



Notice of a public meeting of

East Area Planning Sub-Committee

- To:** Councillors Galvin (Chair), Douglas (Vice-Chair), Fitzpatrick, Funnell, King, McIlveen, Cuthbertson, Watson, Firth and Warters
- Date:** Thursday, 11 April 2013
- Time:** 2.00 pm
- Venue:** Snow Meeting Room, West Offices, York

AGENDA

Members are advised to note that if they are planning to make their own way to the Site Visits to let Judith Betts know by **5pm** on **Tuesday 9 April 2013** on **(01904) 551078**.

1. **Declarations of Interest**

At this point in the meeting, Members are asked to declare:

- any personal interests not included on the Register of Interests
- any prejudicial interests or
- any disclosable pecuniary interests

which they may have in respect of business on this agenda.

2. **Exclusion of Press and Public**

To consider excluding the public and press from the meeting during consideration of annexes to agenda item 7 on the grounds that these are classed as exempt under Paragraphs 1,2 and 6 of Schedule 12A to Section 100A of the Local Government Act 1972, as amended by the Local Government (Access to information) (Variation) Order 2006.

- 3. Minutes** (Pages 4 - 10)
To approve and sign the minutes of the last meeting of the Sub-Committee held on 7 March 2013.
- 4. Public Participation**
At this point in the meeting members of the public who have registered their wish to speak regarding an item on the agenda or an issue within the Sub-Committee's remit can do so. Anyone who wishes to register or requires further information is requested to contact the Democracy Officer on the contact details listed at the foot of this agenda. The deadline for registering is **Wednesday 10 April 2013 at 5.00 pm.**
- 5. Plans List**
To determine the following planning applications related to the East Area.
- a) **Chowdene, Malton Road, Huntington, York. YO32 9TD (12/03690/FUL)** (Pages 11 - 23)
Change of use of land to permit the creation of 20 pitches for touring caravans or tents and erection of toilet block (resubmission). [Huntington/New Earswick] **[Site Visit]**
- b) **115 Broadway, York. YO10 4JY (13/00114/FUL)** (Pages 24 - 39)
Convert existing roof from hip to gable form and erect two storey and single storey rear extension. [Fishergate] **[Site Visit]**
- c) **7 Fairfields Drive, Skelton, York. YO30 1YP (13/00382/FUL)** (Pages 40 - 54)
Erection of single storey dwelling with rooms in roof (resubmission). [Skelton, Rawcliffe and Clifton Without] **[Site Visit]**
- d) **York Designer Outlet, St Nicholas Avenue, York. (13/00245/FUL)** (Pages 55 - 65)
Temporary use of car park for siting of funfair and marquee. [Fulford] **[Site Visit]**
- e) **Country Park, Pottery Lane, Strensall, York. YO32 5TJ (12/03270/FUL)** (Pages 66 - 73)
Variation of condition 3 of approved application 04/01105/FUL (use as caravan site) to allow an increase in number of caravans from 20 to 40. [Strensall] **[Site Visit]**

- f) **45 Usher Lane, Haxby, York. YO32 3LA** (Pages 74 - 79)
(13/00411/FUL)

Single storey rear extension and porch to front. [Haxby and Wigginton]

6. **Appeals Performance and Decision** (Pages 80 - 99)
Summaries

This report (presented to both Sub Committees and Main Planning Committee) informs Members of the Council's performance in relation to appeals determined by the Planning Inspectorate from 1st January to 31st March 2013, and provides a summary of the salient points from appeals determined in that period. A list of outstanding appeals to date of writing is also included.

7. **Enforcement Cases-Update** (Pages 100 - 103)

The purpose of this report is to provide Members with a continuing quarterly update on the number of enforcement cases currently outstanding for the area covered by this Sub-Committee.

8. **Urgent Business**

Any other business which the Chair considers urgent under the Local Government Act 1972.

Democracy Officer:

Name- Judith Betts

Telephone – 01904 551078

E-mail- judith.betts@york.gov.uk

For more information about any of the following please contact the Democracy Officer responsible for servicing this meeting:

- Registering to speak
- Business on the agenda
- Any special arrangements
- Copies of reports

Contact details are set out above.

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Scrutiny Committees

The purpose of all scrutiny and ad-hoc scrutiny committees appointed by the Council is to:

- Monitor the performance and effectiveness of services;
- Review existing policies and assist in the development of new ones, as necessary; and
- Monitor best value continuous service improvement plans

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EAST AREA PLANNING SUB COMMITTEE

SITE VISITS

Wednesday 10 April 2013

**Members of the Sub Committee to meet at Union Terrace Car Park
at 10.00 am.**

TIME (Approx)	SITE	ITEM
10:15	7 Fairfields Drive, Skelton	5c)
10:45	Country Park, Pottery Lane	5e)
11:15	Chowdene, Malton Road	5a)
11:50	York Designer Outlet	5d)
12:20	115 Broadway	5b)

City of York Council

Committee Minutes

MEETING	EAST AREA PLANNING SUB-COMMITTEE
DATE	7 MARCH 2013
PRESENT	COUNCILLORS DOUGLAS (VICE-CHAIR), FITZPATRICK, FUNNELL, KING, MCILVEEN, CUTHBERTSON, WARTERS, BOYCE (SUBSTITUTE FOR COUNCILLOR WATSON), ORRELL (SUBSTITUTE FOR COUNCILLOR FIRTH) AND BARTON (SUBSTITUTE FOR COUNCILLOR GALVIN)
APOLOGIES	COUNCILLORS FIRTH, GALVIN AND WATSON

Site Visited	Attended by	Reason for Visit
305 Hull Road, Osbaldwick.	Councillors Barton, Boyce, Cuthbertson, Douglas, Fitzpatrick, McIlveen and Warters.	For Members to understand the objections received in the context of the site.
10 Wensleydale Drive, Osbaldwick.	Councillors Barton, Boyce, Cuthbertson, Douglas, Fitzpatrick, McIlveen and Warters.	For Members to understand the objections received in the context of the site.

52. DECLARATIONS OF INTEREST

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

Councillor McIlveen declared a personal interest in Agenda Item 4c) (10 Wensleydale Drive, Osbaldwick, York. YO10 3PH) as a member of York Residential Landlords Association.

No other interests were declared.

53. MINUTES

RESOLVED: That the minutes of the East Area Planning Sub-Committee held on 7 February 2013 be approved and signed by the Chair as a correct record.

54. 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 Committee.

55. PLANS LIST

Members considered a schedule of reports of the Assistant Director (City Development and Sustainability) relating to the following planning applications, outlining the proposals and relevant policy considerations and setting out the view of consultees and Officers.

55a 305 Hull Road, Osbaldwick, York. YO10 3LU (12/03560/FUL)

Members considered a full application by Mr and Mrs Robin Dawson for the erection of a triple garage with storage space above (resubmission).

Some Members asked for clarification concerning the access to the garage as they felt that this was not made clear on the submitted plans. They added that they felt that there did not appear to be space for vehicles to turnout and reverse back on to the highway. Other Members felt this would not be problematic as one of the garages could be driven through from the front and from the back.

Members expressed concerns that the garage could be used as separate living accommodation and asked whether a condition could be added if the application was approved.

Officers confirmed that it would be unlawful for the garage to be used as separate living accommodation without first seeking planning permission to change the use from a garage to a dwelling.

Other Members felt that the size and height of the proposed garage was only appropriate due to the large existing house rather than the smaller bungalows in the vicinity. Others felt that if the doors in two of the garages were to be covered with frosted glass, this would be a disincentive for habitation.

Councillor Warters requested that his vote against approval be recorded in the minutes.

RESOLVED: That the application be approved with the following additional condition;

8. The proposed building shall at no time shall be used as an independent unit of living accommodation.

Reason: For the avoidance of doubt.

REASON: In the opinion of the Local Planning Authority the proposal, subject to the conditions listed in the Officer's report and above, would not cause undue harm to interests of acknowledged importance, with particular reference to the effect on residential amenity, car parking and the impact on the streetscene. As such the proposal complies with Policies H7 and GP1 of the City of York Development Control Local Plan and the 'Guide to extensions and alterations to private dwelling houses' Supplementary Planning Guidance.

55b 96 Dodsworth Avenue, York. YO31 8UD (13/00001/FUL)

Members considered a full application from Mr Tom Shepherd for the installation of an air source heat pump. It was suggested that the application be deferred as the applicant wished to obtain more information from the Council's Environmental Protection Unit (EPU) in relation to noise levels from the air source heat pump.

RESOLVED: That the application be deferred.

REASON: In order to receive more information in regards to noise levels from the air source heat pump.

**55c 10 Wensleydale Drive, Osbaldwick, York. YO10 3PH
(13/00171/FUL)**

Members considered a full application by Mrs Heather Richardson for a change of use from a dwelling house (Use Class C3) to a House in Multiple Occupation (Use Class C4).

In their update to Members, Officers reported that more objections to the application had been received since the agenda for the meeting had been published. One Member raised concerns about public objections not being viewable on the Council's website.

In response Officers stated that all objections both online and offline were received by the Case Officer. On receipt, as well as being sent to the Case Officer for taking into account, objections are initially logged as "sensitive" so they can be checked before being publicly displayed. The Support Team would then process the comments and change the status to public as appropriate. Officers stated that given the volume of comments received on a daily basis this often could take a little time. All objections and comments were taken into consideration by Officers when writing their reports, and any received after publication were reported to the Committee and considered.

Some Members were concerned about the access for vehicles to the property and suggested that an informative be added on to planning permission for the kerb outside the property to be lowered.

Representations in objection were received from a local resident Julie Darlow. She raised concerns about viewing objection letters on the Council's website, parking problems that could be caused by an increase in vehicles in the small cul de sac where the property was located and the percentages of Houses in Multiple Occupation (HMOs) in the area.

Representations in support were received from the applicant's agent, Mark Newby.

He stated that the proposed layout could accommodate six people and that it would be refurbished to reflect this. He also informed Members that as a HMO the dwelling could be occupied by six related people without planning permission. In response to a question from a Member about the possibility of adding further toilet facilities into the building, it was confirmed that this could be done.

During discussion some Members felt that the application should not be judged on the possible residents who might inhabit the building. They did add however, that it was unfortunate that the property under consideration was adjacent to an existing HMO.

One Member felt that policies, such as the Council's Draft Supplementary Planning Document (SPD) which set out percentages for HMOs in an area should be applied in a more flexible manner, to take into consideration special circumstances. They referred to a previous appeal decision to the Planning Inspectorate on an application for another HMO in York. This appeal had been granted even though the percentage of HMOs in the area was higher than those set down in the Council's Draft Supplementary Planning Document (SPD). The Member felt therefore that even though the application under consideration was in an area where the number of HMOs was below the percentage thresholds laid down in the Draft SPD, that Members could argue that it should be refused, because the aforementioned appeal decision called for a pragmatic approach.

They felt that the property's location in a quiet cul de sac, in which two other HMOs were currently located, would be detrimental to residential amenity. They also felt that if the property was inhabited by students this might lead to an increase in vehicles using the property and therefore the existing parking provision would not be sufficient.

A motion to follow the Officer's recommendation was moved. Another motion to refuse the application was also moved. Following a tied vote, the Chair used her casting vote for approval.

Councillor Warters requested that his vote against approval be recorded.

RESOLVED: That the application be approved.

REASON: In the opinion of the Local Planning Authority the proposal, subject to the conditions listed in the Officer's report, would not cause undue harm to interests of acknowledged importance, with particular reference to residential amenity and the impact on the character and appearance of the area. As such the proposal complies with Policy H8 of the City of York Development Control Local Plan, and the Council's Supplementary Planning Document: 'Controlling the concentration of Houses in Multiple Occupancy'

55d 26 Granville Terrace, York. YO10 3DY (13/00233/FUL)

Members considered a full application by Mr Spratt for the installation of thermal insulation cladding to external walls.

Members suggested that further applications similar to this might be submitted for consideration at future meetings, and suggested that a workshop on the Government's "Green Deal" energy saving initiatives be organised.

Officers suggested to Members that if they were minded to approve the application that a condition restricting the colour of the cladding to an off-white tone be added to planning permission.

RESOLVED: That the application be approved.

REASON: In the opinion of the Local Planning Authority, the proposal subject to the conditions listed above, would not cause undue harm to interests of acknowledged importance, with particular reference to the effect on residential amenity and the impact on the streetscene. As such the proposal complies with Policy GP1 (Design) and Government advice in relation to climate change contained within the National Planning Policy Framework.

56. OTHER REMARKS

The Chair welcomed Jonathan Carr, the Head of Development Management, back to the Committee after a period of illness. She asked that this be recorded in the minutes, as the Committee had missed his presence and welcomed his advice.

Councillor H Douglas, Vice Chair in the Chair
[The meeting started at 2.00 pm and finished at 3.00 pm].

COMMITTEE REPORT

Date: 11 April 2013
Ward: Huntington/New Earswick
Team: Major and Commercial Team
Parish: Huntington Parish Council

Reference: 12/03690/FUL
Application at: Chowdene Malton Road Huntington York YO32 9TD
For: Change of use of land to permit the creation of 20 pitches for touring caravans or tents and erection of toilet block (resubmission)
By: Mr David Wardell
Application Type: Full Application
Target Date: 4 February 2013
Recommendation: Refuse

1.0 PROPOSAL

1.1 Planning permission is sought for the use of an area of land to the north side of Malton Road for the creation of 20 pitches for touring caravans or tents.

1.2 The application land is located adjacent to the applicant's property, known as Chowdene. Chowdene is located to the rear of properties facing Malton Road. Access to the property is via an unadopted access road which runs along the side of 219 Malton Road. The access serves the site and a small industrial unit which is currently operating as a window business. The site itself is located to the north of Chowdene and consists of a grassed field and hardstanding access areas. The field is currently set out to provide five caravan pitches with electric hook ups. The site area, which is noted on the application form as 0.5 Ha, measures approximately 120 metres (east to west) with a depth (north to south) of between 30 and 45 metres.

1.3 The proposal is to allow the use of the site for a 20 pitch touring caravan and/ or camping site. The proposal does not involve any alterations to the site itself but includes the provision of a small toilet block which is to be located adjacent to Chowdene. The toilet block building measures 3.2 metres by 1.9 with a maximum height to a mono-pitched roof of 2.5 metres. To the north of the site is a soil bund. To the east and west are existing mature boundaries beyond which is open land.

Planning History

1.4 Planning permission for the use of the site for the siting of 40 caravans and tents was withdrawn in November 2012

1.5 The site currently operates as a certified site through a certificate issued by the Caravan and Camping Club. The certification allows up to 5 caravans and tents to occupy the site provided they are member of the Caravan and Camping Club.

2.0 POLICY CONTEXT

2.1 Development Plan Allocation:

City Boundary GMS Constraints: York City Boundary 0001

DC Area Teams GMS Constraints: East Area (2) 0005

2.2 Policies:

CYV5

Caravan and camping sites

CYT2

Cycle pedestrian network

3.0 CONSULTATIONS

INTERNAL

3.1 Highway Network Management - The development proposed will intensify the use of a substandard access of restricted width. The increase in traffic using the access will predominantly be by vehicles with trailers/caravans. The access is taken from an A classified highway which is a main artery into the city and carries high frequency public transport services. The limited width cannot be improved due to boundary features/land ownership and will make access for cars towing trailers/caravans or HGV`s particularly difficult. The restrictive width together with the increased frequency of use of the access will increase the likelihood of such vehicles having to wait on or reverse out onto A1036 Malton Road. Such manoeuvres would be detrimental to the safety of highway users, particularly vulnerable highway users such as pedestrians and cyclists. Furthermore the increased frequency of vehicles having to wait to enter the site or having to reverse into Malton Road will interfere with the free flow of traffic with associated detrimental impacts on service reliability to public transport routes including Park and Ride.

EXTERNAL

3.2 Huntington Parish Council - No objections

3.3 Foss Internal Drainage Board - Concerned that soakaways will not work in this area object to the application until it is shown that the surface water can be satisfactorily drained from the site.

3.4 Four letters of objection have been received covering the following points:-

- The reason for withdrawal of the original permission has not been overcome the access road can not be widened at the entrance and there will be problems with towed vehicles. Traffic is already queuing to the Monks Cross roundabout this is a nuisance but would be a greater problem if caravans and cars were manoeuvring at the entrance to the site.
- The information submitted does not show any plans for dealing with the storage or collection of waste.
- Questions in relation to biodiversity say that there will be no impact, a considerable amount of delay has occurred to the Monks Cross development because of an established pond and protected species area to the rear of the site.
- Section 15, trees and hedges, both questions are answered no when in fact there are trees and hedges on all sides. A row of trees was felled to make way for the camping pods.
- The numbers of caravans and tents still seems a lot for the site. There is no mention of the camping pods despite being reminded in a previous letter
- Still have concerns about flood risk and foul waste disposal. It is noted that a cess pit is now proposed.
- The current proposal does not address the concerns raised on the original application.

4.0 APPRAISAL

4.1 Key Issues:

- Location of the site within the greenbelt
- Highway safety
- Drainage
- Residential amenity

POLICY BACKGROUND

4.2 The site is located within the Green Belt on the north side of York.

4.3 Section 9 of the National Planning Policy Framework (NPPF) says that the essential characteristics of Green Belts are their openness and their permanence.

Once defined local planning authorities should plan positively to enhance the beneficial use of the Green Belt, such as looking for opportunities to provide access; to provide opportunities for outdoor sport and recreation; to retain and enhance landscapes, visual amenity and biodiversity; or to improve damaged and derelict land (para.81). The NPPF says that the construction of new buildings should be regarded as inappropriate. Exceptions to this include the provision of appropriate facilities for outdoor sport and outdoor recreation as long as the openness of the Green Belt is preserved and proposals do not conflict with the purposes of including land within the Green Belt.

4.4 Section 3 of the NPPF 'Supporting a prosperous rural economy' says that planning policies should support economic growth in rural areas in order to create jobs and prosperity by taking a positive approach to sustainable new development. To promote a strong rural economy, local and neighbourhood plans should among other things support sustainable rural tourism and leisure developments that benefit businesses in rural areas, communities and visitors, and which respect the character of the countryside. Section 4 'Promoting sustainable transport' encourages the promotion of sustainable transport measures as part of the planning process.

4.5 Paragraph 17 of the NPPF sets out core land-use planning principles which should underpin decision taking. The principles include the requirement to protect Green Belts and to actively manage patterns of growth to make the fullest possible use of public transport, walking and cycling and focusing significant development in locations which are or can be made sustainable.

4.6 The current Draft Local Plan (DLP) identifies the site as located within a recreational opportunity area within the Green Belt. Policy L1d of the Draft Local Plan says that it is anticipated that such sites would be brought forward with reserved land in a comprehensive way if such land is needed for future development beyond the lifetime of this plan i.e. post 2011.

4.7 Policy V5 of the DLP relates specifically to touring caravan/camping sites and sets out criteria for assessing proposals. The policy specifies that the number of pitches should not exceed 20, and that there should be no pitches for static caravans. In addition, the proposal should not involve the erection of permanently sited ancillary buildings other than toilets/washrooms and a site office, the site should be associated with an existing settlement and of a compatible scale to the settlement, and should be readily accessible by public transport. Further criteria within the policy are that the proposal has no adverse effect on the openness of Green Belt, it provides a direct benefit to the local residential workforce, the approach roads are of a suitable standard to accommodate caravans, there is no adverse effect on the provision of local services, the proposal is complementary to recreational opportunities in the vicinity and it provides a direct benefit to the local residential rural community.

