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Meeting	Area Planning Sub-Committee
Date	13 October 2021
Present	Councillors Hollyer (Chair), Crawshaw (Vice-Chair), Craghill, Daubeney, Galvin, Melly, Orrell, Waudby, Perrett and Douglas (Substitute)
Apologies	Councillors Fisher, Webb

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## **21. Declarations of Interest**

Members were invited to declare, at this point in the meeting, any personal interests not included on the Register of Interests, any prejudicial interests or any disclosable pecuniary interests that they might have in the business on the agenda.

Cllr Daubney declared that he had personal knowledge of the applicant for item 4a and 4b, Barnitts, 28A Colliergate, York. He therefore withdrew from the meeting for the duration of both items.

Cllr Perrett declared that Cllr Webb, who was to speak in objection to Mast adjacent to Gas Holder off Hawthorn Grove, York, was her partner, but indicated that they had not discussed the issue together and that the interest was not prejudicial or pecuniary.

## **22. Minutes**

Resolved: That the minutes of the Area Planning Sub-Committee meeting held on 12 August 2021 be approved and then signed by the Chair as a correct record.

## **23. 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.

## **24. 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.

## **25. Barnitts, 28A Colliergate York [19/02753/FULM]**

[Councillor Daubeney withdrew from the meeting at 16:35]

Members considered a Full Planning Permission application to detach the buildings from the remainder of the Barnitts' store and for conversion into 12 dwellings, and a ground floor retail unit within 28a. A Listed Building Consent application was also considered which was for the works associated with conversion of the Drill Hall and 28a into 12 dwellings and a separate retail unit, and separating these premises from the remainder of the Barnitts retail space on Colliergate.

The Development Manager gave a presentation on the application. Members asked officers a number of questions to which they answered that:

- There are 24 covered and secure cycle spaces reserved in the plan.
- In terms of Listed Building Consent, the special interest in the Drill Hall was, in part, the previous use of the building.
- The application was for C3 dwellings, short term, holiday lettings do not normally fit within this category.
- Condition 11 could be amended to include the number of cycle spaces, that being 24.
- The four townhouses within the fabric of the listed buildings were constrained by their listed status this is why the BREEAM only applies to the eight townhouses within the Drill Hall.
- The construction costs were wide ranging and substantial and included the value of the buildings currently, the costs of development and the value of what the new buildings were worth.
- It was confirmed that a proper assessment of the viability of the retail unit has been carried out.

## Public Speakers

Paul Thompson spoke as the applicant in support of the application. He explained that he was the MD of Barnitts, he was the third generation of his family to run the store which has been trading in York for 125 years. He further explained that since the application was deferred, they have waited 11 months for the independent viability report, during this time the retail environment has undergone significant changes. As a result of modernising the operation, the amount of retail and storage space they currently have is no longer needed. A positive outcome would allow the business to reinvest in York city centre and enable the business to expand the click and collect service in James' Street. 98% of deliveries would go to James Street, alleviating city centre traffic congestion.

In response to questions from committee members, Paul Thompson and his colleagues explained the following:

- There was no parking on the site currently.
- The architects had considered several improvements to achieve the BREEAM rating including, electric heating on green tariffs, new windows, insulation to properties, air tightness and improvements to the thermal performance of the building. Internal wall insulation has also been considered for the Drill Hall, balanced against the requirements of an old building.
- Any tenancy agreements will be not less than six months.
- The plans for the Drill Hall open up the space and have created more of a feel and sense of space than currently.

Phil Pinder spoke in support of the application on behalf of York Retail Forum. He explained that Barnitts was an essential retailer in the city, providing for the needs of local residents. He went on to explain that the release of funds provided by the development would enable them to invest in the future. He added that downsizing would also have the added advantage of reducing the business rates payable. The introduction of more housing stock further creates a local customer base for those existing businesses in the city centre. He confirmed that the stand alone retail unit was the ideal size for an independent retailer.

