
Meeting	Planning Committee
Date	11 October 2018
Present	Councillors Reid (Chair), Boyce, Carr, Cullwick, Cuthbertson, Funnell, Galvin, Looker, Richardson, K Taylor, Warters, Fenton (Substitute for Cllr Ayre), Kramm (Substitute for Cllr D'Agorne) and Brooks (Substitute for Cllr Doughty)
Apologies	Councillors Ayre, D'Agorne, Doughty and Shepherd

Site Visits

Application	Reason	In attendance
York St John University Sports Centre, Haxby Road, York	To allow Members to familiarise themselves with the site	Cllrs Reid, Galvin and Brooks

28. 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. In relation to the York St John University Sports Centre application (agenda item 4b), Cllr Cullwick noted that he had been an employee of York St John University for ten years (however not for five years). There were no further declarations of interest.

29. Minutes

Resolved: That the minutes of the last meeting held on 16 August 2018 be approved and then signed by the Chair as a correct record.

30. Public Participation

It was reported that there had been no registrations to speak at the meeting under the Council's Public Participation Scheme on general matters within the remit of the Planning Committee.

31. Plans List

Members considered a schedule of reports of the Assistant Director, Planning and Public Protection, relating to the following planning applications, outlining the proposals and relevant policy considerations and setting out the views of consultees and officers.

32. Germany Beck Site, East Of Fordlands Road, York [17/02687/NONMAT]

Members considered a non-material amendment from Persimmon Homes Yorkshire to permitted application 12/00384/REMM to alter approved plans, to vary condition 9 to amend approved bat mitigation strategy and to remove condition 13. The request sought consent to make the following amendments to a planning permission for 655 dwellings (12/00384/REMM, approved 9.5.2013) to allow changes to the approved house types and layout of phases 1 and 2 and to amend the timing of an approved bat mitigation strategy agreed under condition 9 of the reserved matters. The original request to remove condition 13 had now been omitted from the application. Changes to phase 3 of the scheme had also been omitted from this S 96A non-material amendment request.

Members were advised that the proposal was not a planning application and was a request for consent to make non-material amendments to an existing planning permission pursuant to Section 96A to the Town and Country Planning Act 1990. In Local Planning Authorities, such non-material decisions would ordinarily be processed using delegated powers. However, the scope of delegation provided for in the wording of York's Constitution had been queried by Fulford Parish Council, on the grounds that S96A was not expressly referred to in the Council's Constitution as being excluded from reservation to Committee, (unlike repeat and S73 applications). The request was therefore being brought to Committee for approval to protect the Council from any challenge to the decision making process on procedural grounds.

It was intended that a Report would be brought to the Committee proposing an amendment to the Constitution for Members consideration and referral to Full Council in order that in future it was clear that such requests were within the scope of delegation to Officers.

The Legal Services Manager advised that Committee that if they felt the changes in the amendments sought were material that consent would not be given to the non material amendments. She further advised that there was no case law to determine whether the amendments were non material. She added that Members needed to consider the effect of the change in the context of the whole application and she provided an example to Members.

An officer update was given in which Members were advised of two further changes required to conditions 12 and 13 on the reserved matters consent to take account of changes to the scheme. Officers then outlined the changes contained in the amendments highlighted that the officer view was that the changes were considered to be non material.

In response to a question concerning which houses had moved, officers brought up the site plan on the screen in the room to demonstrate. Members were advised that in addition to changes to the layout, the applicant had been in discussion with the highways authority regarding the changes to phases 1 and 2. This involved the removal of pedestrian links. Officers outlined the changes to a number of properties in plots 1 and 2 including the configuration of parking. The change in house types was also detailed. Hard copies of the layout plans were circulated around the committee.

Officers were asked and clarified that whilst Persimmon properties were of a similar size to the Hogg properties, Persimmon did not have the same house types which would result in a change to the mix of houses in phases 1 and 2.

The mix of houses in the overall scheme was outlined as:

- 1 bedroom house – 6
- 2 bedroom houses – decrease from 296 to 286
- 3 bedroom houses – increase from 216 to 218
- 4 bedroom houses – decrease from 134 to 129
- 5 bedroom houses – increase from 3 to 15

Robin McGinn (Persimmon Homes), agent for the applicant, spoke in support of the non material amendment. He explained that it was a non-material amendment to amend the Hogg house types to Persimmon house types and to amend the approved bat mitigation strategy. He noted that whilst the practicalities remained the same, the objections concerned matters of procedure. He added that the Development Management Officer had explained her view of the materiality which Persimmon endorsed.