4.8 The objectives of the transport section is among other things to achieve development patterns which give people the choice and positively promotes more environmentally friendly means of transport than the car. Policy T2a states that planning permission will not be granted for any development that would prevent the use of any part of the existing pedestrian and cycle networks or other rights of way, or compromise the safety of users thereon unless alternative routes will be provided.

4.9 The Good Practice Guide for Planning and Tourism expects planners and developers to work together in order to ensure that new tourism developments are as sustainable as possible in transport terms. At the same time, planners will need to recognise that the wide variety of developments that are inherent in the tourism industry means that there are some developments (e.g. touring sites for caravans) that are car dependent. From a sustainability perspective the site is considered to be well located.

GREEN BELT

4.10 The proposal is for use of land for recreational purposes and the construction of a new amenity block. In Green Belt terms the use and buildings proposed are not inappropriate as long as the openness of the Green Belt is preserved and proposals do not conflict with the purposes of including land within the Green Belt. In this context the main issues are:-

- Whether the proposal would be inappropriate development for the purposes the NPPF and development plan policy.
- The effect of the proposal on the openness of the Green Belt and the purposes of including land in it.
- If the development is inappropriate, whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations, so as to amount to the very special circumstances necessary to justify the development.

4.11 The site is a well contained area of land located to the rear of the applicant's bungalow. To the rear of the site, beyond the application site boundary, is a landscaped earth bund; to the east and west there is substantial landscaping. Planning permission has recently been granted on land to the east to increase the land levels as part of the proposals for the Monks Cross development. The proposed amenity block is of limited size and is sited in close proximity to the existing bungalow. In officers opinion the site is sufficiently screened by existing landscaping such that the proposal would not impact on the openness of the Green Belt. The development is considered to be appropriate development in the Green Belt in the context of advice in the NPPF.

4.12 The NPPF (para 80) states that the Green Belt serves five purposes including the preservation of the setting and special character of historic towns and safeguarding the countryside from encroachment. It is considered that the location of the site, set back from the road and relatively well contained by well defined boundaries, will not impact on the purposes of including land within Green Belt. The principle of the use of the site as a caravan site is considered to comply with policies within the NPPF and accord with the in principle requirements of Policy V5 of the DLP.

4.13 The identification of the application site as reserved land anticipated that the development of Monks Cross South would be the catalyst for the development of the site. The recent approvals at Monks Cross south do not include the application site nor did the 2002 application for the Park and Ride scheme and adjacent pond. The retention of the land for development associated with Monks Cross does not now appear to be necessary given the completion of the pond and Park and Ride scheme, the approval on the Monks Cross south site and the recent approval to increase the height of the land to the east of the site in association with the Monks Cross development. However the allocation does recognise the potential of the site to fulfil a recreational use whilst remaining within the Green Belt.

HIGHWAY SAFETY

4.14 Access to the site is obtained via a dropped vehicle crossing onto the A1037 Malton Road. Malton Road is an A classified highway (A1036) which is a main artery into/out of the city. The route also serves as a main access to the large retail/leisure park, employment sites and the Park and Ride site at Monks Cross. Malton Road is used by a number of high frequency public transport services and has bus priority measures along its route to protect the frequency and reliability of public transport services. The adjacent footway along Malton Road which crosses the site access is a shared pedestrian/cycle route. This is a key corridor which links Monks Cross to adjacent residential areas and the city centre. The width of the private drive for the initial 50m from the public highway leading to the site itself is of very limited and only capable of accommodating single flow traffic. The land either side of the initial 50m of the site access and along its length is outside the applicant's control and the red line boundary does not connect to the public highway. It is therefore not possible to improve/upgrade the access to provide two-way flow, provide passing places or accommodate the level of traffic that could be expected to be generated by the development. The private drive also serves as an access to a local business which manufactures windows. This business will generate a certain level of traffic, a proportion of which can be reasonably assumed to be HGV's.

4.15 The applicant's view is that the proposal will generate no more traffic than the current certificated site operated from the land. The application is however not supported by any documentary evidence or surveys of current traffic generation. Paragraph A2 of part 5 of schedule 2 of the Town and Country Planning General

Permitted Development Order (GPDO) sets out permitted development rights for caravans. It says that caravans are exempt from planning permission where exempt by a site licence by paragraphs 2-10 of Schedule 1 of the caravan and site licences 1960 Act. The GPDO and the Caravan Act 1960 together allow use of any land for up to five touring caravans by members of the Caravan Club, the Camping and Caravanning Club and other recognised recreational organisations, provided the site has an exemption certificate. Part 27 of Schedule 2 of the GPDO 1995 permits the use of land by members of a recreational organisation for the purposes of recreation or instruction, including the erection or placing of tents on the land for the purposes of the use.

4.16 The applicant has an exemption certificate from the Caravan and Camping Club which allows up to 5 caravans and an unlimited number of tents to be placed on the site provided these are used by members of the Club. Mr Wardell considers that this exemption is sufficient to represent a fall back position in planning terms such that the formalization of the caravan site for 20 pitches would not increase the levels of vehicle movement.

4.17 The 'fallback' position (i.e. what the applicant could do without the need for planning permission or if planning permission is refused) is a material consideration in the decision making process, of which permitted development rights granted by the GPDO comprise a part. Thus when making a decision on a planning application some weight may be given to a situation where development carried out to slightly reduced dimensions or at a marginally lesser level could be implemented using permitted development rights. The weight to be given to such a material consideration varies according to whether that which could be carried out using permitted development rights would have a broadly similar or worse impact than that proposed, and the likelihood that, if permission was refused, permitted development rights would be used as an alternative. Obviously in this case the site already benefits from a "five caravan" exemption certificate and this is acknowledged as part of the consideration of the impact of the development on the openness of Green Belt.

4.18 From a highway perspective, Highways Network Management have considered the application with regard to the exemption certificate but still consider that the development proposals will significantly increase the level of traffic generated by the site, which would increase the number of caravans from 5 to 20, thus leading to an intensification of use of the substandard access. Existing levels of use are also restricted by the lack of toilet facilities and the restriction of use to members of the Caravan and Camping Club. It is likely that vehicles entering the site will, with increasing frequency, be faced with a vehicle wishing to exit the site, or vice versa. This would result in vehicles, which given the land uses are likely to be cars with trailers/caravans or HGV's, being required to reverse with restricted visibility back out into Malton Road.

Clearly, this presents a highway safety issue for road users particularly vulnerable users such as pedestrians and cyclists using the adjacent shared pedestrian/cycle route. Furthermore Malton Road is an A classified highway which is a main artery into/out of the city for traffic including a Park and Ride service. Vehicles having to wait on Malton Road to turn into the site or reverse out of the site access due to the limited width and lack of two-way traffic flow will also therefore obstruct the free flow of traffic to the detriment of public transport service reliability. Thus the development is considered to conflict with the requirements of the NPPF (section 4 - paragraph 32) which states that decisions should take account of whether safe and suitable access to sites can be achieved for all people, and Policies T2a and V5 of the DLP.

DRAINAGE

4.19 The application form indicates that soakaways are to be used for the development. The Internal Drainage Board has objected to the application until it is shown that soakaways will work at the site. It appears from the response of the Internal Drainage Board that they have received information from the applicant that the land would have difficulty supporting the use of soakaways. The agent has now confirmed that soakaways will not be used and that a Sustainable Urban Drainage solution (SUDS) will be used. The use of SUDS could be sought through condition.

4.20 The site is not connected to mains drainage, and foul water is proposed to be disposed of via a cess pit. Additional information is awaited on the use of the cess pit and the comments of the Environment Agency on the proposal. A verbal update will be given to Committee.

RESIDENTIAL AMENITY

4.21 The adjoining residential property is located immediately adjacent to the access road to the site. The property is a detached bungalow that has a small side conservatory type structure which covers the side entrance into the house. The main rooms of the building are orientated north/south on the site and the bungalow is served via a separate drive access. The property has commercial development to its northern and eastern boundaries and the access road to the rear industrial unit and the applicant's property is to the west. Whilst the development will result in increased traffic movements and could create some difficult manoeuvres given the restricted width of the access, officers consider that the orientation of the property and the current environment of the dwelling mean that an objection on residential amenity grounds would be difficult to sustain. The remaining residential properties in this small enclave of buildings are a sufficient distance from the site and would not be adversely affected by the development.

Other Matters:-

4.22 Objectors refer to the site having camping pods within it. There are also reviews on the ukcamping web site from people who have stayed in the pods. Officers are unclear where these pods are located and have asked the applicant to confirm where and how such pods are used. The camping pods are likely to need planning permission and will be dealt with as a separate issue.

5.0 CONCLUSION

5.1 The principle of the use of the site as a caravan site is considered to comply with policies within the NPPF and accord with the principle requirements of policy V5 of the DLP. However, the site access cannot accommodate two way traffic flows for the first 50 metres back from Malton Road. The proposal would, therefore, be likely to result in vehicles being required to reverse with restricted visibility into Malton Road, presenting a highway safety issue for road users particularly vulnerable users such as pedestrians and cyclists using the adjacent shared pedestrian/cycle route.

5.2 Furthermore Malton Road is an A classified highway which is a main artery into/out of the city for traffic including a Park and Ride service. Vehicles having to wait on Malton Road to turn into the site or reverse out of the site access due to the limited width and lack of two-way traffic flow will also therefore obstruct the free flow of traffic to the detriment of public transport service reliability. As a result, the development is considered to conflict with the requirements of the NPPF (section 4) which states that decisions should take account of whether safe and suitable access to sites can be achieved for all people, and Policies T2a and V5 (h) of the Draft Local Plan.

COMMITTEE TO VISIT

6.0 RECOMMENDATION: Refuse

1 The proposed development would be likely to intensify the use of a substandard access of restricted width. The increase in traffic using the access will predominantly be by vehicles with trailers/caravans. The access is taken from an A classified highway which is a main artery into the city and carries high frequency public transport services. The limited width cannot be improved due to boundary features and land ownership issues, and will make access for cars towing trailers/caravans and HGV's particularly difficult. The restrictive width together with the increased frequency of use of the access will increase the likelihood of such vehicles having to wait on or reverse out onto A1036 Malton Road. Such manoeuvres would be detrimental to the safety of highway users, particularly vulnerable highway users such as pedestrians and cyclists using the adjacent shared pedestrian/cycle route.

Furthermore the increased frequency of vehicles having to wait to enter the site or having to reverse into Malton Road will interfere with the free flow of traffic with associated detrimental impacts on service reliability to public transport routes including Park and Ride. Thus the development is considered to conflict with advice contained within the National Planning Policy Framework (section 4 - paragraph 32) which states that decisions should take account of whether safe and suitable access to sites can be achieved for all people, and Policies T2a and V5 of the City of York Draft Local Plan.

Contact details:

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Chowdene, Malton Road

12/03690/FUL



Scale : 1:1250

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Organisation	City of York Council
Department	City and Environment Services
Comments	
Date	26 March 2013
SLA Number	Not Set

SA



CIRCULATED AT MEETING AGENDA ITEM SA) CHANDWINE, MALTON ROAD, HUNTINGTON. Y0329TD
(12/03690/FU)

COMMITTEE REPORT

Date: 11 April 2013 **Ward:** Fishergate
Team: Householder and **Parish:** Fishergate Planning
Small Scale Team Panel

Reference: 13/00114/FUL
Application at: 115 Broadway York YO10 4JY
For: Convert existing roof from hip to gable form and erect two storey
and single storey rear extension
By: Mrs Jane Moss
Application Type: Full Application
Target Date: 29 March 2013
Recommendation: Householder Approval

1.0 PROPOSAL

1.1 The application property is a semi-detached dwelling located on a main route within Fulford. It is located within walking distance of York University.

1.2 The property has been used as a shared house (HMO) for several years and recently a certificate of lawful use was issued to confirm that this use is lawful (13/00103/CLU).

1.3 It is proposed to erect a part two-storey and part single-storey extension to the rear of the property and convert the side of the existing main roof from a hipped roof to a gable form. The rear extension is intended to be 3.5m long. The extension will increase the number of rooms suitable for sleeping from 4 to 5. A C4 use can normally be occupied by up to 6 residents.

1.4 The application has been brought to committee at the request of Cllr Taylor because of the level of local interest in the proposal.

2.0 POLICY CONTEXT

2.1 Development Plan Allocation:

Contaminated Land GMS Constraints:

City Boundary GMS Constraints: York City Boundary 0001

DC Area Teams GMS Constraints: East Area (1) 0003

2.2 Policies:

CYH7
Residential extensions

CYGP1
Design

3.0 CONSULTATIONS

3.1 Internal

Integrated Planning Unit

State that 8% of homes in the neighbourhood are Houses in Multiple Occupation (HMO's) and 8% of homes within 100m of the application property are HMO's.

(Case officer response - This information is not strictly relevant as the application is not for a change of use, although does indicate that the number of HMO's in the area is slightly below the threshold set out in the approved Supplementary Planning Document on changes of use to Houses in Multiple Occupation).

3.2 External

Planning panel - No reply received.

Neighbours

2 objections were received from neighbours. The issues raised were:

- The proposal will lead to loss of sunlight and daylight to the kitchen, landing and bathroom of 113.
- The proposal will block any sun from the garden of 117.
- There are too many HMO's in the area. They are unkempt and additional rooms will exacerbate existing parking problems.
- The home and garden of the application property is perceived to be the poorly maintained and there have been blockages to the drains.
- The proposal is forcing families out of the area and no more than 10% of the street should be HMO's.
- It was stated that the roof space of the application property is being used as a bedroom with access via a loft ladder.

(Case officer response - The Council's Housing Standard's team investigated the use of the loft and concluded that it is not being used as sleeping accommodation).

4.0 APPRAISAL

4.1 The key issues in assessing the proposal are:

The impact on the streetscene.
The impact on residential amenity
Parking and highway safety.

4.2 The National Planning Policy Framework 2012 (NPPF) sets out the Government's overarching planning policies. At its heart is a presumption in favour of sustainable development. The framework states that the Government attaches great importance to the design of the built environment. Good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people. One of 12 principles set out in paragraph 17 is that planning should always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings.

4.3 Paragraph 187 states that Local Planning Authorities should look for solutions rather than problems and decision takers at every level should seek to approve applications for sustainable development where possible. The NPPF states that there are three dimensions to sustainable development - an economic role, a social role and an environmental role. In considering proposals for new or improved residential accommodation, the benefits from meeting peoples housing needs and promoting the economy will be balanced against any negative impacts on the environment and neighbours' living conditions.

4.4 The Development Control Local Plan was approved for Development Control purposes in April 2005; its policies are material considerations although it is considered that their weight is limited except where in accordance with the content of the NPPF.

4.5 Policy H7 'Residential Extensions' of the City of York Local Plan Deposit Draft sets out a list of design criteria against which proposals for house extensions are considered. The list includes the need to ensure that the design and scale are appropriate in relation to the main building; that proposals respect the character of the area and spaces between dwellings; and that there should be no adverse effect on the amenity that neighbouring residents could reasonably expect to enjoy.

4.6 Local Plan Policy GP1 'Design' states that development proposals will be expected to respect or enhance the local environment and be of a density, layout, scale, mass and design that is compatible with neighbouring buildings, spaces and vegetation. The design of any extensions should ensure that residents living nearby are not unduly affected by noise, disturbance, overlooking, overshadowing or dominated by overbearing structures.

The impact on the streetscene.

4.7 The proposed change of the main side roof slope from a hip to a gable would not be in harmony with the established roof forms in the street, however, it is noted that such changes are normally permitted development when undertaken in isolation. It is not considered, therefore, that there are reasonable grounds to refuse this part of the application.

4.8 The proposed changes to the rear will not have a significant impact on the streetscene.

The impact on residential amenity

4.9 There is adequate separation to the front and rear.

Impact on 117 Broadway

4.10 This property is attached. It has been much extended with a two-storey side and rear extension and a large double attached garage to the side. It also has a single-storey rear extension approximately 3m in length adjacent to the proposed extension.

4.11 As the proposed single-storey part of the extension only exceeds the existing extension by approximately 0.5m it is not considered that it would have a significant impact on living conditions. The two-storey extension is set in approximately 2.6m from the property boundary. The centre point of the nearest bedroom window of number 117 is located around 1.8m from the property boundary. The proposal would therefore comply with the '45 degrees rule' which is often used to assess the acceptable degree of projection for this type of extension. The extension will reduce the amount of sunlight entering the house and garden to some degree, however, the extension has a relatively low ridge height and the roof is hipped.

Impact on 113 Broadway

4.12 This dwelling is separated from the application property by approximately 3m. It has windows serving non-habitable rooms on the side elevation (a lobby, pantry and landing). The nearest first floor rear opening serves a bathroom. The nearest ground floor rear opening serves a small kitchen.

The centre point of the kitchen window is around 4.5m from the extension. On balance it is considered the function of the impacted rooms and degree of separation is such as to avoid undue harm. The gable roof will reduce light to side openings, however, it is noted that the changes to the existing roof are permitted development.

4.13 The extension will block some morning sunlight reaching the patio area of 113, however as it would be to the east/north-east it is not considered that the harm caused would be unduly significant. It is noted that number 113 has a relatively long garden and most of it will not be impacted upon by the proposals.

4.14 The extension of the property will increase the number of occupants. The side garden boundaries in the rear garden are relatively dilapidated along the boundary with 117 and the front section of the rear garden adjacent to 113. It is considered reasonable to upgrade the boundaries to reduce the impact of the shared use on neighbouring properties. At the time of the site visit it was noted that the rear garden of the application property was poorly maintained. A management plan condition has also been included to help ensure that use of the enlarged property co-exists in an amicable manner with neighbouring properties. The applicant has stated that they are intending to renovate the house and accept the inclusion of the conditions relating to new fencing and the management of the HMO.

Parking and highway safety

4.15 The property has parking for two cars within the front garden. There is access to the rear garden for cycle parking.

5.0 CONCLUSION

5.1 For the reasons stated it is considered that the proposal would not cause undue harm to residential amenity and it is recommended that the application is approved.

COMMITTEE TO VISIT

6.0 RECOMMENDATION: Householder Approval

1 TIME2 Development start within three years -

2 The development hereby permitted shall be carried out in accordance with the following plans:-

Drawing 118.001 Rev A received by the Local Planning Authority on 8 March 2012.
Reason: For the avoidance of doubt and to ensure that the development is carried out only as approved by the Local Planning Authority.

3 Prior to the extensions approved by this consent are occupied as a House in Multiple Occupancy, a management plan shall be submitted to and agreed in writing by the Local Planning Authority and shall be implemented as agreed unless otherwise agreed in writing by the Local Planning Authority. The Management plan shall relate to the following areas:

- i) Information and advice to occupants
- ii) Garden maintenance
- iii) Refuse and recycling facilities
- iv) Property maintenance

Reason: In the interests of the proper management of the property and the amenity of adjacent residents.

4 Prior to the use of the property as a House in Multiple Occupation details of the proposed garden boundary treatment between the rear garden boundaries of 115 Broadway and 113 and 117 Broadway shall be submitted to and agreed in writing by the Local Planning Authority. The boundary treatment shall be implemented in accordance with the approved details prior to the use of the property as a House in Multiple Occupation and shall remain as approved unless otherwise agreed in writing with the Local Planning Authority.

Reason: In the interests of neighbour amenity

5 Prior to the occupation of the extensions hereby approved, covered cycle parking for the occupants of the property shall be provided in accordance with details that have been agreed with the Local Planning Authority. The cycle parking shall be retained and made available as agreed.

