

## COMMITTEE REPORT

**Date:** 16 August 2012                      **Ward:** Guildhall  
**Team:** Major and                              **Parish:** Guildhall Planning Panel  
                    Commercial Team

**Reference:** 12/02419/FUL  
**Application at:** 2 Kings Court York YO1 7LD  
**For:** Use of the highway (Kings Square) for tables and chairs in connection with Chocolate, 2 Kings Court  
**By:** The Continuum Group  
**Application Type:** Full Application  
**Target Date:** 3 September 2012  
**Recommendation:** Approve

### 1.0 PROPOSAL

1.1 Application proposes to have an outside cafe area within King's Square. The area would be operated by the Chocolate Museum which occupies the C20 Kings Court building. Originally the plan was for around 7 tables within a circular area located towards the centre of the square. The plans have now been revised (see revision B) and 4 tables are now proposed toward the northern corner of the square.

1.2 King's Square is within the Central Historic Core Conservation Area.

1.3 The application is brought to committee at the request of Councillor B Watson. To ensure there is no conflict with other commercial operations in the square.

### Relevant Planning History

1.4 Planning permission was refused in 2008 for the use of the highway as a seating area outside of Millies Cookies at 6 Kings Square because of the impact upon the historic character of the Square, the obstruction of pedestrians and the setting of a precedent for further similar uses in the 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:

CYHE2      Development in historic locations

Application Reference Number: 12/02419/FUL

Item No: 4i

Page 1 of 7

CYHE3 Conservation Areas  
CYS6 Control of food and drink (A3) uses

### **3.0 CONSULTATIONS**

#### **Design, Conservation and Sustainable Development**

3.1 No response to date.

#### **Highway Network Management**

3.2 No objection. The applicant should note it is also necessary to separately obtain a Pavement Cafe Licence from the highway authority.

#### **Licensing Unit**

3.3 The licensing section would object to any planning application which could impinge on the established street traders and their locations preventing them from carrying out their normal business. Kings Square is already a very busy area due to the street traders, street entertainment, which at times is attended by large numbers of spectators and the road across the Square which is used by traders from the market and Shambles.

#### **Publicity**

3.4 The consultation period ends 9.8.2012. To date 55 objections have been received and one letter in support from the owners of the premises.

#### **Harm to the vitality and viability of the square**

- The square is one of the few areas in the city centre which allows a significant space for performance. Performance in the square creates a vibrant and interesting atmosphere - which is appreciated by both visitors and locals. They bring a significant draw to the area and the impact they have on the surrounding businesses is valued. Without them the vitality of the square would suffer. The proposals would essentially replace the performers with a pavement cafe, something that can be found in almost any town, city or shopping centre in the country. The application wrongfully suggests the performances only take place on the raised area. There would not be space for performance and the pavement cafe proposed.

#### **Impact on the public realm, the conservation area and safety**

- There are adequate pavement cafes in the city centre, which privatise the public realm; indeed they are taking over in St Sampson's Square and Parliament Street.
- The cafe would clutter what is a busy thoroughfare. This is inconvenient for its users and damages the appearance of the conservation area. The footpath between the shops and the square is very well used, being the principal route to the Shambles and the market. It is narrow, and servicing of the cafe area will be a major inconvenience to the flow of pedestrians and potentially dangerous to the public and waiting staff. This type of arrangement works in St Sampson's Square which is much wider and less busy, but is completely inappropriate at this location. The use would significantly reduce the amount of space available for pedestrians. Blind and partially sighted people (whom have logged objections) consider they would encounter great difficulties in this area should it become more cluttered.
- The proposals should be re-considered after improvements to the square which should aim to increase footfall in the square. It would be unfair to allow the space to become monopolised by one trader at the expense of the many others in the locality.

### **Cllr Taylor comments**

- King's Square is an important element of Public Open Space in York City Centre and one which is used extensively by citizens and visitors to York. The street performers which are permitted to operate here are a good example of how vitality and vibrancy can be added to a city centre, in line with the Council's strategy to "Reinvigorate York". Often there are several dozen people stood watching the street entertainers and this is a visitor attractor in itself. It would be a mistake to allow a private takeover of this public space.

## **4.0 APPRAISAL**

### **4.1 KEY ISSUES**

- Impact on the character and appearance of the Central Historic Core Conservation Area
- Highway Network Management
- Amenity of surrounding occupants

### **RELEVANT PLANNING POLICY**

### **National Guidance**

4.2 The National Planning Policy Framework advises that planning should be positive and promote competitive town centre environments, development should be encouraged where it supports the vitality and viability of centres.

4.3 A recent document released by central government 'Re-imagining urban spaces to help revitalise our high streets' recognises that centres are not just for shopping, but provide a range of uses and are places for people to meet. The document discusses how to re-invigorate city centres and build on their strengths, to allow them to compete against out of town and internet shopping. It recommends allowing premises such as cafes to 'spill out into the street' where this adds to vitality. It adds that such uses must though be planned so that all users of the space are considered and so there is space for passers by.

## **Local Policies**

4.4 The Central Historic Core Conservation Area Appraisal notes that public squares are few in number, mostly small (compared to other cities) and often cluttered. Key civic spaces are poorly designed for the multiple functions they now serve and as the setting for surrounding buildings. King's Square is described as an important space between Shambles and Low Petergate, which should be enhanced with higher quality hard landscaping and street furniture. There is an aspiration within the appraisal to de-clutter the streets in the city centre. There is no specific approach to pavement cafes.