In response to Member questions, Mr McGinn noted that:

- Persimmon could not use Hogg house types as the designs were owned by Hogg. It was easier and more economically sustainable to build Persimmon house types.
- The house types proposed were houses that were not on the layout previously and Persimmon sought to provide as much variety as they could.

Mary Urmston (Fulford Parish Councillor) spoke on behalf of Fulford Parish Council in objection to the of the non material amendment. She noted that no consultation regarding the changes had taken place. She explained that 50% of the house designs in the first two phases had altered and those houses were highly visible. She added that a footpath had been deleted and noted that the quality of the development had been reduced. She added that Persimmon had moved buildings to the north which encroached onto Fulford Parish land. She ended by asking the Committee to refuse the amendment.

Mrs Urmston was asked a no of questions by the Committee to which she responded that:

- She believed that the amendments were material
- The number of trees had been reduced
- The significant change in the scheme was the reduction in the variety of houses

Cllr Aspden, Ward Councillor for Fulford and Heslington Ward then spoke on the non material amendment, making a number of general comments. He explained that he was surprised on behalf of a number of local residents regarding the lack of communication and consultation. He added that the proposed changes to the house types and loss of footpaths was significant to the local community and he believed that there could have been more liaison with the community forum.

In answer to Member questions, Cllr Aspden noted that:

- He would have preferred for there to have been more communication and liaison with the local community.
- The change in house designs would have a visual impact.

Members then asked officers a number of questions to which they confirmed that:

- The loss of one tree did was not a material difference to the scheme.
- Where a building had moved on the scheme, this had brought it in line with the built area and did not encroach on the Parish Council extent of land.
- The width of the green space had not changed.
- The changes included in the scheme were being looked at in the context of reserved matters. If a smaller scheme was being looked at, the changes would be classed as material. In the context of the larger scheme, officers would look at the effect of the change in the context of the whole scheme.

In regard to whether the amendment was setting a precedent, the City of York Council (CYC) Legal Services Manager referred to the way in which 96a

Members were advised that any other changes would be assessed separately and a precedent would not be set. The Head of Development Services explained the checking processes used by officers. In response to a question from a Member the Legal Services Manager advised that the Committee had to consider whether the effect of the amendment was in effect material or non material in the context of circa 600 houses.

On the subject of the architectural design of the house types, Members were advised that Hogg had used two house types in eight to nine properties and Persimmon had a variety of house types that were both heritage and contemporary in style.

Following debate it was:

Resolved:

- i. That consent be given to make non-material amendments to an existing planning permission pursuant to Section 96A to the Town and Country Planning Act 1990.
- ii. That the development hereby permitted shall be carried out in accordance with the following

amended conditions 12 and 13 and the following plans and other submitted details:-

Amended Condition 12

Notwithstanding the details shown on the approved plans, revised plans showing the following shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of construction of the houses in the relevant phase. The development shall be carried out in accordance with the approved details.

- The garages for plots 207 to 211 shall be repositioned to allow a distance of 11 metres from the front elevation of the garage and boundary with the green way.

Reason: To ensure adequate usable parking provision to serve the development in the interests of highway safety.

Amended Condition 13

Notwithstanding the submitted plans, no approval is hereby given for the landscaping of the area of land to the south of plot numbers 137 to 159, which includes the Archaeological Zone.

Reason: This is because this area of land falls within the Germany Beck Nature Park and is therefore covered by Condition 10 of the Outline planning permission.

