

Meeting	Area Planning Sub-Committee
Date	15 October 2015
Present	Councillors Galvin (Chair), Carr, Craghill, Derbyshire, Gillies, Hunter, Looker, Mercer, Orrell, Boyce (Substitute for Councillor Shepherd ) and Flinders (Substitute for Councillor Cannon)
Apologies	Councillors Shepherd and Cannon

Site Visited	Visited by	Reason for Visit
32 Tranby Avenue, Osbaldwick	Councillors Carr, Craghill, Flinders, Galvin, Gillies, Mercer and Orrell.	As objections had been received and the officer recommendation was to approve.
29 Deramore Drive	Councillors Carr, Craghill, Flinders, Galvin, Gillies, Mercer and Orrell.	As objections had been received and the officer recommendation was to approve.
Lodge Cottage, Selby Road	Councillors Carr, Craghill, Flinders, Galvin, Gillies and Mercer.	As objections had been received and the officer recommendation was to approve.
Former Garage Site, 172 Fulford Road	Councillors Carr, Craghill, Flinders, Galvin, Gillies and Mercer.	As requested by the Ward Councillor as part of the reason for the call-in.
Lidgett House, 27 Lidgett Grove	Councillors Carr, Craghill, Flinders, Galvin, Gillies and Mercer.	To enable Members to assess the proposals on site given the nature of the objections.
Land to the North of 37 and 38 St Marys	Councillors Carr, Craghill, Flinders, Galvin, Gillies and Mercer.	As objections had been received and the officer recommendation was to approve.

## **20. Declarations of Interest**

At this point in the meeting, Members were asked to declare any personal, prejudicial or disclosable pecuniary interests that they might have in the business on the agenda.

Councillor Craghill declared a personal non prejudicial interest in plans item 4a (RMBI, Connaught Court, St Oswalds Road) as a former member of Fulford Parish Council.

Councillors Carr, Galvin, Gillies and Hunter all declared a personal non prejudicial interest in plans item 4h(Lidgett House, 27 Lidgett Grove) as the applicant was Councillor K Myers, a fellow Member of the Conservative Group.

## **21. Minutes**

Resolved: That the minutes of the Area Planning Sub-Committee meeting held on 3 September 2015 be approved and signed by the Chair as a correct record.

## **22. Public Participation**

It was reported that there had been no registrations to speak under the Council's Public Participation Scheme on general issues within the remit of the Sub-Committee.

## **23. Plans List**

Members considered a schedule of reports of the Assistant Director (Development Services, Planning and Regeneration) relating to the following planning applications outlining the proposals and relevant policy considerations and setting out the views of consultees and Officers.

### **23a) RMBI, Connaught Court, St Oswalds Road, York (13/03481/FULM)**

Members were asked to consider a request to enter into a S106 Deed of Variation to remove the obligation relating to a payment of the open space contribution of £48,856 given the operation of Regulation 123(3) of the Community Infrastructure Levy Regulations 2010 (as amended).

Officers advised that their recommendation to the Committee was now that Members defer their decision.

Resolved: That the application be deferred.

Reason: In order that further legal advice could be sought from Counsel (already instructed in the High Court case), in respect of the issues that had very recently been raised.

**23b) Lodge Cottage, Selby Road, York, YO19 4SJ  
(14/02602/FUL)**

Members considered a full application from Miss Alison Owens for the change of use from workshop to farm shop and the erection of a fence to the front (retrospective).

Officers advised that recommended condition 5 of the above report had been changed as detailed below.

The applicant, Miss Owens, and Mr Martin were in attendance at the meeting and had registered to speak should Members have had any questions. No questions were asked.

Resolved: That the application be approved subject to the conditions listed in the report and amended condition 5 as detailed below:

Amended Condition 5

Within 4 weeks of the date of this permission, plans and details shall be submitted to the Local Planning Authority for approval showing the provision of parking spaces for 4 cars/vehicles (and 1 bicycle) in the curtilage of the application site along with suitable associated signage.

