

COMMITTEE REPORT

Date: 11 November 2010 **Ward:** Heworth
Team: Major and Commercial **Parish:** Heworth Planning Panel
Team

Reference: 10/01435/FUL
Application at: The Fossway 187 - 189 Huntington Road York YO31 9BP
For: Change of use from public house (use Class A4) to youth club, day nursery and place of worship (use Class D1) with 2no. self-contained flats. New rooflights and entrance door.
By: Mr David Lavery
Application Type: Full Application
Target Date: 28 September 2010
Recommendation: Refuse

1.0 PROPOSAL

1.1 The application has been made by the Living Word Church for the change of use of the Fossway Public House to a mixed use including a youth club (basement), day nursery (ground floor), a place of worship (ground floor) with associated office space (ground and first floor), 1 flat on the first floor and 1 flat on the second floor. The external alterations to the building include two rooflights to both the front/east elevation and the north/side elevation and all the windows will be replaced on a like for like basis. The car park has been re-configured to accommodate 10 parking spaces and 12 cycle parking spaces. The supporting information states that there will be 1.2 metre high fences along the front boundary incorporating two vehicle gates although no details of the appearance were submitted on the plans or elevations. There are a large number of internal alterations, mainly the removal and re-positioning of internal walls and a staircase.

1.2 The detached red brick building is set back from Huntington Road. The last use of the building was as a public house, which closed some time ago, and the building has been boarded up. The street is a main road into York and is predominately residential in character. There is a mixture of building styles in the immediate surrounding area ranging from large semi-detached Victorian villas to modest terraced dwellings built in the early and mid 20th century. Further along Huntington Road there have been recent flat developments. The site is adjacent to a convenience store. The site gained planning permission on 30 June 2009 for the erection of 1no. two storey building comprising 4no. flats after partial demolition of existing structure, and change of use from public house (A4) to 5no. self contained flats, with car parking and alterations to existing access (09/00525/FUL).

1.3 The proposed day nursery is intended to provide childcare facilities for children aged 0 - 5 years, and would create 9 full time jobs. It is intended that the nursery would be privately run and not within the control of the Living Word Church. The agent has verbally confirmed no nursery business has agreed to use this building yet. There would be a separate entrance to the nursery and the meeting hall. The

rear garden area would be for the use of the nursery as an outdoor play area. The income gained from leasing this part of the building would be used for the general upkeep of the building.

1.4 The Living Word Church currently consists of 40 members (12 families). The main hall would be used for worship and prayer meetings on Sundays. On weekdays it is intended that the hall could be used as a meeting room/conference facilities for up to 40 people and on an evening it would be available for use by local clubs and community groups. No details have been given of how often it is expected that these facilities would be used for this purpose.

1.5 The offices associated with the church use would be used for the management of church activities but also provide counselling services such as marriage guidance and debt counselling. This is intended to create 2 full time jobs.

1.6 The second floor flat would be used by the building caretaker, and the first floor two bedroomed flat would be used by students within the church attending local higher education institutions, and the cost would be subsidised.

1.7 The basement is intended to be developed as a Youth Club and will be used by the Church and the local community. The supporting information sets out that the Church Youth Workers would provide a range of activities from this facility and would actively encourage the participation of young people from the area.

1.8 The application comes before committee at the request of Cllr Funnell on the grounds that the benefit to the community of developing the building in the way proposed outweighs the concerns raised by the Highways Network Management. As there have been objections to the application a site visit is also merited.

2.0 POLICY CONTEXT

2.1 Development Plan Allocation:

City Boundary GMS Constraints: York City Boundary 0001

DC Area Teams GMS Constraints: East Area (1) 0003

Floodzone 2 GMS Constraints: Flood zone 2

Floodzone 3 GMS Constraints: Flood zone 3

2.2 Policies:

CYGP1
Design

CYGP4A
Sustainability

CYGP15

Protection from flooding

CYNE7

Habitat protection and creation

CYE3B

Existing and Proposed Employment Sites

CYE4

Employment devt on unallocated land

CYL1B

Loss of local leisure facilities

CYC1

Criteria for community facilities

CYC7

Criteria for children's nurseries

3.0 CONSULTATIONS

INTERNAL CONSULTATIONS

HIGHWAY NETWORK MANAGEMENT - Object - recommend refusal

3.1 - Insufficient level of car parking proposed for the development and the associated impact that this will have on the adjacent highway.

