Meeting	Planning Committee B
Date	17 January 2024
Present	Councillors B Burton (Chair), Hollyer (Vice-Chair), Baxter, Clarke, Fenton, Melly, Orrell, Vassie and Warters
Apologies	None
Officers Present	Gareth Arnold, Development Manager Jonathan Kenyon, Principal Officer, Development Management Nathalie Ramadhin, Development Management Officer Claire MacRae, City Archaeologist Eleanor Sorfleet, Senior Ecologist Ruhina Choudhury, Senior Solicitor

56. Declarations of Interest (4.34 pm)

Members were asked to declare at this point in the meeting any disclosable pecuniary interests or other registrable interests that they might have in the business on the agenda, if they had not already done so in advance on the Register of Interests.

Cllrs Melly and Clarke noted that they were pre-determined on item 4c (Tramways Club, Mill Street, YO1 9PY). They had registered to speak on the item in their capacity as Ward Councillors. They subsequently left the meeting after they had addressed the committee and took no part in the debate or decision making for that item.

57. Minutes (4.35 pm)

Resolved: That the minutes of the last meeting held on 15 November and 12 December 2023 were approved as a correct record.

58. Public Participation (4.35 pm)

It was reported that there had been no registrations to speak at the meeting under the Council's Public Participation Scheme.

59. Plans List (4.36 pm)

Members considered a schedule of reports of the Development Manager, relating to the following planning applications, outlining the proposals and relevant policy considerations and setting out the views of consultees and officers.

60. 100 Main Street Fulford York YO10 4PS [23/01234/FUL] (4.36 pm)

Members considered a full application by Bootham Developments LLP for the Conversion of Nos. 100-102 to provide 4no. dwellings with external alterations and extensions. Erection of 1 no. dwelling to the rear and parking. (resubmission)

The Development Manager gave a presentation on the plans and the Development Management Officer provided an update which noted, in relation to paragraph 1.7, that the decision on application reference 22/02437/FUL had been quashed by the Court and remitted back to the LPA for re-determination. It also summarised one additional representation. The officer's recommendation remained for approval, subject to the conditions set out within the report.

Members sought clarification regarding the bat survey and the Senior Ecologist reported that condition 3 required a licence from Natural England prior to demolition, therefore any bat roost was legally protected.

It was also confirmed by officers that the parking plans were considered sufficient for the site.

Public Speakers

Parish Cllr Mary Urmston spoke in objection to the application on behalf of Fulford Parish Council. She raised concerns in relation to the damage to the character of the non-designated heritage asset, the difficulties with access to the site and the bat survey.

In response to questions from Members Parish Cllr Urmston stated that a full bat survey had not been carried out and that a derogation test was required.

Cllr Ravilious, the Ward Councillor, had registered to speak in objection to the application. As she was unable to attend the meeting, the Chair read

out her statement. She raised concerns regarding the access and parking arrangements.

Lee Vincent, the agent for the applicant, spoke in support of the application. He outlined the plans for small dwellings, similar to those on Main Street, with limited change to the street scene. He acknowledged the limitations of the onsite parking arrangements, noting that vehicles would be able to enter and exit in forward gear.

In response to questions from Members, he stated that he was not aware of how the access to the site worked when it was a dairy.

In response to further questions from Members, Officers clarified the measurements for the entrance to the site and reported that:

- Condition 14 could be amended, if required, to ensure that the cycle storage was covered.
- The internal structure of the semi-detached properties would be entirely new, with the façade on Main Street being retained.
- Nothing could happen on site until the bat licence was issued, as per the conditions. Natural England were known to reject applications on the basis of over mitigation.
- The buildings and site were not necessarily suitable for swifts, the provision of bird boxes should be site specific and based on the survey data.

Following debate, Cllr Fenton moved the officer recommendation to approve the application, the motion was seconded by the Chair.

Members voted unanimously in favour of the recommendation and it was:

Resolved: That the application be approved, subject to the completion of a s106 agreement and the amendment to condition 4 to require 2 Swift boxes in the construction.