4.5 Local Plan Policy HE3 states that within conservation areas, proposals will only be permitted where there is no adverse effect on the character and appearance of the area. Policy HE2 states that within conservation areas and locations which affect the setting of listed buildings development proposals must respect adjacent buildings, open spaces, landmarks and settings and have regards to local scale, proportions, details and materials. Proposals will be required to maintain or enhance existing urban spaces, views, landmarks and other townscape elements, which contribute to the character or appearance of the area.

4.6 Local Plan Policy S6 states that planning permission for the extension, alteration or development of premises for A3 uses (food and drink) will only be granted in the city centre provided there is no unacceptable impact on the amenities of surrounding occupiers as a result of traffic, noise, smell or litter.

## **ASSESSMENT**

### **Impact on the character and appearance of the Central Historic Core Conservation Area and use of the square**

4.7 The Central Historic Core Conservation Area Appraisal seeks to reduce clutter to create streets and spaces that through simplified, uncluttered design, careful

management and imaginative use, maximise their potential as pleasant pedestrian places and improve the setting for York's great architecture. This is also promoted by The Civic Trust. However it is also an aspiration of the council, in line with national policy, to enhance the vitality and viability of the city centre. Promoting and enabling pavement cafes is part of the drive to enhance vitality and viability.

4.8 The square is a busy thoroughfare and provides space for people to congregate due to its proximity to popular and narrow streets such as Shambles. The space is used frequently by performers and the council has given licenses for 3 stalls to operate in the square. Additionally there are benches for public use. As a public square it is paramount that there is space for the public to pass by and to use the space, which means it should not be subject to excessive clutter and nor should it be unduly privatised. It is planned in future to upgrade the square and alter the road between Petergate and Colliergate, to provide additional pedestrian and public space.

4.9 The proposed location for tables and chairs has been amended and would be at the northern end of the square (by the bin and the plaque within the surface). It is asked for permission to place 4 tables in this area, surrounded by a rope barrier, and that there is a degree of flexibility which will allow furniture to be placed generally in this area. The location and size of the area has been proposed to retain adequate space for the existing uses within the square.

4.10 The introduction of furniture would clutter the area, and to an extent this would damage the appearance of the conservation area. However the furniture proposed would maintain openness; no umbrellas are proposed, no screens will be placed around the area and the furniture will be removed outside trading hours. As such the harm to the square's appearance would be limited. As part of the management strategy for the area we are advised employees of the museum would ensure the area is kept in a tidy manner.

### **Highway Network Management**

4.11 The tables and chairs would only be installed each day after 10:00 and therefore there would be no undue conflict with servicing vehicles. Due to the scale and the location of the area it is deemed it would not unduly impact pedestrian flows through the square. There are no objections to the scheme on highway management grounds.

### **Amenity of surrounding occupants**

4.12 The area has a mix of uses and a certain level of activity is to be expected throughout the daytime and evening. The proposed development in this area would have no material impact on the amenity of surrounding occupants.

## 5.0 CONCLUSION

5.1 Given the revised location and scale of the proposed seating area it could be installed without unduly compromising the character and function of the square. The facility will contribute to the vitality and viability of the square both during the daytime and the evening and therefore the application is recommended for approval.

5.2 A temporary permission is proposed to allow for monitoring and given the future plans for alterations for King's Square, which will affect its layout and street furniture, such as seating. Conditions are also recommended to control the hours of operation and furniture.

## COMMITTEE TO VISIT

### 6.0 RECOMMENDATION: Approve

1 This use shall cease by 1 September 2013 unless prior to that date the consent of the Local Planning Authority has been obtained to extend the period of the permission.

Reason: So that the Local Planning Authority may assess the impact of this use upon the function of the square and given future plans to re-configure the square and street furniture within it.

2 The development hereby permitted shall be carried out in accordance with the following plans:- KS 01 20B received 2.8.2012.

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

3 Furniture - The tables and chairs within the outside seating area hereby approved shall be those shown in the supporting document submitted with the application unless alternatives are approved in writing by the Local Planning Authority.

Any barriers required shall consist of upright posts (coloured black or similar) linked by a rope or chain only. The barriers shall be no more than 1.1m tall.

There shall be no other furniture used (such as bins or umbrellas) unless otherwise approved in writing by the Local Planning Authority prior to installation.

Reason: In the interests of the appearance of the conservation area.

4 The outside seating area shall only operate between the hours of 10:00 and

22:00 each day of the week. All furniture shall be stored within the curtilage of the host premises (or within a building elsewhere) outside the permitted hours of operation.

Reason: To avoid conflict with servicing vehicles and in the interests of the appearance of the area and amenity of surrounding occupants.

## **7.0 INFORMATIVES:**

### **Notes to Applicant**

#### 1. INFORMATIVE:

You are advised that prior to starting on site consent will be required from the Highway Authority for the works being proposed, under the Highways Act 1980 (unless alternatively specified under the legislation or Regulations listed below). For further information please contact the officer named:

Cafe Licence - Section 115 - Heather Hunter or Anne-Marie Howarth (01904) 551418

#### 2. 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 vitality and viability of the area, the character and appearance of the conservation area, highway safety and amenity. As such the proposal complies with Policies HE2, HE3 and S6 of the City of York Development Control Local Plan.

#### **Contact details:**

**Author:** Jonathan Kenyon Development Management Officer

**Tel No:** 01904 551323