

Meeting	Planning Committee B
Date	26 September 2024
Present	Councillors B Burton (Chair), Cullwick (Vice-Chair), Baxter, Coles, Fenton, Melly, Vassie and Fisher (Substitute for Cllr Orrell)
Apologies	Councillors Orrell and Warters
Officers Present	Gareth Arnold, Development Manager Jonathan Kenyon, Principal Planning Officer Natalie Ramadhin, Senior Planning Officer Ruhina Choudhury, Senior Lawyer

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#### **16. Declarations of Interest (4.34 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.

Cllr Melly declared that she was pre-determined in relation to items 4a and 4b (St George's Field), she therefore stepped off the Committee for those items and took no part in the debate or decisions thereon.

#### **17. Minutes (4.34 pm)**

Resolved: That the minutes of the last meeting held on 15 August 2024 were approved as a correct record.

#### **18. Public Participation (4.34 pm)**

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

#### **19. Plans List (4.35 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.

## **20. St Georges Field Car Park, Tower Street, York [22/02613/FUL] (4.35 pm)**

Members considered a full application by the Environment Agency for flood mitigation measures within St Georges Field Car Park and Tower Street to include a new flood defence wall from car park to tie into abutment wall of Skeldergate Bridge, the strengthening of the abutment walls of the bridge, the raising and strengthening of existing walls attached to the pumping station, the raising of the access ramp into the car park and the installation of support post to bridge masonry wall to enable deployment of temporary flood barrier across Tower Street.

The Principal Planning Officer gave a presentation on the plans and provided an update to Members on the additional representations received since publication of the report and an amendment to condition 4, as follows:

### Amended condition

It is proposed to amend condition 4 of the Listed Building Consent and 5 of the Full Planning application to specifically include reference to the extent of the embankment around the retaining wall by the Crown Court.

### New wording:

Large scale drawings of the proposed retaining wall, to include the coping, "Rubberwall" connection and the extent the embankment will cover the face of the retaining wall, shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of this element of the scheme and the works shall be carried out in accordance with the approved details.

### Public Speakers

John Dench, a local resident, spoke in objection to the application. He stated that there had been no further consultation with residents, there was no additional modelling and no resident support for the proposal. He requested that the application be rejected.

In response to questions from Members, he agreed that the proposal did not cover the properties in Peckitt Street. He highlighted the problems with ground water and sump pumps.

Cllr Melly, Guildhall Ward Councillor, also spoke in objection to the application. She stated that the reasons for the previous deferral had not

been addressed by the applicant; there had been no resident engagement and no meaningful effort to assess the flood risk for homes in floodcell B15. She raised concerns regarding the possible harm to listed buildings, noting the requirement to give considerable weight to harm to listed buildings. Finally, she referenced the Public Sector Equality Duty (PSED) in relation to the ramp in the car park, stating that this also had not been addressed by the applicant.

Mark Fuller, Environment Agency, spoke in support of the application, on behalf of the applicant. He referred to reasons for deferral and reported that modelling had been provided to support the application which showed there was no change to the flood risk for the community. He stated that the barrier was to be employed only after the road had been closed and that a visualisation had been supplied. The plans for the ramp gave marginal betterment and showed due regard to the PSED.

In response to questions from Members his team stated that it had proved too challenging to engage with residents, the B15 cell was a very complex area, it was difficult to fully protect those properties and the benefit cost ratio could not meet the requirement of treasury rules, the demountable barrier would replace the sandbags, it was a more robust and efficient barrier and would be deployed only after Tower Street had been closed. They reported that they were confident in the flood risk analysis provided by their advisors.

Officers responded to further questions from Members and confirmed that the proposed scheme should be treated as separate to the flood risk to the properties in flood cell B15 and that the scheme would not result in the increase in the level of flood risk elsewhere. Accessibility issues relating to the pedestrian routes to St Georges Field car park were the responsibility of the Highways team and not the Environment Agency.

Following debate, Cllr Cullwick proposed the officer recommendation to approve the officer recommendation contained in the report, subject to the amendment to condition 5 specified in the update. This was seconded by Cllr Fisher. On being put to a vote, members voted unanimously in favour and it was therefore:

Resolved: That the application be approved, subject to the conditions contained in the report and update.

