Key Issues

- Impact upon character of the area
- Noise Impact
- Traffic generation
- Policy Implications

4.2 The relevant City of York Council Draft Deposit Local Plan Policies are S3a, S6 and GP18. Policy S3a states that within York's Primary Shopping Streets and Acomb District Centre development will be permitted where it provides the improvement and expansion of existing retail premises and the establishment of new shopping uses (Use Class A1). Proposals involving the change of use of ground floor premises within the primary shopping streets will only be permitted provided that it does not detract from the primary shopping function and contributes to the vitality and viability of these areas. This policy is primarily aimed at changes of use from A1 to A3, A4 and A5.

4.3 Policy S6 states that planning permission for the extension, alteration or development of premises for A5 uses (food and drink) will be granted provided: any likely impact on the amenities of surrounding occupiers as a result of traffic, noise, smell or litter would be acceptable; the opening hours are to be restricted where this is necessary to protect the amenity of surrounding occupiers; car and cycle parking meets the standards; acceptable external flues and means of extraction have been proposed.

4.4 Policy GP18 states that where planning permission for external attachments to buildings permission will be granted where their design, location, materials and colouring do not significantly detract from the visual appearance of the building or the visual amenity of the area.

4.5 The application site is located along York Road within the district centre of Acomb. It lies towards the end of a row of commercial terrace properties, outside of the pedestrianised area of Acomb, close to the junction with Carr Lane. The site is bounded by a building society and a retail unit, with a mixture of uses within the vicinity, including an amusement arcade, retail outlets and a cafe. A number of hot food take-aways existing within the district centre but none within the vicinity of this current application site. The property has been vacant for over 9 months with no interest being taken in leasing it as an A2 or A1 use. The application seeks permission for a change of use to A5, hot food takeaway. The applicant does not have an end user for the site.

4.6 Objections have been raised in connection with the proposed change of use on the grounds of additional noise, litter and anti-social behaviour. However, the unit is located on a main vehicular route through the city and it is considered that the creation of an additional takeaway in this location would not be so detrimental to the amenities of nearby residents to warrant refusal. In addition the nearest residential properties are located opposite the property, across York Road, and are at a distance of 31m. Additional residential properties are located to the rear of the site and whilst an extraction system is proposed conditions are attached to prevent any noise disturbance arising. With regard to litter, a large Council litter bin is sited to the front of the property.

4.7 With regard to the issues of anti-social behaviour, comments have been received from the Police Liaison Officer. Taking into account the incidents of anti-social behaviour within the vicinity of the shop the levels were considered to be relatively low, at 6. However, within the York Road /Front Street area the incidents were relatively high, at 57. The Officer stated that the large paved area to the front of the

property may encourage people to congregate. However, the area is covered by an existing CCTV pan and tilt camera and, unlike the main pedestrianised area of Front Street, is readily overlooked from neighbouring properties and passing traffic. Furthermore, there is scope for a seating area within the take-away which could encourage people to stay within the building rather than congregating outside. With regard to the opening hours allowing the premises to operate until 12 midnight every day would affect the amenity of the local residents. As such conditions are proposed to limit the opening hours to 22:30 Monday to Thursday and 23:30 Friday and Saturday with no opening on Sunday.

4.8 Further objections have been received in connection with additional on street parking and potential accidents at the junction with Carr Lane. Highway Network Management have been consulted and do not raise any objections. A lay-by is present to the front of the site, which has double yellow lines, but it would be available for delivery vehicles to park and unload. The area to the rear of the proposed takeaway is densely populated and it is considered that the majority of visitors to the site would travel by foot. Highways have requested the provision of 2 Sheffield style cycle stands for visitors to the property.

4.9 In connection with the relevant policies they state that the change of use should not affect the vitality and viability of the shopping area. Members will be aware that previous applications within the vicinity have been assessed on the basis of the 35% shop front criteria (that being no more than 35% of the shop fronts should be outside A1 use). However, this unit is currently not retail and as such does not impact upon the current shop front percentage and does not result in the loss of a retail unit. It is difficult to ascertain if the change of use would have an impact upon the vitality of the area as the opening hours are not know. If the unit were open during the day it could add to the vitality. Conversely if it were to remain closed during the day it could detract from it. However, as the majority of the neighbouring units are open during the day this small unit would not be have such a detrimental impact as to warrant a refusal.

4.10 The proposed extraction system includes the installation of a flue approx. 4.75m long which will extend from the single storey rear extension and will run vertically along the two storey offshoot. It will extend beyond the eaves of the building to the height of the chimney stack. Whilst the flue will be visible from the rear lane, the area is characterised with various vertical guttering and it is considered that the installation of the flue will not significantly detract from the appearance of the building, nor will it detract from the visual amenity of the area.

5.0 CONCLUSION

5.1 It is considered that the proposed change of use would not result in the loss of a retail unit and would not be detrimental to the viability and vitality of the area. Additional vehicle movements would be limited and noise and litter issues would not be se severe as to warrant a refusal of the scheme. Opening hours can be limited to prevent additional disturbance to nearby residential properties. Officers recommend approval.

COMMITTEE TO VISIT

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 and other submitted details:-

Existing building layout received 6th April 2009
Proposed building layout received 6th April 2009

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 HWAY18 Cycle parking details to be agreed

4 Notwithstanding the information contained within the approved plans, a scheme detailing 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 fully operational before the proposed use first opens and shall be appropriately maintained thereafter. This scheme must be inline with Appendix B of DEFRA guidance on the control of odour and noise from commercial kitchen exhaust systems. Should there be a substantial change in the odour or noise levels, a review of the scheme shall be submitted to the local planning authority for approval within 4 weeks of any change. Once approved this revised scheme shall be implemented and the system shall be appropriately maintained thereafter.

Reason: To protect the amenity of the local premises.

5 The take-away use hereby authorised shall not operate other than during the following hours:

Monday to Thursday 09.00 to 22.30
Friday and Saturday 09.00 to 23.30

and not at all on Sundays.

Reason:-

To safeguard the residential amenity of nearby properties and to secure compliance with Policy S6 of the York Development Control Local Plan.

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 vitality and viability of the shopping area, or have a detrimental impact upon residential amenity in terms of noise, litter, traffic generation or antisocial behaviour. As such the proposal complies with Policies S6 and S3a of the City of York Development Control Local Plan.

Contact details:

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