

Meeting	Executive
Date	19 October 2017
Present	Councillors Carr (Chair), Gillies, Lisle, Orrell, Rawlings, Reid, Runciman and Waller
In Attendance	Councillors D'Agorne and Looker

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#### **64. Declarations of Interest**

Members were asked to declare, at this point in the meeting, any personal interests, not included on the Register of Interests, or any prejudicial or disclosable pecuniary interests they may have in respect of business on the agenda. No additional interests were declared.

#### **65. Exclusion of Press and Public**

Resolved: That the press and public be excluded from the meeting during consideration of Annex 4 to agenda item 10 on the grounds that it contains information relating to the financial or business affairs of any particular person (including the authority holding that information). This information is classed as exempt under Paragraph 3 of Schedule 12A to Section 100A of the Local Government Act 1972 (as revised by the Local Government (Access to Information) (Variation) Order 2006).

#### **66. Public Participation**

It was reported that there had been 3 registrations to speak at the meeting under the Council's Public Participation Scheme and that 3 Members of Council had also requested to speak. The registrations were in respect of the following items:

##### Minerals and Waste Joint Plan

Kit Bennett stated he had previously made representations and raised concerns regarding a number of the proposed

amendments outlined within the report, namely PC 62, 63, 66, 70, 79 and 80 which he perceived had been disregarded. He stated that whilst these amendments were presented as minor changes, they would increase the vulnerability of the Local Plan to the harmful effects of unconventional hydrocarbon development, including fracking.

He asked that the amendments to PC 62, 63, 66, 70 and 80 be reversed, as the previous version was clearer and offered better protection from harmful environmental effects. This could be done without the need for further consultation as the previous version of the Plan had been consulted on. He stated that by doing this, the Council could protect our region from misleading definitions of fracking and unconventional hydrocarbons,

Mr Bennett referred to concerns as to buffer zones around homes not being large enough, the lack of buffer zones around Sites of Special Scientific Interest (SSSIs), the wording of the plan not being strong enough around hydrocarbon development, and a lack of consideration of climate change.

He perceived that none of these concerns were taken into account and the amendments made and were listed as minor changes, could make the area more vulnerable to unconventional hydrocarbon development .

Mr Bennett felt that the officer responses in Annex B of the documents on the agenda did not address the issues he raised. He stated that he was aware that this issue had been discussed at the Local Plan Working Group (LPWG) and he was glad to see the Head of Strategic Planning give some clarification regarding the Infrastructure Act definition not being adopted in this Plan. However he added that it was still vital to clarify what was meant by conventional and unconventional resources as put in PC 62, as this would leave the region very vulnerable to fracking under the guise of not fracking

#### Disposal of Willow House

- Councillor Craghill asked that this item be deferred for further consideration, raising concerns as to the protection of land adjacent to Walmgate Bar currently used as public open space.

Further concerns were raised over the decision making process regarding the choice of bid. Councillor Craghill questioned why it was necessary to accept the highest bid, given that from her analysis of capital sales, it appeared that the £4m target for the Older Persons' Accommodation Programme had already been exceeded.

She added that the area was saturated with student accommodation, and there was a need for further consideration to evaluate the impact on local residents and on council priorities, as it appeared that priority was being placed on the provision of student accommodation over care beds.

- Councillor Flinders referred to the lack of green spaces within the City and highlighted that many people within the Walmgate area lived in flats and terraced gardens that did not have large gardens. He added that the land adjacent to Walmgate Barr was well used by residents and referred to research on the positive impact that proximity to green space in urban areas had on mental health.

He highlighted that a recent event had been attended by ward councillors and 30 local residents who opposed the sale of the green space.

Councillor Flinders stated that whilst he recognised the need to recycle council assets and did not oppose the sale of Willow House, there had to be a balance. He concluded that the sale of this important green space would adversely affect the community and asked that the decision be deferred to evaluate alternative options.

- Councillor Pavlovic asked why the Council was not prioritising the building of social housing on this and other sites as they became available, given York's housing needs.