Reason: To meet the needs of the occupants and encourage sustainable travel modes.

7.0 INFORMATIVES: Notes to Applicant

1. REASON FOR APPROVAL

In the opinion of the Local Planning Authority the proposal, subject to the conditions listed above, would not cause undue harm to interests of acknowledged importance, with particular reference to the effect on residential amenity, car parking and the impact on the streetscene. As such the proposal complies with Policies H7 and GP1 of the City of York Development Control Local Plan and the 'Guide to extensions and alterations to private dwelling houses' Supplementary Planning Guidance.

2. STATEMENT OF THE COUNCIL'S POSITIVE AND PROACTIVE APPROACH

In considering the application, the Local Planning Authority has implemented the requirements set out within the National Planning Policy Framework (paragraphs 186 and 187) in seeking solutions to problems identified during the processing of the application. The Local Planning Authority took the following steps in order to achieve an acceptable outcome:

Length of extension reduced and conditions included relating to maintenance and new fencing.

3. NOTE:

The applicant should check with the Council's Housing Standards and Adaption's team whether a licence for a house in multiple occupation will be required for the use of the extended property.

Contact details:

Author: Neil Massey Development Management Officer (Wed/Thurs/Fri)

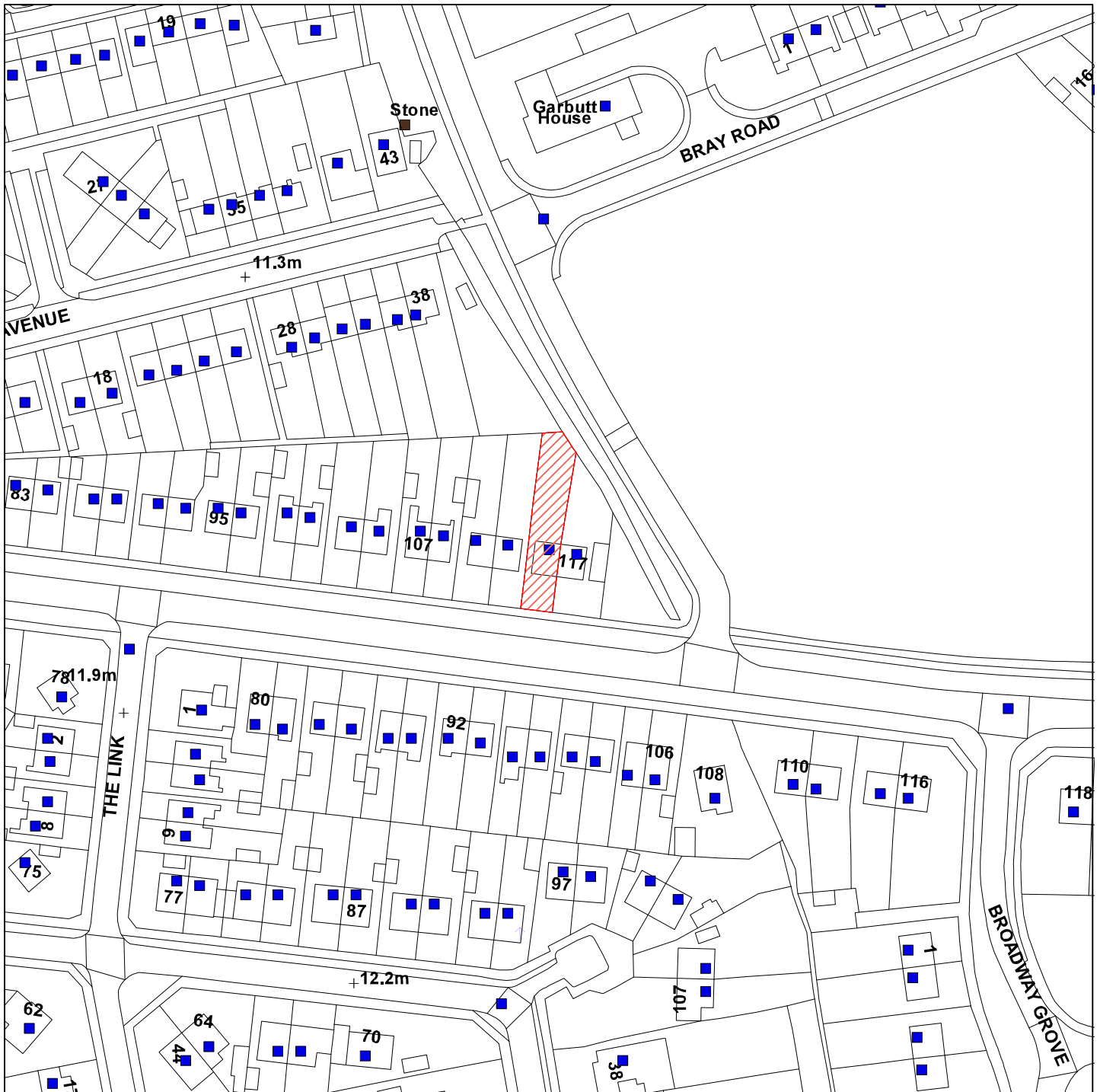
Tel No: 01904 551352

13/00114/FUL

115 Broadway



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Organisation	City of York Council
Department	Planning and Sustainable Development
Comments	
Date	19 March 2013
SLA Number	Not Set

CIRCULATED AT MEETING AGENDA ITEM 5B)

115 BROADWAY, YORK. YO10 4JY

(13/0014/FUL)



FROM 113



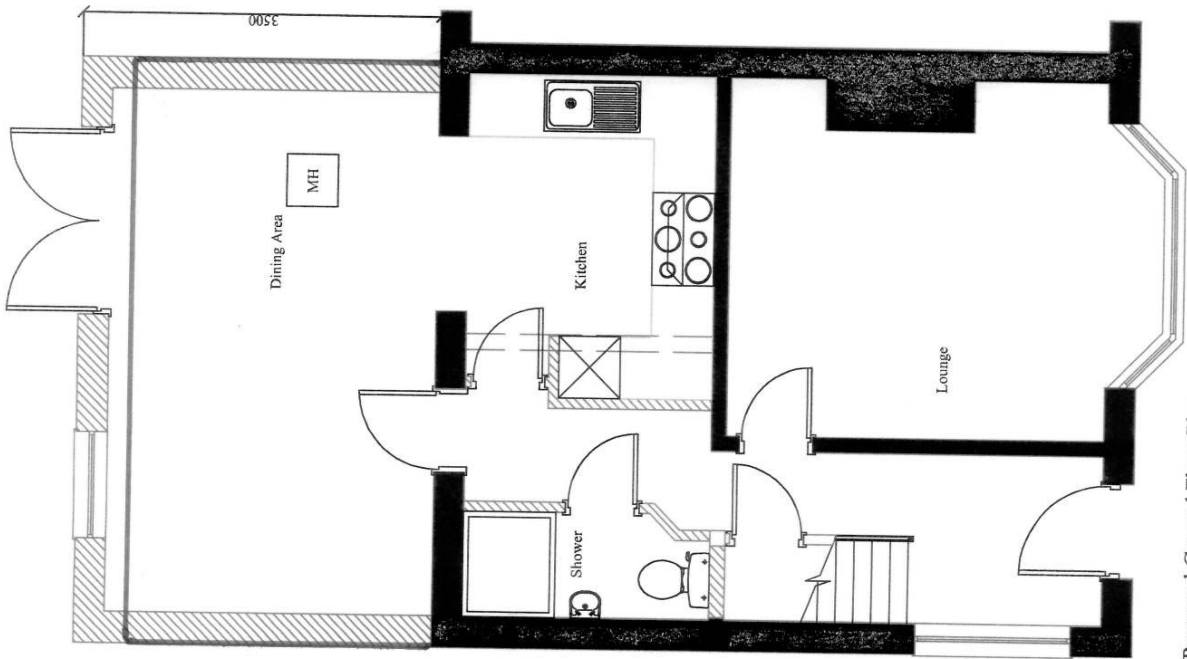
FROM 113



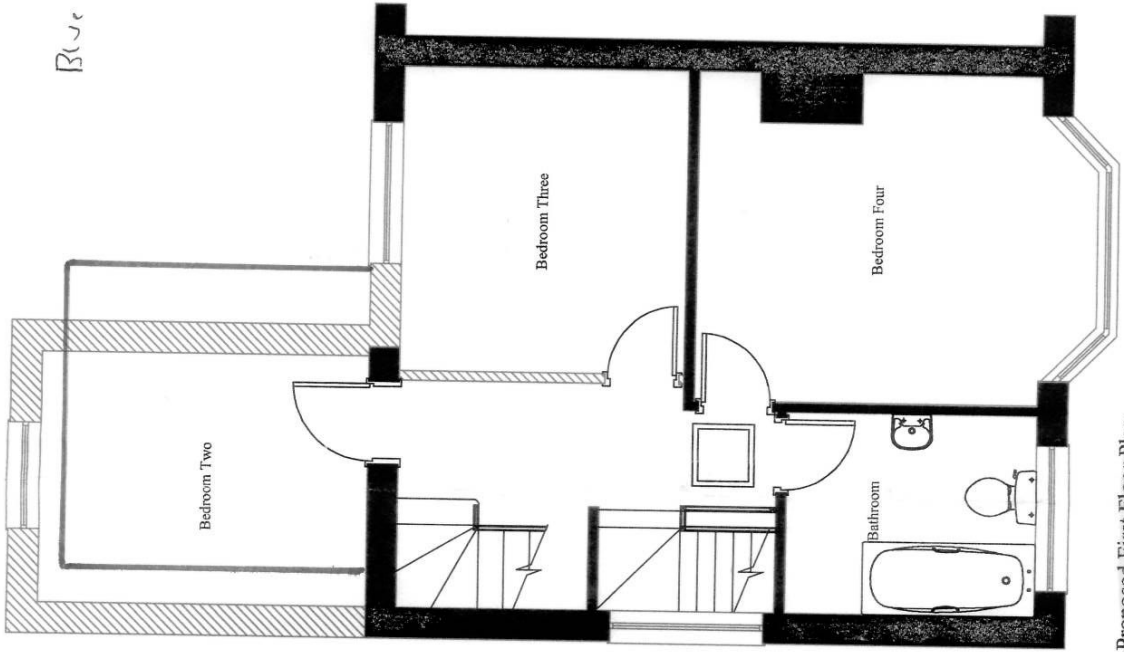
REAR OF 113

CIRCULATED AT MEETING AGENDA ITEM 5B) 115 BROADWAY, YORK. Y010 4JY (13/00114/F04)

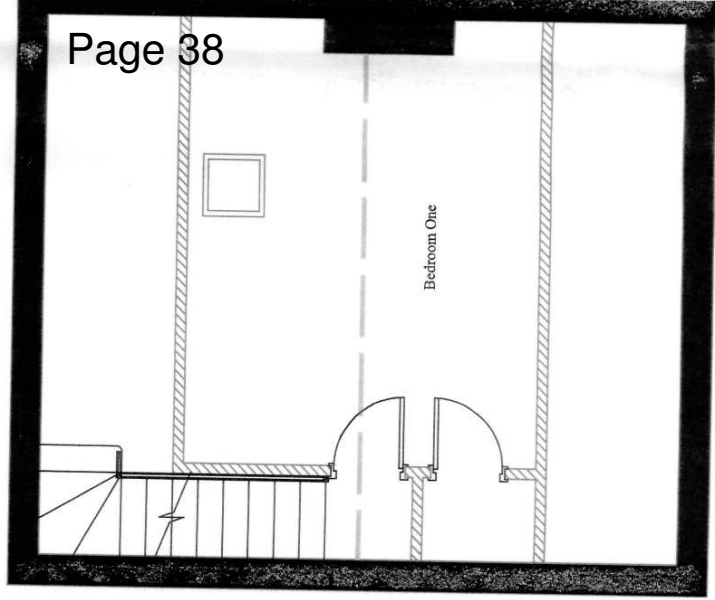
Blue outline - permitted development



Proposed Ground Floor Plan



Proposed First Floor Plan



Proposed Second Floor Plan

COMMITTEE REPORT

Date: 11 April 2013 **Ward:** Skelton, Rawcliffe, Clifton
Without
Team: Major and **Parish:** Skelton Parish Council
Commercial Team

Reference: 13/00382/FUL
Application at: 7 Fairfields Drive Skelton York YO30 1YP
For: Erection of single storey dwelling with rooms in roof (resubmission)
By: Mr S Ward
Application Type: Full Application
Target Date: 23 April 2013
Recommendation: Approve subject to Section 106 Agreement

1.0 PROPOSAL

1.1 This application seeks planning permission for the erection of a dwelling with accommodation over two floors. The proposed dwelling is single storey in eaves height with a ridge height that allows for the creation of two bedrooms and a bathroom within the roof space. The application site is on land to the rear of 7 and 9 Fairfield Drive in Skelton. Previously this land has been part of the rear garden of 7 and 9 Fairfield Drive. The dwelling is of simple design with the front gable elevation facing towards Grange Close where access to the proposed dwelling would be created. The dwelling would sit between 2 Grange Close and 7 Fairfield Drive. The proposal involves the subdivision of the garden of 9 Fairfield Drive in order to create a rear garden for the proposed dwelling whilst retaining a reasonably sized rear garden for 9 Fairfield Drive.

1.2 The application site is within the built up settlement limit of Skelton and is within Flood Zone 1 which is the lowest flood risk category given by the Environment Agency. The site is not within or close to Skelton Conservation Area and there are no listed buildings within the immediate vicinity of the site. There is no significant green landscaping of significant public benefit within the site.

1.3 An application was submitted for a dwelling on this site in 2008 (Ref. No. 08/00745/FUL). The application was refused on two grounds, as follows:

- 1) It is considered that the proposed dwelling, by virtue of its siting, size, scale, and design, would harm the character and appearance of the street scene. The proposed dwelling would appear shoehorned into the site and would represent an overdevelopment of the existing garden area. The siting and design of the proposed dwelling is such that it would appear incongruous within its setting.

Therefore the proposal contravenes Policies GP1, GP10, and H4a of the City of York Draft Local Plan and design principles outlined in Planning Policy Statement 1: Delivering Sustainable Development.

- 2) It is considered that the proposed dwelling, by virtue of its size and siting would harm the living conditions of occupiers of 7 Fairfields Drive. The proposed dwelling would appear dominant and overbearing when viewed from the rear elevation and rear garden of 7 Fairfields Drive. Therefore the proposal is considered contrary to Draft Local Planning Policy GP1.

1.4 The refused application was subject to an appeal which was dismissed. The Inspector generally agreed with the Council's reasons for refusal. In dismissing the appeal the Inspectors expressed concern about the impact of the proposed dwelling on the character and appearance of the area. The concerns expressed in this regard were:

- the fact that the proposed dwelling was close to Grange Close forward of the approximate building line of this street;
- the proposal had a ridge line at right angles to other dwellings;
- the house would sit in a relatively small garden area and
- the house was two storey in height with dormers whereas many dwellings in the area were bungalows.

The Inspector also raised concerns about the impact that the proposed house would have on the living conditions of residents of 7 Fairfield Drive. The Inspector considered that the proposed house would appear unduly dominant from the rear of 7 Fairfield Drive being sited just 7m away from the conservatory with a height of 6.5m to the ridge.

1.5 This is the second application since the appeal decision. An application was submitted in late 2012 (Ref. No. 12/03624/FUL) but was later withdrawn following discussion with the case officer. This latest application seeks to address the previous reasons for refusal with a substantially different house design and an increase in the size of the site. The most significant changes are:

- the proposed house has been set significantly further back from Grange Close
- the site area has been extended to include a section of the rear garden of 9 Fairfield Close
- the house has been re-orientated such that so that it now has a significantly reduced width fronting Grange Close but a greater depth
- the eaves height has been significantly reduced
- the ridge height has been reduced a little
- the proposed house is now significantly further from the rear elevation of 7 Fairfield Drive.

1.6 This application has been called in to be determined by the East Area Planning Committee at the request of Cllr Watt. The reason for calling the application in is:

- 'garden grabbing' applications such as this are very controversial in Skelton and, therefore, need due consideration of the rural aspect.
- it may contravene Design Guideline 8 of the Skelton Village Design Statement.
- it may exceed the proposed Local Plan's housing density for a rural setting.
- having the off-road parking area directly in front of the house's main front aspect will discourage off-road parking resulting in increased car parking on Grange Close; few cars are ever parked on Grange Close at present.

1.7 A site visit is recommended to understand the visual impact of the proposed development and any potential impacts on local residents. A site visit will allow Members to understand the local letters of objection within the context of the site.

2.0 POLICY CONTEXT

2.1 Development Plan Allocation:

City Boundary GMS Constraints: York City Boundary 0001

DC Area Teams GMS Constraints: East Area (2) 0005

2.2 Policies:

CYGP1
Design

CYGP10
Subdivision of gardens and infill devt

CYH4A
Housing Windfalls

CYL1C
Provision of New Open Space in Development

3.0 CONSULTATIONS

INTERNAL

3.1 Environmental Protection Unit - No objections. Informatives were recommended to cover demolition and construction and electric vehicle recharge points.

EXTERNAL

3.2 Skelton Parish Council - No correspondence received at the time of writing the report.

3.3 Kyle and Upper Ouse Internal Drainage Board - No observations to make about the application.

3.4 Local Residents - The neighbour consultation period has not expired due to a delay in sending a consultation letter to 11 Fairfields Drive. Should Members be minded to approve this application it is requested that authority be delegated to officers and Chair and Vice Chair to decide whether to approve the scheme should an objection be received from 11 Fairfields Drive which raises issues which have not already been considered within this report. At the time of writing the report two letters of objection has been received from 7 and 19 Grange Close. A summary of the comments made are below:

- The application makes reference to a "single storey dwelling with rooms above"; the proposal is clearly for a two storey house
- A motor home is currently parked on the site of the house; the proposed house would result in this being displaced onto a local road increasing the problem of locally parked vehicles
- The proposed site is currently the garden areas of Nos 7 & 9 Fairfields Drive and the loss of the garden amenity space would be significant both to current and more importantly future occupants
- The proposed additional property and resulting crowding of buildings will be a poor legacy for future residents
- This infill property will be significantly overlooked via the Velux window and also the garden area from the rear elevations of Nos 7 & 9 Fairfields Drive
- The garden area for the proposed dwelling cannot be considered as adequate
- As the local bus service Skelton / York and return is somewhat limited and virtually non existent at weekends it is inconceivable that more vehicles will not be introduced to this locality
- The proposed house is overdevelopment which will be detrimental to the locality; the proposed dwelling is being "shoe-horned" into the gardens of Nos 7 & 9 Fairfields Drive
- The application makes reference to a similar development at 1 The Meadows which has recently been constructed in Skelton; however this is a prime example of the sort of development which should not be allowed to continue
- The application submission is incorrect when it describes the site as having an access, there is no dropped kerb and at present a fence panel is simply removed in order to get the motor home in and out of the site
- The proposed development could create a hazard to children walking to and from school

- Construction would cause disruption to residents in Grange Close which is a cul-de-sac

4.0 APPRAISAL

4.1 The key issues are:

- principle of development
- visual impact on the street scene
- impact on the living conditions of neighbours
- car parking and bin and cycle storage
- open space

PRINCIPLE OF DEVELOPMENT

4.2 The National Planning Policy Framework (NPPF) states that 'housing applications should be considered in the context of the presumption in favour of sustainable development.' However, Paragraph 53 requires local planning authorities to consider the case for setting out policies to resist inappropriate development of residential gardens, for example where development would cause harm to the local area. Whilst written significantly before the NPPF the Development Control Local Plan Policy GP10 'Subdivision of Gardens and Infill Development' follows this theme by stating that planning permission will be granted for sub-division of existing garden areas or infilling where this would not be detrimental to the character and amenity of the local environment. Policy H4a 'Housing Windfalls' sets more detailed criteria for assessing applications for residential development on non-allocated sites (such as the application site) by stating that developments will be granted where:

- the site is in the urban area and is vacant or underused; and
- the site has good accessibility to jobs, shops and services by non-car modes; and
- it is of an appropriate scale and density to surrounding development; and
- it would not have a detrimental impact on existing landscape features.

