

COMMITTEE REPORT

Date: 21 October 2010 **Ward:** Guildhall
Team: Major and Commercial **Parish:** Guildhall Planning Panel
Team

Reference: 10/01836/FUL
Application at: 14 St Sampsons Square York YO1 8RR
For: Change of use from retail (use Class A1) to mixed use retail and hot food takeaway
By: C/o Agent
Application Type: Full Application
Target Date: 21 October 2010
Recommendation: Approve

1.0 PROPOSAL

1.1 The application site is a single vacant retail unit, located in a terrace of four premises on the eastern side of St Sampson's Square. Also in the terrace are bakeries to each side and an opticians shop on the corner of St Sampson's Square and Parliament Street. The host building is of 4-storey with a basement. The upper floors have been used as storage previously and have independent access from the rear. The building is listed at grade 2, it is within the Central Historic Core conservation area and St Sampson's Square is designated as a primary shopping street in the Local Plan. Nos 13 and 14 are listed as two houses with shops, dating from 1835-40. The shopfronts are of C20 origin.

1.2 Planning permission is sought for a mixed use at ground floor level. The applicants propose to call the premises 'Curry box'. Sales would comprise of pre-cooked meals that can either be sold as a packaged meal or heated up for consumption. This use is therefore a mix of retail and hot food takeaway. It is asked the premises be allowed to trade between the hours of 09.00 to 05.00 the following day.

1.3 The application comes to committee at the request of Councillor Brian Watson, to consider the retail function and character of the street.

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 CONF
- Listed Buildings GMS Constraints: Grade 2; 13 St Sampsons Square
- Listed Buildings GMS Constraints: Grade 2; 23 Parliament Street
- Listed Buildings GMS Constraints: Grade 2; 15 St Sampsons Square
- Listed Buildings GMS Constraints: Grade 2; 14 St Sampsons Square
- Listed Buildings GMS Constraints: Grade 2; 24 Parliament Street York

2.2 Policies:

CYS3	Mix of use in certain shopping streets
CYS6	Control of food and drink (A3) uses
CYHE3	Conservation Areas
CYHE4	Listed Buildings
CYGP1	Design

3.0 CONSULTATIONS

DESIGN, CONSERVATION AND SUSTAINABLE DEVELOPMENT

3.1 Ask for further details to assess the impact on the listed building, of the signage and the internal vents (to deal with any cooking smells from heating food) and shop fittings.

ENVIRONMENTAL PROTECTION UNIT

3.2 Response pending.

HIGHWAY NETWORK MANAGEMENT

3.3 No objection.

GUILDHALL PLANNING PANEL

3.4 Object. Consider the proposed use would detract from the retail character of the area, and be contrary to policies of the Local Plan.

PUBLICITY

3.5 Deadline for comments is 12.10.2010. No comments received to date.

4.0 APPRAISAL

KEY ISSUES

4.1 The key issues are:

- The principle of the change of use, considering the retail function of what is a primary shopping street.
- Any impact on heritage assets - the listed building and the Central Historic Core conservation area.
- The amenity of surrounding occupants.

THE VITALITY AND VIABILITY OF THE STREET AND THE CITY CENTRE AS A WHOLE

4.2 PPS4 advises that Planning Authorities set a strategy for management and growth of centres over a plan period. At local level this includes defining the centre and primary shopping areas, and establishing policies which state what type of development will be appropriate in that area. The Local Plan identifies St Sampson's Square and Parliament Street as primary shopping streets, where non retail uses will only be permitted when they will not dilute the retail function of the street, or the centre as a whole. Factors to consider in assessing the impact will be: location and prominence of the premises, the amount of non-retail uses (as a guide a maximum of 35% non-retail premises are given), the level of activity associated with the proposed use, and the proportion of vacant premises in the area. For the purposes of calculating the 35% in this area, the Local Plan advises that St Sampson's Square and Parliament Street be considered together.

4.3 The host premises overlooks St Sampson's Square. In the square there are two public houses and a restaurant which are not retail premises, there is also the cafe at Browns, but this is considered as ancillary use to the shop. 23% of the shop frontage is in non-retail use. 41% of the frontage of Parliament Street is in non-retail use. Considered together 35% of the frontage is in non-retail use. Should this premises become a non-retail use it would increase the overall figure of non-retail premises to 36%.