Councillor Pavlovic stated that if it was not possible to build social housing on the site, then the next best option would be for older persons' accommodation. He expressed surprise that only £995k in capital receipts had been accrued from the sales of other care homes, given the sale prices of £1.8 m for Oliver House and £1.6 m for Grove House. He asked for an explanation for the differences between these sums and the £995k outlined in the Capital Programme.

He referred to the recent planning application for the re-development of the Carlton Tavern and the proposal for a care home which identified a shortfall of 672 care home beds within the City by 2020. Councillor Pavlovic concluded that the Council had missed a key opportunity to deliver key objectives and provide care home bids, by rejecting a from a reputable provider that was £500k less than the recommended bid within the report.

### York Central Access Road

Benjamin Hall, a resident and member of Friends of Holgate Community Garden, referred to the essential green space within a thriving community which would be devastated if the Southern option access route be forward by the York Central Partnership to the Executive for decision.

He stated that there had been overwhelming objection to this option during the consultation, further demonstrated by an online petition to save the Holgate Community Garden which had received 1,200 signatures and the recent 'Make Some Noise' event. He asked that the Council and Partnership take note of this community feeling and that the Southern option be rejected.

Mr Hall added that the second aim of the community organisation was to safeguard the garden and park for future generations. With the threat of the road removed, Holgate Community Gardens would need to be protected. This would mean removal from the Local Plan Development site and steps taken to recognise it as an asset.

### Matters Within the Remit of the Committee

Louise Ennis stated that she was representing members of the public and heritage planning professionals, who wished to express concerns as to irregularities that questioned the legitimacy of the planning decision taken regarding the Carlton Tavern on 18 October 2017. These related particularly to Principles A and B of the Council's Code of Governance.

Ms Ennis stated that there had been minimal consultation prior to the decision and that key evidence had been missing and misinformation uncorrected during the meeting. She added that scrutiny should be applied to the Committee's composition and

expressed concerns as to the process which affected a finely balanced outcome. She stated that she was representing strong calls for a review and annulment of the decision pending a further vote with full membership of the committee once key evidence had been provided. She also highlighted that concerns from a number of individuals and organisations are likely to lead to a judicial review.

**67. Minutes**

Resolved: That the minutes of the last Executive meeting held on 28 September 2017 be approved and then signed by the Chair as a correct record.

**68. Forward Plan**

Members received and noted details of the items that were on the Forward Plan for the next two Executive meetings, at the time the agenda had been published.

**69. Future Management of Allotments**

Members considered a report which sought an Executive decision to grant a seven year lease to York Allotments Charitable Incorporated Organisation.

It was noted that the Charity could not dispose of any land either by sale or to lease to another party so if a site became non-viable, the land would remain vacant for the period of the lease. Alternatively, if issues were identified through the 18 month and 2 year performance reviews, Council officers would work with the Charity to find a solution or for the land to be given back to the Council and taken out of the lease.

Trustees would be re-elected at their first Annual General Meeting and periodically after that on a rolling programme.

Resolved: That the Executive agree Option 1- to grant a lease of the Council-owned allotment sites in York listed at paragraph 5 of this report to York Allotments Charitable Incorporated Organisation (YACIO), for a term of 7 years, at a peppercorn rent, in accordance with the terms as set out in the Council's Asset Transfer Policy.

Reason: To harness the talents and energies of the community and to allow tenants to have a direct say in the day to day management of the service.

**70. Upper and Nether Poppleton Neighbourhood Plan – Referendum Result and Adoption**

Members considered a report which considered the results of the Upper and Nether Poppleton Neighbourhood Plan referendum.

It was noted that there had been a good turnout at the referendum, which was supported by 91.3% of the turnout.

The significant work undertaken by the Neighbourhood Planning Group in Poppleton was acknowledged and both Members and officers placed on record their thanks to the Group.