4.3 The Skelton Village Design Code, Design Guideline 8 states that the pleasing balance between buildings and spaces should be preserved by amongst other things maintaining reasonable plot sizes. The Guideline states that infill development should only be considered where it can be clearly demonstrated that there will be no detrimental impact on the character and amenity of the surroundings. The Guideline encourages the present pattern of dwellings of various sizes being grouped together. Village Design Statements are a material consideration in planning decisions with added weight where they accord with local and national planning policies.

4.4 The application site is within the settlement limit of Skelton. The occupants of the proposed house would have access to local services and facilities and also those within the wider City by non-car modes. Therefore, the proposed site is considered to be within a sustainable urban location. The application site consists of sections of two garden areas. Although no longer classified as "previously developed (brownfield) land" there are no policies at a local or national level which state that such developments are unacceptable in principle. Each application must be assessed on a case by case basis to establish whether there would be any harm. This analysis is undertaken below when assessing the likely impact on the street scene and neighbouring amenity. However, given the sustainability of the site, the City's need for new housing, and the presumption in favour of sustainable development set out in the NPPF, it is considered that the broad principle of development is acceptable. When the appeal relating to a previous application on this site was determined, the Inspector dismissed the appeal on the grounds of impact on the street scene and neighbouring amenity. No objections were raised to the overall principle of erecting a new dwelling on this site.

VISUAL IMPACT ON THE STREET SCENE

4.5 As stated above both Policy GP10 and H4a require new residential developments to not be detrimental to the character and appearance of the street scene. Policy GP1 'Design' further adds to this and states 'Developments which are considered to be likely to have a significant impact on the character and appearance of the area should be refused.'

4.6 The application site is within a relatively modern housing development which has a typical suburban character. There are a variety of house design and sizes with the estate being a mix of bungalows some with dormers and two storey houses. Houses are detached with front and rear gardens. Fairfields Drive is one of the main entrance roads into Skelton off the A19 with Grange Close being a cul-de-sac which serves a number of other smaller cul-de-sacs. Houses are set back from the street often with car parking to the front.

4.7 The proposed house is set back approximately 6m from the footpath along Grange Close. This allows for a greater sense of space between the proposed house and public areas. The previously refused application was only set back approximately 3m into the site and with a much wider frontage. The proposed development is therefore significantly less imposing on the street scene than the previous application. In addition the proposed house has been pulled significantly further away from the rear of 7 Fairfields Drive. The refused application was just 7m away from the conservatory, the proposed houses is approximately 11m away from the conservatory. The proposed house is 13m away from the main two storey rear elevation of 7 Fairfields Drive. This would retain the sense of space around the proposed dwelling which is characteristic of the area. The proposed house has a similar frontage width to the majority of houses along Grange Close. The proposed

house is separated a similar distance from both neighbouring houses and the highway as other houses on Grange Close. It is considered that the proposed house would therefore read as one house within a row of houses along Grange Close and would not appear overdeveloped.

4.8 The proposed house is simple in its design. It would be constructed of buff brick at ground floor level with cedar cladding above. The roof would be covered in a brown pantile. The roof and brick colours have been chosen to match other houses in the area. Timber cladding is not extensively used in the immediate vicinity of the site but there are a number of examples around this part of Skelton. The proposed house is considered to respect the character of the area. The proposed front elevation contains two windows and a door of a scale which is consistent with other houses in the area. The proposed house would not stand out and has been designed to take account of locally used materials. Grange Close primarily consists of two storey houses, although there are some bungalows. Given this and the modest size of the site, it is considered that a house with a single storey eaves height but with rooms in the roof is an appropriate scale of development in this location. The eaves height of the proposed house is approximately 3m above the ground with the ridge being approximately 6.2m in height. Overall it is considered that the proposed development has overcome the previous reason for refusal relating to the development appearing shoehorned into the site and creating an overdeveloped appearance.

IMPACT ON THE LIVING CONDITIONS OF NEIGHBOURS

4.9 It is considered that the amenity of residents of 7 and 9 Fairfields Drive and of 2 Grange Close is most likely to be affected by the proposed development. The refused application and subsequent appeal both considered that the development proposed at the time would be harmful to the living conditions of residents of 7 Fairfields Drive. Concerns primarily related to the dwelling being overbearing when viewed from the rear of 7 Fairfields Drive due to the modest separation distance and the height of the proposed dwelling.

4.10 The proposed house has been set 4m further from the rear of 7 Fairfields Drive than the previously refused application. Separation distances from the main two storey rear elevation of the house are approximately 13m. There is an 11m separation distance from the conservatory. In addition the elevation facing towards the rear of number 7 has an eaves height of approximately 3m, the roof then hips away such that the ridge is a further 3m from the rear of 7 Fairfields Drive. The increase in separation distances, and the significant reduction in height and massing results in a proposal which is considered acceptable in terms of maintaining a reasonable level of outlook from the rear and garden area of 7 Fairfields Drive. The side elevation of the proposed house which faces 7 Fairfields Drive contains two ground floor openings, one set of doors and a window and a roof light which would serve a staircase.

A 1.8m high close boarded fence is proposed to separate the proposed house from number 7; it is considered that this will ensure that both the residents of the proposed house and 7 Fairfields Drive enjoy a reasonable level of privacy.

4.11 The proposed development results in a reduction in the size of the rear garden of 9 Fairfields Drive. The proposal results in an area of approximately 7.6m by 10m of garden area being lost by 9 Fairfields Drive to allow the proposed house to use this space as a private garden. 9 Fairfields Drive would retain a rear garden area of approximately 10m by 10m which is considered sufficient for day to day needs such as drying clothes, storage, and for a sitting out area. It is considered that the rear garden size of the proposed house is also sufficient to provide a reasonable level of amenity.

4.12 The proposed house would not be directly in line with the rear of 9 Fairfields Drive. It is considered that the proposal would not affect outlook to an extent which is unacceptable. A 1.8m high close boarded fence would be positioned between the proposed garden and the existing retained garden of number 9; this would provide suitable privacy at low level. The proposal includes a Juliet balcony on the rear elevation of the proposed house. From this window it would be possible to look down and into the rear garden of 9 Fairfields Drive. However, this is a common relationship in residential areas. It is not considered that the potential views from the Juliet balcony window into neighbouring dwellings would be significant enough to result in an unacceptable loss of privacy. The angle of visibility from this window towards neighbouring windows is oblique and would not create a significant sense of being overlooked.

4.13 The rear garden of 11 Fairfields Drive is approximately 11m from the rear elevation of the proposed house. The double doors which serve bedroom number one would face towards the curtilage boundary between the proposed house and 11 Fairfields Drive. On the curtilage boundary is a timber fence and some landscaping. It is considered that the separation distances are sufficient to maintain a reasonable level of privacy within the rear garden of 11 Fairfields Drive. There are views into this garden from other neighbouring houses and it is considered that a sufficient separation distance is maintained to ensure there is no sense of being significantly overlooked.

4.14 Number 2 Grange Close is a bungalow next door to the proposed house. This bungalow has windows facing towards the application site. These windows are approximately 5.5m off the curtilage boundary with the proposed house. The proposed house is then set approximately 2m off the boundary. It is considered that this level of separation and the modest eaves height of the proposed house are sufficient to maintain a reasonable outlook from these windows which are understood to be secondary in nature.

The proposed house has three windows in its side elevation facing 2 Grange Close, two on the ground floor which would provide light to the hallway and are specified as being obscure glazed on the proposed plan and a roof light serving the upstairs bathroom. It is not considered that any of these windows would result in a significant loss of privacy for residents of 2 Grange Close. It is recommended that permitted development rights be removed to ensure that developments do not take place which could significantly impact on neighbouring amenity.

CAR PARKING AND BIN AND CYCLE STORAGE

4.15 The proposed house contains two off road car parking spaces. It is not considered that the proposed development would result in a significant number of cars being parked on surrounding streets. The proposed development would require cars parked on site to either reverse into the site or reverse into the street. This is common in this area and it is not considered that the proposed development would have a significant impact on highway safety. A condition is proposed requiring details of the front boundary to be approved. This would ensure that anyone exiting the site would have reasonable visibility and so that any pedestrians can see the vehicles.

4.16 The proposed house has a reasonable sized rear garden as well as hard standing areas to the south of the proposed house. The design also allows for the passage of bicycles and bins past the side of the house into the back garden. A condition is proposed which ensures that cycle parking facilities are installed to encourage sustainable transport choice. Overall it is considered that the proposed development, subject to conditions, would provide adequate facilities for car and cycle parking and bin storage.

OPEN SPACE

4.17 Policy L1c of the Development Control Local Plan seeks to ensure that new developments provide open space for the benefit of future occupiers of any new residential scheme. For small scale developments a commuted sum is sought for off-site provision/upgrade. For a two bedroom house such as that proposed here the latest Supplementary Planning Guidance seeks a sum of £1172. The applicant has agreed to pay this commuted sum towards off-site open space. This would be secured through a unilateral undertaking. At the time of writing this report the legal agreement had not been completed and signed. Should Members be minded to approve this application a decision will not be issued until the Unilateral Undertaking is signed and the neighbour consultation period has expired.

5.0 CONCLUSION

5.1 It is considered that the proposed development has overcome previous reasons for refusal related to the visual impact on the street scene and the impact on neighbouring amenity. The proposal provides adequate cycle and bin storage space and would provide a reasonable level of amenity for future residents of the proposed house which is considered to be in a sustainable location.

5.2 Therefore, this application is recommended for approval subject to the signing of a Unilateral Undertaking to secure a commuted sum payment for off-site open space provision and for the neighbour consultation period to expire. Should any objections be received after Planning Committee and before the consultation period has expired, it is requested that officers are given delegated powers to discuss this with the Chair and Vice Chair who can decide whether the application needs to be referred back to Committee or whether the decision can be issued.

COMMITTEE TO VISIT

6.0 RECOMMENDATION: Approve subject to Section 106 Agreement

1 TIME2 Development start within three years -

2 The development hereby permitted shall be carried out in accordance with the following plans:-

Plans and Elevations Drawing Number 122.001 Revision D

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

3 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 Class A (enlargement of dwellinghouse), Class B (enlargement consisting of alteration to the roof), Class C (any other alteration of the roof), and Class E (building or enclosure within the curtilage) of Schedule 2 Part 1 of that Order shall not be erected or constructed.

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.

4 Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking or re-enacting that Order), no window or door openings shall be created/inserted into the external elevations of the dwelling hereby approved other than those shown on the approved plans.

Reason: To protect the amenity of neighbouring residents.

5 Notwithstanding the information contained on the approved plans, the height of the approved development shall not exceed 6.4 metres, as measured from existing ground level. Before any works commence on the site, a means of identifying the existing ground level on the site shall be agreed in writing, and any works required on site to mark that ground level accurately during the construction works shall be implemented prior to any disturbance of the existing ground level. Any such physical works or marker shall be retained at all times during the construction period.

Reason: In the interests of neighbouring residential amenity and the character and appearance of the area.

6 Notwithstanding any proposed materials specified on the approved drawings or in the application form submitted with the application, samples of the external materials to be used including bricks, roof tiles, and cladding shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of the development. The development shall be carried out using the approved materials.

Reason: So as to achieve a visually cohesive and acceptable appearance.

7 Details of all means of enclosure to the site boundaries shall be submitted to and approved in writing by the Local Planning Authority before the development commences and shall be provided before the development is occupied and thereafter maintained.

Reason: In the interests of the visual amenities of the area, neighbouring residential amenity and highway safety.

8 No development shall take place until there has been submitted and approved in writing by the Local Planning Authority a detailed landscaping scheme which shall illustrate the number, species, height and position of trees and shrubs to be planted. This scheme shall be implemented within a period of six months of the completion of the development. Any trees or plants which within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of a similar size and species, unless alternatives are agreed in writing by the Local Planning

Authority.

Reason: So that the Local Planning Authority may be satisfied with the variety, suitability and disposition of species within the site in the interests of the visual amenity of the area.

9 Prior to the development commencing details of the cycle parking areas, including means of enclosure, shall be submitted to and approved in writing by the Local Planning Authority. The dwelling shall not be occupied until the cycle parking areas and means of enclosure have been provided within the site in accordance with such approved details.

Reason: To promote sustainable transport choice.

10 Prior to the commencement of development details of surface water drainage shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in complete accordance with the approved drainage details.

Reason: So that the Local Planning Authority may be satisfied with these details for the proper drainage of the site.

7.0 INFORMATIVES: Notes to Applicant

1. REASON FOR APPROVAL

In the opinion of the Local Planning Authority the proposal, subject to the conditions listed above, would not cause undue harm to interests of acknowledged importance, with particular reference to:

- principle of the development
- visual impact on the street scene
- impact on the living conditions of neighbours
- car parking and bin and cycle storage
- open space provision

As such the proposal complies with Policies GP1, GP10, H4a, and L1c of the City of York Development Control Local Plan.

2. STATEMENT OF THE COUNCIL'S POSITIVE AND PROACTIVE APPROACH

In considering the application, the Local Planning Authority has implemented the requirements set out within the National Planning Policy Framework (paragraphs 186 and 187) in seeking solutions to problems identified during the processing of the application. The Local Planning Authority took the following steps in order to achieve a positive outcome:

Pre-application discussions were held following the refusal and withdrawal of the previous applications.

3. INFORMATIVE - HIGHWAY CROSSING

You are advised that prior to starting on site consent will be required from the Highway Authority for the works being proposed, under the Highways Act 1980 (unless alternatively specified under the legislation or Regulations listed below). For further information please contact the officer named:

Vehicle Crossing - Section 184 - Stuart Partington (01904) 551361

4. INFORMATIVE - DEMOLITION AND CONSTRUCTION

The developer's attention should also be drawn to the various requirements for the control of noise on construction sites laid down in the Control of Pollution Act 1974. In order to ensure that residents are not adversely affected by air pollution and noise, the following guidance should be attached to any planning approval, failure to do so could result in formal action being taken under the Control of Pollution Act 1974:

(i) All demolition and construction works and ancillary operations, including deliveries to and dispatch from the site shall be confined to the following hours:

Monday to Friday	08.00 to 18.00
Saturday	09.00 to 13.00
Not at all on Sundays and Bank Holidays.	

(ii) The work shall be carried out in such a manner so as to comply with the general recommendations of British Standards BS 5228: Part 1: 1997, a code of practice for "Noise and Vibration Control on Construction and Open Sites" and in particular Section 10 of Part 1 of the code entitled "Control of noise and vibration".

(iii) All plant and machinery to be operated, sited and maintained in order to minimise disturbance. All items of machinery powered by internal combustion engines must be properly silenced and/or fitted with effective and well-maintained mufflers in accordance with manufacturers' instructions.

(iv) The best practicable means, as defined by Section 72 of the Control of Pollution Act 1974, shall be employed at all times, in order to minimise noise emissions.

(v) All reasonable measures shall be employed in order to control and minimise dust emissions, including sheeting of vehicles and use of water for dust suppression.

(vi) There shall be no bonfires on the site.

5. INFORMATIVE - CONTAMINATED LAND

If, as part of the proposed development, the applicant encounters any suspect contaminated materials in the ground, the Contaminated Land Officer at the council's Environmental Protection Unit should be contacted immediately. In such cases, the applicant will be required to design and implement a remediation scheme to the satisfaction of the Local Planning Authority. Should City of York Council become aware at a later date of suspect contaminated materials which have not been reported as described above, the council may consider taking action under Part IIA of the Environmental Protection Act 1990.

6. INFORMATIVE - ELECTRIC RE-CHARGE POINT

In order to facilitate the uptake and recharging of electric vehicles / bikes / scooters, it is recommended that a standard domestic 13A electrical socket be installed on an internal or external wall. This should be capable of charging at a minimum of 3KWh for up to 8 hours without overheating the cabling or socket. Ideally, a 13/32Amp socket should be supplied which can offer up to 7KWh continuous charging with a control and protection function on a specific circuit (to avoid overload through use of other appliances on the circuit). Where mounted on an external wall, a suitable weatherproof enclosure for the socket will be required.