3.2 - The issues seem to be caused due to the overdevelopment in terms of the mix and type of uses proposed (The cumulative impact of the uses on the site are too intense).

3.3 - The site is located on Huntington Road, which is a C classified highway. Huntington Road is a main arterial route into the city centre and is served by a number of frequent bus services with bus stops located in close proximity to the site.

3.4 - Access to remain as existing.

3.5 - Using CYC Annex E parking standards the uses lead to a cumulative total requirement at these peak periods of use of the site of 23 car spaces in accordance with the aforementioned standards.

3.6 - Furthermore there are concerns over whether the level of parking stated and proposed on the enclosed plans is viable/achievable. The car spaces scale at 2.2/2.3m wide, which is below the minimum requirement standard of 2.4m. The distance from the rear of spaces 8-10 is 5.5m, which is below the minimum requirement of 6m. In reality this means that the car spaces will be very difficult to manoeuvre into/out of due to their substandard width and manoeuvring area. The

reduced size of the spaces will also not be compatible with the end user (parents lifting children out of vehicles will find the bay sizes very difficult to use).

3.7 - Car spaces 1-5 are in line with no provision for on site turning. Drivers will therefore be forced to reverse significant distances out into Huntington Road, at a point where there is high pedestrian activity and visibility is obscured by cars parked in the adjacent lay-by. Vehicles reversing this distance within the site will also be in conflict with pedestrians/cyclists accessing the site (particularly parents with young children attending the nursery).

3.8 - Vehicles waiting, parking and manoeuvring on Huntington Road due to the inadequate parking arrangements will interrupt the free flow of traffic particularly public transport and cause a safety hazard for highway users particularly vulnerable highway users such as pedestrians and cyclists.

3.9 - The safety implications from displaced car parking will be more acute as the area adjacent to the site is very busy with multiple private residential vehicle access points and the SPAR shop next door to the application site.

3.10 - The applicants have stated that the existing use of the site as a public house would have had the potential to also generate levels of on-street parking. Public houses in locations such as the site in question are generally a local facility and will not attract significant levels of custom by car.

COUNTRYSIDE OFFICER - No objection

3.11- A bat and otter survey was carried out on the site in May 2009 as part of the previous application. There was no evidence of bat roosts or otters.

3.12 - Would like a condition placed on a planning permission for biodiversity enhancement.

ENVIRONMENTAL PROTECTION UNIT - Have concerns

3.13 - Potential for noise nuisance from the operation of the children's day nursery and thus a loss of amenity to neighbouring residents. Those responsible for the regulation of day nurseries are strongly supportive of the principle that day nurseries should have access to external play space for "fresh air and energetic physical play". There is no statement within the application as to how much time will be spent outside by children as this is likely to be the most disturbing noisy activity. The type of noise produced by children during energetic play can be of a high pitch and more annoying than many other types of noise especially if it carries on for a large part of the day. It is recommended that a Noise Management Scheme should be required by condition to prevent noise from the operation of the children's day nursery and the youth club affecting the amenity of neighbouring residents.

LIFELONG LEARNING AND LEISURE - No objection

3.14 As there is no on site open space commuted sums should be paid to the Council for (a) amenity open space - which would be used to improve a local site

such as River Foss banks (b) play space - which would be used to improve a local site such as Aran Place (if more than 1 bed) (c) sports pitches - would be used to improve a facility within the North Zone of the Sport and Active Leisure Strategy.

CITY DEVELOPMENT - No objections

3.15 - Policy L1b - The principle of the loss of the leisure facility was established in a previous planning permission in - 09/00525/FUL, there is an alternative public house (Yearsley Grove) nearby.