Resolved: That the Executive:

- a. Note the results of the referendum and formally 'makes' the Upper and Nether Poppleton Neighbourhood Plan; and
- b. Approve the Decision Statement attached at Annex B to this report, to be published in accordance with Regulation 19 of the Neighbourhood Planning (General) Regulations 2012 (as amended).

Reason: To allow the Neighbourhood Plan to progress in line with neighbourhood planning legislation.

## 71. Minerals and Waste Joint Plan - Submission

*[See also Part B Minutes]*

Members considered a report which provided an update on the outcomes of the consultation on the Addendum of Proposed Changes to the Minerals and Waste Joint Plan. Members were asked to recommend that Full Council approve the Submission Draft (the Publication Draft) and the accompanying Addendum of Proposed Changes together with representations received thereon for submission for Examination.

During discussion of the item, officers were requested to provide written responses to the points raised by the speakers for consideration at the meeting of full Council on 26 October 2017.

Resolved: That the Executive note the representations received on the Addendum of Proposed Changes Minerals and Waste Joint Plan for North Yorkshire, York and the North York Moors National Park.

Reason: So that a National Planning Policy Framework compliant Joint Waste and Minerals Plan can be progressed.

### Action Required

Provide written responses to the points raised by speakers for consideration at the meeting of full Council on 26 October 2017

MG

## 72. Community Stadium Project Report

The Deputy Chief Executive/Director of Customer and Corporate Services presented a report which was a concluding update on the progress of the Community Stadium and Leisure Facilities Project since the last Executive report in July 2017.

The report outlined significant progress since July 2017, identified a new risk highlighted at paragraph 16 of the report, and confirmed that all necessary legal agreements were expected to be entered into in the near future.

Members were reassured that any material changes would be reported back to Executive at the earliest opportunity.

Resolved: That the Executive:

- a. Notes the contents of the report and the progress made since the last report brought to Executive in July 2017; and
- b. Notes and accepts the new risk highlighted on the Commercial Development Capital Land Receipt, as per the details set out at paragraph 16 of the report.

Reason: To progress with the Project and enter into all necessary legal agreements at Financial Close to deliver the New Stadium and Leisure Centre (NSLC) and operation by Greenwich Leisure Ltd of the NSLC and the city's wider existing leisure facilities.

### **73. Disposal of Willow House, Walmgate, York**

The Director of Economy and Place to presented a report which sought an Executive decision to dispose of the former Older Persons Home at Willow House to the highest bidder.

With regards to concerns over the loss of public green space, it was highlighted that the Executive decision taken on 29 November 2016 included this space and not called in for scrutiny. It was not a public space as defined by legislation and was required in part by the developer in respect of the proposals. With regards to public open space within the City and sustainable urban drainage, these were both matters that would be considered through the planning process should the sale go ahead.

It was noted that the Programme Director of the Older Persons' Accommodation Programme would be requested to provide Councillor Pavlovic with responses to his questions concerning funding arrangements raised earlier in the meeting.

It was noted that there was significant pressure around student accommodation within the City, which this proposal if agreed and successful through the planning process, would alleviate.



In relation to capital receipts, it was noted that a number of related schemes and funding would be considered as part of the forthcoming Capital Monitor report to Executive.

Resolved: That the Executive approves the sale of Willow House to Empiric PLC as the highest bidder for Willow House.

Reason: To achieve the best consideration for the Willow House site, and facilitate investment in the Older Persons Accommodation Programme.

Action Required

The Programme Director of the Older Persons' Accommodation Programme be requested to provide Councillor Pavlovic with responses to his questions concerning funding arrangements

NF, RW

## **PART B - MATTERS REFERRED TO COUNCIL**

### **74. Minerals and Waste Joint Plan - Submission**

*[See also Part A minute]*

Members considered a report which provided an update on the outcomes of the consultation on the Addendum of Proposed Changes to the Minerals and Waste Joint Plan. It was noted that a total of 143 specific comments from 36 respondents had been received.

If the Plan and Addendum were submitted to the Secretary of State for the purposes of examination as recommended, it was anticipated that this process would begin in early 2018.

