

COMMITTEE REPORT

Committee: West/Centre Area
Date: 22 April 2010

Ward: Westfield
Parish: No Parish

Reference: 10/00247/FUL
Application at: 75 York Road Acomb York
For: Subdivision of retail unit (use class A1) and use as 1no. hot food take away (use class A5) and 1no. retail unit (resubmission)
By: Securities Ltd
Application Type: Full Application
Target Date: 7 April 2010
Recommendation: Approve

1.0 PROPOSAL

1.1 The application is for the subdivision of the ground and first floor, previously a retail unit (use class A1) and use as 1 no. hot food takeaway (use class A5) and 1 no. retail unit

1.2 The property is within the defined Acomb District Centre as set out in the City of York Council Development Control Local Plan (2005) and just outside of the Acomb Conservation Area. The property is located in a row of two storey-terraced properties.

1.3 The previous application for the conversion of the retail unit to 2 no. hot food takeaways was refused on the potential impact to the vitality and viability of the area and it exceeding the 35% threshold specified in Policy S3a

1.4 The application comes before committee at the request Cllr. Waller, so the impact to amenity of the area from the A5 use can be evaluated.

2.0 POLICY CONTEXT

2.1 Development Plan Allocation:

Areas of Archaeological Interest Acomb Area 0007

Air safeguarding Air Field safeguarding 0175

City Boundary York City Boundary 0001

DC Area Teams West Area 0004

2.2 Policies:

CYGP1
Design

CYGP16
Shopfronts

CYS3
Mix of use in certain shopping streets

CYS6
Control of food and drink (A3) uses

CYS7
Evening entertainment including A3/D2

3.0 CONSULTATIONS

INTERNAL CONSULTATIONS

3.1 HIGHWAY NETWORK MANAGEMENT - No objections
- No cycle parking is provided for staff and customers. It is therefore recommended that in order to comply with cycle parking standard and promote accessibility and sustainable travel, funding should be secured from the applicant for cycling initiatives in this area to the sum of £500

3.2 DESIGN, CONSERVATION AND SUSTAINABLE DEVELOPMENT -
Archaeological Watching Brief required on all groundworks for new drainage connections and other ground disturbances

3.3 ENVIRONMENTAL PROTECTION UNIT - No objections

3.4 CITY DEVELOPMENT - No objections

EXTERNAL CONSULTATIONS/REPRESENTATIONS

3.5 NORTH YORKSHIRE POLICE ARCHITECTURAL LIAISON OFFICER - No objections

4.0 APPRAISAL

RELEVANT SITE HISTORY

09/01901/FUL - Subdivision of retail unit (use class A1) and use as 2no. hot food takeaways (use class A5) - Refused, for the following reason:

It is considered that the proposed subdivision of 75 York Road and change of use from one retail unit (use class A1) to provide two hot food takeaways (use class A5) would harm the viability, vitality and shopping function of the

protected Acomb District Centre. The proposed use would further extend the non-retailing uses in the District Centre, such that 41% of the street frontage would comprise non-retail uses, over the 35% threshold set down in Policy S3a. For these reasons the proposal fails to accord with Policy S3a of the City of York Council Development Control Local Plan which states that such applications will only be permitted providing that they do not detract from the primary shopping function and contribute to the vitality and viability of these areas.

99/02786/FUL - Change of use of retail shop (Class A1) to financial and professional services (Class A2) – Refused, for the following reason:

The proposed use would further extend the non-retailing/shopping uses in the Acomb District Shopping Area, such that more than 35% of the street frontage would comprise non retail uses. As a result the proposal would have an adverse and detrimental effect on the shopping environment by reason of its effect on the vitality and viability of the neighbourhood centre. The proposal would therefore be contrary to Policy S3 of the City of York Local Plan Deposit Draft May 1998 (as amended by pre-Inquiry changes), which seeks to safeguard the vitality and viability of the City Centre and district centres.

99/00169/FUL - Change of use of retail shop (Class A1) to financial and professional services (Class A2) – Refused, for the following reason:

The proposed change of use would further extend the non-retailing/shopping uses in the Acomb District Shopping Area. As a result, the proposal would have an adverse and detrimental effect on the shopping environment by reason of its effect on the vitality and viability of the neighbourhood centre as such the proposal would be contrary to Policy S3 of the City of York Local Plan Deposit Draft, May 1998.