Reason: In principle, the proposals are consistent with the environmental objective within the NPPF of adapting to climate change and given that the proposed flood defences will increase protection for an urban area, there

are consequential economic and social benefits. The scheme is in accordance with flood risk policy in the NPPF, in section 14. The NPPF test in this respect is not whether the scheme is comprehensive (it has to be assessed on its own merits); it is whether consequently there is any increased flood risk elsewhere. The scheme is fundamentally a change in the type of flood defence in Tower Street (deployment of demountable barriers opposed to sandbags) the EA and the Council's Flood Risk Management Team are satisfied there is no increase in flood risk elsewhere. Flood risk is not grounds to oppose the application.

Only a low level of harm to designated heritage assets has been identified as a consequence of the works to tie the new wall to the grade II listed bridge abutment walls, the strengthening of the abutment walls the rubber-wall connection for fixing the temporary barriers to the bridge abutment walls, the stoplog at the entrance to Tower Park and through the new purpose-built retaining wall and associated infilling within the scheduled area of York Castle. Attempts have been made to reduce the harm where possible and measures to minimise the harm for instance through a selection of high-quality materials and workmanship and the requirement for an archaeological watching brief, would be secured by condition. The public benefit in improving the flood resilience of this area outweighs the harm even when giving considerable importance and weight to the harm to heritage assets, in accordance with the statutory duties.

Other matters, such as replacement tree planting and the provision of biodiversity enhancements post construction, would be agreed via a condition.

Officers have had due regard to the aims of the Equality Act 2010 and whilst noting that the proposed works provide no sufficient betterment to the gradient of the access ramp, it is not considered that this outweighs the material planning considerations.

Members considered this item, for flood mitigation measures within St George's Field Car Park and Tower Street to include a new flood defence wall from car park to tie into abutment wall of Skeldergate Bridge, the strengthening of the abutment walls of the bridge and the attachment of support post to bridge masonry wall, alongside item 4a.

Cllr Culwick proposed the officer recommendation to approve the application, subject to the conditions in the report and the amendment to condition 4 contained in the update. This was seconded by Cllr Coles. Members voted unanimously in favour, and it was therefore:

Resolved: That the application be approved as outlined above.

Reason: The proposal would have a minor negative impact on the special interest of the abutment walls of Skeldergate Bridge however the degree of harm is "less than substantial". Attempts have been made to reduce the harm where possible and measures to minimise the harm for instance through a selection of high-quality materials and workmanship, would be secured by condition. There is a clear public benefit deriving from the scheme which is considered to outweigh the harm identified when giving considerable importance and weight to the identified harm. The proposal is therefore considered to accord with guidance contained within the National Planning Policy Framework, the provisions of emerging Local Plan policy D5 and Section 16 (2) of the Planning (Listed Buildings and Conservation Areas) Act 1990.

[5.33 to 5.42pm, the meeting was adjourned. Cllr Melly rejoined the meeting for the commencement of item 4c.]

## **22. Tang Hall Cp School Sixth Avenue York YO31 0UT [24/00857/FULM] (5.42 pm)**

Members considered a major full application by ISG Construction Ltd, on behalf of the Department for Education (DfE), for the demolition of existing school building. Retention of Childrens Centre. Erection of single storey school building (use class F1) with associated parking, access, play space, playing field and landscaping.

The Development Manager presented the plans and provided an update which set out an additional condition relating to the monitoring of the

biodiversity net gain plan whereby the school must monitor itself and report back to the Local Planning Authority every five years for the 30 years as required by the Environment Act 2021.

In response to questions from Members on the plans, it was confirmed that there were two pedestrian and one vehicle entrance. A phased development was planned, and the school would remain open during this time.

### Public Speakers

Brian Kavanagh, the agent for the applicant, spoke in favour of the application. He noted that the developer, ISG Construction had recently gone into administration, he confirmed that the project would continue once a new contractor had been found.