Drawings

Drawing numbers PL_600_101 rev.D Proposed Site Layout, PL_600_101_PH1 rev.B Proposed Site Layout – Phase 1, and PL_600_101_PH2-3 rev.C Proposed Site Layout – Phase 2 & 3;

Drawing no. 1939/20 Landscape Proposals Phase 1 & 2;

Heritage House Type Drawing numbers
600_200_GB4, 600_201_GB5, 600_202_GB6,
600_203_GB7, 600_204_GB8, 600_205_GB9,
600_206_GB10, 600_207_GB11, 600_208_GB13,
600_209_GB15, 600_210_GB17 Plan,
600_222_GB17 Elevations, 600_211_GB18 Plan,
600_223_GB18 Elevations, 600_212_GB19,

600_213_GB20; 600_215_GB22; 600_216_GB23;
600_216_GB26; 600_GB44; and, 600_219_GB50;

Rural House Type Drawing numbers 600_300_GB6;
600_301_GB7; 600_302_GB10; 600_303_GB11;
600_304_GB13; 600_305_GB15; 600_306_GB19;
600_307_GB20; 600_308_GB21; 600_309_GB23;
600_310_GB24; 600_311_GB26; 600_314_GB46;
600_315_GB47; 600_316_GB48; 600_317_GB49;
600_321_GB53; and, 600_323_GB56;

Drawing no. 600_GB Garages.

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

- iii. Notwithstanding the provisions of Article 3 of the Town and Country Planning (General Permitted Development) Order 1995 (or any Order revoking or re-enacting that Order), development of the type described in Classes A (Extensions), B (Alterations to roof) and E (Outbuildings) of Schedule 2 Part 1 of that Order shall not be erected or constructed for plots 38-49 (inclusive) and 643 to 655 (inclusive).

Reason: In the interests of the amenities of the adjoining residents the Local Planning Authority considers that it should exercise control over any future extensions or alterations which, without this condition, may have been carried out as "permitted development" under the above classes of the Town and Country Planning (General Permitted Development) Order 1995.

- iv. Prior to the commencement of development of plots 40, 41 and 43, the boundary hedge shown along the rear boundaries of these plots shall be planted in accordance with the approved plans. A temporary boundary enclosure shall be provided adjacent to the line of the hedge during construction. The hedge shall thereafter be retained at all times.

Reason: In the interests of protecting the amenity of the residents of Osborne House.

INFORMATIVES: Notes to Applicant

1. Please note that this decision only relates to the non-material amendment sought. It is not a re-issue of the original planning permission, which still stands. The two notices should be read together along with any other agreed changes. The only deviation permitted (from the original approved plans) is that as described above, and indicated on the revised submitted information. All other conditions of approval for the scheme shall be complied with.

Reason: The proposed changes to reserved matters consent 12/00384/REMM are considered to be modest in scale and nature in the context of the overall residential scheme. Taking into account the previously agreed amendments to the original planning permission, the proposal would not materially impact upon the previously approved scheme as a whole. The proposed works do not constitute EIA development nor change the environmental impacts of the approved scheme. In exercising planning judgement, it is concluded that the amendments are non-material and, therefore, the application is recommended for approval. As well as an updated plans condition, conditions 7 and 11 of the reserved matters approval need to be amended to reflect the change of plots numbers.

33. York St John University Sports Centre, Haxby Road, York [18/01133/FULM]

Members considered a major full application from York St John University for the construction of a 3G sports pitch with associated lighting, fencing and viewing embankments. There was no officer update.

Phillip Holmes (O'Neill Associates), agent for the applicant, spoke in support of the application. He explained that the site had been allocated in the local development plan and he noted the benefits of the proposal.

In response to Member questions Mr Holmes and the applicant clarified that there was a timing override on the floodlights. Discussion took place regarding the floodlights during which Members were advised that the nearest residential property was 80 metres away and CYC Public Protection (EPU) had been consulted with and made no objection to the proposed floodlights. The Head of Development Services was asked and clarified that the amenity for nearby residential properties was not affected.

It was confirmed that the site crossed the boundaries for three Parish Councils, all of which had been consulted on the application. Concerning whether the use of the energy efficient lights could be conditioned, Members were advised to use the EPU recommendation. They were reminded of the need to be reasonable and proportionate to meet the legal test.

Following debate it was

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

Reason: The provision of the 3G facilities would allow for improved sports provision at the Haxby Road site which has the benefit of being able to be used year round. An existing community use agreement is in place at the site. The site is relatively well screened from the highway and the visual intrusion would be limited. It is considered that the application accords with the NPPF, particularly paragraphs 96 and 97, policies ED5, GI1, GI5 and HW3 of the Publication Draft Local Plan (2018) and Policy GP7 of City Of York Draft Local Plan (2005).

Cllr A Reid, Chair

[The meeting started at 4.30 pm and finished at 6.10 pm].