Within 4 weeks of the date of the approval of those plans and details, the parking and signage shall be constructed and laid out in accordance with the approved plan and thereafter such signage and parking areas shall be retained for the parking of customers/staff/deliveries and residents, as approved, and remain clear of any obstruction.

Reason: In the interests of highway safety and to comply with parking standards.

Reason: The proposed shop is small in scale and largely sells fresh food from the local area. It is considered that the re-use of an existing building is in compliance with national Green Belt policy. The shop is seen as a significant asset to many people living to the south of the urban area of York. With regard to parking, Highway Network Management are satisfied that if on occasions the car park is full and car borne visitors wait to the side of the shop, there will be no conflict with highway safety.

**23c) Former Garage Site, 172 Fulford Road, York, YO10 4DA  
(15/00462/FUL)**

Members considered a full application from Valli Forecourts for the erection of a petrol service station with retail unit.

Officers provided an update to the Committee reporting that an email has been received from Cllr D'Agorne, who had called in the application to committee, setting out his objections to the proposal as follows:

- The application should be assessed as a new development closely adjacent to listed building and in a predominantly residential location.
- The short term benefits of bringing the site back into use are outweighed by the impact on the conservation area and the potential loss of amenity to neighbours
- the site was allocated for housing prior to the latest version of the local plan but was removed because of the objections of the landowner
- Current policy is to maximise housing on urban sites to protect the Green Belt. The site could be providing vital housing in a sustainable urban location
- There is prospect of the site being brought back into use if the current application is refused.
- Traffic and highway issues are a concern because of conflict with the pedestrian crossing and the junction of Fulford Road with Kilburn Road. Increase in traffic will impact on already high levels of traffic in an Air Quality Management Area.

- Supports the officers conclusions that the application should be refused and asks the committee to refuse permission.

Officers reported that one further letter of objection had been received however the issues raised in this were already précised within the committee report.

Four speakers had registered to address the committee on this application. Mrs Jackie Hudson, Chair of Governors at Fishergate Primary School, addressed the committee first on behalf of the school in objection to the application. She explained that school pupils are encouraged to walk or cycle to school using the pedestrian crossings and cycle paths which have been installed to facilitate this.

The proposed petrol filling station would reduce the safety of pupils on the western side of Fulford Road and at the nearby pedestrian crossing point.

Mr James Newton addressed the committee as a local resident and on behalf of Yorspace Community Housing. He advised that the proposed development would lead to increased traffic congestion and a reduction in air quality and would have a negative impact on public health and the natural environment. Furthermore he expressed the view that this was a poor use of valuable land which in his opinion should be included in the Local Plan and other alternative options explored for development of the site, with his preferred option being for housing. He urged the committee to refuse the application on the principle of redevelopment into a petrol station.

Mr Henry Bainton spoke on behalf of Fishergate Planning Panel in objection. He reminded Members this was a largely residential area and that its residents valued its beauty and increasingly residential nature. It was however also one of the busiest routes in and out of York which raised concerns over traffic congestion and road safety. He explained that, at present, priority was given to cycle and pedestrian movements on this stretch of road but that the introduction of a petrol filling station in the proposed location would interrupt these existing paths.

Lastly Mr Alistair Flatman, agent for the applicant, spoke in support of the application.

He acknowledged the objections and matters which had been raised however he stressed that no objections had been raised by officers in relation to noise, lighting, air quality or highway safety. He pointed out that there was a petrol station on the site in 1975 when the conservation area was designated, advised that the proposals would not cause significant harm to the living conditions of residents, would enable the currently derelict site to be tidied up and would provide 120 new jobs.

Members noted the concerns raised by speakers, particularly with regard to highway safety but acknowledged that as highway network management had not raised any objections to the proposed petrol station including retail unit this could not be used as a reason for refusal. Members however agreed that this was not the right type of development in a conservation area, for the reasons detailed in the report.