In response to further questions from members, planning officers stated that they had considered the potential alternative uses for the Drill Hall and believed that other plans would not be forthcoming due to economic and location constraints. The future viability of the business was not considered as part of the planning balance.

After debate, it was moved by Cllr Orrell and seconded by Cllr Waudby to approve the application for both 4a and 4b. Further debate ensued. On being put to the vote, the motion was carried and it was:

Resolved: That the application be approved, subject to the completion of a Section 106 Agreement and the conditions in the report and subject to the amendment to condition 11. Condition 11 be amended to refer to the approved number of cycle parking spaces, that being 24.

Reasons:

- i. The scheme involves the re-use of buildings surplus to the requirements of the current owner. The restoration and proposed alternative uses accord with the social and economic objectives of the NPPF regarding housing supply, the economy, the vitality of town centres and making effective use of land. In respect of decision-making the NPPF requires planning to support (and give substantial weight in decision-making) the development of under-used buildings, especially when this would help meet identified needs for housing. The scheme retains commercial use at the ground floor facing King's Square, within 28a, and appropriately makes more effective use of other underused parts of the site; the upper floors of 28a, the buildings behind and the Drill Hall.
- ii. It is considered that residential use is likely the only viable option to secure reuse and continued occupation of the relevant building(s). There is demonstrable local housing need. To facilitate re-use of the listed buildings, including ones which are in poor condition, and the associated social and economic benefits of the scheme would equate a public benefit that justifies the harm to the significance of the buildings. In making the planning

balance, officer's recommendation is that the benefits outweigh the identified harm, despite non-compliance with local affordable housing policy. Any residential re-use of the Drill Hall would lead to a degree of harm to the original layout. A scheme less harmful to that proposed would not be viable, given the amount of restoration work involved, and the amount and quality of accommodation provided. The loss of the staircase in 28a is necessary to enable the desired mix of uses in a functional and efficient way.

- iii. Other technical issues – amenity, sustainable design and transport can be addressed by conditions.
- iv. Independent valuation has concluded that the scheme cannot deliver an affordable housing contribution. However it acknowledges the uncertainty in this case, given the extent of construction work, the unique nature and location of the housing proposed and local housing supply and prices. The applicants have accepted a viability re-appraisal, if there is a delay in implementation of the scheme. This would ensure the value of the development remained relevant. It would be secured by the S106 legal agreement, triggered if development does not commence within 2 years of the date of approval.

[The meeting adjourned from 17:39 to 17:42]

[Cllr Daubney re-joined the meeting at 17:42]

## **26. Barnitts, 28A Colliergate, York [19/02754/LBC]**

The planning application for Listed Building Consent in respect to internal and external alterations of the Drill Hall was debated alongside item 4a as minuted above.

Resolved: That the application be approved subject to referral to the Secretary of State.

Reasons:

- i. The proposed changes to facilitate residential re-use on the upper floor of 28a and within the Drill Hall cause less than substantial harm to the historic importance of the buildings. Due principally to sub-

- division within the Drill Hall, to facilitate a new viable use, and the loss of a staircase in 28a Colliergate.
- ii. As required by the Planning (Listed Buildings and Conservation Areas) Act 1990) and the NPPF, the Local Planning Authority must give considerable importance and weight to the desirability of avoiding harm.
  - iii. The proposals for the Drill Hall have been amended significantly, so the buildings character is better revealed within the interior and the buildings' roof form now better reflects the building's traditional form. The public benefits of enabling a new long-term use for the buildings, retaining their character and improving their environmental performance outweigh the identified harm.
  - iv. As Historic England have formally objected to the scheme, if Members resolve to approve the application it must be referred to the Secretary of State. This is to determine whether they wish to call-in the application for consideration under the Arrangements for handling Heritage Applications Direction 2015.

**27. Deighton Lodge Limited, Rush Farm (Game Farm), York Road, Deighton, York [21\_00902\_FUL]**

Members considered an application to vary a condition of planning permission to increase the number of weddings held in 2022 and 2023 from 15 to 19 per year at Deighton Lodge Limited, Rush Farm (Game Farm), York Road, Deighton, York.