Reason: The proposal seeks the re-use and renovation of an existing brownfield site to provide 5no. dwellings within the centre of Fulford. Significant weight is attached to the provision of housing and the renovation of the site within the designated heritage asset. The works to the frontage buildings respects the character and integrity and will help secure their long-term future. The layout and design of the dwelling to the rear respects the plot layout and spatial form. The works are considered to enhance the Conservation Area and its setting. Each dwelling will utilise the existing access from Main Street and will be

provided with an off-street parking space and cycle storage which is considered acceptable. Matters such as ecology, contamination, drainage, archaeology, landscaping, materials, noise, sustainability and amenity can be dealt with via conditions. The proposal accords with national planning policy and draft local policy therefore is recommended for approval subject to conditions and subject to the signing of a legal agreement to secure an off-site play and amenity space contribution in accordance with policy GI6 of the Draft Local Plan (2018).

[5.33 to 5.38 pm, the Chair took a brief adjournment.]

61. Fulford Flood Alleviation Scheme, Pt Fulford Ings And Pt Playing Fields, Selby Road, York [23/00283/FUL] (5.40 pm)

Members considered a full application by City of York Council for a Flood alleviation scheme comprising a pumping station and associated inlet structure, control kiosk, access track and parking area; culvert under Selby Road; outfall structure and floodwall alignment and penstock across Germany Beck; two earth flood embankments, and a temporary construction compound and tree works within the Fulford Conservation Area.

The Development Manager gave a presentation on the plans and the Development Management Officer provided an update which summarised an additional representation and amended planning conditions as follows:

<u>Archaeology condition 4</u>

Condition 4 needs to be split into two separate conditions and should read as follows:

4. No development or archaeological investigation shall take place until a written scheme of investigation (WSI) for all outlined archaeological works has been submitted to and approved by the local planning authority in writing. For land that is included within the WSI, no development shall take place other than in accordance with the agreed WSI. The WSI should conform to standards set by LPA and the Chartered Institute for Archaeologists.

Reason: The site is considered to be an area of archaeological interest. Therefore, the development may affect important archaeological deposits

which must be recorded prior to destruction, in accordance with Section 16 of the NPPF.

New 5. A programme of post-determination archaeological mitigation, specifically an archaeological watching brief, metal detecting survey and excavation is required on this site.

The archaeological scheme comprises 3 stages of work. Each stage shall be completed and agreed by the Local Planning Authority before it can be approved.

A) The site investigation and post-investigation assessment shall be completed in accordance with the programme set out in the approved Written Scheme of Investigation and the provision made for analysis, publication and dissemination of results and archive deposition will be secured. This part of the condition shall not be discharged until these elements have been fulfilled in accordance with the programme set out in the WSI.
B) A copy of a report (and evidence of publication if required) shall be deposited with City of York Historic Environment Record to allow public dissemination of results within 3 months of completion or such other period as may be agreed in writing with the Local Planning Authority.

Reason: The site is considered to be an area of archaeological interest. Therefore, the development may affect important archaeological deposits which must be recorded prior to destruction, in accordance with Section 16 of the NPPF.

<u>Archaeology condition 6</u>

Condition 6 needs to be reworded to remove reference to “The Fulford Battlefield Society and other Interested Parties.”

<u>Additional Informative to condition 6</u>

In relation to the scheme of interpretation, it is recommended the Fulford Battlefield Society, the Parish Council and any other interested parties are consulted and involved prior to the submission of the final scheme for approval to the Local Planning Authority.

Officers confirmed that the recommendation remained for approval subject to the conditions set out within the report and as amended above.

In response to Members’ questions, the location of the trees to be removed was clarified.

Public Speakers

Parish Cllr, Andrew Vevers, spoke on behalf of Fulford Parish Council. He was broadly in support of the application but requested a condition for mature replacement trees, rather than whips, to retain a mature Ash tree (T19) and the council look to replace the open space land that would be lost should the project go ahead.

In response to questions from Members, he confirmed that the Parish Council had not identified an alternative site for open space and that they were requesting further consultation and did not want to block the development.

Cllr Ravillious, Ward Councillor was unable to attend the meeting. Her statement, in support of the application, was read out by the Chair. She requested that the council negotiate with the Parish Council regarding a replacement for the loss of open space and asked that the conditions contained in the City Archaeologist's report be included.

Steve Wragg, the applicant on behalf of the City of York Council, spoke in support of the application. He outlined the scheme and the benefits of reducing the operational response to flooding whilst noting the impact on biodiversity and views?

