

COMMITTEE REPORT

Date: 20 October 2011 **Ward:** Micklegate
Team: Major and **Parish:** Micklegate Planning
Commercial Team Panel

Reference: 11/02039/FUL
Application at: Hotel Du Vin 89 The Mount York YO24 1BL
For: Permanent retention of smoking shelter to rear following approval of temporary planning permission dated 13.05.2010 (10/00376/FUL)
By: Stephen Rodwell
Application Type: Full Application
Target Date: 21 September 2011
Recommendation: Approve

1.0 PROPOSAL

THE PROPOSAL

1.1 Planning permission is sought for the retention of a hexagonal smoking shelter which has been erected to the rear of the Hotel du Vin at 89 The Mount. The smoking shelter has a timber frame and is clad with tongue and grooved panels to the rear and is left open to the front elevation. The roof is clad in cedar shingles with copper rainwater guttering.

THE SITE

1.2 No.89 The Mount is a large early to mid 19th Century house, which had been converted to offices in the 1960s. In 2007, the building was extended and converted for use as a hotel. It is Grade II listed and located within the Central Historic Core Conservation Area outside the city walls.

PLANNING HISTORY

1.3 In January 2008, a one year temporary permission was granted for the smoking shelter to allow the Council adequate time to assess the impact of the shelter on residential amenity (07/02616/FUL).

1.4 A further application for the retention of the shelter was submitted in March 2010 (10/00376/FUL). Whilst Circular 11/95 advises that a second temporary permission should not normally be granted, a further one year temporary permission was granted on the basis that the received objection letters from local residents highlighted a confusion that the previous permission had been a permanent permission and also revealed a lack of awareness that complaints should not only

be directed to the Hotel management but also to the Environmental Protection Unit to give the Council documentary evidence of any objections.

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; 89 The Mount, York

2.2 Policies:

CYHE2 Development in historic locations
CYGP1 Design

3.0 CONSULTATIONS

Design Conservation and Sustainable Development

3.1 The physical presence of the shelter does not adversely affect the setting of the main building. In addition fears about the damaging effect on trees of the concrete raft, on which it was built, have been allayed. The building does not appear to adversely affect the character and appearance of the conservation area.

Environmental Protection Unit

3.2 No objections. Since the temporary permission was granted in May 2010, only 1 complaint has been received regarding noise from the shelter. A letter was sent to the hotel following this complaint and no further complaints were received. Therefore the Environmental Protection Unit has no evidence that demonstrates that smoke or noise from this shelter is having an affect on amenity.

Micklegate Planning Panel

3.3 No planning objections but wish to comment about the use of inefficient and wasteful external heating.

Neighbours

3.4 Four letters have been received from local residents commenting on the application as follows;

- (i) Noise - noise would have been reduced if the open sides faced away from residents properties. The hotel management have been contacted on

Application Reference Number: 11/02039/FUL

Item No: 5h

several occasions to ask them to deal with noisy guests. They usually respond but the staff on duty should notice excessive noise and deal with it before it disturbs the residents.

- (ii) Do not object in principle but request that the facility is more actively managed given that on a few occasions, there has been noise disturbance at night
- (iii) Should permission be granted, there should be a condition that restricts the use of the shelter after 10pm at night.
- (iv) Comment relating to staff smoking area, which is located behind the fence adjacent to number 84, subjecting resident to smoke pollution on a regular basis. Why can't residents and staff use the same building?

4.0 APPRAISAL

4.1 Key Issues

- impact on the setting of the listed building and the character and appearance of the Central Historic Core Conservation Area
- impact on residential amenity

IMPACT ON HERITAGE ASSETS

4.2 Planning Policy Statement 5 " Planning for the Historic Environment " seeks to ensure that the special characteristics of listed buildings and conservation areas are not adversely affected by inappropriate developments. Local Plan Policy HE2 states that within conservation areas and in locations which affect the setting of listed buildings, proposals must respect adjacent buildings, open spaces, landmarks and settings and have regard to local scale, proportion, detail and materials.

