

Meeting	Planning Committee B
Date	8 February 2023
Present	Councillors Hollyer (Chair), Melly (Vice-Chair), Crawshaw, Daubeney, Orrell and Perrett
Apologies	Councillors Craghill, Fisher and Galvin
In Attendance	Gareth Arnold, Development Manager Helene Vergereau, Principal Development Control Engineer Ruhina Choudhury, Senior Solicitor

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### **59. Declarations of Interest (4:32 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.

None were declared.

### **60. Minutes (4:32 pm)**

Resolved: That the minutes of the last meeting held on 12 January 2023 were approved as a correct record.

### **61. Public Participation (4:33 pm)**

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

### **62. Plans List (4:33 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.

**63. 4 Government House Road, York, YO30 6LU [22/02198/FUL]  
(4:33 pm)**

Members considered a full application for 4 Government House Road York YO30 6LU for the change of use of adopted highway to private driveway and erection of 2m high gates.

The Development Manager gave a presentation on the application, followed by an update to the Committee. He explained that an additional consultation response from Yorkshire Water had removed the objection relating to access and therefore officers had amended the recommended refusal reason to the following:

The change of use of the adopted highway to private drive and the erection of gates would prevent access from this part of the highway for no. 5 Government House Road. The road is considered to serve a highway purpose and the proposal would not provide for unrestricted access to this neighbouring property and would result in a loss of residential amenity. The proposal would not comply with paragraphs 110 (b) and 130 (f) of the National Planning Policy Framework (2021).

In response to questions from Members, officers clarified the location of the highway in relation to the garage for property no. 5 and the area of land within the public highway.

Public Speakers

Adam Kraemer-Dent, resident of 5, Government House Road, spoke in opposition to the application. He explained that he had lived at the property since 2010, that there were no issues with privacy as vehicles and pedestrians turned round before reaching the lane to his garage. He stated that the application would deny access to his garage.

In response to questions from Members, he explained that their property deeds provided for access to the garage and that the garage was only used for storage, not a car.

Rachel Gilbert-Cornish, the applicant, spoke in favour of the application. She stated that the plans were designed to make their drive private and noted that the objection from Yorkshire Water had been addressed and removed. She questioned the validity of the other objections which had been registered by neighbours and stated that the Department for Transport were the decision makers for Stopping Up Orders.

In response to questions from Members she confirmed that Yorkshire Water would be provided with manual and electronic access to the public sewerage system. When asked about access for their neighbour, the applicants referred to section 66 of the Highways Act and stated that they had not given vehicle rights over their land. They reported that an increase in car and pedestrian traffic had been observed since the removal of the private road signage.

Members asked the Highways Principal Development Control Engineer to clarify the status of the adopted highway. She reported that the road had been mapped as adopted in 1967 and been fully maintained by the council since then. In 2021, it was established that the adoption had not been legally undertaken due to an error in the handling of Ministry of Defence (MOD) land. The council had written to the residents and asked if they wanted to apply for the road to be adopted in accordance with section 228 of the Highways Act. All the residents, except the applicant, responded and applied for the road to be adopted. The criteria for adoption was complied with and the road was formally adopted in 2021. This had been subsequently challenged by the applicant through a Judicial Review and an appeal, both of which had been refused. She noted that section 228 did not allow for partial adoption of the road.

The council's Senior Solicitor stated that the whole of Government House Road had been lawfully adopted under section 228 in 2021. Section 66, referenced by the applicant, was not a relevant consideration.

The Development Manager confirmed, with reference to the neighbour's garage, that planning permission had not been applied for, however it was now considered lawful due to the passage of time. He further clarified that it would not be fair to assume that permission would not have been granted at the time, had an application been submitted.

Following debate, Cllr Orrell moved the amended officer recommendation to refuse the application. This was seconded by Cllr Melly.

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

Resolved:           that the application be refused.

Reason: The change of use of the adopted highway to private drive and the erection of gates would prevent access from this part of the highway for no. 5 Government House Road. The road is considered to serve a highway purpose and the proposal would not provide for unrestricted access to this neighbouring property and would result in a loss of residential amenity. The proposal would not comply with paragraphs 110b) and 130f) of the National Planning Policy Framework (2021).

**64. 71 Cromer Street, York, YO30 6DL [22/02451/FUL] (5:20 pm)**

Members considered a full application at 71 Cromer Street, York, for the change of use from dwellinghouse (C3 use) to a 4-bedroom House in Multiple Occupation (HMO) (C4 use).

The Development Manager gave a presentation on the application and provided Members with an update to the recommended planning conditions with the following additional conditions:

Cycle Parking

The building shall not be occupied until the cycle parking areas have been provided within the site in accordance with the outbuilding plan submitted on 07.02.23, and these areas shall not be used for any purpose other than the parking of cycles.

Reason: To promote use of cycles thereby reducing congestion on the adjacent roads and in the interests of the amenity of neighbours.