Resolved: That the application be refused.

Reason: No. 172 Fulford Road is situated within the northern half of the Fulford Road Conservation Area. The character of the area is derived from the range and quality of the C19th and C20th houses, strong boundaries, grass verges and lines of street trees. Trees within front gardens and screened commercial sites also enhance the area. The layout and design of the petrol filling station would be untypical of the grain of development within the conservation area and harmful to its character or appearance; further harm would be added by the form, size, height, scale and materials of the canopy and signage in an area of attractive buildings with landscape forecourts behind boundary, walls and railings. The harm identified would be less than substantial harm (paragraph 134 of the National Planning Policy Framework), no public benefits have been identified that would outweigh the harm. The proposal fails the duty to preserve or enhance the character or appearance of the conservation area under s.72 of the Planning (listed building and Conservation area) Act 1990, guidance contained within the National Planning Policy Framework (paragraphs 9, 64, 131, 132, 134) and policies HE2 and HE3 of the City of York Development Control Local Plan adopted for development control purposes in April 2005.

No. 172 Fulford Road is situated within the setting of a grade II listed building located to the south of the site (formerly 180 to 182 Fulford Road now 1 to 12 Aurega House) and within the setting of 170 Fulford Road an undesignated heritage; the size and scale of the canopy to be erected over the forecourt of the proposed petrol filling station would be an uncharacteristic feature within the immediate setting of the listed building and it would adversely affect views of the buildings. The development would harm the setting of the adjoining listed building and affect the significance of a non-designated heritage asset. The harm identified would be less than substantial harm (paragraph 134 of the National Planning Policy Framework) There are no public benefits identified that would outweigh the harm. The proposal fails the duty to have regard to the desirability of preserving the listed building or its setting under s.66 of the Planning (listed building and Conservation area) Act 1990, guidance contained within the National Planning Policy Framework (paragraphs 9, 131, 132, 134, 135) and policies HE2 and HE4 of the City of York Development Control Local Plan adopted for development control purposes in April 2005.

Nos. 19 to 22 Alma Grove are a row of terraced properties orientated east /west and 4 metres from the rear of the application site The proposed siting of the retail building will introduce development close to the joint boundary on a land level above the adjacent houses and a structure that is 4.6 metres above site ground level. It is considered that the siting of the building and associated landscaping would be detrimental to the outlook to the rear of 19 to 22 Alma Grove and will reduce light into rear garden areas and would be detrimental to the occupiers residential amenity. The proposal is considered contrary to the core planning principles in the National Planning Policy Framework which seek to ensure a good standard of amenity for all existing and future occupants of land and buildings and GP1 of the City of York Development Control Local Plan adopted for development control purposes in April 2005.

**23d) Land to the North of 37 And 38 St Marys, York, YO30 7DD  
(15/01157/FUL)**

Members considered a full application from Mr and Mrs D Coidan for the erection of a two storey detached dwelling.

Mr Roger Wools addressed the committee on behalf of local residents in objection to the application. He advised that they did not object to the development of the site itself and had no concerns with the formerly proposed two cottage style houses, however residents felt that these proposals constituted overdevelopment and would cause harm to the conservation area. He raised concerns over the residential amenity and overlooking/privacy of 36 and 37 St Mary's, the density of proposed building and the limited outside space which could put pressure on the garage roof being used. He stated that there was nothing similar in the immediate locality and the building would be very visible at night. As 60% of the proposed roof was flat, it would appear incongruous in the conservation area and surrounded by traditional 19 century townhouses. He asked the committee to refuse the application in order that a more suitable design could be put forward which would sit better in the conservation area.

Mr Mark Bramhall, the agent for the applicant, spoke in support of the application. He reminded members that the site already had permission for "cottage style" houses, permission for which had been granted in 2013. Those proposals included views out of the site in all directions. He advised that the new proposals were not significantly higher and confirmed that the garage roof would not be available for access and this would be a green roof. The density of the site was comparable to the extant permission, not including the garage. The proposed building materials would fit in with other surrounding buildings and the modern form would fit in well into the historic setting.