The Development Manager gave a presentation on the application and officers were asked if the extension could be conditioned to one year. Officers explained that the lead in time of approximately 18 months for weddings made this difficult. An update was given concerning noise insulation measures.

Public Speakers

Michael Morris spoke in opposition to the application as a neighbour of the property. He explained that residents are still being affected by noise from the property. He went on to question the financial reasons behind the application citing that that owners made a substantial profit from the business. He concluded that should events take place several nights a week it

would be distressing for residents and that he would not be in objection if previous planning regulations had been met.

Sharon Coutts spoke in support of the application as the deputy manager of the business. She explained that the business had been closed for the majority of 2020 due to Covid related reasons. The closure had impacted on local suppliers as well as the business and the increase in the number of weddings would assist in mitigating their losses. She addressed concerns around noise, explaining that they had worked with a noise analytical company and had produced a noise management plan. She then outlined the plan and confirmed that they had had no complaints during weddings for the last three years.

In response to questions from members it was confirmed that weddings take place most usually on a Saturday and if the application was approved there would be four more weddings on Saturdays throughout the year.

The Deputy Manager was responsible for noise management and that incidents relating to noise were formally recorded. Doors to the barn were kept closed all evening, live music ends at 23:00 and recorded music finishes at 24:00. All guests were off the site by 24:30. It was confirmed that smoking area is at the opposite side of the garden to the neighbours.

After debate, it was moved by Cllr Melly and seconded by Cllr Daubeney to approve the application.

Resolved: That approval be given to the application subject to the conditions listed in the report and additional condition and informative as below:

Additional Condition

The noise insulation measures and lighting design approved by Approval of Details AOD/16/00288 dated 30.07.2019 shall be permanently retained.

Reason: In order to safeguard the amenities of adjoining residential occupiers and limit the impact on wildlife.

Additional Informative

The sub-committee recorded that they approved the application as a reaction to the loss of business caused by the pandemic. It should not be relied on

as a precedent for any future applications to increase the number of events at the venue.

Reasons:

- i. The proposal to increase the number of events at the site to 25 in 2017 was refused at Area Planning Sub-Committee and the decision upheld at appeal. The current application is to increase the number of events that can be held at the venue from 15 to 19 for two years only. The justification for this solely relates to the financial impact of restrictions related to the pandemic and the desire to try and accommodate some of the weddings that have been cancelled since 2020. The NPPF whilst emphasising the need to ensure that people have good living environments also requires decisions to create conditions in which businesses can invest and adapt (Paragraph 81) and places where social, cultural and recreational facilities are provided to meet community needs (paragraph (93).
- ii. The increase in the number of events from 15 to 19 will increase the number of nights on which noise could impact on neighbours. It is considered, however, that this impact should be balanced against the economic and social benefits that will result from allowing the business to temporarily vary the planning condition. It is noted that the addition of 8 wedding ceremonies over 2 years does not exceed the number of events that have been cancelled to comply with covid-19 regulations.

[The meeting adjourned from 18:09 to 18:18]

**28. Mast Adjacent To Gas Holder Off Hawthorn Grove, York  
[ 21/01692/FUL]**

Members considered an application to replace the existing mast and associated equipment on site, with a new, taller and relocated mast. The proposed mast would be some 60m northeast of the existing mast site, closer to housing at Heworth Mews.

The Development Manager outlined the application and this was followed by an update concerning an additional representation in the form of an objection that had been made.

Following the presentation, members asked officers a number of questions to which they answered that:

- The height of the mast will be 32m.
- The compound for the mast was approximately 10m from the play area.
- The trees along the Sustrans route were deciduous, there was no plan to remove them.

### Public Speakers

David Holt spoke in opposition to the application. His primary concern was the lack of screening for the proposed mast. He questioned why alternative locations had not been considered and raised concerns regarding the safety of the compound in relation to the nearby children's playground.

Responding to questions from members, he confirmed that the rear of his property would face the mast.