3.16 - Policy H9 (Loss of Dwellings or Housing Land) is intended to protect existing dwellings, residential allocations or land with residential planning permission. However, given that the previous permission was only for 9 dwellings (without an affordable element) and the general need for community facilities, on balance, an objection would not be raised in this particular instance.

EXTERNAL CONSULTATIONS/REPRESENTATIONS

HEWORTH PLANNING PANEL - Support the application

2 LETTERS OF OBJECTION

3.17 - Concerned regarding the generation of additional road traffic and more specifically the issue of parking.

3.18 - Provide 9 full time jobs with nursery for 20 children plus 2 flats. IN addition the services would be for 40 members. 10 parking spaces is inadequate and lead to the parking in the surrounding area.

3.19 - The Green Travel Plan advocates the use of alternatives to the car, however it is likely that a significant percentage of he site users would use their own motor vehicles.

3.20 - There are significant parking issues in the area existing causing obstruction to lines of sight from driveways and the pedestrian crossing.

3.21 - Inevitable abuse of the footpath for vehicle parking impact on safety.

3.22 - The Spar shop, with extended opening hours, already generates additional traffic, which requires parking space. The area has also seen recent development such as Birch Park, Mallard Landings, Waterside Gardens and the ambulance service station all of which have increased vehicle numbers along Huntington Road. This has been detrimental to the quality of life of local residents.

3.23 - Object to the use of the building for worship

1 LETTER OF COMMENTS

3.24 - Support in principle this or any other proposal, which will improve this currently dilapidated site.

3.25 - However the concerns expressed in the Highways consultation, as well as the Environmental Protection Unit's recommendation of a noise management scheme, are noted.

3.26 - With regard to the issue raised by the Environmental Protection Unit concerning potential noise from youth club activities, it is also important to give consideration to whether there could be any possibility of associated nuisance resulting from young people who are not directly involved in the proposed club's activities being attracted to the exterior of the site and neighbouring areas, even though they may not be under the jurisdiction of the club's organisers and staff.

3.27 Agent submitted a petition with 13 names in support of the application

1 LETTER OF SUPPORT FROM PUNCH TAVERNS

3.28 - The pub saw a significant downturn in trade from September 2005, run at a loss by a succession of short term tenants. The pub had a limited patron base and was not a family orientated nor family friendly pub. It had a very poor reputation in the wider area and over the previous 3 years there was a series of drug, violence (inside and outside the pub) and Licensing issues which became so apparent in mid 2008 that the police closed the pub for a short period and threatened removal of the licence.

3.29 - The property is poorly located and has limited scope for change to adapt to more contemporary drinking and entertainment aspirations of the wider clientele needed to survive as a viable public house operation.

3.30 - As a result of the above, poor trading conditions, local demographics and a shift in the pub market The Fossway closed on 4th January 2009 and Punch has no plans for its reopening. Since then it has been boarded up and made secure.

POLICE ARCHITECTURAL LIAISON OFFICER - No objections

ENVIRONMENT AGENCY - No objections

3.31 - Development s acceptable if in accordance with submitted FRA

4.0 APPRAISAL

RELEVANT SITE HISTORY

09/00525/FUL - Erection of 1no two storey building comprising 4no. flats after partial demolition of existing structure, and change of use from public house (A4) to 5no. self contained flats, with car parking and alterations to existing access - Approved

KEY ISSUES

1. Principle of the development and use
2. Impact on highway safety
3. Residential amenity

ASSESSMENT

PLANNING POLICY

3.1 Policy GP1 'Design' of the City of York Council Development Control Local Plan (2005) includes the expectation that development proposals will, inter alia; respect or enhance the local environment; be of a density, layout, scale, mass and design that is compatible with neighbouring buildings and spaces, ensure residents living nearby are not unduly affected by noise, disturbance, overlooking, overshadowing or dominated by overbearing structures, use materials appropriate to the area; avoid the loss of open spaces or other features that contribute to the landscape; incorporate appropriate landscaping and retain, enhance or create urban spaces, public views, skyline, landmarks and other features that make a significant contribution to the character of the area.