ADDITIONAL PLANNING POLICY

Planning Policy Statement 1 - Delivering Sustainable Development

KEY ISSUES

1. Impact on vitality and viability of the area
2. Impact on neighbouring property

ASSESSMENT

PLANNING POLICY

4.1 Planning Policy Statement 1 - 'Planning for Sustainable Development' aims to protect the quality of the natural and historic environment. 'The Planning System: General Principles', the companion document to PPS1, advises of the importance of amenity as an issue. Should seek to protect and enhance the quality, character and amenity value of the urban area

4.2 The relevant development plan is The City of York Council Draft Deposit Local Plan, which was placed on Deposit in 1998. Reflecting points made, two later sets of pre inquiry changes (PICs) were published in 1999. The Public Local Inquiry started in 1999 but was suspended by the Inspector for further work to be done on the Green Belt. A Third Set of Changes addressing this further work was placed on deposit in 2003. Subsequently a fourth set of changes have been drafted and approved by Full Council on 12th April 2005 for the purpose of making Development Control Decisions, on the advice of the GOYH.

4.3 Policy GP1 'Design' of the City of York Council Development Control Local Plan includes the expectation that development proposals will, inter alia; respect or enhance the local environment; be of a density, layout, and design that is compatible with neighbouring buildings and spaces, ensure residents living nearby are not unduly affected by noise, disturbance, overlooking; retain, enhance or create urban spaces, public views, and other features that make a significant contribution to the character of the area.

4.4 Policy GP16 'Shopfronts' of the City of York Council Development Control Local Plan states that planning permission for new or alterations to existing will only be granted if the proposals respect the scale, proportion, materials and the architectural style of the building to which they are attached in the area in which they are located.

4.5 Policy S3a 'Mix of uses in Shopping Streets' states in York's City Centre Primary Shopping Streets, Acomb District Centre and Haxby District Centre development will be permitted where it provides the improvement and expansion of existing retail premises and the establishment of new shopping uses. Proposal 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. The assessment of proposals for the change of use from a shop (A1) to uses within classes A2 or A3 will be guided by the following factors: the location and prominence of the premises within the shopping frontage; the floorspace and frontage of the premises; the number (a maximum of 35%), distribution and proximity of other ground floor premises in use as, or with planning permission for class A2 or A3; the particular nature and character of the proposed use, including the level of activity associated with it, and; the proportion of vacant ground floor property in the immediate area.

4.6 Policy S6 'Control of Food and Drink Uses' states that planning permission for the extension, alteration or development for food and drink uses will be granted providing: any likely impact on the amenities of the surrounding occupiers as a result of traffic, noise, smell or litter would be acceptable; the opening hours of hot food takeaways and premises where alcohol is consumed are to be restricted where this is necessary to protect the amenity of surrounding occupiers; car and cycle parking meets the standards outlined in Appendix E; acceptable external flues and means of extraction have been proposed; and security issues where consumption of alcohol is involved have been addressed.

4.7 Policy S7 'Evening Entertainment' states that proposals for new leisure uses that complement York City Centre or Haxby or Acomb District Centres will be permitted

providing that: there is no adverse cumulative effect on the vitality and viability of the Centre and; there is no unacceptable effect on residential amenity, and; the public order and safety aspects have been addressed.

PROPOSED CHANGE OF USE

4.8 The application site is located at the end of a row of mixed uses along the pedestrianized portion of Front Street, Acomb. The application site is currently being used for the retail of household equipment. The unit is just outside the Acomb Conservation Area. The main facade of the unit fronts onto Front Street rather than York Road.

4.9 The proposed development would include splitting the unit into two and providing 1no. A1/retail unit and 1no. A5/hot food takeaway unit. The use of each unit is specified in the plans and the covering letter from the agent. The unit that would form the end of the block adjacent to the alley would be the hot food takeaway, and Unit 2 adjacent to the estate agents will be the retail unit. The subdivision will still provide units of a scale in keeping with the surrounding unit sizes. Each unit would retain a display window

4.10 The main implication is the affect the change of use would have on the vitality and viability of this primary protected retail area. Policy S3a states that a maximum of 35% of the shop frontages within the area can be outside A1 use. In calculating the proportion of non-retail uses in a shopping street, the full length of the frontage is considered, including any display windows, doors or blank walls that form part of the unit, non-retail uses that clearly contribute to creating the street character, and entrances to upper floors. It should also be noted that both sides of the street are included when calculating the overall street frontage.

4.11 Within the district centre there are two hot food takeaways; Hakis (2 Front Street) and Yans Express Cantonese Takeaway (11 Acomb Court) and permission for a third at 47 York Road. There are other A5 uses nearby but outside of the centre. In addition to this there has been a number of applications for non A1 use refused in the area on the basis of the potential impact to the vitality and viability of the area and the shopping function of the area.