Michelle Bowling and Andrew Daly spoke in favour of the application on behalf of the Pathfinder Multi Academy Trust. They explained the current conditions at the school and highlighted the benefits such as an expected reduction of utility bills, the increase in outdoor space and improved opportunities for children.

They responded to questions from Members, confirming their plans for the outdoor space for different key stages and noting that the parking would be consolidated into one area and included provision for the on-site children's centre. They also noted that the plans were constrained by the budgetary requirements of the DfE.

Officers responded to questions from Members and reported that, in relation to the parking provision, additional blue badge spaces had been included and 40 cycle spaces plus 20 scooter spaces had been allocated. Short term visitor parking had also been included. Provision for an accessible EV charger could be included by an additional condition.

They also explained the flexible spaces and confirmed that paragraph 3.7 of the report covered the Public Protection response to the commercial kitchen.

Following a period of debate, the Chair proposed the officer recommendation to approve the application, subject to the conditions in the report, tabled in the update and a varied condition requested by Members for a revised drawing to show a disabled car parking space served by an EV charger. This was seconded by Cllr Fisher.

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

Resolved: That the application be approved, subject to the conditions as outlined above.

Reason: It is considered the social, economic and environmental benefits arising from the provision of a modern, net zero

carbon in operation and up to date school would outweigh the harm identified through the loss of the non-designated heritage asset. The principle of development is therefore considered acceptable.

The proposal includes the provision of a playing field and improved outdoor spaces which is a significant benefit of the scheme. The proposal includes the loss of a number of trees, however replacement planting and landscaping is proposed to mitigate the harm. Conditions can adequately address construction management, highways, parking, ecology, drainage and public protection matters.

BNG would be achieved and this would be secured via condition (biodiversity gain plan and habitat management and monitoring plan) and a S106/or condition (to secure the monitoring requirements).

The proposals accord with the provisions of the NPPF (2023) and policies contained within the City of York Draft Local Plan (2018, as amended 2023).

**23. 50 Mill Lane, Wigginton, York, YO32 2PY [23/01405/FUL]  
(8.17 pm)**

Members considered a full application by Laura Newman-Flint for the erection of replacement dwelling (use class C3) following demolition of existing dwelling.

The Development Manager gave a presentation on the plans and in response to questions from Members, he advised that, in considering the loss of light to the neighbouring property's side windows, the supplementary planning document guidance provided that side windows could not be given the same consideration as those on the front or rear elevation; more weight however, should be given to a kitchen over a bathroom or hallway. He confirmed that there were no first-floor windows on the side elevation in the planned property.

Following a brief debate, Cllr Baxter proposed the officer recommendation to approve the application. This was seconded by Cllr Coles. Members voted unanimously in favour of the proposal, and it was therefore:

Resolved: That the application be approved.

Reason: The proposed replacement dwelling would respect the general character of the area and would not have a significant impact on the amenity of neighbouring residential property. It is considered to comply with National Planning Policy Framework and policies of the Draft Local Plan 2018.

**24. 20 Upper Price Street, York, YO23 1BJ [24/00060/FUL] (6.29 pm)**

Members considered a full application for a two-storey rear extension and 2 no. rooflights to front roof slope by John Christensen.

The Development Manager gave a presentation on the plans, there was no further update to the officer's report.

Public Speaker

Pedro Saramago, a neighbour, spoke to oppose the application. He described the proposed extension as unprecedented and raised concerns regarding the property's previous use as an HMO (House in Multiple Occupation), explaining that he expected the building to become an HMO in the future. He was also concerned about the impact this would have on parking.

Caroline Adkin, also a neighbour, spoke in objection to the application. She raised concerns regarding an anticipated increase in noise levels, on street parking and the previous HMO operation.

In response to questions from Members, Mr Saramago confirmed that the issues with the previous HMO had been pursued with the council enforcement team.

Cllr J Burton, Micklegate Ward Cllr, was unable to attend the meeting, the Chair had therefore agreed to read out her statement. She noted the concerns of the local community and questioned the ratio of bathrooms and en-suites to the proposed number of bedrooms. The impact on residents, when the property had been an HMO was also highlighted and issues with existing HMOs in terms of litter and antisocial behaviour were raised. The impact on parking and the size of the extension were also cause for concern.