Some members raised concerns about the effects on the amenity of residents in St Mary's and Bootham Terrace and did not feel it was the right proposal for the area. Members however acknowledged that any type of property built on this site would have views over adjoining properties. They noted that York was made up of many different styles of building and many of properties in the vicinity were large statement individual buildings or terraces, some overbearing themselves, but these had matured and the area had become one of the most



desirable in the city. If well constructed they felt there was no reason why a modern house could not enhance and add value to the area. They did not feel the house would impact on houses in Bootham Terrace due to distance, and agreed the main impact would be on no 37 and 38 St Mary's. They agreed that there were no planning reasons for refusal and felt that, on balance, it was appropriate in the area.

Resolved: That the application be approved subject to the conditions listed in the report.

Reason: The proposal as amended would sit low within the townscape and would be of a comparable scale and massing to surrounding buildings. It would also be detached in key long and short distance views within the Conservation Area and the setting of adjacent Listed Buildings. Whilst constructed in a modern idiom, materials that find reference in the locality are also used. It is felt that the requirements of Section 66 and Section 72 of the 1990 Planning (Listed Buildings and Conservation Areas) Act in respect of preserving and enhancing the character and appearance of the Conservation Area and the setting of adjacent Listed Buildings are achieved. Providing the proposed flat green roof above the garage area is not used as terrace then there would not be any material harm to the residential amenity of the adjacent property Constantine House.

### **23e) 16 Farndale Avenue, York, YO10 3PE (15/01278/FUL)**

Members considered a full application from Martyn Turnbull for the change of use from office (use class B1) to restaurant/cafe (use class A3). This item had been deferred at the September committee meeting in order for the proposed car parking arrangements to be examined further.

Officers advised that revised plans had been submitted which showed an increase from two to three car parking spaces to the rear of the site to be used by staff and visitors. Conditions 8 and 9 dealt with cycle parking and car parking respectively.

Members requested clarification on the opening times specified in the report.

Officers explained this was quite a small unit in a parade within residential area which was unlikely to create a lot of noise. As there was no operator lined up, this was a speculative scheme in a vacant unit and the hours recommended were in line with nearby commercial premises. Members noted that, in response to parking concerns raised previously, an additional parking space would now be made available.

Resolved: That the application be approved subject to the conditions listed in the report.

Reason: The proposal would return the vacant building to a use which is considered as being compatible within this predominantly residential area. It would be in keeping with the character of the area and provide a service to local people. Furthermore it would create a number of new jobs and support the local economy. The use is unlikely to cause a significant nuisance to adjacent occupiers, particularly bearing in mind that the site has been in commercial use (albeit vacant) and is situated within a row of existing retail uses. By nature of the use it is considered that it would serve a local need and due to the size of the unit vehicular trips would be likely to be low. Three car parking spaces would now be available to the rear to be used solely by staff and visitors.

**23f) 29 Deramore Drive, York, YO10 5HL (15/01539/FUL)**

Members considered a full application from Mr I Firby for a single storey side and rear extension.

Mr Telfer addressed the committee on behalf of local residents in objection to the application. He raised concerns about the high concentration of Houses in Multiple Occupation (HMO) in the immediate vicinity pointing out that the threshold had already been breached. He pointed out that while the control measures provided by the supplementary planning document (SPD) would ensure that any new applications for HMOs in this area would be rejected, the proposed extension to this HMO would have the same effect as allowing another HMO and should therefore not be permitted, but the SPD did not take this into account.

He expressed the view that granting permission would have a negative impact on the quality of life of neighbours and would also significantly reduce the residential amenity of the property for future occupiers. He advised that allowing this application could also create a precedent for similar future applications and urged Members to reject it.