4.4 The proposed use does involve an element of retail use and would be open during the day. The application is made on the basis that the host premises would have a certain amount of sales that would derive from the sale of packaged pre-cooked meals; a retail use. This could be secured by condition, and prevention of the site becoming occupied as any other use apart from a retail use. The host premises is not prominent due to its size, as such, as there is a retail element involved in the scheme, and as the majority of premises around St Sampson's Square are in retail use, it is considered it would be difficult to object to the proposed use on the grounds of undue detrimental impact on the retail function of the street.

IMPACT ON THE LISTED BUILDING AND THE CONSERVATION AREA

4.5 The Planning (Listed Buildings and Conservation Areas) Act 1990 requires that in considering whether to grant planning permission for development that affects a listed building or its setting, the local planning authority shall have special regard to the desirability of preserving a listed building, its setting and any features of special architectural or historic interest which it possesses. The local planning authority shall also pay special attention to the desirability of preserving or enhancing the character or appearance of the conservation area. These statutory requirements are also requirements of policies HE3 and HE4 of the Local Plan.

4.6 The proposed use would not involve any cooking on-site as such no means of ventilation to a kitchen will be required. The only alterations detailed at this stage are signage and possible ventilation in the customer area, which is unlikely to be intrusive. Signage is subject to listed building, and advertisement consent, and through such it can be controlled appropriately. Details of ventilation could be

required as a condition of approval, and at this stage a view could be given as to whether listed building consent would be necessary.

AMENITY

4.7 It is asked that the premises be allowed to open until 05.00 in the morning. There is existing late night activity in this area; it is a city centre location, and a hot food takeaway wagon occupies the square each night. The nearest residents, according to the electoral register, are the landlord of the 3 Cranes Public House, and there are flats at 32 Parliament Street (which is on the corner with Jubbergate). Overall noise, as consequence of visitors to the application site late at night, is unlikely to have a material impact on residential amenity.

5.0 CONCLUSION

5.1 The application can be supported in principle as the scheme is for a mixed use, there would be an element of retail and the premises would operate through the day. Also the premises is small in scale and predominantly the Square is surrounded by retail uses. As such the proposal is deemed to comply with policy S3a of the Local Plan. It is considered also there would be no undue harm to the appearance and character of the listed building and the conservation area, and the amenity of surrounding occupants. There would not be a material impact on highway safety. Litter creation and crime and social disorder would be covered by the premises licence.

6.0 RECOMMENDATION: Approve

1 TIME2 Development start within three years

2 PLANS1 Approved plans - Proposed floor plan 2362/102 date stamped 16.8.2010.

3 The premises shall operate as a mixed use of retail and food takeaway, as explained in the supporting statement date stamped 16.8.2010. It shall be used for no other use, apart from as a retail premises only, unless planning permission is granted for an alternative use.

Reason: As a non-retail use could have a material impact on the retail character of the primary shopping street.

4 Should any roller shutter be retained at the premises it shall not be drawn / shut, between the hours of 10.00 and 17.00 each day of the week.

To maintain the vitality and viability of the street.

5 Details of the items listed below shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of the development and the works shall be carried out in accordance with the approved details.

- a) Location, means of fixing, size and colouring, and manufacturers details of any external CCTV.
- b) Location, means of fixing, size and colouring, and manufacturers details of any required ventilation which would be fixed to, or would affect the fabric of the building.

Reason: In the interests of the appearance and historic importance of the listed building, and the appearance of the conservation area.

6 No music shall be played which would be audible outside the premises.

Reason: To preserve the character of the conservation area and amenity.

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 listed building and the conservation area, the retail character of the area and amenity. As such the proposal complies with Policies S3a, S6, HE3, HE4 and GP1 of the City of York Development Control Local Plan.

LISTED BUILDING

You are reminded that the building is listed. Consent would be required for any signage (this planning permission does not give permission for any signage) and other fixings to the building, such as CCTV. Please also note that the side hung projecting sign, associated with the former use, has been removed. Consent would be required for a replacement, which would not necessarily be supported if it were proposed at fascia level. Any CCTV must be in the most discreet location.

Contact details:

Author: Jonathan Kenyon Development Management Officer

Tel No: 01904 551323