

COMMITTEE REPORT

Date: 18 November 2010 **Ward:** Guildhall
Team: Major and Commercial **Parish:** Guildhall Planning Panel
Team

Reference: 10/02045/FUL
Application at: 2B Kings Square York YO1 8BH
For: Change of use from shop (use Class A1) to coffee shop (mixed use A1/A3) (retrospective)
By: Nero Holdings
Application Type: Full Application
Target Date: 22 November 2010
Recommendation: Approve

1.0 PROPOSAL

1.1 The application site is 2B Kings Square which is situated on the corner of Kings Square and St Andrewgate. The building was formerly an extension to the retail unit at 77-79 Goodramgate, added after a planning application was approved in 1977. The unit has now been split into two units. 77-79 Goodramgate is presently vacant.

1.2 The application is retrospective. It seeks permission for a mixed use of cafe and retail. The premises are occupied by Caffe Nero.

1.3 The application site is within the Central Historic Core conservation area. King's Square is designated as a primary shopping street in the Local Plan.

1.4 The application is brought to the committee at the request of Councillor Watson, to consider the impact on the character of what is a primary shopping area.

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

2.2 Policies:

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

3.0 CONSULTATIONS

CITY DEVELOPMENT

3.1 No objection as the change of use will add to the vitality and viability of the area and brings into use a formerly empty premises in the primary shopping area.

HIGHWAY NETWORK MANAGEMENT

3.2 No objection.

ENVIRONMENTAL PROTECTION UNIT

3.3 Due to the number of residents nearby it is asked that times of deliveries be restricted to daytime hours (typically 08:00 to 18:00).

GUILDHALL PLANNING PANEL

3.4 No objection. Ask if permission has been sought for signage at the site.

PUBLICITY

3.5 Deadline for comments 1.11.2010. One objection has been made. Grounds as follows:

- The premises are predominantly a café rather than retail (75% of custom).
- Over concentration of non-retail premises in the square. Planning permission has also been given for a café on the upper floors of King's Court, on the opposite side of the square, which further will affect the character of the area.
- A similar application for a mixed use in the square (at no.3 King's Court) was refused in 2007. (Officers advise that an application for a mixed use at this premises was approved, it was not implemented. An application was also refused in 2009 for a café/restaurant at ground floor level).
- Use has lead to persons parking outside illegally to purchase goods for takeaway. This has a detrimental impact on safety.

4.0 APPRAISAL

KEY ISSUES

4.1 The key consideration is the vitality and viability of the street and the city centre.

RELEVANT PLANNING POLICIES

4.2 Planning Policy Statement 4 (PPS4) sets out the Government's policy framework for planning for sustainable economic development. PPS4 seeks to promote competitive town centres. It advises that planning policies should support existing business sectors, taking account of whether they are expanding and (where possible) plan for new or emerging sectors likely to locate in their area. PPS4 encourages new uses for vacant or derelict buildings. At local level PPS4 advises LPA's to define primary shopping areas and explain what uses will be appropriate in such areas.

4.3 Policy S3a of the Local Plan relates to York's primary shopping streets. It advises that in such streets the loss of retail premises will only be permitted where this would not detract from the primary shopping function of the street, and it would contribute to the vitality and viability of the area. It states that proposals for a change of use from shop (A1) to other uses, including cafes, 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 A use other than A1 (retail)
- The particular nature and character of the proposed use, including the level of activity associated with it
- The proportion of vacant ground floor property in the immediate area

4.4 Policy S3a establishes that non-retail uses can play a role in maintaining a diverse and prosperous city centre. However the amount and prominence of non-retail premises needs to be controlled, to prevent an over-concentration of such uses diluting the primary retail function.

4.5 For the purpose of assessing the amount of non-retail premises in the primary shopping street, the Local Plan advises that King's Square be calculated alongside Colliergate. With the host premises no longer A1 retail, 29% of King's Square/Colliergate frontage is in non-retail use.

4.6 Prior to occupation by Caffè Nero the host premises was vacant for about a year and recently 3 King's Court has also become partially vacant. 3 King's Court is a significant, prominent building in the square. The owners have had problems securing long term occupants, hence there have been applications made to allow either a mixed use, or a cafe use within that building. The south side of the square is dominated by an estate agents; a non-retail use.

4.7 With regards the host premises, 70% of sales are drinks only. Over 3500 customer transactions per week typically occur, around 900 being for sales to takeaway. The amount and type of custom that occurs at the premises demonstrates that the use supports the retail function of the area throughout the day and has a positive impact on the overall vitality of King's Square. As such officers consider that the mixed use in this case accords with the aspirations of policy S3a of the Local Plan, and fits with national requirements established in PPS4.

OTHER MATTERS

4.8 No cooking takes place at the premises, to this extent there would not be an impact on amenity. A retail/cafe use is the type that would be expected to occur in a city centre, and it would not lead to any disturbance that would have an undue effect on neighbours.

4.9 Reports have been made that persons drive to the premises, park illegally and go into the premises to collect food or drinks to take away. This could potentially

occur at any similar premises in the city centre and cannot be sustained as grounds for refusal.

4.10 Delivery times would be controlled through highways regulations as is the case at the other commercial premises nearby, including Barnitts which takes deliveries from St Andrewgate and Colliergate. In relation to the extant arrangement in the area, it is considered deliveries to the host premises would not have a material impact on the nearest residential premises, which are in St Andrewgate.

5.0 CONCLUSION

5.1 Officers consider that the proposed use is consistent with national policy established in PPS4 and policy S3 of the Local Plan in that it assists in the health, vitality and retail function of this part of the city centre. It may be that it has a detrimental impact on other similar businesses nearby, however PPS4 advises that policy should promote competitive town centres; competition within the city centre itself (rather than a city centre versus out of centre scenario) is not a material consideration in this case. There would not be a material impact on the amenity of surrounding occupants or highway safety. Approval, subject to conditions that the end use does not deviate into a different type of restaurant/cafe, that may impact the retail function of the area by only generating custom at certain times of the day, could not occur without planning permission.

COMMITTEE TO VISIT

6.0 RECOMMENDATION: Approve

1 The premises shall not be used other than a coffee shop serving hot and cold drinks, sandwiches and similar light refreshments, for consumption on or off the premises. There shall be no primary cooking of food or sales of alcohol at the host premises.

Reason: For the avoidance of doubt, to define more precisely the nature of the approved use, and In the interests of the overall vitality and viability of the retail function of the central shopping area.

7.0 INFORMATIVES:

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 retail function of the area, amenity, highway safety and the character and appearance of the conservation area. As such the proposal complies with Policies S3, S6, GP1 and HE3 of the City of York Development Control Local Plan.

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