In response to a query from Members, officers confirmed that those HMOs which were considered as dwelling houses could benefit from permitted development rights and they clarified what alterations the owner could make under permitted development rights. They advised that, while Members could take into consideration what could be achieved using permitted development rights, it was important to consider the scheme in front of them. If Members felt this was unacceptable, they had the right to refuse it but would need to ensure the reasons for refusal were defensible.

Members raised concerns that there may be more HMOs in the area in question which were not recorded on the database and therefore percentages could be even higher than indicated, with each HMO meaning the loss of a family home.

Members felt that the site was small and cramped with insufficient space to extend as proposed. They noted that there would only be a narrow passageway down the side of the house for access resulting in a loss of cycle storage, and an increase in the number of occupants would create the potential for additional cars parked at the front, with more comings and goings which would impact on residential amenity. They agreed that the proposals were inappropriate and would constitute over development of the site.

Resolved: That the application be refused.

Reason: The proposals are considered to be an over-development of the site which has a very small existing rear garden. The proposals would remove the garage and access to the rear garden for cycle parking and refuse storage and would introduce an additional car parking space onto the front garden of the dwelling. The increase in the size of the house in multiple occupation and associated car parking will harm the character of the area by reason of noise and disturbance from increased comings-and-goings

from the property often late at night; the uncharacteristic appearance of refuse and cycle storage forward of the dwelling; an unacceptable reduction of private amenity space and the uncharacteristic use of the open plan front garden for an additional car parking.

This is considered to be contrary to policy GP1 and H7 of the Development Control Local Plan and paragraphs 17 and 50 of the National Planning Policy Framework which seek to enhance and improve the places where people live and to create sustainable, inclusive and mixed communities.

**23g) 32 Tranby Avenue, Osbaldwick, York, YO10 3NB  
(15/01718/FUL)**

Members considered a full application from Mr and Mrs K Blade for the change of use of a dwelling house (use class C3) to a house in multiple occupation (HMO) (use class C4).

Mr Kevin Blade, the owner and applicant, addressed the committee in support of the application. He informed Members that he had been advised by officers that neither the neighbourhood or street level thresholds for HMOs had been breached and explained that he had submitted the application with this information. He confirmed that the house fulfilled the criteria for an HMO and advised that he had received no objections from immediate neighbours. He explained that there was a need to provide accommodation for professional people wanting to work and live in the city and that there was already a professional couple living there. He noted that officers had recommended approval and questioned why the application had been called in for consideration by committee.

Councillor Mark Warters then addressed the committee in objection to the application. He raised concerns about the “studentification” of some areas of the city. He informed Members that the next door neighbour had been upset by alterations to the property and now faced disruption by the property being used as an HMO and would face issues with parking, bins, noise and disruption at all hours. He expressed the view that the supplementary planning document on HMOs

needed reviewing urgently in order to reduce the spread of HMOs in the city.

Members were advised that there were no planning powers available to control parking on the grass verge as this was covered by highways legislation.

Members questioned whether it would be possible to put a condition on approval to restrict use by professional people. Officers advised it would be hard to justify this condition in this location which was well below the threshold and therefore would not consider it a reasonable condition. They advised that the supplementary planning document considers not only thresholds but also other issues including residential amenity and comings and goings of occupants.

Two Executive Members present advised the committee that, irrespective of this application, they would take forward for consideration a review of the Supplementary Planning Document.

**Resolved:** That the application be approved subject to the conditions listed in the report.

**Reason:** The property is within the urban area, well served by local facilities and close to public transport routes. The dwelling is considered to be a sufficient size, and with an adequate internal layout. It is not considered that that normal comings and goings from this one property would result in significant harm to neighbours. The thresholds within the Council's Supplementary Planning Document have not been exceeded. As such the proposal is considered to comply with Policy H8 of the DCLP Plan and subject to conditions is recommended for approval.