In response to questions from Members, he gave assurances that CYC would continue to work with the Parish Council with particular reference to the loss of open space and the tree, T19.

The City Archaeologist confirmed that she was in agreement with Historic England and the visual impact of the pumping station would not impact on the decision to designate the site as a battlefield.

Officers reported that the temporary access and the compound would have to be removed to implement the landscaping scheme. Condition 11 could be amended to reflect this, if Members felt it necessary to do so.

It was also confirmed that fish friendly, low flow pumps had been specified.

Following debate, Cllr Warters proposed the officer recommendation to approve the application, subject to the following amendments:

- Condition 11 be amended to require the removal of construction compound and roadway alongside implementation of planting scheme. Extend the protection of trees/woodland to it's lifetime.

- An informative to be included regarding the possible alternative open space for Fulford Parish Council.
- An informative to retain T19 if possible.

This motion was seconded by Cllr Hollyer and following a unanimous vote in favour, it was:

Resolved: That the application be approved.

Reason:

i. The proposals for the flood alleviation scheme are clearly justified and necessary in this location. The development would provide wider sustainability benefits to the community and reduce flood risk overall, in particular around the A19 (Selby Road), Fordland's Estate and the Cemetery. Whilst it is acknowledged a dwelling in Cell B8 will be deemed at risk as a result, it is understood this property already benefits from flood defences. The proposal therefore passes the sequential and exception tests in relation to flood risk.

ii. The site lies within the Green Belt. Whilst engineering operations are classed as appropriate in the Green Belt, they must still preserve the openness. It is considered the above-ground structures such as the kiosk, would harm the Green Belt visually and spatially. However very special circumstances have been identified to outweigh the harm to the openness arising from the above ground physical structures.

iii. The overall design and material choice of the infrastructure is suitable for its use, including matching brick slips and moss green pipework. However it is considered the presence of an engineered structure, within a fairly verdant and semi-rural setting, presents some harm to the setting and entrance of Fulford Conservation Area, in particular when arriving from Selby Road. The harm is assessed as less than substantial and there are significant public benefits arising from the development.

iv. With regards to archaeology, the proposed infrastructure will not significantly harm the setting or legibility of the battlefield site. The above ground impact will not pose any threat to future designation of the battlefield. The development has the potential to impact upon archaeological deposits and

mitigation is therefore recommended which is secured by condition.

v. The development will be located on land currently designated as open space – Fordlands Road Playing Field, however taking into account existing topography and vegetation, the proportion of land to be used is small and currently not useable for recreational importance. The proposed replacement landscaping, will aid in increasing the recreational value of the playing field, on planning balance and given the size, use and nature of the land it would be unreasonable to ask for replacement open space elsewhere.

vi. The removal of trees is necessary to facilitate the development, however the replacement landscaping is considered appropriate and will screen the development from public viewpoints, particularly from the playing fields. Public protection matters such as noise and dust can be controlled by condition. A new access from Selby Road is required for periodic maintenance and emergency access to enter a vehicle parking area for contractors. Members will be updated at committee with regards to the Highway Officers updated comments.

vii. The Ecological Impact Assessment identified key ecological receptors that require mitigation during the construction and operation phases of the development. Neither the proposed ground investigations or the wider proposed works are likely to adversely affect the botanical integrity of the wider Fulford Ings SSSI and adjacent land. The Ecologist and Environment Agency recommend an updated CEMP to be secured by condition. Additional conditions such as an invasive non-native species method statement and LEMP have also been added. The natural environment is therefore conserved and enhanced.

viii. On planning balance and taking all matters into consideration, including attaching substantial weight to the public benefits arising from the development, the application accords with the provisions of national planning policy and policies within the Draft Local Plan (2018) and is therefore recommended for approval subject to conditions.

[6.54 – 7pm, the Chair took a short adjournment. Cllrs Baxter and Vassie left the meeting. Cllrs Melly and Clarke, stepped off the committee for the duration of item 4c.]

62. Tramways Club, 1 Mill Street, York, YO1 9PY [21/01045/FULM] (7.01 pm)

Members considered a major full application for the erection of residential building to form 35no. apartments with associated landscaping and public realm improvements to adjacent Rest Gardens following demolition of former Tramways Club.