3.2 Policy GP4a 'Sustainability' states that proposals for all development should have regard to the principles of sustainable development.

3.3 Policy E4 'Employment development on Unallocated Land' states that within defined settlement limits, planning permission will be granted for employment use of a scale and design appropriate to the locality where: the site is vacant, derelict or underused or it involves infilling, extension, redevelopment or conversion of existing buildings.

3.4 Policy L1b 'Loss of Leisure Facilities' states that planning permission will only be granted for a change of use that would result in the loss of a leisure facility where it can be demonstrated that: a need for the leisure facility no longer exists; or appropriate alternative facilities exist within the catchment area.

3.5 Policy C1 'Community Facilities' states that a planning application for social, health, community and religious facilities will be granted permission providing that the proposed development is of a scale and design appropriate to the character and appearance of the locality and it would meet a recognised need.

3.6 Policy C7 'Children's Nurseries' states that permission will be granted for the development of, or the change of use to, a children's nursery providing: adequate internal and external play area is provided; and where development will not adversely affect the amenity of neighbouring properties or residential character of the area; and the proposed development is well served by footpaths, cycleways and public transport routes.

3.7 National advice contained within Planning Policy Guidance Note 13 (PPG13) states that sustainable means of travel should be encouraged. When thinking about new development, and in adapting existing development, the needs and safety of all in the community should be considered from the outset. Mixed-use developments can provide very significant benefits, in terms of promoting vitality and diversity and in promoting walking as a primary mode of travel. However, it should not be assumed that the juxtaposition of different uses would automatically lead to less car dependency.

3.8 The availability of car parking has a major influence on the means of transport people choose for their journeys. PPG13 suggests that levels of parking can be more significant than levels of public transport provision in determining means of travel even for locations very well served by public transport. The LPA should not require developers to provide more spaces than they themselves wish, other than in exceptional circumstances, which might include for example where there are significant implications for road safety which cannot be resolved through the introduction or enforcement of on-street parking controls.

PRINCIPLE OF THE DEVELOPMENT

3.9 The principle of the redevelopment of the site has previously been accepted in application 09/00525/FUL. There are alternative facilities in the area, for example Yearsley Grove, and as such complies with policy L1b of the City of York Development Control Local Plan.

3.10 It is considered that the agent has demonstrated a need for the place of worship; at present the applicant is in rented accommodation and would like a permanent base, and 40 families regularly attend worship. However the agent has not submitted any information in relation to demonstrating that there is a recognised need for the other social and community aspects of the proposal and as such does not comply with Policy C1. However it is considered that the uses proposed would be a positive addition to the local community and as such it is considered unreasonable to recommend refusal on these grounds.

3.11 The proposal is considered to comply with Policy C7 as the proposed nursery is considered to provide adequate internal and external play areas, and the site is well served is well served by footpaths, cycleways and public transport routes. The Environmental Protection Unit have concerns regarding the noise disturbance to the occupants of the neighbouring dwelling from the nursery especially the outside play area. The outside play area would be to the rear of the building, the neighbouring properties are set further forward in the street than the Fossway and as such it is considered that the noise could be heard in the rear gardens of these properties. As the noise levels would be during the day it is not considered that the levels would cause undue disturbance. The proposed evening use and any subsequent noise disruption is not considered to cause further disruption than the previous use. The increase in the parking issues on the street and the subsequent impact on the character and appearance of the street will be discussed further on in the report.

3.12 The external alterations are very minor and are not considered to unduly impact on the residential amenity of the surrounding properties. There are proposed rooflights but these are not considered to cause overlooking by virtue of the distance to the neighbouring properties.