Tim Ross spoke in support of the application as the agent for the applicant. He explained that the relocation of the mast was necessary in order to decontaminate the site and build 607 homes as part of the city plan. This would also reduce pressure on green field sites in the city. He confirmed that the developers agreed to the proposed planning conditions included in the officer's report. There are also planned planting schemes in place.

Mr Ross and Mike Phillips, the project manager, also clarified a number of points in response to members' questions.

- The mast has to be removed to decontaminate the site and the location of the new mast has been identified to enhance public views and meet the needs of the communications companies to deliver 5G.
- The developers have met with Sustrans and have discussed planting options. Planting close to the mast must not be more than 15m in height.

Cllr Robert Webb spoke in objection to the application as Ward Councillor on behalf of local residents. He explained that at the time the outline planning consent was granted, the concerns

regarding the mast and its' location were already in existence. It had been anticipated that the new mast would be slimmer and less obtrusive. He also highlighted the lack of suitable screening for residents. He requested a deferment to consider alternative options.

Following further questions from members, the reasons for the height and position of the mast was clarified.

After debate it was moved by Cllr Galvin and seconded by Cllr Orrell that the application be approved subject to the conditions in the report. On being put to the vote, the motion was carried and it was:

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

Reasons:

- i. The NPPF and Publication Draft Local Plan policy C1 state that telecommunications should be supported where possible. The NPPF states such infrastructure is essential for economic growth, and DLP policy C1 supports mast sharing and continued use of existing sites. The taller mast enables 5G to be accommodated. Further, it weighs in favour of the scheme that the relocation is to facilitate redevelopment of the site for new housing and the setting of the Minster, the views from the conservation area in East Parade would be enhanced. No harm to Heritage Assets has been identified.
- ii. The visual impact on the local area is comparable to the existing mast, which is evident above existing tree cover. The new mast would be some 2.6 m taller and of comparable lattice type design. The mast would be closer to housing at Heworth Mews and 19 Hawthorn Grove than the existing mast, but the relocation moves it further from other housing along Hawthorn Grove.
- iii. The mast would have an adverse impact on the amenity of surrounding residents in terms of outlook. This is, and would be, the case with the existing and alternative locations on-site. The equipment on the mast needs to be located at certain height. It would be no less obtrusive on the townscape or in the

outlook from surrounding houses if it were located on the proposed buildings on-site; it would need to be some 15m taller than the tallest buildings. In any event the developers of the site and the mast operators have discounted this option, for example due to issues around maintenance access and as there would be compromise on the design and function of the proposed dwellings.

- iv. The visual impact of the proposed mast is mitigated by the separation distance from housing and prominence of tree cover. Overall, the mast would not be significantly more intrusive than the current structure, to the extent that would justify a refusal on amenity grounds.

[The meeting adjourned from 19:24 to 19:34]

**29. York Brewery Warehouse, 9 The Crescent, York, YO24 1AW  
[20/01411/FULM]**

Members considered an application which sought the partial demolition of the existing buildings on site and redevelopment with 2960m<sup>2</sup> office space. The new building has 5 floors including basement and a small mezzanine area in the roof space.

The Development Manager gave a presentation on the application. This was followed by an update following additional consultation with the Ecology Officer where it was noted that demolition should not take place during bird nesting season. Accommodation should be made for bird and bat boxes. Members asked officers a number of questions to which they answered that:

- The scheme has been revised to an angled roof elevation to reduce the impact of the roof line on residents.
- Plans for drainage have been conditioned within the report.
- The noise impact assessment plan covers both noise from the music venue and the planned offices. This was in the list of approved drawings.
- For a Deed of Easement, members were advised to delegate approval to officers, subject to having sight of an agreed document.

- Officers would refer to Highways and confirm that the preference of the sub-committee was for a Pay and Display bay to be used for disabled parking rather than a RESPARK bay
- Conditions 10-14 refer to the conservation response.