The Development Manager gave a presentation on the plans and the Principal Development Management Officer provided an update which outlined an additional representation from the Civic Trust and an additional comment from the council's Public Realm Operations Manager. Condition 22 was amended to read as follows:

Landscaping – condition 22

The hard landscaping measures as shown on the landscape masterplan shall be implemented prior to first occupation of the development hereby permitted.
Within a period of six months of commencement of the development a soft landscaping scheme shall be approved in writing by the Local Planning Authority and fully installed in accordance with the approved details. Prior to first occupation of the development, a completion notice shall be served on the Local Planning Authority and approval in writing shall be obtained from the Local Planning Authority that the approved scheme has been satisfactorily provided.

The Officer's recommendation remained for approval subject to the conditions set out within the report and as amended above.

In response to questions from Members, it was confirmed that a condition regarding holiday lets was not required as using the properties for holiday lets would result in a material change of use requiring planning permission.

Public Speakers

Margaret Rollinson, a local resident, spoke in objection to the application. She raised concerns regarding the height of the proposed development as she felt it was not in keeping with the conservation area. She also highlighted the limited parking available currently, and stated that the

parking would be much worse in the future if the application was to be approved.

In response to questions, she stated it was difficult to get tradespeople to attend properties when there was no parking in the area. She raised concerns in relation to the limitations that cycles have, if they are the only means of transport for residents in the development.

Cllrs Melly and Clarke, Guildhall Ward Cllrs, spoke in objection to the application. They highlighted the development's proximity to the city walls and noted that it did not provide for affordable housing. They felt that there should be a condition to prevent holiday lets and expressed concerns regarding the practicalities of the basement cycle storage.

In response to questions from Members in relation to the planned 'rest' garden, they stated that greater consultation with residents was needed and that the developers should maintain the garden in perpetuity.

Richard France, the Developer, spoke in support of the application. He stated that they had collaborated with CYC officers to develop the brownfield site and meet the city's housing need. They had acted on comments and reduced the height and massing of the development. He stated that short term lets would be prohibited.

In response to questions, he confirmed they were willing to come to an agreement on the planting scheme, noting that the service charge fund would be used to maintain the site. The increase in costs since they had owned the plot had meant that including affordable housing was no longer possible.

Sue Sparling, the architect, explained the cycle storage plans in more detail and confirmed that Highways had advised that residents would not be eligible for residents parking permits.

Officers reported, in relation to the viability mechanism, that affordable housing was an aspirational target, whereas services such as education were considered essential. National planning guidance was that the viability review mechanism needed to be simple and fair; should the profit be higher than expected this would come back to the council as a commuted sum that would go towards affordable housing but changes in build costs would need to be taken into account.

Following debate, Cllr Fenton proposed the officer recommendation to approve the application, subject to the s106 agreement, the amendments in the update and additional informatives for the developer to include the

restriction on parking permits in their marketing and that the use of individual apartments for short term holiday letting was considered to be a material change of use requiring planning permission. This was seconded by Cllr Orrell.

On being put to a vote, Members voted four in favour of the motion and one against, it was therefore:

Resolved: That the application be approved, subject to the completion of a Section 106 agreement by the Head of Planning and Development Services, through delegated authority.

Reason: The site is within an area identified for regeneration in the DLP 2018 (Castle Gateway). The scheme makes effective use of land and would provide housing and these are benefits to be given substantial weight according to the NPPF. There would not be harm to heritage assets, no undue impact on surrounding occupant's amenity and technical issues can be addressed through conditions. The scheme is unable to be policy compliant in terms of affordable housing provision and this has been independently verified by the Council's district valuer. A review mechanism can be included in a legal agreement to capture any uplift in value of the scheme.

[8pm, Cllr Orrell left the meeting. Cllrs Melly and Clarke rejoined the meeting]

63. Planning Appeal Performance and Decisions (8.02 pm)

The Development Manager presented a report which provided information on the planning appeal decision determined by the Planning Inspectorate between 01 April and 30 June 2023.

It was reported that the council had lost more appeals than usual recently. There had been four cases since 2018 where costs had been awarded against the council.

Resolved: That the report be noted.

Reason: To keep members informed of the current position of planning appeals against the council's decisions as determined by the Planning Inspectorate.

Cllr B Burton, Chair
[The meeting started at 4.33 pm and finished at 8.06 pm].