3.13 A letter of objection was received that raised concerns regarding the potential increase in anti-social behaviour the proposed development may bring, particularly the youth club use. The objector was concern that the present anti-social behaviour in this particular area may be exacerbated. From the supporting information it is stated that the Youth Club would be managed by Youth Workers and as such would

have responsibility for the management of issues caused by attendees of the Youth Club. The intention is that the youth club would be on a Wednesday and Friday from 19.00 hours to 21.30 hours. Two of the flats on the site would be occupied and as such would have surveillance of the area to the front. The closing of the gate at a certain time could be conditioned if it was thought prudent. It is not considered that the uses of the site would add further to the anti-social behaviour issues in the area. The Police Architectural Liaison Officer did not raise any objections to the proposed scheme. The overall hours of use (except the flats) can be conditioned to prevent late night noise disturbance etc. It is not considered that the conditioning of the hours of each individual use would be possible/reasonable, although the hours for the building as a whole could be conditioned, and therefore prevent potential unreasonable disturbance to the occupants of the neighbouring dwellings.

IMPACT ON HIGHWAY SAFETY

3.14 The proposed uses include two flats, a nursery (for approx 20 children), the main hall (for church use, conference/meeting use, and use by community groups on an evening) approx 40 people, offices for ancillary church use and counselling use, and a youth club.

3.15 The site by virtue of the number of proposed uses would be more intensely used than the previous use. The use of the site for these uses is considered to be acceptable, however the number and scale of the uses causes some concern and the subsequent impact this may have.

3.16 During the day there would be 4 uses on the site: a children's nursery (20 place approx), 2 flats, community hall to be rented out to local groups/businesses as a conference facility (40 people approx), small office use providing marital/financial support and advice. Other uses taking place on the site would occur at weekends or evenings (church and youth club etc) when many other uses of the building would not be occurring. Highways Network Management using CYC Annex E parking standards state that the proposed uses lead to a cumulative total requirement (at these peak periods of use of the site) of 23 off-street car spaces. The application proposed 10 parking space and 12 cycle parking spaces.

3.17 The site is in a sustainable location: it is on a regular bus route into the city centre, and is well served by pedestrian routes and cycleways. The site is within a large residential housing estate. However the nature of nurseries is such that most children are taken by car, and as such are a high traffic generator particularly at peak times in the morning and the evening and the nature of the use is such that people will often drop off and pick up at the approximately the same times of day. In addition, whilst it can be expected that delegates attending the conference facilities would travel to the site by public transport, it is anticipated that a number would travel by private car. The agent was unable to supply further information regarding the conference facilities e.g. how often they would be used etc.

3.18 Whilst it is accepted that the CYC Annex E standards are represented as a maximum provision, in line with local and national transportation and planning policies, it is considered that the shortfall in the level of provided car parking and that

likely to be generated by the development will lead to a detrimental impact on the adjacent highway.

3.19 Furthermore there are concerns over whether the level of parking stated and proposed on the enclosed plans is viable/achievable. The car spaces scale at 2.2/2.3m wide, (despite the agent's statement that they are larger) which is below the minimum requirement standard of 2.4m. The distance from the rear of spaces 8-10 is 5.5m, which is below the minimum requirement of 6m. In reality this means that the car spaces will be very difficult to manoeuvre into/out of due to their substandard width and manoeuvring area. The reduced size of the spaces will also not be compatible with the end user (parents lifting children out of vehicles will find the small bay sizes difficult to use). The reduced size of the spaces will result in the parking area not being used efficiently as vehicles are more likely to overhang adjacent bays which will reduce the number of vehicles parked in them and hence the level of parking available on site.

3.20 Car spaces 1-5 are in a line, with no provision for on site turning. Drivers will therefore be forced to reverse significant distances out into Huntington Road, at a point where there is high pedestrian activity, and cars parked in the adjacent lay-by obscure visibility. Vehicles reversing this distance within the site will also be in conflict with pedestrians/cyclists accessing the site (particularly parents with young children attending the nursery). The design and layout of the site is also therefore detrimental to the safety of highway users.

3.21 It may well be that the site does not offer the number of on-site parking spaces shown. In addition to the potential users of the site the proposed uses would provide 12 full time jobs: during the day/peak period (9 places in the nursery, 2 places in regards of the counselling, and presumably 1 for the pastor/vicar), this does not take into the account any part time employees or the people living in the flats. Although some may use the cycle parking spaces, parking spaces may be occupied by staff, further limiting the number of parking spaces. The supporting information states that each of the 12 families that attend the church would travel by car; on this basis there would not be sufficient parking spaces and the membership of the church may increase over time.