Contact details:

Author: Michael Jones Development Management Officer

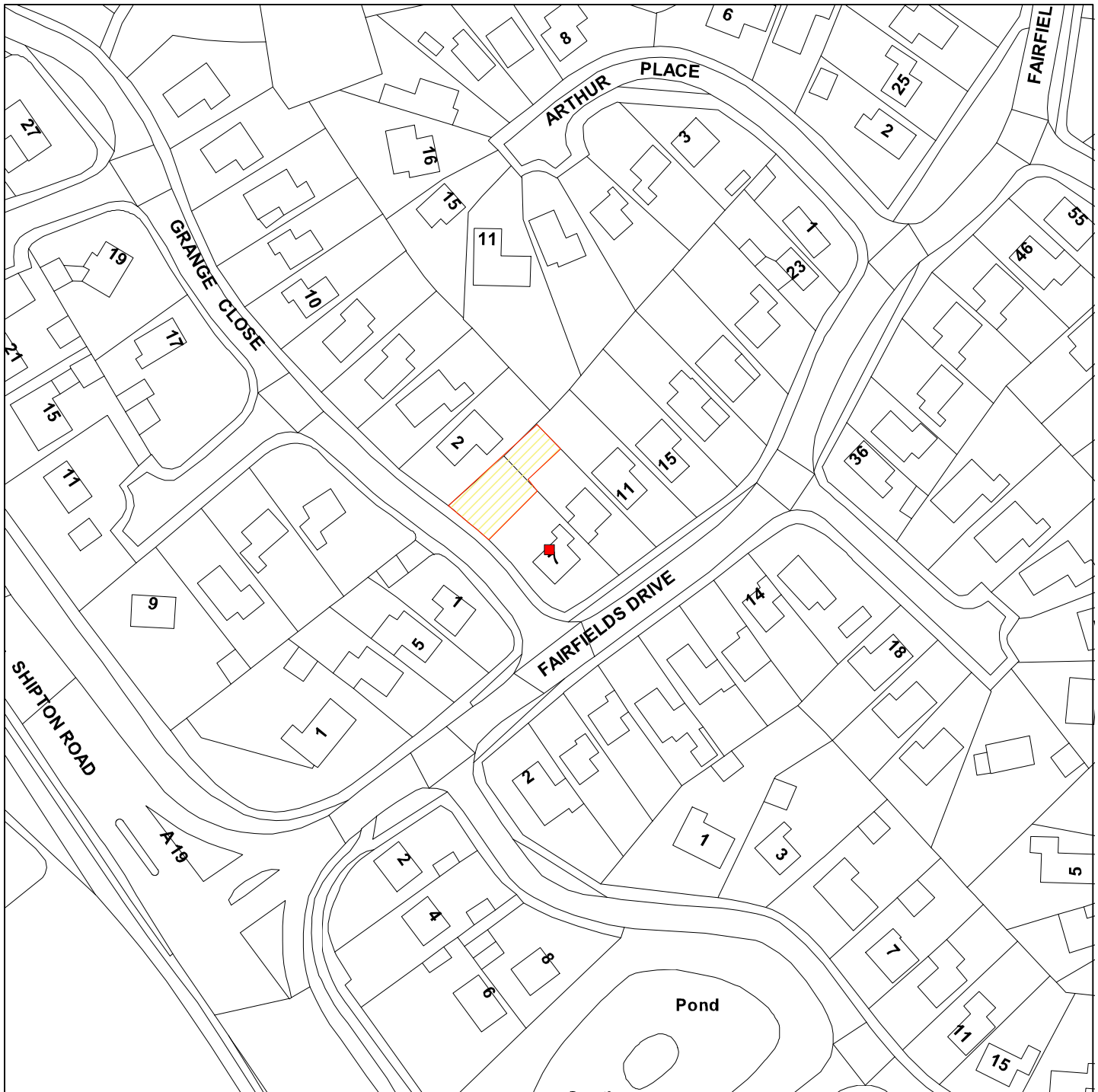
Tel No: 01904 551339

7 Fairfields Drive, Skelton

13/00382/FUL



GIS by ESRI (UK)



Scale : 1:1250

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Organisation	City of York Council
Department	City and Environmental Services
Comments	
Date	02 April 2013
SLA Number	Not Set

COMMITTEE REPORT

Date: 11 April 2013

Ward: Fulford

Team: Major and
Commercial Team

Parish: Fulford Parish Council

Reference: 13/00245/FUL

Application at: York Designer Outlet St Nicholas Avenue York

For: Temporary use of car park for siting of funfair and marquee

By: Ms Maria Farrugia

Application Type: Full Application

Target Date: 3 April 2013

Recommendation: Approve

1.0 PROPOSAL

1.1 This application seeks planning permission for the temporary use of part of a car park for three Christmas seasons (November to January) at the Designer Outlet for a funfair and marquee which would be used as an exhibition or display space. The proposed funfair and marquee would operate alongside the ice rink which was granted a five year temporary planning permission in 2011 (11/00868/FUL). A funfair has been operated from the site for the last two years, the first year without planning permission and latterly with one year consent under planning permission 12/03168/FUL. Like the two previous years the funfair would operate on an area of car parking between the ice rink and the main pedestrian boulevard which accesses the south entrance. The addition of a marquee from the previous planning permission increases the site area resulting in the loss of 130 car parking spaces at the Designer Outlet. The previous application resulted in the loss of 100 spaces.

1.2 The proposed funfair would consist of the following rides: Speedway, Carousel, Planes, Dodgems, and a Helter Skelter. Also included is a toy/games stand, food stall, a marquee, a payment kiosk, six small log cabins and two electric generators. The site area measures approximately 56m by 47m.

1.3 The funfair would operate alongside the Ice Factor skating rink. The Ice Factor has planning permission to operate between 1st November and 31st January each year until January 2016. The ice rink and adjacent cafe is permitted to operate between 08:30 and 21:30 hours Mondays to Sundays during these dates. The proposed funfair would operate between 11:00 to 20:30 hours Monday to Sunday. The site would employ ten full time staff and seven part time.

1.4 The whole of the application site is within the Green Belt.

1.5 This application has been brought before East Area Planning Committee as the application for last season's funfair event was given a one year temporary permission at East Area Planning Committee in November 2012.

2.0 POLICY CONTEXT

2.1 Development Plan Allocation:

Contaminated Land GMS Constraints:

City Boundary GMS Constraints: York City Boundary 0001

DC Area Teams GMS Constraints: East Area (1) 0003

2.2 Policies:

CYGP1

Design

CYGB1

Development within the Green Belt

CYGP23

Temporary planning permission

CYV1

Criteria for visitor related devt

3.0 CONSULTATIONS

INTERNAL

3.1 Highway Network Management - No objections in principle to the proposed use of the car park in this location from a highways point of view. The funfair was a part of the event last year and Highway Network Management have not been made aware of any issues and concerns relating to car parking on the adjacent highway as a direct result of the funfair's use. The applicant proposes a marquee in addition to the facilities provided last year to be used as a gallery or similar, which is unlikely to increase traffic generation due to the likelihood of linked trips. The applicant has increased the parking spaces used from 100 last year to 130 to hold the additional funfair. The total spaces to be lost represent less than 5% of the overall spaces at the outlet and therefore represent a minimal impact on the car park. The remaining car park is to be managed under the car park management plan set up by the associated ice rink.

3.2 Environmental Protection Unit -The application has been reviewed in consideration of noise and other nuisance issues. It is unclear from the application the timescale of the proposal however; the applicant has confirmed that they are seeking a three year temporary permission.

The main concerns would be to prevent nuisance from the proposed development, as such, should permission be granted for this proposal it is requested that the following conditions be placed on the permission:

1. The hours of operation of the funfair and marquee shall be confined to 1030 hours to 2030 hours Mondays to Sundays.

Reason: to safeguard the amenities of the local residents.

2. No lighting associated with the development, other than security lighting, shall operate outside the hours of 0900 hours and 2200 hours, unless required for emergency purposes.

Reason: to safeguard the amenities of the local residents.

3. No audio systems associated within the development shall operate outside the hours of 0900 hours to 2200 hours, unless required for emergency purposes.

Reason: to safeguard the amenities of the local residents.

4. That the permission be temporary to cover a three year period.

Finally it is requested that a condition be placed on the permission to require the funfair layout to be in accordance with the submitted plan which shows the generator in position. This is required to ensure the generator is sited in the location shown to provide maximum attenuation of noise due to distance from the nearest residential premises.

EXTERNAL

3.3 Highways Agency - No objections.

3.4 Fulford Parish Council - Object to the application on the following grounds:

- The site is within the Green Belt and the proposed development is inappropriate development in the Green Belt which is by definition harmful to the Green Belt;
- There are no very special circumstances to overcome the presumption against inappropriate development in the Green Belt, there have been applications for developments at the Designer Outlet refused on Green Belt grounds in the last two years;

- The funfair would take place at a time when demand for car parking spaces is at its highest, photographs are submitted showing vehicles parked on access roads, green areas and across pedestrian crossings when the funfair and ice rink were operating in December 2012, this can cause safety issues as well as damaging important green landscaping in the site;
- Last year's application was approved for one year only with Members stating that future applications should include a mains power supply, this was considered important to protect residential amenity. The lack of a provision of a mains power supply in this application is an additional reason to refuse planning permission;
- The application provides little information regarding the use of the proposed marquee; further details must be needed in order to assess the potential impact. The scale and massing of the structure would cause harm to the openness of the Green Belt;
- In previous years a large unsightly advertising structure has been erected which was highly visible from Naburn Lane, the applicants should be advised that this would require a separate application.

3.5 Local Residents - Two letters of objection have been received at the time of writing the report. The letters of objection were received from the residents of 34 and 36 Naburn Lane. The following comments are made:

- The application form states that there has been local consultation; local residents have no evidence that this has taken place;
- The application form also states that the land affected is not near any designated land, it is in fact within 500 metres there is land which is designated as SSSI which is regularly used by migratory wildfowl, there is also known bat roost nearby, bat activity was observed during the period of last years event;
- Within the application there is no mention of the use of generators however the letter which accompanies this application states generators will be used; at last years Planning Committee meeting Members of the Planning Committee clearly stated they would not support the granting of permission for future events without mains electric to protect the amenity of local residents. It is totally unacceptable that local residents have to suffer the noise from this generator to spare the organisers expenditure on mains electric.
- The application also states that the event cannot be seen from any public roads or footpaths, this is not true as the event can be seen from Naburn Lane, it can also be seen clearly from our property which is less than 150m directly opposite the proposed site.
- The application has requested a further extension to last years event by the addition of a marquee, this addition would now mean the event would be more than 125% greater than the original planning approval (ice rink) this is clearly unfair when local residents are restricted to extensions of no more than 25% of the original footprint as the land is situated in Green Belt;

- It is not stated what the marquee would be used for, this leaves the door open for further noise production from an event which has been as source of noise complaint over the last 3 years;
- The noise control for this event currently ceases early evening which leaves the event unregulated as the EPU do not operate at this time either;
- The application states that the number of car parking spaces the event uses leaves adequate parking to cover the busiest periods at the Designer Outlet, this has already been proven not to be the case, last years event was no different to previous years where parking has spilled onto the approach roads at busy times (including pedestrian crossings) and also onto Naburn Lane despite the parking control which was put in place.

4.0 APPRAISAL

4.1 The key issues are:

- The impact on the Green Belt
- The impact on residential amenity
- Highways and car parking

GREEN BELT

4.2 The whole of the application site is within the Green Belt. The National Planning Policy Framework (NPPF) states that the Green Belt serves five purposes, these are 1) to check the unrestricted sprawl of large built-up areas; 2) to prevent neighbouring towns merging into one another; 3) to assist in safeguarding the countryside from encroachment; 4) to preserve the setting and special character of historic towns; and 5) to assist in urban regeneration, by encouraging the recycling of derelict and other urban land. The NPPF and Development Control Local Plan set out the type of developments which are considered appropriate within the Green Belt. It is considered that the proposed funfair, marquee and food stall use do not fit within one of the listed potentially appropriate uses. Therefore the proposed use of land set out in this application represents inappropriate development. Inappropriate development is considered harmful to the Green Belt by definition. The NPPF states that 'local planning authorities should ensure that substantial weight is given to any harm to the Green Belt. 'Very special circumstances' (to justify development) will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations.'

4.3 The proposed use of land would only take place for a limited period of the year. It is considered that if Members are minded to approve the application that permission should only be granted for the proposed funfair use for a period of time which corresponds to the permission of the ice rink.

Any permission could be conditioned such that the funfair is only on site in November, December and January and shall only be permitted until January 2016.

4.4 Whilst the applicants have not provided a supporting statement which seeks to argue very special circumstances to overcome the presumption against inappropriate development in the Green Belt, it is clear that there are a number of considerations which need to be balanced against the harm through inappropriateness. The proposed funfair would be sited next to an ice rink which also includes a covered skate hire and cafe facility. To the east of the proposed funfair is the substantial building of the Designer Outlet. Added to this is the fact that the site sits within a substantial car park with associated footpaths and lighting. The Designer Outlet is well screened by substantial planting around the boundary. In addition the fun fair has operated from the site for the previous two Christmas seasons and is described as a 'huge success' by the applicant. It is considered that the public benefit and enjoyment of the fun fair forms part of the consideration.

4.5 Policy V1 of the Development Control Local Plan encourages visitor related development and improving the prosperity of the tourism industry to the City's economy. Balancing inappropriate development in the Green Belt with other issues requires a degree of subjective judgement. However, it is considered by officers that given the characteristics of the site, the fact that any use would only take place for a limited period of time, and that it would be located alongside an approved temporary ice rink use, that the proposed development is on balance acceptable. The temporary use ensures that the long term openness of the Green Belt is retained and the proposal does not conflict with the five purposes of including land within the Green Belt.

RESIDENTIAL AMENITY

4.5 Policy GP1 of the Development Control Local Plan seeks, in part, to protect the amenity of local residents. The nearest residential dwellings are along Naburn Lane. The nearest house to the site of the proposed funfair is 32 Naburn Lane which is approximately 125m away. The ice rink would be located between the funfair and these houses. Between the ice rink and Naburn Lane is a substantial area of mature landscaping.

4.6 A funfair has operated from this site alongside the ice rink event for the last two Christmas Seasons. Previous events have been monitored by both Planning Enforcement and the Environmental Protection Unit. Other than an issue with an ice rink generator during the first year, there has been no noise or light pollution issue which has been considered to be significantly harmful to residential amenity. Last years event took place with no complaints to Planning Enforcement and no substantiated complaints to the Environmental Protection Unit.

4.7 Previously there has been significant debate about the use of electricity generators on site. During the first year a generator failed which resulted in a more noisy back up generator being used for a short period of time. This created noise which led to complaints from local residents. Since this time the ice rink has been powered by mains electricity with alternative quieter generators being used for the funfair. In the case of this application the generators have been located at the opposite end of the site to the houses on Naburn Lane. This is in a similar location to last year's event. At last year's Planning Committee some Members requested that the applicant consider the use of mains electricity to power the funfair rather than generators. The applicant states that this has been investigated with the Designer Outlet and the conclusion was that 'there is no more power to give and this is not a valid option'. Whilst Members may consider this a disappointing outcome, in order to refuse the application on these grounds there would need to be an identified harm. The Environmental Protection Unit have no objections to the application and the Planning Department received no complaints regarding last year's event. Given this and the site circumstances which already includes a degree of background noise during the day and evening, it is not considered that any objections can be substantiated regarding the use of generators on site.

4.8 The application proposes that the funfair and marquee be open to the public between 11am and 8.30 pm Monday to Sunday. Therefore there would be no activity associated with this proposal during the most noise sensitive hours of the night. The funfair would operate for fewer hours than the ice rink with a finishing time an hour before the ice rink. The residential dwellings on Naburn Lane experience background noise through traffic use on local roads and the A64 and the general operational activities at the Designer Outlet. The marquee is an addition to this year's application proposal. The applicants have stated that the marquee would be used 'to hold an exhibition or display' event for the general public. The marquee would have a footprint of approximately 12.2m by 18.3m and therefore could not hold a large capacity event. Conditions could be added to any approval to control the use of lighting and loudspeaker systems to ensure that there is no significant impact on local residents. A condition could also control its use such that it can only be used as an exhibition or display space. Overall, it is considered that appropriate planning conditions can be put in place which ensure that the proposed development does not have a significantly adverse impact on neighbouring amenity.

HIGHWAYS AND CAR PARKING

4.9 The proposed development would reduce the amount of car parking on site from 2800 to 2670 spaces. Whilst the loss of 130 car parking spaces is numerically significant, it represents a relatively small percentage of the overall provision. The car park at the Designer Outlet is busy at Christmas time. Evidence provided by local residents and the Parish Council in respect of similar events over the last two years indicates that a number of people have chosen to park on grass verges, outside of the site, and other locations.

The current application results in 30 less spaces being available than was the case during last season's event. It is not considered that the modest reduction of 30 spaces out of 2800 would have a significant impact. A further consideration is that there was known indiscriminate parking around the Designer Outlet at Christmas periods before the ice rink and funfair was in operation. Linking the indiscriminate parking directly to the ice rink and funfair users is therefore not justified.

4.10 Furthermore, it is considered that indiscriminate parking within the grounds of the shopping centre is the responsibility of the Designer Outlet itself. If there is not a car parking space available for a potential customer to the shopping centre or the ice rink and funfair, this is not considered a reason to refuse the planning application. The Development Control Local Plan seeks to reduce dependence on the private car and generally applicants for new developments are not asked to provide more car parking than they themselves request. Parking within the site which blocks circulation routes or impedes crossing points is regrettable; however this is not the responsibility of the Local Planning Authority or the Local Highway Authority. Parking management within private sites is the responsibility of the site owner.

4.11 It is considered that the users of the funfair are likely to be making linked trips in association with the ice rink and shopping centre. Therefore it is not considered that the funfair and marquee would be a significant generator of additional vehicle movements or parking demand. Additional uses at the site has the potential to increase the length of the stay at the Designer Outlet, however this in itself is not considered to have a significant impact on the local or wider highway network. Neither the Highways Agency nor the Council's Highway Network Management department have any objections to the proposed development. Should indiscriminate car parking take place outside of the site, it is the responsibility of the Police or relevant highways department to exercise control. The decision as to whether to approve this application or not should not be based on the fact that some individuals may break highway rules in their choice of car parking location. The site is accessible by Park and Ride bus as well as a regular bus service between York and Selby.

5.0 CONCLUSION

5.1 It is considered that the proposed development would not harm the long term openness or the purposes of including land within the Green Belt. It is considered that residential amenity would not be significantly harmed and conditions are recommended in this respect. Whilst the loss of car parking spaces within the Designer Outlet may result in some congestion within the site, it is not considered that this would create any significant harm to the local highway network outside the site and would not warrant a reason for refusal.

5.2 The application is recommended for approval for three further Christmas seasons in line with the planning permission for the ice rink.

COMMITTEE TO VISIT

6.0 RECOMMENDATION: Approve

1 The use hereby approved shall only operate between 1st November and 31st January for a period of three years and shall cease by 31st January 2016 unless prior to that date the consent of the Local Planning Authority has been obtained to extend the period of the permission.

Reason: The temporary nature of the structures is such that the use is considered inappropriate on a permanent basis.

2 The development hereby permitted shall be carried out in accordance with the following plans:-

Site layout ground plan and height plan received by CYC on 05/02/13

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

3 All buildings and equipment used in association with the funfair and marquee use shall be removed from the site and the land reinstated to its former condition and use as a car park at or before 31st January of each year for the period of this consent unless an extension of the period shall first have been approved in writing by the Local Planning Authority.

Reason: To ensure the car park is re-instated and available for use by users of the shopping centre.

4 The hours of operation of the funfair, marquee and associated uses shall be confined to 11:00 and 20:30 hours Mondays to Sundays.

Reason: To safeguard the amenities of local residents.

5 No lighting associated with the use hereby approved, other than security lighting, shall operate outside the hours of 09:00 to 21:30 on any day, unless required for emergency purposes.

Reason: To safeguard the amenity of local residents

6 No audio systems associated with the use hereby approved shall operate outside the hours of 10:30 to 21:00 on any day unless required for emergency purposes.

Reason: To safeguard the amenity of local residents

7 The marquee hereby approved shall only be used for the purposes of a public display or exhibition.

Reason: In the interests of neighbouring residential amenity and to restrict the use to that which is considered complementary to the public enjoyment of the funfair and ice rink use.

8 Prior to the first use of the generators hereby approved, an acoustic enclosure shall be erected around the generators. The acoustic enclosure shall be at least 2.0m in height and imperforate in construction with no air gaps to allow the passage of noise, for example a close boarded fence.

Reason: To safeguard the amenity of local residents

7.0 INFORMATIVES: Notes to Applicant

1. REASON FOR APPROVAL

In the opinion of the Local Planning Authority the proposal, subject to the conditions listed above, would not cause undue harm to interests of acknowledged importance, with particular reference to the impact on the openness of the Green Belt, the amenity of local residents, the effect on the local highway network and car parking. As such the proposal complies with Policies GB1, GP1, V1 and GP23 of the City of York Development Control Local Plan and Government advice contained within the National Planning Policy Framework.

2. STATEMENT OF THE COUNCIL'S POSITIVE AND PROACTIVE APPROACH

In considering the application, The Local Planning Authority has implemented the requirements set out within the National Planning Policy Framework (paragraphs 186 and 187) and having taken account of all relevant national guidance and local policies, considers the proposal to be satisfactory. For this reason, no amendments were sought during the processing of the application, and it was not necessary to work with the applicant/agent in order to achieve a positive outcome.