Refuse storage

All refuse and recycling storage shall be provided within the rear yard only and shall not be stored at the front of the property.

Reason: In order to protect the visual amenity of the street.

Following questions from Members regarding the plans, it was reported that the car parking guidance related to the 2005 unadopted plan and therefore carried little weight. Also, it was clarified that the reasons for refusing similar applications on the street related to the

thresholds in place for HMOs and highlighted that one of applications had been granted by the Planning Inspector on appeal.

It was confirmed that the HMO licence for this application had been obtained for 4 rooms with 5 occupants in total.

### Public Speakers

Bridget Cunniff, a neighbour, spoke in opposition to the application and noted an increase in the number of HMOs on the street. She raised concerns regarding the loss of family homes and the safety of pedestrians in relation to parking. She highlighted the increase in noise levels due to the increased activity on the street.

In response to Member questions, she emphasised the difficulties in parking.

Marie Ponamarenko, a local resident, spoke in opposition to the application and shared her concerns regarding the level of HMOs on the street. She stated that there were several unregistered HMO properties that would take the street over the threshold. She highlighted instances of anti-social behaviour and the transient population which resulted in a loss of community.

Cllr Wells, Ward Councillor also spoke in opposition to the application. She noted that similar applications had been refused last year. She also noted that the threshold for the street would be passed should permission be granted. She spoke about the loss of community and increase in noise and disturbance to residents.

In response to questions from Members, it was reported that:

- With reference to the appeal case elsewhere Cromer Street, as outlined within the appeal update, the Inspector had determined that a minor breach of the threshold in the street alone was not sufficient reason to refuse planning permission.
- Should permission be granted, the street-level percentage of HMOs would be 10.5%.
- The Supplementary Planning Document and the draft Local Plan Policy H8 have similar wording. Policy H8 was not undergoing any significant modification as part of the Local and therefore carried some weight.
- It was difficult to attribute different levels of harm between C3 and C4 use types. The Committee needed to identify the type and level of harm to use this as a reason for refusal.

- It was possible to condition the number of bedrooms so that the HMO did not exceed the existing number of bedrooms.

After debate, Cllr Melly moved the officer recommendation to approve the application, subject to the amended conditions contained within the update and a further condition limiting the number of bedrooms to four. This was seconded by the Chair.

A vote was taken with 3 in favour and 3 against, the Chair's casting vote meant it was:

Resolved: that the application be approved subject to the amended conditions contained within the update and the additional condition, added by the Committee, of a maximum of four bedrooms.

Reason: The proposal complies with policy H8 of the 2018 draft Local Plan in terms of HMO thresholds at street and neighbourhood level and the change of use of this property would not have a significant negative impact on the balance of the local community. The property would provide a good standard of accommodation for 4 individuals and the use of the property as an HMO is not considered to cause significant harm to the amenity of neighbouring residents. As such the proposed change of use would comply with the National Planning Policy Framework, Publication draft Local Plan (2018) and the Supplementary Planning Document.

#### **65. Askham Bar, Tadcaster Road, Dringhouses, York [22/02199/FULM] (6.10 pm)**

Members considered a major full application at Askham Bar, Tadcaster Road, York, for the retention of temporary buildings and erection of 2no. additional temporary buildings as a Primary Care Medical Centre (use class E(e)) with associated parking and access for a period of 18 months. The Development Manager gave a presentation on the application and provided an update which amended condition 1 so that the proposed use would operate for a temporary period until 31 August 2024 after which the site should be returned to its former condition with all buildings and structures

removed by 30 November 2024. An additional condition, that the development shall be operated in accordance with the submitted Travel Plan dated 18.10.2022, was also included.

In response to questions from Members, clarification was given regarding the cycle storage and pedestrian access. The temporary nature of the application and the decision to grant temporary planning permission should not prejudice future local authority decision making, whether or not the Local Plan had been adopted.

Following debate, Cllr Crawshaw moved the officer recommendation to approve the application. This was seconded by Cllr Daubeney.

Members voted unanimously in favour of the motion and it was therefore:

**Resolved:** that the application be approved as per the revised and additional conditions contained within the update.

**Reason:** The application relates to the former Askham Bar Park and Ride, a brownfield site allocated in the draft local plan 2018 as a proposed location for housing. The site has recently been in use as a Covid vaccination centre, established in 2020 through emergency permitted development rights. The continued temporary use of the site for health care purposes, retaining and expanding the existing modular buildings is considered acceptable in principle. The site is in a sustainable location and there would be no harm to visual or neighbour amenity. The application is in accordance with draft Local Plan policy HW5, T1, D1 and the provisions of the NPPF.

## **66. Planning Appeal Performance and Decisions (6:24 pm)**

The Development Manager presented a report which provided information on the planning appeal decisions determined by the Planning Inspectorate between 1 April and 30 June 2022.

In response to questions from Members, the officer confirmed his intention to provide a further report at the next meeting.

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 A Hollyer, Chair

[The meeting started at 4.30 pm and finished at 6.25 pm].