**23h) Lidgett House, 27 Lidgett Grove, York, YO26 5NE  
(15/01924/OUT)**

Members considered an outline application for the erection of a two storey dwelling.

Officers advised that Flood Risk Management had not submitted any objections subject to the attachment of the two conditions as detailed below:

1. The site shall be developed with separate systems of drainage for foul and surface water.  
Reason: In the interest of satisfactory and sustainable drainage.
  
2. No development shall take place until details of the proposed means of foul and surface water drainage, including details of any balancing works and off site works, have been submitted to and approved by the Local Planning Authority. Soakaway and infiltration methods of dealing with surface water should be considered before discharging to the existing public sewer network. If SuDs systems are unsuitable, developments must be attenuated to 70% of the existing rate and accommodate a 1:30 year storm with no surface flooding and a 1:100 year storm with no surface flood or internal flooding of buildings. A topographical survey should be undertaken showing existing and proposed ground and finished floors. Development should not be raised above the level of adjacent land.  
Reason: So that the Local Planning Authority may be satisfied with these details for the proper and sustainable drainage of the site.

Officers also advised that since the report had been written, two further objections had been received. Those issues raised which had not already been identified in the committee report related to:

- A request that the application is a full planning application rather than outline so full details of the scheme are known;
- Concerns over the proximity of the dwelling to its neighbours and safety concerns over spread of fire between properties; and
- Concerns that the proposed retention of the trees cannot be enforced.
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Members noted that the pattern of development in the area was quite distinctive and felt that that the proposals would impact negatively on the character of the area. The commented that even if there was technically enough space for the building to fit on the site, it would feel as if it was shoehorned onto the site.

Resolved: That the application be refused.

Reason: The erection of the proposed dwelling would result in the loss of an important gap in the street scene, resulting in a loss of openness and a form of development that is uncharacteristic of the established layout and pattern of development in the locality. The proposed dwelling would have no rear garden, a small side garden and front garden half given over to the parking of vehicle(s). The host dwelling would be left with a side/front wrap-around garden only which would be uncharacteristic of the local area, some of which would be for parking of vehicle(s). The incongruous nature of the development would be further emphasised by the tall boundary treatment to the front and sides which is out-of-character in the neighbourhood. Together, these elements would be in stark contrast with the established character and pattern of development.

The proposals therefore conflict with the principles set out in the National Planning Policy Framework (NPPF) (2012), particularly paragraphs 9, 17, 53 and 58 and the objectives of Policies GP1, GP10 and H4a of the City of York Draft Local Plan adopted for development control purposes (2005). These policies seek to protect spaces between and around buildings that contribute significantly to the character of an area and for residential amenity. For housing windfalls development should be of an appropriate scale and density to the surrounding area and it is found that the proposed dwelling and its host would appear uncharacteristically cramped within the neighbourhood with small garden space.

The introduction of a two-storey property situated just 1.1m from the property boundary and rear garden at No.231 Beckfield Lane would appear unduly dominating, oppressive and overbearing and would create an unwelcome sense of enclosure to the garden/amenity space of the property. This would be contrary to the NPPF which seeks to secure a good standard of amenity for all existing and future occupants of land and buildings (paragraph 17) and that development proposals should

positively improve the quality of the built environment and people's quality of life (paragraph 9). The proposals are also contrary to Policy GP1 of the Draft Local Plan (2005) which explains that development proposals should ensure residents living nearby are not dominated by overbearing structures.

**23i) 9 Philadelphia Terrace, York, YO23 1DH (15/01972/FUL)**

Members considered a full application from Miss Caroline Strudwick for a single storey side extension.

Resolved: That the application be approved subject to the conditions listed in the report.

Reason: The proposals are considered to comply with the NPFF, CYC Development Local Plan Policies H7 and GP1 and Supplementary Planning Guidance - House Extensions and Alterations (Approved 2012). Approval is recommended.

Councillor Galvin, Chair

[The meeting started at 4.30 pm and finished at 6.15 pm].