### Public Speakers

Harkirit Boparai spoke in opposition to the application as both Manager of the music venue next door to the development and as a local resident. He explained that he considered that the height of the wall would affect his residence and he also questioned who would be responsible for maintaining the green wall. Sound checks take place from 4pm and there was concern regarding the impact of the building site on the operation of the music venue. Aesthetically, he felt that this proposal was out of character for the rest of the street.

In response to questions from members there were approximately 6 people living above the building.

Ed Leyland spoke via Zoom in opposition to the application, as the owner of the music venue and as a resident. He stated that the plans were out of scale to the rest of the buildings in the immediate vicinity. He also raised concerns that the planned building would be detrimental to the living conditions of nearby residents.

Neil Brown spoke in support of the application as the architect for the applicant. He was supported by Philip Holmes, the planning consultant. He explained that the design was developed in consultation with local residents and businesses and made use of an existing brown field site. The revised design had addressed previous concerns of residents, with the decreasing roof line and noise mitigation plans.

They confirmed the following in response to members' questions:

- The green wall would be maintained by the applicant. Residents of no. 8 could decide on how it would look.
- The applicant would be willing to sign a deed of easement if that was deemed appropriate.

In response to further questions from members, officers noted that

- A separate condition could be made for maintenance of the green wall.
- Changes to the characteristics of an area should be part of the consideration.
- A sentence could be included in the CEMP to cover the impact construction work on the operation of the music venue.

After debate, Cllr Galvin moved to approve the application. This was seconded by Cllr Douglas. The motion was carried and it was therefore:

Resolved: That the application was approved subject to section 106 – varied conditions in the report and the following amended and updated conditions.

- i. Require submission of evidence of signed deed of easement

Amended and updated conditions:

- i. C2 – remove ref to Noise Impact Assessment
- ii. C5 – amend note to refer specifically to the impact on the adjacent music venue
- iii. C15 – remove reference to Green Wall, remove wording “within a period of 5 years”

New conditions:

- i. Implementation, maintenance and retention of green wall
- ii. Implementation of recommendations in the Noise Impact Assessment

Reasons:

- i. The presumption in favour of sustainable development contained within paragraph 11 of the NPPF requires that, where there are no relevant development plan policies, or the policies are out of date, permission should be granted unless the application of policies in the Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed. The policies referred to include those related to designated heritage assets which would include the Central Historic Core Conservation Area. It has been identified that the proposal will result in less than

substantial harm to the Conservation Area through the loss of the existing building and as such the presumption in favour of sustainable development does not apply.

- ii. The proposal has been considered against the policies in Section 16 of the NPPF giving great weight to the asset's conservation. Weighed against the small level of less than substantial harm identified to the CHCCA are public benefits relating to the provision of high quality office space providing jobs within a sustainable location. The bringing back in to use of a currently vacant brownfield site should, in accordance with Section 11 of the NPPF, be given weight as well as the sustainability benefits of a newly constructed building meeting current policy requirements in terms of carbon emissions and sustainable design.
- iii. The existing building is considered a non-designated heritage asset. The NPPF requires that when considering application which affect non-designated heritage assets, a balanced judgement is required having regard to the scale of any harm or loss and the significant of the heritage asset. Here, it is accepted that the quality of the replacement building, combined with the other benefits identified, are sufficient to outweigh the loss of the non-designated heritage asset.
- iv. Other issues related to amenity, cycle parking and accessibility and drainage have been assessed and can be covered via condition. Subject to comments from the Council's Ecologist, the proposal is recommended for approval subject to conditions and S106 contributions for changes to TROs and travel plan monitoring.

[Cllr Galvin left the meeting at 20:49]

Cllr Crawshaw proposed deferral of the final item, 4e, this was seconded by Cllr Melly.

The committee voted in favour of deferring item 4e.

**30. Castle Howard Ox, Townend Street, York, YO31 7QA  
[21\_00537\_FULM]**

Resolved: That the application was deferred.

Reason:

- i. To allow sufficient consideration of the application at a future meeting.

Cllr A Hollyer, Chair

[The meeting started at 4.30 pm and finished at 8.52 pm].

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