

Meeting	Planning Committee
Date	19 November 2020
Present	Councillors Cullwick (Chair), Barker, Daubeney, Doughty, Douglas, Fenton, Fitzpatrick, Hollyer, Kilbane, Warters, Lomas, Fisher, Widdowson (Substitute for Cllr Ayre) and Baker (Substitute for Cllr D'Agorne), Pavlovic [from 17:45]
Apologies	Councillors Pavlovic [joined the meeting at 17:45], Ayre and D'Agorne

77. 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. Cllr Fisher declared a non-prejudicial interest as a member of Strensall with Towthorpe Parish Council and the Foss Internal Drainage Board. No further interests were declared.

Election of Vice Chair

Due to apologies from Cllr Pavlovic, Cllr Kilbane was nominated by Cllr Fenton as Vice Chair of the Committee for the meeting. In accordance with the revised Standing Orders, a named vote was taken with the following result:

- Cllrs Baker, Barker, Daubeney, Douglas, Doughty, Fenton, Fisher, Fitzpatrick, Hollyer, Kilbane, Lomas, Pavlovic, Warters, Widdowson and Cullwick voted for the motion;

The motion was therefore unanimously carried and it was

Resolved: That Cllr Kilbane be elected as Vice Chair of the Committee for the meeting.

78. 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.

79. 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.

80. Foss Upstream Storage Area, Brecks Lane, Strensall, York [19/02463/FULM]

Members considered a major full application from Richard Lever Formation of flood storage area consisting of construction of earth embankment with spillway, excavation of two temporary and two permanent borrow pits, erection of river flow control structure, re-profiling of sections of the River Foss, realignment of short section of Black Dike, raising of section of Ings Lane, carriageway edge protection to part of Lilling Low Lane and associated new and improved access arrangements, drainage, accommodation works, landscaping and biodiversity mitigation (cross boundary application with Ryedale) Foss Upstream Storage Area Brecks Lane Strensall York.

The Head of Development Services gave an update she advised Members of an update to Condition 2. This this change the planning balance and recommendation were unchanged from the published report. She gave a presentation on the application noting that it was a cross boundary application with Ryedale District Council. She gave an overview of the site location plan, general arrangement plan, Black Dyke realignment plan and section, slow control structure (structural design details of the sections), landscape master plan, landscape plan for area A and other examples of flood storage areas.

Officers were asked a number of questions to which they responded that:

- The Environment Agency (EA) had put forward a number of flood alleviation schemes and this was the most effective scheme to protect 490 properties.
- As it was a cross boundary application, consultation had been undertaken with a number of drainage boards.
- Conditions 3 and 6 addressed the comments of the North Yorkshire flood risk engineer and paragraph 1663 of the NPPF. If approved the internal drainage boards would be consulted on those conditions.
- There had been no objections from the ecology officer on the impact of the scheme on the Wheldrake SAC and SSSI. Appropriate conditions had been included for environmental mitigation.
- The EA and Natural England had been consulted as statutory bodies. The Yorkshire Wildlife Trust had also been consulted.

Public Speakers

Samuel Wadsworth, landowner and farmer of land upon which the scheme was being constructed, spoke in objection to the application. He raised concerns about the red line used as the boundary being incorrect, concerns about flood base data from 2007 being used, the impact of the scheme on his farm's drain, biodiversity mitigation measures not being agreed with landowners, no agreement with the landowner over the use of clay pits, the proposed access unacceptably posing a biosecurity risk to his livestock.

The applicant, Richard Lever (EA) spoke in support of the application. He explained that the scheme was part of a number of flood alleviation schemes for York and there was currently no flood defences along the river Foss. He listed the benefits of the project which protected 490 properties. He explained that water would pass through without flooding the storage area, which would fill during flooding events and empty within two days. He added that most consultees had supported the scheme and that some objections had been received from landowners, who the EA would continue to work with.