4.12 With specific reference to criterion (c) of Policy S3a the change of use and subdivision of 75 York Road to a 1 no retail and 1 no. hot food takeaway would exceed the 35% threshold. 59% of the frontage on York Road and 43% of the frontage on Front Street is currently in non-A1 use (this takes into account the both the Working Mens Club and the community Hall). During the site visit it was noted there was not any vacant ground floor property in the immediate area. Front Street is a busy shopping street, and the existing unit has a large main frontage to Front Street. In this part of the street (including the opposite side of the street) there are a relatively large number of non-A1 uses such as banks, betting shops etc. In the strictest sense the application is contrary to Policy S3a as allowing this application would result in a reduced shopping frontage however it would not reduce the number of retail units in the area. Therefore as there is no retail unit loss, the proposed A5 unit is not considered to unduly impact on the vitality and viability of the area.

4.13 Opening hours have been proposed for each unit:

A5 use - Monday to Saturday 09.00 to 23.30 hours, Sunday 09.00 to 23.00 hours

A1 use - Monday to Saturday 08.00 to 18.30 hours, Sunday 09.00 to 17.00 hours

The proposed hours of the retail unit are considered to be similar to those surrounding and as such there is no objection. The application is speculative and there is no end user proposed. There was some concern regarding the opening hours of the A5 unit in the previous application by virtue that the A5 unit would probably be open during the evening and less so during the day. The impact of closed unit during the day in what is a shopping street - creating a blank frontage during the day, has the potential to impact on the viability and vitality of the area and the retail character of the area. If approval is granted it is recommended that a condition be placed on the planning permission that if internal shutters are added to the A5 unit, the shutters should be open during the day to prevent a blank frontage.

4.14 The proposed alterations would include an additional entrance to the front street elevation and two refuse storage openings to the York Road elevation. The external alterations are considered to be relatively minor and are not considered to cause harm to the appearance and character of the street. No flues are shown in the plans and no details have been submitted, a further application may be required for the extraction flues. In the previous application the agent stated that the flues would be internal, and it is unlikely that an external flue would be acceptable in this area. Any noise, fume etc nuisance caused by the flue would be covered by Environmental Health regulations. In addition Environmental Protection Unit have no objection to the proposed A5 use and have not recommended any conditions.

4.15 The Police have made no objections to the above proposal on the grounds of anti-social behaviour. The Police Architectural Liaison Officer did make the point that there are high levels of crime and anti-social behaviour in the area, although there is no evidence to suggest that any of the existing fast food outlets close by have been a catalyst or generator of specific problems.

4.16 There would not appear to be any detrimental impact as a result of the proposal upon residential amenity given the significant distance to the nearest dwelling.

4.17 Highways Network Management have concerns regarding the lack of cycle parking and would like a contribution towards cycling initiatives in the area. There have been other change of use applications in the area without a contribution being required and therefore the applicant has not been requested to make a contribution towards cycling initiatives. There are cycle parks existing within the pedestrianized street.

5.0 CONCLUSION

5.1 The proposed subdivision of the retail unit to 1 no. hot food takeaway (Use Class A5) and 1 no. retail unit would result in a loss of retail frontage but not a retail unit. The proposed sub-division is not considered to impact negatively on the viability and vitality of the Acomb District Centre. Approval subject to the following conditions is recommended.

COMMITTEE TO VISIT

6.0 RECOMMENDATION: Approve

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

Plans, elevations, Design and Access Statement, and covering letter from Nabarro McAllister & Co submitted 9 February 2010;

Reason: For the avoidance of doubt and to ensure that the development is carried out only as approved by the Local Planning Authority.

2 TIME2 Development start within three years

3 The hours of operation of this approved A5 use shall be confined to:

Mondays to Fridays - 09.00 hours to 23.30 hours
Saturdays - 09.00 hours to 23.30 hours
Sundays and Bank Holidays - 09.00 hours to 23.00 hours

Reason: To safeguard the amenity and character of the area, and the amenity of local residents.

4 Any internal security shutters fitted to the A5 hot food takeaway unit shall be open/retracted by 09.00 hours on Monday to Saturday and shall not be closed until 17.00 hours or the close of business whichever is the later.

Reason: To prevent a blank frontage during the day, and reduce the impact on the viability and vitality of the area and the retail character of the 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 the residential amenity of the neighbours, and the vitality and viability of the Acomb District Centre. As such, the proposal complies with Policies GP1, GP16, S3a, S6, and S7 of the City of York Council Development Control Local Plan (2005); national planning guidance contained in Planning Policy Statement 1 "Delivering Sustainable Development";

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