



(10/01303/FUL). The application was approved at planning committee in November 2010. However occupation of the building did not occur. The applicants have previously operated a youth cafe, called Fuse, at 27 Swinegate, in the building now occupied by Oscars.

## **2.0 POLICY CONTEXT**

### 2.1 Development Plan Allocation:

Areas of Archaeological Interest GMS Constraints: City Centre Area  
Conservation Area GMS Constraints: Central Historic Core  
Listed Buildings GMS Constraints: Grade 2; 3 Little Stonegate York

### 2.2 Policies:

CYGP3 Planning against crime  
CYHE3 Conservation Areas  
CYHE4 Listed Buildings  
CYS5 Non-retail uses in shopping streets  
CYS6 Control of food and drink (A3) uses

## **3.0 CONSULTATIONS**

### City Development

3.1 Consider the proposed use would be appropriate in the city centre. It is asked that, in line with policy, officers should be satisfied there is an identified need for the proposed use and there would not be undue harm to amenity.

### Design, Conservation and Sustainable Development

3.2 Support the scheme in principle; the proposed use, as a meeting place/performance space, clearly fits with the original use as a chapel. There is no objection to the lower floor area alterations, which would not affect the character of the building. Officers were initially concerned with the amount of sub-division on the upper floors, which has now been reduced, to avoid a material impact on the open character of these spaces. Further justification was also requested with regards the alterations to the secondary stair, which it is proposed to upgrade, so it provides a means of escape in line with building regulation requirements.

### Environmental Protection Unit

3.3 To consider the amenity of surrounding occupants, it is asked that details of any additional plant such as air-conditioning or required kitchen equipment to deal with cooking smells, be submitted to the Local Planning Authority for approval.

### Guildhall Planning Panel

3.4 Support the application

### Police Architectural Liaison Officer (ALO)

3.5 Comments that analysis shows the street suffers from high levels of crime and anti-social behaviour, predominantly due to the night time economy. There have been 21 recorded incidents between March 2010-2011. Recommendations are as follows:

- Windows to the lower level of the building are at footpath level and could be susceptible to damage. It is suggested external grilles are fitted to protect the windows.
- Access control to the building and CCTV is recommended. However it is added there are existing cameras that cover the street.
- Management of activities within and outside the building is necessary, and should be a condition of any planning permission.
- Consider it necessary that the premises closes at 22:00 hours. It is desirable to avoid exposing young persons to intoxicated persons. Research shows teenagers can be influenced by adult drinking behaviour and it is important that they are not given the indication that rowdy/drunken behaviour is acceptable.

### Publicity

3.6 An objection from the cafe next door has been received, which objects to the type of persons the proposed use would bring to the area.

## **4.0 APPRAISAL**

### **4.1 KEY ISSUES**

- Principle of the proposed change of use
- Amenity of surrounding occupants
- Crime and disorder
- Heritage assets - the listed building and the conservation area

## PRINCIPLE OF THE PROPOSED USE

4.2 Little Stonegate is not a primary shopping street. Policy S5 of the Deposit Draft Local Plan states that in shopping streets not defined as Primary Shopping Streets, planning permission will be granted for Class A uses (shops, services, restaurants, cafes, drinking establishments and takeaways) at ground floor level where this would not harm the vitality of individual streets or the vitality and viability of the City Centre as a whole. This policy acknowledges the Central Government advice in Planning Policy Statement 4 that a more flexible approach in streets outside the Primary Shopping Area is appropriate. In particular, it accepts that different uses, during the day and in the evening, can complement and reinforce each other.

4.3 The premises would attract visitors throughout the day and reverting the Chapel to a separate unit would re-introduce the Little Stonegate entrance. The previous use led to a somewhat dead frontage onto Little Stonegate. The proposed use would therefore compliment retail activity within the street and add to its vitality. As such in principle the proposed use is deemed to be acceptable.

## AMENITY OF SURROUNDING OCCUPANTS

4.4 Policy GP1 of the local plan seeks to preserve amenity. GP1 advises that there should be no undue adverse impact from noise disturbance, overlooking, overshadowing or from overdominant structures.

4.5 It is proposed to operate the cafe until 22:00 hours each day of the week and during the evening there will at times be entertainment including live and recorded music. The application site is in a commercial area. There are no residential premises immediately nearby. To each side of the application site are cafe/bars, at no.1 next door there is hotel accommodation on the upper floors. The use would cease at a reasonable time and noise within the building is unlikely to cause disturbance to neighbouring occupants as there is an existing stairwell at one end of the building, and partitions will be added to create rooms at the other end, so there would be a reasonable buffer between the main space, where performances would occur, and neighbours. It is unlikely undue noise disturbance would occur.