Contact details:

Author: Michael Jones Development Management Officer

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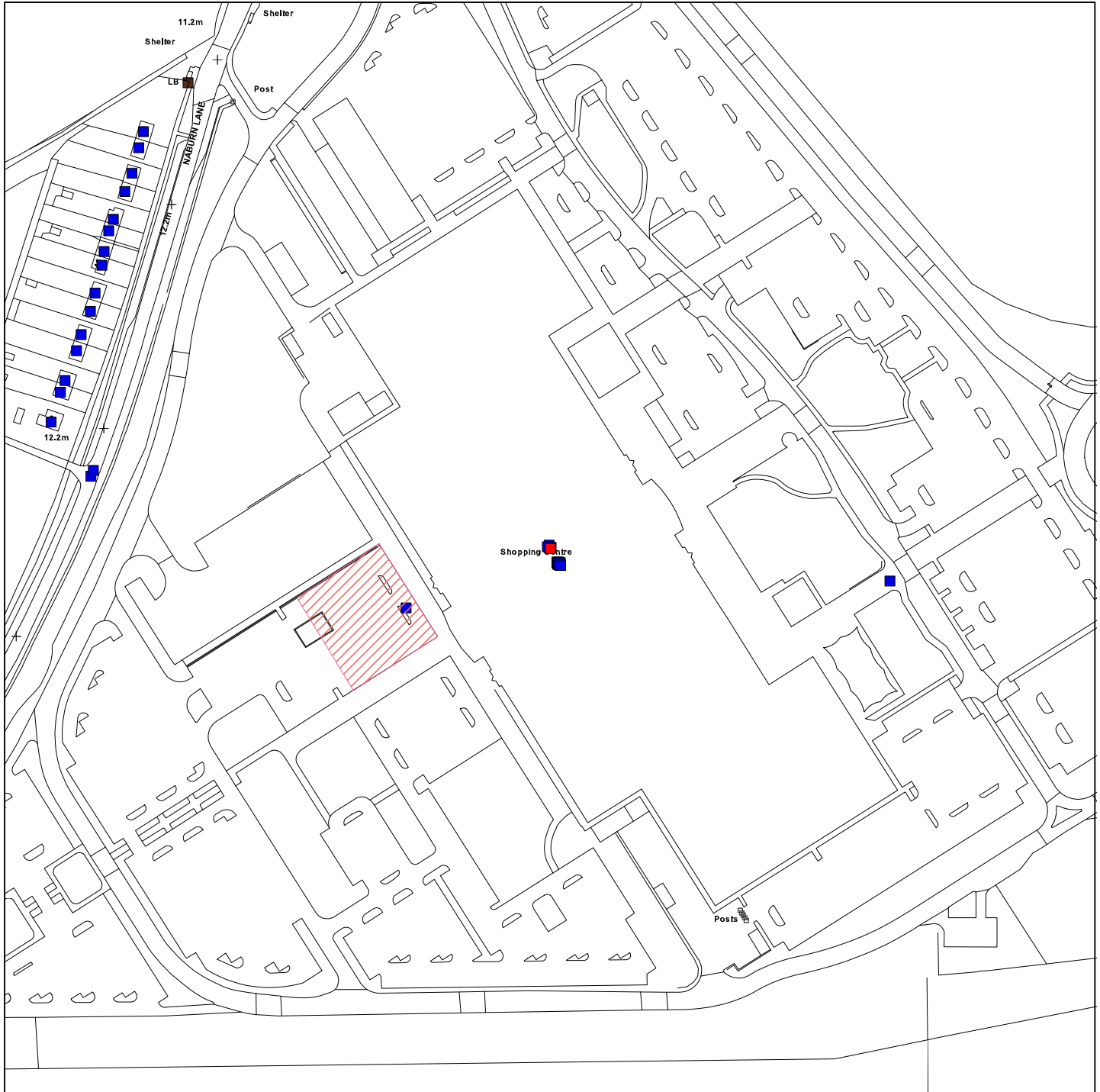
Application Reference Number: 13/00245/FUL

Item No: 5d

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13/00245/FUL

York Designer Outlet



Scale : 1:2500

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Organisation	City of York Council
Department	Planning and Sustainable Development
Comments	
Date	19 March 2013
SLA Number	Not Set

COMMITTEE REPORT

Date: 11 April 2013 **Ward:** Strensall
Team: Major and **Parish:** Strensall With Towthorpe
Commercial Team Parish Council

Reference: 12/03270/FUL
Application at: Country Park Pottery Lane Strensall York YO32 5TJ
For: Variation of condition 3 of approved application 04/01105/FUL (use as caravan site) to allow an increase in number of caravans from 20 to 40
By: Miss Raquel Nelson
Application Type: Full Application
Target Date: 11 December 2012
Recommendation: Approve

1.0 PROPOSAL

1.1 The Country Park Pottery Lane Strensall comprises a 20 pitch touring caravan site with occupancy restricted to March to October lying within the York Green Belt to the north west of Strensall village. Planning permission under Section 73 of the 1990 Town and Country Planning Act is sought for the variation of Condition 3 to the original planning permission ref:- 04/01105/FUL to allow for an increase in the number of caravans within the site from 20 to 40 whilst retaining the seasonal restriction on occupation. A similar proposal to increase the number of caravans from 20 to 40 ref:- 11/01544/FUL has previously been refused on drainage and Green Belt grounds. An acceptable drainage scheme has subsequently been permitted and the previous proposal involved an increase in caravans with a year round occupancy. The current proposal is therefore materially different to that previously refused. The previous approval is currently in the process of being implemented.

1.2 Councillor Sian Wiseman called the application in for consideration by the East Area Planning Committee on the grounds of impact upon the Green Belt and concerns that the site may be expanded to handle static caravans also.

2.0 POLICY CONTEXT

2.1 Development Plan Allocation:

City Boundary GMS Constraints: York City Boundary 0001

DC Area Teams GMS Constraints: East Area (2) 0005

2.2 Policies:

CYGB1

Development within the Green Belt

CYV5

Caravan and camping sites

CYGP1

Design

CGP15A

Development and Flood Risk

3.0 CONSULTATIONS

INTERNAL:-

3.1 Design, Conservation and Sustainable Development raise no objection to the proposal.

EXTERNAL:-

3.2 York Natural Environment Panel raise no objection to the proposal.

3.3 Strensall Parish Council object to the proposal on the grounds that the proposal would have a significant detrimental impact upon the open character of the Green Belt, lack of clarity in terms of the proposed means of foul and surface water drainage, impact upon the required amenity facilities and a possible precedent for the erection of static caravans at the site.

3.4 The Foss Internal Drainage Board object to the proposal on the grounds that insufficient information has been included with the application in respect of the surface water arising from the site.

3.5 One letter of objection has been received from a neighbouring property expressing concern with respect to the impact of traffic from the proposal on adjoining side roads, impact upon the local surface water drainage pattern and impact upon residential amenity of nearby properties through noise and light pollution.

4.0 APPRAISAL

KEY CONSIDERATIONS:-

4.1 KEY CONSIDERATIONS INCLUDE:-

- * Impact upon the open character and purposes of designation of the York Green Belt;
- * Impact upon the residential amenity of neighbouring properties;
- * Impact upon the local surface water drainage pattern.

STATUS OF THE DRAFT LOCAL PLAN:-

4.2 The Development Control Local Plan was approved for Development Control purposes in April 2005; its policies are material considerations in arriving at Development Management decisions although it is considered that their weight is limited except where in accordance with the National Planning Policy Framework.

IMPACT UPON THE OPEN CHARACTER AND PURPOSES OF DESIGNATION OF THE YORK GREEN BELT:-

4.3 Policy GB1 of the York Development Control Local Plan states that planning permission will only be forthcoming for development within the Green Belt where the scale, location and design of such development would not detract from the open character of the Green Belt, would not conflict with the purposes of including land within the Green Belt and would be for one of a number of purposes deemed to be appropriate within the Green Belt, which includes essential facilities for outdoor sport and recreation. Central Government Planning Policy outlined in paragraph 89 of the NPPF indicates that new building works are automatically inappropriate development within and therefore harmful to the Green Belt unless for one of a number of defined purposes including the provision of appropriate facilities for outdoor sport and recreation.

4.4 The proposal envisages an increase of the number of caravans to be stationed on the existing formalised pitches from 20 to 40 .Policy V5 of the Draft Local Plan has as a stipulation in terms of new caravan sites that the total number of pitches should not exceed 20 although that policy is outdated and not compatible with Central Government Planning Policy outlined in the Good Practise Guide on Planning and Tourism. The proposal envisages doubling the number of caravans on the existing 20 pitches and would not involve any new building work. The previous planning permission involving an increase in the number of caravans was refused in part on the basis that during the winter months the visual impact of the increased numbers, at a time when the landscaping around the boundary of the site would be denuded of foliage, would materially detract from the open character of the Green Belt.

The current proposal however envisages retention of the previous restriction to prevent caravans being brought on to the site and used from November through until March. As a consequence any intensification of the use would be largely sheltered in views from outside of the site by the increasingly mature landscaping. The applicant has submitted a detailed landscape assessment which demonstrates that the proposal would not be readily perceptible in long and short distance views from outside of the site whilst the existing and proposed landscaping is in leaf between March and October. The proposal as now submitted would not therefore have such a serious material impact upon the open character of the Green Belt as to justify a further refusal.

IMPACT UPON THE RESIDENTIAL AMENITY OF NEIGHBOURING PROPERTIES:-

4.5 Policy GP1 of the York Development Control Local Plan expects new development, amongst other things, to respect or enhance the local environment and ensure that residents living nearby are not unduly affected by noise or disturbance. Concern has been expressed in relation to the levels of noise, additional comings and goings along the site access, and lighting in terms of impact on the residential amenity of the property directly to the north of the site access on Pottery Lane. The area of the proposal has been provided with 2 metre high low intensity "street lights" around the pitch layout. This is some 500 metres from the residential property in question. There is therefore unlikely to be any material impact in terms of noise and light pollution. The site access additionally serves Park House Farm and an area of industrial units behind. The access arrangement is considered to be acceptable in terms of the volumes of traffic associated with the three activities without harm to residential amenity or the safe and free flow of traffic in the locality.

IMPACT UPON THE LOCAL SURFACE WATER DRAINAGE PATTERN:-

4.6 Policy GP15a) of the York Development Control Local Plan states that developers must satisfy the Local Planning Authority that any flood risk will be successfully managed with the minimum environmental effect and ensure that the site can be developed and serviced effectively. The proposal relates to an increase in the number of caravans that may be allowed to use the already defined pitch layout and as such any increase in surface water arising from the proposal would be minimal. The detail of the foul water disposal to the site was resolved at the time of the recent permission for retention of the pre-existing amenity block incorporating an office. The effect of the application under Section 73 of the 1990 Town and Country Planning Act would be to create a new permission including any unresolved conditions from the previous permission including surface water drainage. The site as laid out has not had a material impact upon the local surface water drainage pattern sufficient as to warrant refusal of the proposal and the condition requiring submission and prior approval of a surface water drainage scheme from the original permission can be carried forward.

OTHER ISSUES:-

4.7 Concern has been expressed in relation to a potential precedent for the stationing of static caravans at the site. However, the proposal seeks a modification to the existing planning permission for the use of the site as a touring site and should be determined on that basis. Concern has also been expressed in respect of the impact of the proposal upon the level of amenity facilities at the site. The issue of amenity facilities has been considered in relation to a previous permission and found to be adequate for the needs of the site.

5.0 CONCLUSION

5.1 The Country Park Pottery Lane Strensall comprises a 20 pitch touring caravan site with occupancy restricted from March to October set within the York Green Belt to the north west of Strensall village. Planning permission is sought under Section 73 of the 1990 Town and Country Planning Act to vary 3 of the original planning permission ref:- 04/01105/FUL to allow for the location of 20 caravans at the site by doubling up their arrangement on each pitch whilst retaining the seasonal occupancy restriction. It is felt on balance that with the seasonal restriction retained in place that any impact upon the openness of the Green Belt would be acceptable. Concern has also been expressed in relation to the impact of the scheme upon the residential amenity of neighbouring properties. However, the nearest residential property to the north lies some 500 metres distant. Any impact is therefore considered to be acceptable. The proposal is therefore considered to be acceptable in planning terms and approval is recommended.

COMMITTEE TO VISIT

6.0 RECOMMENDATION: Approve

1 The development hereby permitted shall not be carried out otherwise than in complete accordance with the approved plans and specifications or as may be otherwise agreed in writing with the Local Planning Authority.

Reason:- For the avoidance of doubt and to achieve an acceptable form of development.

2 The number of caravans on this site shall at no time exceed 40 and none shall be static caravans.

Reason:- In order to safeguard the open character of the Green Belt.

3 Large scale details of the items listed below shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of the development and the works shall be carried out in accordance with the approved details:-

Ancillary Buildings/Layout of Pitches.

Reason:- So that the Local Planning Authority may be satisfied with these details.

4 There shall be no discharge of foul or contaminated drainage from the site into either ground water or any surface waters whether directly or via soakaways.

Reason:- To prevent pollution of the water environment.

5 No development approved by this permission shall be commenced until a scheme for the provision of surface water drainage works has been submitted to and approved in writing by the Local Planning Authority. The drainage works shall be completed in accordance with the details and timetable agreed prior to the development being first brought into use.

Reason:- To prevent the increased risk of flooding by ensuring the provision of a satisfactory means of surface water disposal.

6 Flood warning notices shall be erected in numbers, positions and with wording all to be agreed in writing with the Local Planning Authority. The notices shall be kept legible and clear of obstruction.

Reason:- To ensure that occupants of the site are aware that the land is at risk of flooding.

7 No caravan on the site shall be occupied between 31 October in any one year and 1 March the succeeding year.

Reason:- To avoid the use of the caravans as permanent residences, which would not be acceptable to the Local Planning Authority in this location, and to protect the open character of the Green Belt.

8 No caravan shall be stored on the site between 31 October in any one year and 1 March in the succeeding.

Reason:- It is considered that such a use would constitute an unacceptable visual intrusion within the Green Belt.

**7.0 INFORMATIVES:
Notes to Applicant**

1. REASON FOR APPROVAL

In the opinion of the Local Planning Authority the proposal, subject to the conditions listed above, would not cause undue harm to interests of acknowledged importance, with particular reference to impact upon the open character and purposes of designation of the York Green Belt, impact upon residential amenity and impact upon the local pattern of surface water drainage. As such the proposal complies with Policy YH9 and Y1C of The Yorkshire and Humber Plan, policies GB1, V5, GP1,GP15a) of the City of York Development Control Local Plan and Government policy contained within paragraphs 79 - 92 of the National Planning Policy Framework.

2. STATEMENT OF THE COUNCIL'S POSITIVE AND PROACTIVE APPROACH

In considering the application, the Local Planning Authority has implemented the requirements set out within the National Planning Policy Framework (paragraphs 186 and 187) in seeking solutions to problems identified during the processing of the application. The Local Planning Authority took the following steps in order to achieve a positive outcome:

The submission of a revised landscape appraisal.

Contact details:

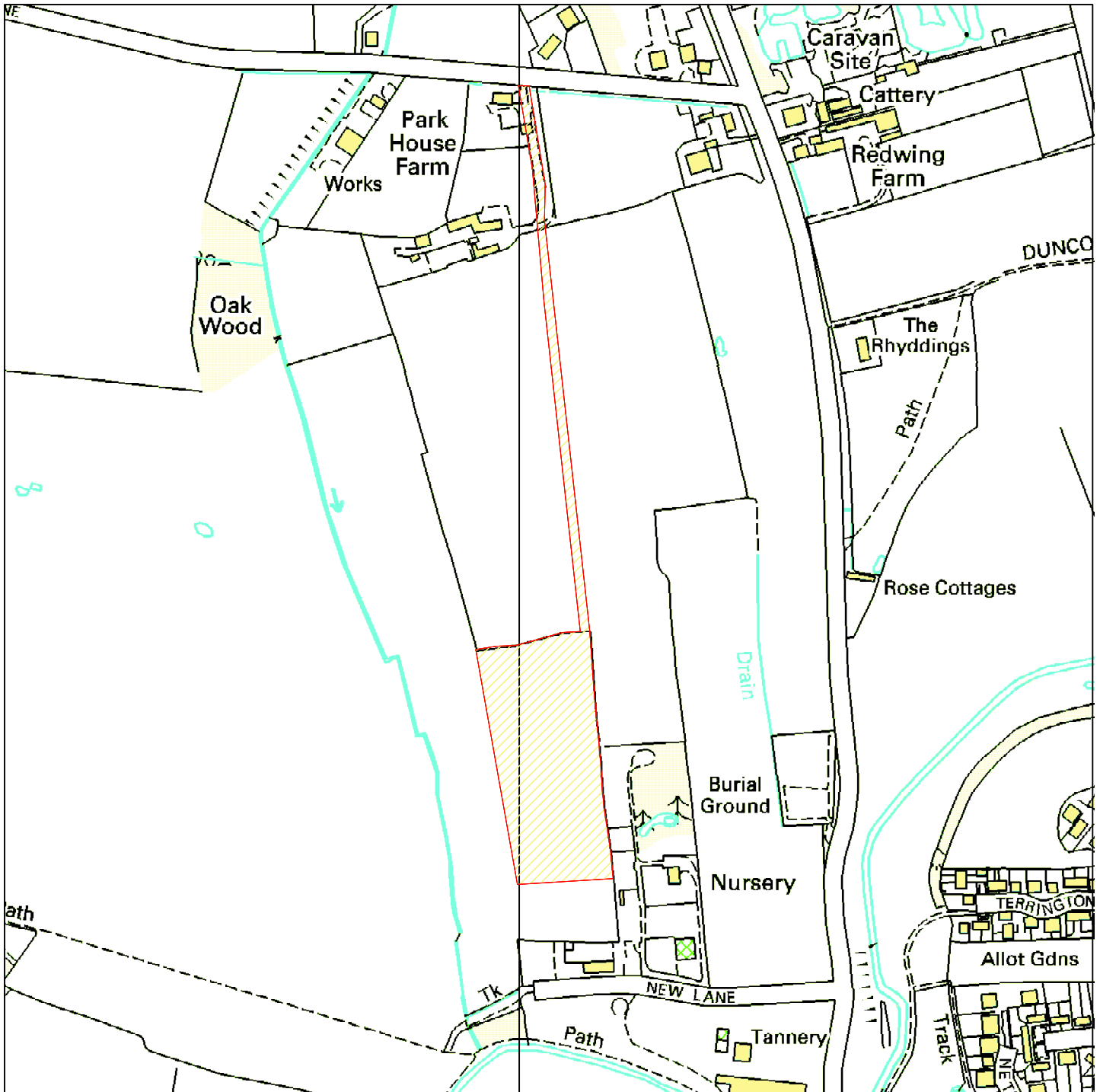
Author: Erik Matthews Development Management Officer
Tel No: 01904 551416

Country Park, Pottery Lane, Strensall

12/03270/FUL



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Organisation	City of York Council
Department	City and Environmental Services
Comments	
Date	25 March 2013
SLA Number	Not Set

2.2 Policies:

CYGP1
Design

CYH7
Residential extensions

3.0 CONSULTATIONS

3.1 INTERNAL:

None

3.2 EXTERNAL:

3.2.1 Haxby Town Council - no comments at the time of writing. Any comments received can be updated at the meeting on 11th April 2013.

3.2.2 Response to neighbour consultation letters sent on 12.03.2013 - consultation expired on 02.04.2013 - no comments at the time of writing. Any comments received can be updated at the meeting on 11th April 2013.

4.0 APPRAISAL

4.1 KEY ISSUES:

- Impact on the existing dwelling.
- Impact on neighbours.
- Impact on the surrounding area

The relevant polices and guidance:

4.2 THE NATIONAL PLANNING POLICY FRAMEWORK (2012) sets out the Government's overarching planning policies. As one of 12 core planning principles, it states that planning should always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings (paragraph 17). It states that the Government attaches great importance to the design of the built environment. Good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people (paragraph 56).