Officers responded to questions from Members, and reported the following:



- The HMO status had achieved lawfulness; there was no requirement for the owner to apply for planning permission or to get a certificate of lawfulness. There was no evidence that the HMO use had been abandoned in planning terms, although it did not appear to have been used as such for some time. It would not be considered lawful to extinguish existing HMO rights through a condition and require the owner to apply for planning permission to revert to HMO use.
- The impact of the number of bedrooms was considered neutral if used as an HMO, the property currently had seven bedrooms, this was being reduced on the plans to five, with two rooms that could be returned to bedrooms, totalling seven bedrooms.
- There were examples in the area of the type of infill extension; it would not impact on the neighbours in terms of loss of light.
- Sound proofing was a building regulation issue, not related to planning permission.

Following debate, Cllr Baxter proposed the officer recommendation to approve, subject to an informative covering the HMO licence, should the previous use be resurrected. This was seconded by Cllr Vassie. On being put to a vote, with six Members for and two against, it was therefore:

Resolved: That the application be approved subject to the above informative.

Reason: The proposed works will respect the general character of the building and area and the impact on the amenity of neighbouring residents would be acceptable. It is considered it complies with national planning guidance, as contained in the National Planning Policy Framework, City of York Council Draft Local Plan 2018, and the City of York Council's Supplementary Planning Document (House Extensions and Alterations).

## **25. T.K.Maxx, Unit 2, Monks Cross Drive, Huntington, York [23/02200/FULM] (7.34 pm)**

Members considered a major full application for the erection of food store and drive-thru restaurant with associated access, parking and landscaping following demolition of existing retail building by Lidl Great Britain Limited.

The Development Manager gave a presentation on the plans and provided an update which outlined additional representations and amendments to conditions 2, 14, 21 and 25. In response to questions from Members on the plans he confirmed the location for cycle parking and likely cycle route.

## Public Speaker

Joshua Ambrus, the agent for the applicant, spoke in favour of the application. He outlined the plans, noting that the development of a brownfield site and highlighting the design and intended landscaping.

In response to questions from Members, he explained that a replacement building would benefit from greater efficiencies and an improved layout for customers. The increased size of the drive through restaurant provided greater flexibility for the tenant; he was not able to specify what type of food outlet would occupy the site. The roof was sloped front to back and would house solar panels, biodiversity net gain would be achieved through the landscaping, there was not an intention to harvest rainwater.

The Officer did not consider that the Neighbourhood Plan policy could be used to resist the number of takeaways in the Monks Cross area, cycle access on was considered to be reasonable for the out of town development. The current plans did not show an accessible EV charger.

Following debate, Cllr Fisher moved approval of the officer recommendation, subject to the amendments to conditions tabled in the update and an additional condition for accessible EV charging for at least one space, this was seconded by Cllr Baxter. On being put to a vote, with seven Members voting in favour and one abstention it was therefore:

Resolved: That the application be approved, subject to the conditions outlined above.

Reason: The proposal involves the redevelopment of an existing retail building. Significant weight is given to the extant planning permission for the reconfiguration of the existing unit into a new food store with separate drive-through restaurant. A sequential test has been undertaken and a retail impact assessment provided to indicate that there are no sequentially preferable sites and that the impact on the vitality and viability of the city centre will be acceptable.

The retail use is compatible with neighbouring uses and the building will have a neutral impact on the existing site. Highway impact and sustainable access has been assessed and is acceptable, providing reasonable access by non-car modes. The scheme retains the existing trees along Monks Cross Drive and provides an improved

landscaped margin. New trees are provided within the car park improving the landscaped setting.

Impacts regarding sustainable design and construction, biodiversity, drainage, environmental matters can be addressed to achieve policy compliance through conditions. Subject to the proposed conditions, it is considered that the proposal will comply with the adopted Huntington Neighbourhood Plan, the NPPF, and the Publication Draft Local Plan.

Cllr B Burton, Chair

[The meeting started at 4.32 pm and finished at 8.31 pm].