4.6 Policy S6 concerns applications for food and drink uses. It states that planning permission for the extension, alteration or development of premises for food and drink uses will only be granted provided there is no unacceptable impact on the amenities of surrounding occupiers. It is proposed to add an extract flue which would terminate at ridge level. The location of the flue indicates cooking smells and odour would not have an adverse impact on surrounding occupants (there is a window on the rear roofslope of 5/7 Little Stonegate). Details of the equipment, to ensure it is fit for purpose, will be required as a condition. When it was proposed to locate this use on Fossgate, only temporary planning permission was given, to monitor the site, given the amount of residential premises nearby. A temporary permission is deemed unnecessary at this site, as there are not neighbouring residential premises.

## CRIME AND DISORDER

4.7 GP3 advises that crime prevention is a material planning consideration and identifies measures which should be considered in developments in order to create safer environments. The policy refers to Circular 5/94 Planning Out Crime, which explains how design can assist in crime reduction. Measures that can reduce the potential for crime include attractive and well managed environments, natural surveillance, satisfactory lighting and in cases where people are likely to congregate, the use of CCTV.

4.8 The application site, and the pertinent part of Little Stonegate are already covered by CCTV. Staff will have appropriate qualifications/experience and would monitor the entrance and the comings and goings of persons. The operators are aware they have a responsibility to monitor users of the facility in the immediate area. Officers agree with the Police Architectural Liaison Officer, that appropriate management of the premises is important. A management plan, which would include contact details of the operators of the premises, can be secured as a condition of planning permission.

## HERITAGE ASSETS

4.9 National policy note PPS5: Planning for the Historic Environment makes a presumption in favour of conservation. Alterations must be justified. However it also recognises that intelligently managed change may sometimes be necessary if heritage assets are to be maintained for the long term. In determining applications local planning authorities should weigh the public benefit of the proposal (for example, that it helps

to secure the optimum viable use of the heritage asset in the interests of its long-term conservation) against the harm; and recognize that the greater the harm to the significance of the heritage asset the greater the justification will be needed for any loss. Policy HE3 of the Local Plan advises that proposals will be expected to preserve the character and appearance of the conservation area.

4.10 The only external change proposed is the kitchen flue, which would be at the rear, and not seen from the public realm, therefore there would not be a material impact on the conservation area.

4.11 Within the building partitions on each floor level are proposed, there would be a stage screen on the two upper floor levels, a goods lift would be replaced with a passenger lift and alterations to the secondary stair are required so it provides the required secondary means of escape. These alterations are each deemed to be justified and required to allow the full use of the host building. Whilst there is some impact on the character of the space on the upper two floors, the plans have been amended, so the new rooms are predominantly confined to the space behind the balcony, where they are not they only project no more than 1.8m from the side walls. The scheme strikes a balance between allowing the required use and reasonably preserving the character of the space. The staircase to be altered is not original, building regulations officers have confirmed the works are necessary. A more comprehensive explanation of the changes is detailed in the companion application for listed building consent: 11/00400/LBC, to summarise the impact on the listed building is deemed to be acceptable.

## **5.0 CONCLUSION**

5.1 The proposed development would be acceptable in policy terms; it would positively contribute to the vitality and viability of the shopping street and would not have an undue impact on amenity. The changes to the listed building are justified, to allow its full occupation now it will again be independent, and would not lead to unacceptable harm to the building. It is recommended the application be approved.

## **COMMITTEE TO VISIT**

**6.0 RECOMMENDATION:** Approve

1 TIME2 Development start within three years

2 PLANS1 Approved plans - YPC/011C and YPC/012C and 13 received 28.6.2011

3 The premises shall only be open to customers/non-staff members between the hours of 08:00 and 22:00 each day of the week.

Reason: In the interests of the amenity and to avoid issues regarding crime and disorder.

4 A management plan for the premises shall be submitted to, and approved in writing by, the Local Planning Authority before the proposed use hereby approved is implemented. The management plan shall include; provisions to manage users both onsite and outside the premises, contact details of staff and publicity of the premises to the locality, and prevention of litter creation. The plan shall be updated accordingly when necessary and the premises shall operate in accordance with the management plan at all times.

Reason: To protect the amenities of occupants of adjoining properties.

5 Any extraction system fitted must be adequate for the treatment and extraction of fumes so that there is no adverse impact on the amenities of nearby occupants by reason of fumes, odour or noise. Details of the extraction plant or machinery and any filtration system required shall be submitted to the Local Planning Authority for approval. The extraction system shall be installed in accordance with the approved plans prior to first operation of the use hereby permitted, appropriately maintained thereafter and fully removed once its use has ceased.

Reason: In the interests of amenity in accordance with policy S6 of the City of York Draft 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 impact on heritage assets, the vitality and viability of the street and the city centre,

amenity and crime and disorder. As such the proposal complies with Policies GP1, GP3, HE3, HE4, S5 and S6 of the City of York Development Control Local Plan.

**Contact details:**

**Author:** Jonathan Kenyon Development Management Officer

**Tel No:** 01904 551323