It states that permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions (paragraph 64).

4.3 DRAFT LOCAL PLAN POLICY CYH7 - states that residential extensions will be permitted where (i) the design and materials are sympathetic to the main dwelling and the locality (ii) the design and scale are appropriate to the main building (iii) there is no adverse effect upon the amenities of neighbours.

4.4 DRAFT LOCAL PLAN POLICY CYGP1 - sets out a series of criteria that the design of development proposals is expected to meet. These include requirements to (i) respect or enhance the local environment, (ii) be of a density, layout, scale, mass and design that is compatible with neighbouring buildings, spaces and the character of the area using appropriate building materials; (iii) avoid the loss of open spaces, important gaps within development, vegetation, water features and other features that contribute to the quality of the local environment; (iv) retain, enhance and/or create urban spaces, public views, skyline, landmarks and other townscape features which make a significant contribution to the character of the area, and take opportunities to reveal such features to public view; and (v) ensure that residents living nearby are not unduly affected by noise, disturbance, overlooking, overshadowing or dominated by overbearing structures.

4.5 SUPPLEMENTARY PLANNING GUIDANCE 'A Guide to Extensions and Alterations to Private Dwelling Houses' March 2001 states that good design and a scale of development that respects the original dwelling and established pattern of development are essential to making a quality extension. In terms of the porch extension should be of a simple design and of a size which does not dominate the front elevation. The shape and materials should reflect the character of the main building, including the style of doors and windows. A pitched roof to the porch should be used.

PORCH

4.6 The proposed porch would be located on the principal elevation, measuring approx 3.5 metres in height and incorporating a hipped roof and matching materials. The proposal would extend approx 1.4 metres forward of the building line and approx 2.1 metres in width. In terms of visual appearance the porch would incorporate an acceptable set back from the public highway screened from view by an established boundary hedge and set within a spacious location away from neighbouring dwellings. Furthermore, the surrounding area is characterised by various styles of two storey dwellings, some with noticeable side extensions and flat roof car ports situated with marginal set backs. Therefore, on this basis the proposal would accord with the general pattern of frontage development established by the surrounding properties.

The footprint of the porch is within permitted development limits and it could be erected without planning permission if the height was reduced to no more than 3.0 metres.

4.7 The proposed porch by virtue of its position would have little or no impact on neighbour amenity.

REAR EXTENSION:

4.8 The proposed single storey extension would measure approximately 3.8 metres in height reducing to approximately 2.5 metres at the eaves height. The extension would be positioned on an extended foot print after the removal of an existing conservatory and original kitchen projection spanning the full width of the rear elevation. The total projection on the rear elevation would be in the region of 6.0 metres. In terms of appearance the extension would form a traditional design, incorporating a rear external door and window in addition to a section of full glazed bi-folding doors. Whilst this is considered to be a large extension it would be subservient to the size and scale of the main house. Furthermore, it would be located within a large garden and not readily visible from the public domain. Thus, the extension would no impact on the character and appearance of the street scene.

4.9 In terms of residential amenity the extension would be located on the shared boundary with the property at 43 Usher Lane. This dwelling has a rear conservatory on the boundary that is separated from view by an established hedge along with the full brick elevation of the structure. The roof of the proposed extension would be angled away from the boundary, thus it would not detract the light entering the glazed conservatory roof. Furthermore, other than oblique views of the roof, the extension would not be visible from the neighbouring dwelling or gardens areas. As such would it not appear unduly oppressive or reduce the daylight entering into principal windows and gardens areas.

4.10 The dwelling at 47 Usher Lane is separated from the extension by the width of the side driveway and screened from view by the existing detached garage at no47 which is located on the shared boundary. Therefore considering the large rear gardens of these properties and the separation distance between this neighbouring dwelling and the extension, it is unlikely that there would be any loss of amenity. As such the proposals are considered to comply with Policies GP1 and H7 of the City of York Draft Local Plan.

5.0 CONCLUSION

5.1 It is considered that the proposal is acceptable in terms of size and scale and would not cause undue harm to the living conditions of nearby neighbours. Thus the proposal would comply with polices H7 (Residential Extensions) and GP1 (Design) of the Draft Local Plan.

6.0 RECOMMENDATION: Householder Approval

- 1 TIME2 Development start within three years -
- 2 PLANS1 Approved plans - Drwg Nos 275-03 and 04 received 04.03.2013
- 3 VISQ1 Matching materials -

7.0 INFORMATIVES:

Notes to Applicant

1. REASON FOR APPROVAL:

In the opinion of the Local Planning Authority the proposal, subject to the conditions listed above, would not cause undue harm to interests of acknowledged importance, with particular reference to the effect on residential amenity and the impact on the street scene. As such the proposal complies with Central Government advice contained within the National Planning Policy Framework (March 2012), policies GP1 and H7 of the City of York Development Control Local Plan and the 'Guide to extensions and alterations to private dwelling houses' Supplementary Planning Guidance.

2. STATEMENT OF THE COUNCIL'S POSITIVE AND PROACTIVE APPROACH

In considering the application, The Local Planning Authority has implemented the requirements set out within the National Planning Policy Framework (paragraphs 186 and 187) and having taken account of all relevant national guidance and local policies, considers the proposal to be satisfactory. For this reason, no amendments were sought during the processing of the application, and it was not necessary to work with the applicant/agent in order to achieve a positive outcome.

Contact details:

Author: Sharon Jackson Development Management Assistant

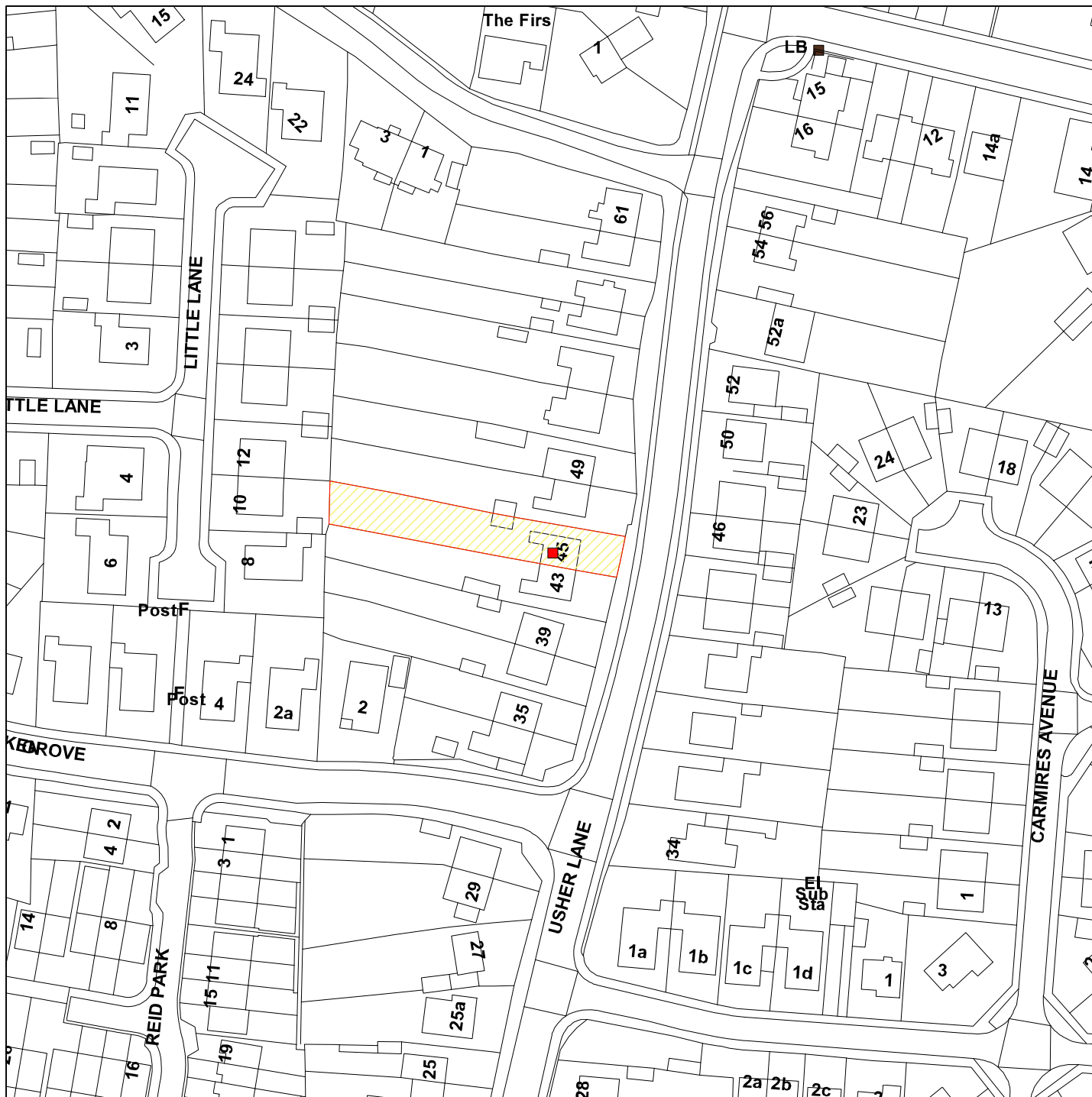
Tel No: 01904 551359

45 Usher Lane

13/00411/FUL



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Organisation	City of York Council
Department	City and Environment Services
Comments	
Date	26 March 2013
SLA Number	Not Set



East Area Planning Sub Committee	11 th April 2013
West and City Centre Area Planning Sub Committee	18 th April 2013
Planning Committee	25 th April 2013

Appeals Performance and Decision Summaries

Summary

- 1 This report (presented to both Sub Committees and Main Planning Committee) informs Members of the Council's performance in relation to appeals determined by the Planning Inspectorate from 1st January to 31st March 2013, and provides a summary of the salient points from appeals determined in that period. A list of outstanding appeals to date of writing is also included.

Background

- 2 Appeal statistics are collated by the Planning Inspectorate on a quarterly basis. Whilst the percentage of appeals allowed against the Council's decision is no longer a National Performance Indicator, it has in the past been used to abate the amount of Housing and Planning Delivery Grant (HPDG) received by an Authority performing badly against the average appeals performance. For a number of recent years, until the publication of the National Planning Policy Framework in March 2012, appeals performance in York was close to (and usually better than) the national average. The Government announced last year that it will use appeals performance in identifying poor performing planning authorities, with a view to the introduction of special measures and direct intervention in planning matters within the worst performing authorities.
- 3 The table below includes all types of appeals such as those against refusal of planning permission, against conditions of approval, enforcement notices, listed building applications and lawful development certificates. Figure 1 shows performance on appeals decided by the Inspectorate, in each CYC Sub Committee area and in total, for periods of 1st January 2013 to 31st March 2013, for the corresponding period last year, and the full year to 31st March.

Fig 1: CYC Planning Appeals Performance

	1 st Jan to 31 st March 2012				1 st Jan to 31 st March 2013				1 st April 2012 to 31 st March 2013			
	East	West	Total		East	West	Total		East	West	Total	
Allowed	2	2	4		4	2	6		19	8	27	
Part Allowed	0	0	0		0	0	0		2	0	2	
Dismissed	7	6	13		6	4	10		22	11	33	
Total Decided	9	8	17		10	6	16		43	19	62	
% Allowed	22.22	25.0	23.53		40.0	33.33	37.5		44.19	42.10	43.55	
% Part allowed	0	0	0		0	0	0		4.65	0	3.23	
Withdrawn	0	0	0		0	0	0		0	0	0	

Analysis

- 4 The table shows that between 1st January and 31st March 2013, a total of 16 appeals relating to CYC decisions were determined by the Inspectorate. Of those, 6 were allowed. At 37.5%, the rate of appeals is higher than the 33% national annual average. By comparison, for the same period last year, 4 out of 17 appeals were allowed, i.e. 23.53%
- 5 For the full year between 1st April 2012 and 31st March 2013, CYC performance was 43.55% allowed, higher than the previously reported 12 month period of 39.60%
- 6 The summaries of appeals determined since 1st January are included at Annex A. Details as to whether the application was dealt with under delegated powers or Committee (and in those cases, the original officer recommendation) are included with each summary. Figure 2 below shows that in the period covered, 2 appeals determined related to applications refused by Committee. Both had been recommended for approval.

Fig 2: Appeals Decided against Refusals by Committee from 1st January 2013

Cttee	Ref No	Site	Proposal	Outcome	Officer Recom.
Centre and West	12/01223/FUL	Vudu Lounge 39 Swinegate	Change of use from restaurant and bar (A3/A4) to bar (A4) retrospective	Allowed with costs	Approve
Centre and West	12/03023/FUL	Bora Bora 5 Swinegate	Extension of opening hours to 02:30 each day	Allowed/ one condition varied	Approve

- 7 The list of current appeals is attached at Annex B. There are 13 appeals lodged with the Planning Inspectorate, 5 in the West and City Centre Sub Committee area and 8 in the East Sub Committee area. 12 are proposed to be dealt with by the Written Representation process (W), and 1 by Public Inquiry (P).

- 8 The much higher percentage of appeals allowed since April 2012 raises certain issues:-
- 9 As previously reported the Council decided a proportion of the related applications prior to the publication of the National Planning Policy Framework. The presumption in favour of sustainable development in the NPPF development (and the interpretation of sustainable development) appears to have been a significant factor in consideration of appeals. In recent months the appeals performance has improved as the use and interpretation of policy and guidance within the NPPF (by both the Council and the Planning Inspectorate) has become more consistent. The performance at 37.5% is moving back towards the previous benchmark figure of 33% allowed.
- 10 Inspectors have continued to highlight the need for a strong evidence base to demonstrate significant harm will result from a development before it should be refused. The NPPF states refusal is a last resort and that every effort should be made to work with developers to look for solutions to planning problems, and that Councils should look for reasons for approving development rather than reasons for refusal. Where a judgment required, for example in respect of the impact on visual amenity within the street, it appears that a more lenient approach is being adopted.
- 11 The main measures to be continued in response are:-
 - i) Officers have continued to impose high standards of design and visual treatment in the assessment of applications provided it is consistent with Paragraph 56 of the NPPF Draft Local Plan Policy.
 - ii) Officers are ensuring that where significant planning issues are identified with applications, revisions are sought to ensure that they can be recommended for approval, even where some applications then take more than the 8 weeks target timescale to determine. From the applicants' perspective, an approval after 9 or 10 weeks following amendments is preferable to a refusal before 8 weeks and then a resubmission or appeal process. This approach has improved customer satisfaction and speeded up the development process overall, but has affected the Council's performance against the national target. Nevertheless, CYC planning application performance currently remains above the national performance indicators for Major, Minor and Other application categories.
 - ii). Additional scrutiny is being afforded to appeal evidence to ensure arguments are well documented, researched and argued.

Consultation

- 12 This is essentially an information report for Members and therefore no consultation has taken place regarding its content.

Council Plan

- 13 The report is most relevant to the “Building Stronger Communities” and “Protecting the Environment” strands of the Council Plan.

Implications

- 14 Financial – There are no financial implications directly arising from the report.
- 15 Human Resources – There are no Human Resources implications directly involved within this report and the recommendations within it other than the need to allocate officer time towards the provision of the information.
- 16 Legal – There are no known legal implications associated with this report or the recommendations within it.
- 17 There are no known Equalities, Property, Crime & Disorder or other implications associated with the recommendations within this report.

Risk Management

- 18 In compliance with the Council’s risk management strategy, there are no known risks associated with the recommendations of this report.

Recommendation

- 19 That Members note the content of this report.

Reason

- 20 To inform Members of the current position in relation to planning appeals against the Council’s decisions as determined by the Planning Inspectorate, over the last 6 months and year.

Contact Details

Author:

Jonathan Carr,
Head of Development
Management,
Directorate of City Strategy

**Chief Officer Responsible for the
report:**

Mike Slater
Assistant Director Planning &
Sustainable Development, Directorate of
City Strategy

01904 551303

**Report
Approved**



Date 2nd April
2013

Specialist Implications Officer(s) None.

Wards Affected:

All Y

For further information please contact the author of the report.

Annexes

**Annex A – Summaries of Appeals Determined between 1st January
and 31st March 2013**

Annex B – Outstanding Appeals

Appeal Summaries for Cases Determined 01/01/2013 to 31/03/2013

Application No: 11/02190/FUL
Appeal by: Mr C Forbes Adam
Proposal: Demolition of existing dwelling, erection of replacement dwelling and alterations (including demolition) to domestic outbuildings to form garage, stores and ancillary domestic accommodation
Address: Brick Farm Benjy Lane Wheldrake York YO19 6BH

Decision Level: DEL
Outcome: DISMIS

The appeal application was refused under delegated powers. It related to a site located with York's Green Belt on the outskirts of Wheldrake. The site contains a former farm house, farm buildings and undeveloped land, now disused. The application proposed the replacement of the modest farmhouse with a larger dwelling house and the conversion and alteration of the adjacent former farm buildings to ancillary accommodation. The undeveloped land surrounding the farmhouse and farm buildings was proposed to be private garden. The reasons for refusal were twofold: 1. The proposal was considered to be inappropriate development as the replacement dwelling was materially larger and no very special circumstances were demonstrated to outweigh harm to the Green Belt by reason of inappropriateness and other identified harm being the scale of the property and the domestication of the semi-agricultural area; 2. Loss of bat habitat without sufficient compensation. The Inspector concurred that only the house and the small areas of land immediately associated with it (being an area to the front and a small yard to the rear) had a lawful residential use. He accepted that the site lay within York Green Belt as established by RSS. The Inspector agreed with the green belt reason for refusal, concluding that there were no very special circumstances (including building to passive house standards of energy efficiency) to outweigh the harm identified from inappropriateness and to its openness from the site's character and appearance. He did not accept the second reason for refusal, considering that the mitigation proposals were acceptable as they were recommended by an appropriately qualified specialist. The appeal was dismissed on green belt grounds.

Application No: 11/03096/LBC
Appeal by: Mr Paul Gould
Proposal: 2no. rooflights to front
Address: 22 St Pauls Square York YO24 4BD

Decision Level: DEL

Outcome: DISMIS

Mid terraced residential property part of a curved terrace of 3-storey dwellings. Existing roof currently unpunctuated, though many within the area have either one of two rooflights or dormers. Inspector agreed that the curving of the front terrace presents a strong and generally coherent vernacular period character and appearance which makes a positive contribution to the Conservation Area; and that the size and design of the two proposed rooflights would draw undue attention within the roofscape rather than being discreet. as such they would result in appreciable harm to the significance of the listed building. The harm was not outweighed by other benefits.