4.3 The smoking shelter is a relatively small structure sited under a tree canopy away from the original rear elevation of the building. The eaves height is below cill height of the neighbouring hotel block and the ridge sits below the ridge of the adjacent electricity sub station. Officers consider that the smoking shelter has a neutral impact upon the setting of the listed building and the wider Conservation Area and therefore accept that the proposal accords with Local Plan policy HE2.

AMENITY OF SURROUNDING OCCUPANTS

4.4 Local Plan policy GP1 seeks to ensure that development proposals result in no undue adverse impact from noise, disturbance, overlooking, overshadowing or from overdominant structures.

4.5 The nearest houses are located approximately 30 metres from the smoking shelter with the closest boundary to their gardens being approximately 18 metres. Four letters have been received from local residents objecting to the proximity of the

shelter principally for the reasons of late night noise and smoke pollution. Comments have been made that the facility should be more actively managed.

4.6 At the request of Officers, Hotel Du Vin have forwarded a statement confirming how the smoking shelter is managed;

"Hotel du Vin is a reputable establishment providing the highest level of service to our guests in a comfortable and relaxed environment. This is achieved through signage instructing guests that the cigar shack is to be closed at 10.30pm, our Bar Team are trained to ensure this happens and our Duty Managers are trained to ensure that the bar team are fulfilling their duties. To ensure that this is made clear we have a barrier which is erected across the entrance to the cigar shack, the fire is turned off and the lighting switched off.

Our Night Management team, of which we have 2 team members on at all times conduct regular walk rounds of the building for security and fire safety; this team is also trained to ensure that our guests and neighbours are not disturbed by other hotel guests.

I personally have an open door policy to my neighbours should any form of disturbance arise and indeed have made changes to the training policy to reflect issues raised by residents as to what happens when the cigar shack is closed - once the cigar shack is closed, guests were congregating in the same general area for cigarettes. My nights team are now trained to usher these guests to the front of the building to ensure that our other guests and neighbours are not disturbed (we have several rooms that are directly above and adjacent to the cigar shack and rear of hotel).

4.7 The previous temporary permissions have allowed for a period of monitoring to take place to determine the impact of the shelter on residential amenity. Since the last granting of permission in May 2010, the Environmental Protection Unit state that only one complaint has been received regarding noise from the shelter. In response, a letter was sent to the hotel since which no further complaints have been received.

4.8 In the context of the management plan provided by the Hotel and given that there is a lack of evidence to suggest that the smoking shelter is significantly impacting on residential amenity, Officers consider that it would be difficult to resist the permanent retention of the smoking shelter on the grounds of the impact on the amenity of surrounding occupants. It is therefore recommended that permission be granted subject to a condition requiring the active management of the facility in accordance with the statement provided by the Hotel.

5.0 CONCLUSION

5.1 On the basis of a condition requiring the active management of the smoking shelter in accordance with the statement provided by the Hotel, the permanent retention of the smoking shelter is considered to accord with national and local plan policy. Approval is therefore recommended.

COMMITTEE TO VISIT

6.0 RECOMMENDATION: Approve

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

Received 25 July 2011;

Dwg No: BLC-32-05 I Rev A

Dwg No: BLC-32-10 I Rev A

Dwg No: BLC-32-02 I Rev B

Dwg No: C110 Rev E

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

2 The shelter hereby approved shall be managed in accordance with the details contained within the e-mail from David Macdonald on 29 September 2011. The shelter shall not be used between the hours of 22:30 and 09:00 every day.

Reason: To safeguard the amenities of nearby residents.

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 Central Historic Core Conservation Area and the impact on residential amenity. As such the proposal complies with Policies HE2, HE3 and GP1 of the City of York Development Control Local Plan.

Contact details:

Author: Rachel Tyas Development Management Officer (Wed - Fri)

Tel No: 01904 551610

Application Reference Number: 11/02039/FUL

Item No: 5h

Page 5 of 5