

COMMITTEE REPORT

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

Reference: 12/01253/FUL
Application at: 76 The Mount York YO24 1AR
For: Change of use from sandwich shop (Class A1) to hot food
takeaway (Class A5) and installation of kitchen flue to rear
(resubmission)
By: Mr Gee Yin Sung
Application Type: Full Application
Target Date: 31 May 2012
Recommendation: Approve

1.0 PROPOSAL

1.1 The application relates to 76 The Mount which is a two-storey building within the Central Historic Core Conservation Area. The building is situated between a restaurant at no.74 and a sandwich shop at no.78. There is a shared yard area to the rear of the site which is accessed from Holgate and accommodates a number of garages. Nos 11-15 Holgate at the rear of the site are residential. The Pub at No.72 is grade 2 listed.

1.2 The application site is presently vacant, it was last used as a sandwich shop (use class A1:retail). Permission is sought for a hot food takeaway that would open between 16:00 and 24:00 Monday- Saturday, 17:00 to 23:30 on Sundays. There would be a flue on the rear of the building.

1.3 The application is a re-submission after application 11/01803/FUL was refused in December 2011. The grounds for refusal were that the proposed takeaway would lead to increased noise disturbance at the rear of the site, in particular from vehicles coming and going. As such there would be an undue adverse impact on the levels of amenity presently enjoyed by the occupants of the surrounding dwellings on Holgate Road.

1.4 In 1998 permission was also refused for a takeaway to occupy the premises. The refusal grounds were - highway safety, due to a lack of parking and residential amenity - as noise disturbance and smells would seriously reduce the level of amenity of the occupants of the flat directly above the next door restaurant.

1.5 The application is brought to committee at the request of Councillor Merrett. There is concern that there is a lack of car parking to serve the host site and therefore customers arriving by car would compromise highway safety.

2.0 POLICY CONTEXT

2.1 Development Plan Allocation:

Areas of Archaeological Interest: City Centre Area
Conservation Area: Central Historic Core

2.2 Policies:

CYGP1 Design
CYHE3 Conservation Areas
CYS6 Control of food and drink (A3) use

3.0 CONSULTATIONS

Design, Conservation and Sustainable Development

3.1 Officers consider the flue will be intrusive in views of the rear of the property, but providing a muted colour could be agreed for the external finish, not overly so. Officers would like to comment further if it transpires the flue will need to be taller than as shown.

Environmental Protection Unit (EPU)

3.2 No objection. Officers have asked for the noise levels of the proposed extraction equipment via a condition, to ensure it does not have an adverse effect on residential amenity.

Highway Network Management

3.3 No objection. Officers suggest the applicants fund the installation of street furniture which would prevent vehicles parking on the pavement outside the premises. A contribution of £1,500 is suggested.

3.4 The section of The Mount where cars can park between Park Street and Scarcroft Road has capacity for circa 16 cars. The area is residents parking and pay and display parking until 18:00. The nearby side streets are covered by Residents Parking, where non permit holders can park for 60 minutes. A survey was undertaken of available car parking nearby the site. The survey was undertaken over both a Friday and Saturday, at lunch and from tea time into the evening. It found that the on street parking bays along The Mount in the immediate vicinity of the property are well utilised, although there was generally space available. During the lunch periods the number of available spaces was within the range of 4-7. The evening period was much tighter with a higher level of parking and

fewer spaces. The minimum number of available spaces was 1-3, although typically over each hour there were more often than not a handful of spaces available.

Micklegate Planning Panel

3.5 No objection

Publicity

3.6 Objections have been received from residents at 1 and 13 Holgate Road and nos. 67, 80, 82, 98 and 122 The Mount. An objection letter with 9 signatures on has also been received. Objections as follows:

- There would be unsightly views of the extraction flue from dwellings on Holgate. The flue would also add to noise disturbance and cooking smells/odour would harm the amenity of surrounding occupants.
- Intensified use of the yard at the rear would cause disturbance. The applicants would use 2 garages and therefore staff coming and going after midnight closing would cause disturbance
- The Mount is a high density residential area and enjoys a quiet environment outside daytime business hours. More takeaway business would damage the residential amenity (noise, litter and anti-social behaviour) of neighbouring properties and pedestrians passing through. There are dwellings in the immediate area at Nos. 63, 65, 67, 69, 73 The Mount and the houses on Holgate behind the site.
- There is already an over-supply of food takeaways in the area. There should be no further late night facilities in this area, with similar restrictions to those imposed at Micklegate (Local Plan policy S7 prevents any increase in takeaways in Micklegate).