In response to questions, Richard Lever and colleagues in attendance to answer questions clarified that:

- There would be no permanent or temporary closure of path 16 within the York boundary. The potential flood risk damage to the footbridge would be reduced in the future with the flood storage area.

- The EA engagement with the speaker in objection. It was noted that the EA funded independent advice regarding biodiversity and the EA had listened to and taken on board suggestions put forward by landowners.
- The EA would work with the speaker to ensure that adequate provisions were made for biodiversity on his land. This had been included in the site management plan.
- Regarding condition 5, the Head of Development Services advised that the decision regarding the wording of this rested with the Local Planning Authority.
- There was legislation that enabled EA with the powers to undertake flood defences.
- The EA did not need to import clay onto the site.

A Member then enquired as to the compensation paid from the EA to the speaker. The Head of Development Services and Senior Solicitor clarified to the Committee that this was not a material planning consideration and should be disregarded as part of the planning application.

Members then asked further questions of officers to which they responded that there was consultation with the drainage boards as part of the discharging of condition 5.

Cllr Fisher then moved and Cllr Widdowson seconded approval of the application subject to the conditions outlined in the report and additional information. Cllr Warters proposed an amendment to condition 5 to include the following wording at the end of the condition: 'to meet the requirements of the Foss Internal Drainage Board maintenance requirements.' Cllrs Fisher and Widdowson agreed the inclusion of the amendment. Members were advised by the Senior Solicitor that this was reasonable and if it was not, the condition could come back to committee for variation. Following debate, and in accordance with the revised Standing Orders, a named vote was taken with the following result:

- Cllrs Baker, Barker, Daubeney, Douglas, Doughty, Fenton, Fisher, Fitzpatrick, Hollyer, Kilbane, Lomas, Pavlovic, Warters, Widdowson and Cullwick voted for the motion;

The motion was therefore unanimously carried and it was

Resolved: That the application be approved subject to the conditions listed in the report and amended Conditions 2 and 5:

Updated Condition 2

The development hereby permitted shall be carried out in accordance with the following plans and other submitted details:-

Site Location Plan:

ENV0000381C-CAA-00-00-MP-EN-C0400:9 Rev P06

General Arrangement Plan:

ENV0000381C-CAA-00-00-DR-C- I0500_23 (Rev P02) dated 10/02/2020

Black Dike Re-Alignment Plan and Section:

ENV0000381C-CAA-00-00- DR-C- I0500_36a (Rev P02) dated 27/01/2020

River Foss Re-Profiling South Locations:

ENV0000381C-CAA-00-00-DR-C-I0500_41 Rev P01 dated 08/11/2019

Flow Control Structure Sections:

ENV0000381C-CAA-00-00-DR-C-I0500_36 Rev P01 dated 08/11/2019

Outlet Channel Plan and Section:

ENV0000381C-CAA-00-00-DR-C-I0500_35 Rev P01 dated 08/11/2019

Inlet Channel Plan and Section:

ENV0000381C-CAA-00-00-DR-C-I0500_34 Rev P01 dated 08/11/2019

Flow Control Structure Plan and Sections:

ENV0000381C-CAA-00-00-DR-C-I0500_33 Rev P01 dated 08/11/2019

Foss FSA - Embankment Cross Sections:

ENV0000381C-CAA-00-00-DR-C-I0500_31 Rev P01 dated 08/11/2019

Embankment Long Section:

ENV0000381C-CAA-00-00-DR-C-I0500_30 Rev P01 dated 08/11/2019

Foss FSA - Primary Spillway Plan

ENV0000381C-CAA-00-00-DR-C-I0500_29 Rev P01 dated 08/11/2019

Site Access, Compound Area and Temporary Works:

ENV0000381C-CAA-00-00-DR-C-I0500_24 Rev P02 dated 02/12/2019

Services and Boreholes:

ENV0000381C-CAA-00-00-DR-C-I0500_25 Rev P01 dated 08/11/2019

Landowner Access Ramp:

ENV0000381C-CAA-00-00-DR-C-I0500_32 Rev P01 dated 08/11/2019

Landscape Masterplan:

ENV0000381C-CAA-00-00-DR-L-C0700_36 Rev P05 dated 11/02/2020

Landscape Area A:

ENV0000381C-CAA-00-00-DR-L-C0700_37 Rev P05 dated 11/02/2020

Planting Schedule:

ENV0000381C-CAA-00-00- DR-L-C0700_43 Rev P04 dated 11/02/2020

Tree Constraints Plan:

ENV0000381C-CAA-1-XX-DR-C-001 Rev P01 dated 31/07/2019

Landscape Cross Sections:

ENV0000381C-CAA-00-00- DR-L-C0700_42 Rev P02 dated 02/12/2019

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

Amended Condition 5

No development shall take place until details of the means of operation, management, repair and maintenance of the flood storage area, associated apparatus/embankments and borrow pits have been submitted to and approved by the Local Planning Authority. Details to include; plans and schedules showing the flood storage areas, associated apparatus/embankments and borrow pits to be vested with the relevant Statutory Undertaker/s, land owner and highway authority with a clear understanding of who will operate, repair and maintain at their expense, and any other arrangements to secure the operation and maintenance of the approved scheme. The development shall be carried out in accordance with the approved details to meet the reasonable satisfaction of the Foss Internal Drainage Board maintenance requirements

Reason: To prevent the increase risk of flooding and to ensure the future maintenance of the scheme throughout the lifetime of the development.

Reasons

- a) Paragraph 11 of the NPPF states local planning authorities should approve development proposals that accord with an up-to-date development plan without delay. The proposal is for development in the green belt that is deemed to have a harmful impact on openness. As such, paragraph 143 of the NPPF states development of this kind should be refused unless there are very special circumstances to outweigh green belt harm and any other identified harm.
- b) The harm to the openness of the York green belt is considered to be modest in scale. Further minor harm is identified in the impact on mineral resources and moderate harm is identified due to through the permanent loss of over 9 hectares of BMV agricultural land across the York and Ryedale parts of the application site.
- c) Conversely, the benefits to the scheme include the protection to approximately 465 residential properties downstream of the application site, a further 30 commercial properties. Additionally, approximately 22 hectares of BMV agricultural land, much of which in York will receive additional flood protection. It is considered that great weight should be afforded to these significant flood protection benefits. The Environmental Statement and Biodiversity Impact Calculator also identifies there is no harm to the designated sites at Strensall Common and to biodiversity or hydrology that could not be overcome by appropriate planning conditions. Indeed, once mitigation is carried out, there are further benefits for example through the wildlife ponds and some weight is afforded to these benefits.
- d) The impact on amenity, archaeology, drainage and the local highway network are considered to be acceptable subject to appropriate planning conditions. Weighing the proposal up in the planning balance, it is considered that very special circumstances exist; the identified benefits of flood protection are considered to clearly outweigh the identified harms. Subject to the following planning conditions, approval is recommended.

[The meeting adjourned from 17:28 to 17:45. Cllr Pavlovic re-joined the meeting at 17:45]

**80a St Georges Field Car Park, Tower Street, York
[19/02063/FULM]**

Members considered a major full application from Andy Kerr (Applicant, City of York Council) for the erection of 5 level multi-storey car park with canopy to roof to provide 372 no. car parking spaces, demolition of public toilet, revised highway access and associated landscaping works at St Georges Field Car Park, Tower Street, York.

The Head of Development Services gave an update and confirmed that the following additional comments from the flood risk management team would be included as additional conditions.

It was noted that the additional information had been assessed and the planning balance and recommendation were unchanged from the published report. The Head of Development Services outlined the application including the site location plan, proposed elevations, proposed ground floor, first, second, third and fourth level plan, proposed solar canopy, site vehicular plan, illustrative master plan and visualisations.

[As Cllr Pavlovic had joined the meeting at the beginning of the item it was agreed he would resume as Vice Chair]

Following questions regarding tree removal, a tree removal plan and landscaping plan was shared with the Committee. The Committee noted trees would not be removed unless absolutely necessary and that the applicant had proposed to plant an additional 25 trees. A condition to secure a suitable replacement for any trees removed would be included.