3.22 There is an under supply of cycle parking: 12 are shown on the plans and Highways Network Management considered there should be at least 15. It is, however, considered that the additional cycle parking spaces could be provided by condition.

3.23 Highways (Network Management) do not consider that the issue can be overcome by the introduction of a traffic order prohibiting parking on the highway. The traffic order cannot be authorised by the planning process; such orders are subject to separate legislation, as such they may not be confirmed, in this particular situation the current level of highway parking is considered to be at a tolerable level, and does not give rise to undue concerns of safety/amenity. Enforcement of TRO's would be very difficult to achieve; limited waiting restrictions such as double yellow lines may only be enforced when no activity has been observed at a vehicle for 10 minutes therefore abuse of restrictions may not be able to be managed effectively, particularly for drop offs/pick ups, making them of limited worth.

3.24 Vehicles waiting, parking and manoeuvring on Huntington Road due to the inadequate parking arrangements will interrupt the free flow of traffic particularly public transport and cause a safety hazard for highway users particularly vulnerable highway users such as pedestrians and cyclists. The safety implications from displaced car parking will be more acute as the area adjacent to the site is very busy with multiple private residential vehicle access points, and the Spar shop next door to the application site. A lay-by serves parking for the Spar unit immediately adjacent to the application sites entrance. The lay-by is frequently full from customers using the shop and the facilities it offers including ATM/post office and post box. Displaced car parking associated with the development site will therefore increase the total demand for parking in the area and if approved, utilising the lay-by for extended periods of time (e.g. hall use) would lead to a spreading of Spar/ATM/Post Box parking further along the adjacent highway and potentially adjacent to the zebra crossing serving the Spar.

3.25 The agent submitted further information stating that there is sufficient on-street parking available on Huntington Road and surrounding streets. The street does not appear to have any widespread parking restrictions. Given the uses of the proposed building especially the nursery it is likely that users of the site will park as near to the site as possible. The applicants have stated that the existing use of the site as a public house would have had the potential to also generate levels of on-street parking. Public houses in locations such as the site in question are generally a local facility and do not attract significant levels of custom by car. Whilst it is accepted that functions such as wedding receptions can take place these are generally very infrequent and occur on weekends or periods when traffic on the adjacent highway network is lighter. The impact of on-street parking resulting from these functions would therefore not be as problematical.

3.26 The proposed uses of the site would intensify the use of the site and have a significantly greater impact than the previous use. There would be large number of people using the site during the day and evening. Some of the proposed uses will be of benefit and would be positive additions to the local community and it is considered that some of these uses are acceptable on the site. However the scale and number of uses at any one time would lead to the traffic and parking issues and as such it is considered to outweigh the community benefits of the proposal and as such would be contrary to Policy E4, GP1, and advice contained within PPG13. A reduction in the number of proposed uses on the site may result in the proposals being acceptable

5.0 CONCLUSION

5.1 The proposal would intensify the use of the site and have a significantly greater impact than the previous use. There would be large number of people using the site during the day and evening. Some of the proposed uses will be of benefit and would be positive additions to the local community and it is considered that some of these uses are acceptable on the site.

5.2 However the scale and number of uses at any one time would lead to an additional demand for parking that can not be accommodated within the off street

parking area or within the public highway, without unacceptable compromises being made both in terms of road safety and traffic congestion. As such refusal is recommended.

COMMITTEE TO VISIT

6.0 RECOMMENDATION: Refuse

1 The Local Planning Authority considers that the proposed number and intensity of uses on the site would result in an increased demand for on-street parking. The present demand for the available on street parking in the vicinity of the site is high. It is not considered that the additional demand for parking that would be likely to be generated by the proposal can be satisfactorily accommodated within the public highway, without unacceptable compromises being made both in terms of highway safety and traffic congestion.

7.0 INFORMATIVES:

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