The issues within the report had been debated at the meeting of the Local Plan Working Group (LPWG) on 12 October 2017. Responses had been given to the speakers at the meeting and the draft minutes had been circulated to the Executive for information.

Two additional recommendations were proposed to those outlined in the report, namely:-

1. That the Director of Economy and Place in consultation with the Executive Member for Transport and Planning be authorised to make non-substantive editorial changes to the Submission Draft and other supporting documents proposed to be submitted alongside the Plan; and
2. That the Director of Economy and Place in consultation with the Executive Member for Transport and Planning be authorised to agree any further or revised responses or proposed changes during the Examination period.

An amendment to include 'in consultation with the Interim Deputy Leader and Executive Member for Environment' was proposed. The additional recommendations, as amended, were agreed.

A member raised issue with the draft minutes of the LPWG referring to a minimum separation distance of 500 m being considered reasonable. The LPWG had agreed that, given government guidelines, 500 m would be accepted. This clarification was acknowledged and it was accepted that the minutes would be submitted to the next meeting of the LPWG for approval and they would have the opportunity to amend.

As to whether potential drilling could be 500 m from potential as well as existing properties, it was noted that if applications were in for that type of activity, the fact allocations existed in the Local Plan would be a material consideration in its' assessment. Whether that would overrule the proposal, would depend on what stage the Plan was at and how solid and significant those allocations were to the Plan. The construction of the Local Plan for York meant that most of the big strategic allocations would have to go ahead for the Plan to succeed, so that would be a significant material consideration.

As to whether drilling could take place within 500 m of a proposed strategic site, it was stated that the approach to the Local Plan sought to avoid over allocation in order to protect the character and setting of York. Given that the bigger allocations were all significant, this would give reason to resist applications for fracking. However, an absolute guarantee could not be given.

It was confirmed that there had been no changes to the proposals presented to the LPWG. The Plan had been through considerable stages of development and if changes were to be made, partner organisations may not agree and it was likely that further consultation would have to be undertaken, which would delay progression of the document. The other authorities involved were keen to get a framework in place at the earliest opportunity to judge any potential applications.

If central government were to change national policy and suggest a wider buffer zone at the examination stage, it would be drawn to the examiner's attention and the Council would seek to implement changes in policy. If after examination, there would be an opportunity at the review stage of the Joint Plan to incorporate any changes in national policy.

If national policy changes and the Joint Plan becomes out of line with that, then the new national policy will be a material consideration in determining applications.

With regards to radiation, it was clarified that naturally occurring radioactive materials (NORM) were present in the ground and it would be the elements that would come up with the flow back fluid that would have levels of NORM. The Environment Agency and other regulators would be party to the information from analysis of that NORM and the fluid would be subject to treatment process if the NORM was at a level that required treatment.

Officers were requested to provide a written response to the points raised by the speaker for consideration at the meeting of full Council on 26 October 2017.

Executive noted the representations received on the Addendum of Proposed Changes Minerals and Waste Joint Plan for North Yorkshire, York and the North York Moors National Park. It was:-

Recommended:

1. That Full Council approve the Submission Draft of the Minerals and Waste Joint Plan for York, North Yorkshire and North York Moors National Park (comprising the Publication draft Plan (2016) accompanied by the Addendum of Proposed Changes (2017) for submission for examination;

2. The Director of Economy and Place in consultation with the Executive Member for Transport and Planning and Interim Deputy Leader & Executive Member for Environment , be authorised to make non-substantive editorial changes to the Submission Draft and other supporting documents proposed to be submitted alongside the Plan; and
3. The Director of Economy and Place in consultation with the Executive Member for Transport and Planning and Interim Deputy Leader & Executive Member for Environment , be authorised to agree any further or revised responses or proposed changes during the Examination period.

Reason:

So that a National Planning Policy Framework compliant Joint Waste and Minerals Plan can be progressed.

Action Required

Refer to Council

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Cllr D Carr, Chair

[The meeting started at 5.30 pm and finished at 7.00 pm].