Officers were asked and clarified that:

- The toilets would be located on the first floor, due to this floor being accessible during flood times.
- Although the North Yorkshire Police did not support the application due to the open-sided ground floor and the risk of anti-social behaviour, Officers were confident that the building would be made secure by appropriate conditions which could include the carpark to be staffed, 24hr CCTV

and regular patrols of the carpark. Some Committee Members preferred for the site to be staffed 24hr a day.

- Although the Conservation Architect did not support the application, Officers confirmed their comments were noted but were not considered sufficient to refuse the application.
- The application showed the building would be built with a solar canopy.
- There was a loss of 133 car parking spaces.

Public Speakers

Lynnette Mills spoke in objection to the application. She felt the building would have a serious negative visual impact from a picturesque area and would impact on views from New Walk, Clifford's Tower and Skeldergate Bridge. She felt there had been no consideration of trees at the Foss side and felt the lime tree should not be removed and that the site should be used as a green corridor connection to the city. With all the new housing and hotels going up in York she felt more green spaces were needed for mental and physical wellbeing. She felt that building a multi-story carpark would encourage more cars visiting the city centre and would not alleviate congestion or pollution and she asked Members to refuse the application.

John Hey spoke in objection to the proposal. He questioned why the council, who were discouraging cars in the city centre to reduce pollution, noise, were considering building a car park in the city centre, which will increase noise and pollution where as a green space was more likely to achieve the councils aims and be welcomed by York residents.

Johnny Hayes spoke in objection to the proposal. He raised his concerns to the multi-story car park and noted the harm it would cause to the nearby heritage assets and to the conservation area. He questioned the expenditure on a very expensive capital project that was contrary to stated COYC policy and felt the building was too large and too dominate and was the wrong building for St Georges Field. He highlighted the letter from Historic England which listed reasons for its refusal and he hoped Members would reject the application too.

Andy Kerr (Head of Regeneration, City of York Council - CYC) spoke on behalf of the applicant speaking in support to the application. He addressed the committee on both the Castle Mills and St George's Field planning applications. He outlined the wider CYC work on the Castle Gateway, how these planning

applications formed part of implementing the masterplan and dealt with specific issues which had come up during the determination of the planning. He hoped the Committee would support the application. He then answered Members questions relating to the security of the building, public engagement, trees, flooding, the wider masterplan, residential use and parking for coaches. He confirmed that:

- City of York Council had a number of discussions with North Yorkshire Police regarding their concerns to try and resolve any issues. The Police would like to see the site secure from a ground floor level but the site had to be open at ground floor due to flooding. The Council would be the operator of the 24hr car park and would ensure the car park was safe and secure at night and would continue to monitor and respond to any concerns quickly.
- A large amount of public engagement had taken place and businesses and retailers were clear that they would only support the closure of Castle Car Park if alternative city centre car parking was provided in the area.
- More trees were being planted than the number being lost and the application ensured there were no loss of trees to New Walk. The Council would be happy to plant more mature trees on the site.
- The ground floor would be secured off when there was any risk of flooding.
- Castle Car Park would be improved as part as the wider masterplan and the new multi-story car park at St Georges Field would allow Castle Car Park to close and become a much needed area of public realm at the heart of one of York's heritage sites.
- Converting the site for residential use was declined due to flooding.
- The site would provide 25 spaces for coaches

Members then asked further clarification questions. The Head of Development Services advised that a security condition had been missed off the report and needed to be included. Referring back to the point about the car park being staffed 24 hours a day she advised that the majority of multi storey car parks (MSCP) in York were not staffed 24 hours a day and used CCTV for security purposes. With regard to the concerns to the heritage asset she felt that the consultation response from the Conservation Architect was sufficiently included in the report. Officers were asked and clarified that:

- Along with the security condition could be an informative to state that the planning authority could work with the Police Architectural Liaison Officer to come to the best possible solution about security. Regarding a condition on this to the 'reasonable satisfaction' of the police, the Senior Solicitor advised that this would not meet one of the six tests as it would never be achieved given the concerns out forward by the police. The Head of Development Services clarified the security condition advising that the addition of 24 hour staffing was not reasonable but it would be reasonable to add 'in consultation with the police' at the end of the condition.
- 10-15 disabled spaces would be lost from the castle car park and there was 31 spaces at the proposed car park. An update on the closure of foot streets was given noting that it was a temporary restriction. The Senior Solicitor advised that any decision made by the Committee needed to be on the basis of facts at present, and it was for the Committee to decide whether to give weight to the consultation on foot streets taking place. She added that any decision made on moral objection such as the fear of crime could only be a material consideration if it could be shown that the fear was based in reality.
- The planning balance regarding the closure of the castle car park and the public realm part of the scheme would come forward as a separate planning application.
- A condition had been added regarding a full road safety audit being undertaken.

Cllr Hollyer moved and Cllr Daubeney seconded approval of the application subject to the agreement of Chair and Vice Chair on the wording of the security condition.

Members debated the application in detail, during which concern was raised about the security of the carpark, number of parking spaces, suitability of the location for disabled parking, harm to heritage, lack of traffic impact assessment and failure to meet LTN 1/20.

Members were asked and confirmed that they had been present throughout consideration of the application.

In accordance with the revised Standing Orders, a named vote was taken on the motion to approve the application with the following result:

- Cllrs Daubeney, Doughty, Fenton, Fisher, Hollyer, Widdowson and Cullwick voted for the motion;
- Cllrs Baker, Barker, Douglas, Fitzpatrick, Kilbane, Lomas, Pavlovic and Warters voted against the motion

The motion was therefore lost.

Cllr Baker then moved and Cllr Pavlovic seconded deferral on the basis of the need for a review of the parking need within this part of the city centre, the traffic impacts of the site, the suitability of the car park location for disabled parking, and the attendance of the conservation architect at the meeting. In accordance with the revised Standing Orders, a named vote was taken on the motion to approve the application with the following result:

- Cllrs Baker, Douglas, Fitzpatrick, Kilbane, Lomas, Pavlovic and Warters voted for the motion
- Cllrs Fenton, Fisher, Hollyer, Widdowson and Cullwick voted against the motion;
- Cllrs Barker, Daubeney, and Doughty abstained

The motion was carried and it was:

Resolved: That the application be deferred.

Reason: In order that further information be provided in relation to:

- a) the parking need within this part of the city centre to inform the number of spaces proposed
- b) parking review to take place to take account of the city centre as a whole
- c) clarification as to the traffic impacts on the pedestrian cycle route
- d) The Conservation Architect to attend the meeting at which the application was to be determined

81. Castle Mills Car Park, Piccadilly, York [19/02415/FULM]

This was a full application for the erection of 106 apartments including 36no. 1-bed, no. 68 2-bed and 2no. studios, flexible commercial floorspace (A1-A3 and B1 1458sqm gross), provision of new pedestrian and cycle bridge across the River Foss and creation of new public realm and pedestrian and cycle route at riverside north Castle Mills Car Park Piccadilly York.

Cllr Kilbane moved and Cllr Warters seconded that the application be deferred to enable the Conservation Architect to attend to answer Members questions. In accordance with the revised Standing Orders, a named vote was taken on the motion to defer the application with the following result:

- Cllrs Barker, Doughty, Douglas, Fitzpatrick, Kilbane, Lomas, Pavlovic and Warters voted in favour of this motion and
- Cllrs Baker, Daubeney, Fenton, Fisher, Hollyer, Widdowson and Cullwick voted against this motion

The motion was carried and it was therefore:

Resolved: That the application be deferred.

Reason: To allow the Conservation Architect to attend to answer questions.

Cllr C Cullwick, Chair

[The meeting started at 4.30pm and finished at 8.07pm].