4.0 APPRAISAL

4.1 Key Issues

- Residential amenity
- Character and appearance of the conservation area
- Highway safety

Policies of the Local Plan

4.2 Policy GP1 relates to all development proposals and expects that development proposals ensure that residents living nearby are not unduly affected by noise disturbance. Policy S6 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 as a result of traffic, noise, smell or litter.
- The opening hours of hot food takeaways are restricted where this is necessary to protect the amenity of surrounding occupiers.
- Car and cycle parking meets the standards defined in the Local Plan.
- Acceptable external flues and means of extraction have been proposed.
- Where security issues have been addressed.

4.3 Policy HE3 states that within Conservation Areas, proposals will only be permitted where there is no adverse effect on the character or appearance of the area.

Residential amenity

4.4 It is proposed the takeaway would open until midnight 6 days of the week (23:30 on Sundays). Between the application site and the junction with Holgate there is a public house and a restaurant, there are also other takeaways and commercial uses nearby that operate through the evening. The restaurant next door has an external flue at the rear. As there are already a number of commercial premises in the locality, including the restaurant next door, there would not be a material increase in noise disturbance along The Mount as a consequence of the proposed takeaway, nor would smells/odour from cooking be materially different to the existing situation.

4.5 The 2011 application was refused as a delivery service was proposed and it was determined that due to the proposed opening hours, the comings and goings of traffic (delivery vehicles) and general activity in the courtyard area would cause disturbance which would have a detrimental impact on the surrounding residents, in particular those at 11, 13 and 15 Holgate Road. In this resubmission it is stated a delivery service would not be offered. An objection has been made that employees leaving the site via the rear entrance and clearing up late at night would still cause noise disturbance. There is a restaurant next door which also closes at midnight and has a rear yard which backs onto the courtyard area. The opening times of the proposed use and related activities could be controlled through a condition if permission were granted. Overall, in officers opinion it could not be demonstrated that there would be an undue increase in noise in comparison to the existing situation.

4.6 A flue is proposed at the rear of the building and through a condition it could be required that the flue adequately deals with cooking smells and odour.

Highway Safety

4.7 There is no dedicated parking to serve the proposed use. The nearest car parking spaces would be around 10m to the south, around 15m away on the opposite side of the road, along Park Street or at the Crescent around 90m away. It is likely the majority of customers would arrive on foot. A survey carried out found that during the evening typically spaces can be found along The Mount for around 3 vehicles and there is also the possibility cars could use Park Street opposite. There is adequate capacity to meet the expected demand for the development. That illegal parking may take place carries little weight in terms considering the application, as there are powers to control such practice under separate legislation. Overall there is no evidence that the development would have an undue impact on highway safety.

4.8 Highway Network Management have suggested that the applicants fund installation of some form of barrier to prevent cars mounting the pavement in this area. It is felt this requirement would be unnecessary as parking on the pavement can be enforced under other legislation. Furthermore installations would clutter the street, contrary to the aspirations within the Central Historic Core Conservation Area Appraisal. Also the kerb is relatively high in this area, and there is already a cabinet installed on the pavement by the application site, thus, there are already features within the highway which would discourage car users attempting to park on the pavement in this area.

Impact on the conservation area

4.9 A flue is required to deal with cooking smells and it is proposed this would be situated on the rear elevation of the building. There is an existing flue on the rear elevation of the host building that serves the restaurant next door. The proposed flue would be screened by surrounding buildings and not prominent from public viewpoints. Its impact could be mitigated by requiring it is coloured so it blends in with the slate roof of the building. As such there would not be a material detrimental impact on the appearance of the conservation area.

5.0 CONCLUSION

5.1 The proposed development would not have a material impact on the character and appearance of the conservation area. Due to the mix of uses already in the area there would not be a material impact on residential amenity and it has been demonstrated the highway network has the capacity to deal with the proposed use. Approval is therefore recommended.

COMMITTEE TO VISIT

6.0 RECOMMENDATION: Approve

1 TIME2 Development start within three years -

2 PLANS1 Approved plans - 795/1 and 2 date stamped 27.3.2012

3 Any extraction system fitted in association with the use hereby approved 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 (including noise levels (max and average) and times of operation) shall be submitted to and approved by the Local Planning Authority. The equipment shall be installed in accordance with the approved details and be fully operational before the proposed use first opens and shall be appropriately maintained thereafter. The equipment shall be fully removed once the use hereby approved has ceased.

Reason: to protect the amenity of neighbouring residents.

4 The use hereby permitted shall only be open to customers between the following hours -

09:00 to 24:00 Mondays- Saturdays

09:00 to 23:30 on Sundays

There shall be no activity in the rear yard, such as putting out litter/rubbish, after 23:00 each day of the week.

Reason: in the interests of the residential amenity of surrounding occupants.

5 No delivery service shall be offered from the premises. Deliveries to the premises shall only occur between the hours of 08:00 to 20:00 and not at all on Sundays.

Reason: in the interests of the residential amenity of surrounding occupants.

6 The external flue shall be colour coated so it reasonably blends in with the roof tiles of the host building.

Reason: In the interests of visual amenity and the appearance of the conservation area.

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

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