Application No: 12/00940/OUT
Appeal by: Mr Ryan Unsworth
Proposal: Erection of two storey dwelling
Address: Proposed Dwelling To The South Of 39 Sandringham Close
Haxby York

Decision Level:

Outcome: DISMIS

Outline planning permission was sought for the erection of a 2 storey dwelling on a suburban estate. All matters were reserved except access but an illustrative site analysis plan showed a 2 storey house within the site. The application was refused because the buildings scale, proportions and location, particularly its projection behind the adjacent dwelling, would have had an unacceptable impact on the adjacent occupiers. At the appeal the councils position was that whilst layout, scale and appearance were reserved, the applicant had not demonstrated that a house of the dimensions for which consent was being sought could be built on the site without having an unacceptable impact on the adjacent occupiers. The inspector found that a 2 storey house on the site would have an overbearing effect on the adjacent occupiers. He appreciated that the siting of the building was a reserved matter, but the constraints of the site were such that there was only limited room for manoeuvre. Whilst the appellant stressed that details of the scheme would be the subject of a further submission, that did not obviate the need to establish clearly at the outline stage whether an appropriate scheme could be developed, given the constraints of the site. On the basis of the information before him the inspector was not satisfied that that could be achieved. Nor did he consider that the imposition of conditions could secure a satisfactory scheme. As usual the inspector attached little weight to the local plan, which he referred to as - that unadopted document. Kevin O'Connell 15 March 2013

Application No: 12/01223/FUL
Appeal by: Mrs Pavlou
Proposal: Change of use of upper floors of Nos. 37 and 39 from mixed use restaurant and drinking establishment (Use classes A3/A4), to drinking establishment (Use class A4) (retrospective)
Address: Vudu Lounge 39 Swinegate York YO1 8AZ

Decision Level: CMV
Outcome: ALLOW

The appeal was against 3 conditions (numbered below as per the decision notice) imposed on the application to vary the opening hours(1)The use hereby permitted shall only be open to customers between the following hours; Sunday to Thursday, 1000 - 0100, following day, Friday to Saturday, 1000 - 0300, following day.(2) Temporary planning permission is granted until 13.9.13 for opening to customers between the following hours: Sunday to Thursday, 1000 to 0200, following day. Friday to Saturday, 1000 to 0300, following day. After 13.9.13 the opening hours shall revert to those in condition 1 of this permission unless a further planning permission has been granted.(5) Bottles and glass shall not be placed into bottle bins between the hours of 24.00 hours (midnight) and 08.00 hours on any day.The Inspector contended that with these conditions, the appeal premises will continue to have permission to open well into the night time period by 2 hours Sunday to Thursday and by 4 hours Friday and Saturday, and that this indicated some degree of satisfaction on the Council's part that the use of the premises would not unduly disturb nearby residents. He found it difficult to see what additional harm would result from longer opening hours.The inspector referred to the premises licence, in December 2010, to open until 04.30 every day. Circular 11/95 indicates in para 22 that a condition which duplicates the effect of other controls will normally be unnecessary. He considered that in this case, both the planning and licensing systems appeared to have regard to residential amenity and reliance on the licensing system would not appear to be at odds with the Council's attempt to achieve planning objectives. He therefore allowed the appeal against condition 1 and 2. He also varied the wording of condition 5 to prohibit bottles and glass shall not be placed into bottle bins sited externally of the building between 8.00 and 12.00 on any day.

Application No: 12/01461/FUL
Appeal by: Mr Thackray
Proposal: Two storey rear extension (resubmission)
Address: 72 The Old Village Huntington York YO32 9RB

Decision Level: CMV
Outcome: ALLOW

The appeal related to the refusal of a part two-storey and part single-storey extension on the rear of a terraced property in Huntington conservation area. The Inspector did not consider that any dominance issues, overshadowing, or loss of light to number 74 would justify dismissal of the appeal. He felt that car parking arrangements were satisfactory and that the development would preserve the character of the conservation area.

Application No: 12/01780/ADV
Appeal by: Mr Tomas Svoboda
Proposal: Display of externally illuminated fascia sign, non illuminated hanging sign and internal window sign (retrospective)
Address: Ruby Slipper 92 Main Street Fulford York YO10 4PS

Decision Level: DEL
Outcome: DISMIS

This application sought retrospective consent for the retention of existing signage, including a new fascia with illuminated trough light fitting; window display and projecting sign. The site lies within a small parade of shops of late Victorian origin, and lies within Fulford Conservation Area. The fascia sign is of a shiny modern appearance, which is neither sympathetic to the materials of the building nor the traditional materials currently in place within the immediate vicinity of the site within the Conservation Area. Returning the plastic fascia panel around the side of the projecting bay further compounds the intrusion of the strident yellow colour and shiny finish. The large light fitting adds clutter to the visual appearance of the area. improved design. The amount and scale of the window signs and vinlys are considered to harm the appearance of the shop, undermining the function of a shop window by obstructing any views through, and causing harm to the visual amenity of the Conservation Area. The projecting sign is of modern appearance, and again incorporates modern materials and appears at odds with the traditional appearance of the Conservation Area. The inspector agreed that the extent of signage was excessively strident and of modern appearance which was out of keeping with the character of the area.

Application No: 12/01938/FUL
Appeal by: Miss Sally Cakebread
Proposal: Change of use from dwelling house (Use Class C3) to house in multiple occupation (Use Class C4)
Address: 20 Hartoft Street York YO10 4BN

Decision Level: DEL

Outcome: DISMIS

The appeal related to the refusal of planning permission for a change of use from a dwelling house C3 to a house in multiple occupation HMO C4. The application site comprised of a two bed mid terrace, which proposed to alter the ground floor layout by providing one additional bedroom to the front and a shared communal living area, kitchen and bathroom facilities at the rear of the property. The application was refused because the number of existing houses in multiple occupation within 100 metres of the property already exceeded the 10 percent threshold set out in the draft SPD. The councils figures indicate that 13.1 percent of the homes within 100 metres of the property are HMOs. The Inspector acknowledged that the proposal would create just one additional occupant to the property, however dismissed the appeal on the basis of the already a high concentration of houses in multiple occupation in the locality detracted from its character and contributes to an imbalance in the make up of the local community. The Inspector also dismissed the arguments put forward by the appellant which stated that the thresholds should be set at 15 percent within a 100 metres of the property, due to the existing number of students living in this area. The inspector agreed with the council that the adopted thresholds are considered by the council to be the point at which a community can tip from balanced.

Application No: 12/01945/FUL
Appeal by: Mr Peck
Proposal: Change of use from dwelling house (Use Class C3) to house in multiple occupation (Use Class C4)
Address: 11 Feversham Crescent York YO31 8HQ

Decision Level: DEL

Outcome: ALLOW

The appeal related to the refusal of planning permission for the change of use from a dwelling house to a house in multiple occupation (HMO C4). The appeal is the first to test the SPD approved in April 2012 seeking to control the concentration of houses in multiple occupation. Within 100m of the property 15 percent of homes are calculated to be HMOs. The threshold set out in the SPD is 10 percent. Policy 5.7 of the document states that changes of use from a dwelling house to a HMO will not be permitted when the numerical threshold is breached. This is because the concentration of HMOs is considered to have negative implications on, for example parking, maintenance, noise and general community cohesion. The Inspector allowed the appeal. He stated that the approach in the SPD must be applied with a degree of flexibility and pragmatism. He stated that because of its design (a large terraced property with very small front garden) and location (close to the city centre, hospital and busy Wigginton Road) the impact of the specific proposal would not be unduly harmful. He felt that the street did not appear unkempt. He noted the objections of neighbours, however, considered that the local context was such that there was no cogent evidence that the proposal would unacceptably harm the character and appearance of the surrounding area. The Inspector included a condition requiring a management plan. The decision is significant as it seems to imply that where a change of use to a HMO would breach a threshold it would not necessarily justify refusal on cross city arguments relating to the need for balanced communities. Before refusing a proposal regard should presumably be given to whether there would be any significant identifiable harm to the particular location. Clearly this creates some uncertainty in respect to the consistent interpretation of the percentage based SPD.

Application No: 12/02230/FUL
Appeal by: Individual Restaurant Company
Proposal: Replacement shop front
Address: 18 Bridge Street York YO1 6DA

Decision Level: DEL

Outcome: DISMIS

The development proposed was for a replacement shop front with bi folding glazed door system. It involved the removal of the present curved glass fronts of Art Deco style that sit on low granite stall risers which are a particular feature of the existing frontage. It is likely that they are in part modern replacements but they are specifically referred to within the 1997 listing description and they contribute to the overall architectural interest of this heritage asset. The inspector concluded the use of folding doors would result, when open, in the creation of an expanse of void which would appear ill at ease and odd within the context of the grander statement provided by the building's frontage to Bridge Street. Any commercial benefit that this might bring was not felt to outweigh the harm to the significance of this listed building, and was therefore contrary to the NPPF. The alterations were also considered to diminish the appearance and character of the conservation area, again contrary to the NPPF and also local plan polices (although limited weight was afforded to these non statutory polices).

Application No: 12/02231/LBC
Appeal by: Individual Restaurant Company
Proposal: Replacement shop front
Address: 18 Bridge Street York YO1 6DA

Decision Level: DEL

Outcome: DISMIS

This listed building consent application accompanied the planning application for the alterations, and the inspector dealt with both appeals in the same decision letter . Therefore please see the summary for the planning application 12/02230/FUL.

Application No: 12/02255/FUL
Appeal by: Mr Peter Dransfield
Proposal: Rooflight to front and 2no. dormers to rear
Address: 74 The Village Haxby York YO32 2HY

Decision Level: DEL

Outcome: DISMIS

The Planning Inspector considered that the terrace contributes very positively to the Conservation Area. This is particular the case for the street frontage. Although the Inspector acknowledged that the roof lights could be inserted under permitted development so no further reference was made to the frontage. The Inspector agreed with the Planning Authority and considered that the pair of dormers in the altered roof would look disproportionately large within the rear elevation, resulting in a cluttered, top heavy and unbalanced appearance which would be incompatible with the host building and detrimental to the Conservation area.

Application No: 12/02300/FUL
Appeal by: Sullivan Student Properties Ltd
Proposal: Change of use from a small house in multiple occupation (Use Class C4) to a large house in multiple occupation (sui generis) with two storey side and rear and single storey rear extensions and loft conversion creating 8 bedrooms (resubmission)

Address: 9 Green Dykes Lane York YO10 3HB

Decision Level: DEL

Outcome: ALLOW

Planning permission was sought for the change of use of 9 Green Dykes Lane from a small house in multiple occupation (Use Class C4) to a large house in multiple occupation with a two storey side and single storey rear extension and loft conversion creating 8 bedrooms. The site lies directly to the north of the University in an area of particular pressure in terms of houses being converted into HMOs. The property in question retained its domestic appearance with a well maintained rear garden. The proposal was to erect a substantial side and rear extension, which it was felt would substantially erode the domestic character of the site and add to the cumulative impact of the other similar conversions which have taken place in the surrounding area thereby altering its character. At the same time concern was felt that the effect of the proposed extension would be to reduce the level of on-site amenity space below an acceptable level. The application was refused accordingly and the applicant appealed.

Application No: 12/02640/FUL
Appeal by: Ruth And Nelson McConnell
Proposal: Single storey extensions to rear
Address: 15 Norfolk Street York YO23 1JY

Decision Level: DEL

Outcome: DISMIS

Permission was sought for a 4.8m long single storey infill extension to the rear of this mid-terrace dwelling along the common boundary with 17 Norfolk Street. Due to the street's incline the host dwelling is situated approx. 1.2m above No. 17. It was considered that the proposed extension, by virtue of its length, relative height and proximity to the boundary would appear as an unduly dominant and overbearing feature to the detriment of the amenity and outlook of neighbouring residents. The inspector stated that the impact on the living conditions of those using the kitchen at No. 17 would be significant as there would be a perception of being hemmed in, with the raised building height along the boundary leading to an oppressive and overbearing atmosphere. He concluded that this impact would be unacceptably harmful and un-neighbourly.

Application No: 12/02664/FUL
Appeal by: Mr & Mrs Simpson
Proposal: Use of former MOD land for the siting of 6 Yurts (Mongolian style canvas buildings with decking) for use as holiday accommodation and erection of timber reception building incorporating site office and showers together with associated access from Wheldrake Lane
Address: Moor Closes Elvington Park Elvington York

Decision Level: DEL

Outcome: DISMIS

The Inspector agreed that the proposed yurts, accommodation building and associated access road were inappropriate development in the Green Belt. The Inspector stated that the reception block would not significantly harm the openness of the Green Belt because it was replacing a building of similar size, however the 6 yurts and the timber decking around would reduce openness. It was also considered that the introduction of an access road across green fields would harm openness. The access road was considered to be more visually intrusive than the proposed yurts due to the existing landscaping around the proposed yurt site. There were no very special circumstances which overcame the presumption against inappropriate development in the Green Belt. The Inspector likened the proposed yurts to static caravans due to their level of permanence. The Inspector acknowledged that such developments and uses were discouraged under Policy V5 of the Development Control Local Plan. The Inspector agreed with the Council about concerns that this development would be reliant on the private car due to the sites isolation from the settlement limit of Elvington and the long and difficult access arrangements from the site. 'The long and tortuous route to the village facilities via the proposed access would not encourage walking and the likelihood is that virtually all trips would be undertaken by car. The length of the proposed access would also conflict with criterion e) of Policy V5, which requires sites to be readily accessible by public transport.' It was stated that the nature of the access would discourage integration with the village. The appeal was dismissed.

Application No: 12/03023/FUL
Appeal by: Mr Bora Akgul
Proposal: Variation of condition 3 of planning permission
12/01249/FUL to extend opening hours until 02:30 every day
Address: Bora Bora 5 Swinegate Court East Grape Lane York YO1
8AJ
Decision Level: COMM
Outcome: ALLOW

see L Drive for Cost decisionSummaryAppeal related to the operating hours of Bora Bora, which is located in Swinegate Court East. The premises wished to operate until 03.00, rather than midnight, as imposed by the Planning Committee. The site had a premises licence which allowed them to trade until 03.00 which imposed conditions in the interests of residential amenity (such as no amplified music audible outside the site). Ten complaints had been received by Environmental Protection Unit regarding Bora Bora & Lucia's (which is next adjacent) since they began trading after midnight. However E P U advised none of the complaints were justified (i.e. E P U did not observe a statutory nuisance) and did not object to the planning application. The inspector considered that as the appeal site is in an area with a high concentration of late night drinking establishments, a number of which are unencumbered by planning conditions regulating their opening hours; they are regulated solely by the licensing regime. In such a situation, the imposition of planning conditions to control the opening hours of some, but not all, of these premises would appear to be of limited effectiveness. The inspector granted costs to the appellants. The decision confirms that decisions/use of conditions must be backed by demonstrable evidence that they are relevant and necessary. In this case there is already late night activity due to existing bars. It is not adequate to apply the logic that more bars = more disturbance - this must be backed by clear evidence!

Application No: 12/03138/FUL
Appeal by: Mr P Brown
Proposal: Single storey rear extension with replacement attached garage to side (resubmission)
Address: 29 Sandringham Close Haxby York YO32 3GL

Decision Level: CMV
Outcome: ALLOW

The previous application was refused at committee, against officer recommendation, and the subsequent appeal dismissed. The Inspector considered the side extension would over-dominate the neighbouring property and result in loss of light. This revised application sought to address the reasons for refusal, by introducing a hip roof design instead of a gable, reducing the eaves height, and setting the extension away from the shared boundary by 500mm. The revised application was also refused at committee, against officer recommendation, on the grounds of loss of light and over-domination. At appeal the Inspector cited the three salient revisions set out above, and considered they were sufficient to allow the appeal.

Decision Level:	Outcome:
DEL = Delegated Decision	ALLOW = Appeal Allowed
COMM = Sub-Committee Decision	DISMIS = Appeal Dismissed
COMP = Main Committee Decision	PAD = Appeal part dismissed/part allowed

Outstanding appeals

Officer: Andy Blain						Total number of appeals: 1
Received on: 05/10/2011	Ref No: 11/00044/EN	Appeal Ref No: APP/C2741/F/11/2160562	Process: W	Site: 91 Micklegate York YO1 6LE	Description: Appeal against Enforcement Notice	
Officer: Erik Matthews						Total number of appeals: 1
Received on: 27/11/2012	Ref No: 12/00066/NON	Appeal Ref No: APP/02741/A/12/2187812	Process: W	Site: The Market Garden Eastfield Lane Dunnington	Description: Agricultural building	
Officer: Fiona Mackay						Total number of appeals: 2
Received on: 15/10/2012	Ref No: 12/00059/REF	Appeal Ref No: APP/C2741/E/12/2184740	Process: W	Site: Railway Station Road York	Description: Replace existing advertising posters with 2 no. digital advertising units in the outer concourse	
14/01/2013	13/00004/REF	APP/C2741/H/13/2189963	W	Multyork Furniture Ltd 15 Piccadilly York YO1 9PB	Display of internally illuminated fascia sign and externally illuminated hanging sign	
Officer: Kevin O'Connell						Total number of appeals: 1
Received on: 27/02/2012	Ref No: 12/00009/REF	Appeal Ref No: APP/C2741/X/12/2170664	Process: W	Site: 2 St Aubyns Place York YO24 1EQ	Description: Use of property as a House in Multiple Occupation	
Officer: Matthew Parkinson						Total number of appeals: 4
Received on: 17/06/2011	Ref No: 11/00026/EN	Appeal Ref No: APP/C2741/C/11/2154734	Process: P	Site: North Selby Mine New Road To North Selby Mine	Description: Appeal against Enforcement Notice	
01/10/2012	12/00061/EN	APP/C2741/C/12/2184900	W	18 Feversham Crescent York YO31 8HQ	Appeal against Enforcement Notice dated 31 August 2012	
28/02/2013	13/00008/EN	APP/C2741/C/13/2193156	W	Flat C 2 Marlborough Grove York YO10 4AY	Appeal against Enforcement Notice Dormer to rear see 13/00007/EN	
25/02/2013	13/00007/EN	APP/C2741/C/13/2193157	W	Flat C 2 Marlborough Grove York YO10 4AY	Appeal against Enforcement Notice dated 15 January 2013	

Officer:	Neil Massey				Total number of appeals:	1
Received on:	Ref No:	Appeal Ref No:	Process:	Site:	Description:	
11/02/2013	13/00006/REF	APP/C2741/A/13/2191992	W	224 Melrosegate York YO10 3SW	Change of use from dwelling house (Use Class C3) to 7 bedroom house in multiple occupation	
Officer:	Rachel Tyas				Total number of appeals:	1
Received on:	Ref No:	Appeal Ref No:	Process:	Site:	Description:	
05/02/2013	13/00005/CON	APP/C2741/A/13/2192153	W	Lucia Bar And Grill 9 - 13 Swinegate Court East	Change of use to mixed use ground floor restaurant and first floor bar (retrospective)	
Officer:	Tim Goodall				Total number of appeals:	1
Received on:	Ref No:	Appeal Ref No:	Process:	Site:	Description:	
15/03/2013	13/00009/EN	APP/C2741/C/13/2194657	W	87 Newland Park Drive York YO10 3HR	Appeal against Enforcement Notice dated 6 February 2013	
Officer:	Victoria Bell				Total number of appeals:	1
Received on:	Ref No:	Appeal Ref No:	Process:	Site:	Description:	
21/01/2013	13/00003/NON	APP/C2741/A/13/2190980	W	Holly Corner 52 North Lane Haxby York YO32 3JP	Erection of 3no. two-storey houses	
					Total number of appeals:	13



East Area Planning Sub-Committee

11 April 2013

Report of the Director of City & Environmental Services

Enforcement Cases - Update

Summary

1. The purpose of this report is to provide Members with a continuing quarterly update on the number of enforcement cases currently outstanding for the area covered by this Sub-Committee.

Background

2. Members have received reports on the number of outstanding enforcement cases within the Sub-Committee area, on a quarterly basis, since July 1998, this report continues this process.
3. Some of these cases have been brought forward as the result of information supplied by residents and local organisations, and therefore "The annexes to this report are marked as exempt under Paragraph 6 of Part 1 of Schedule 12A of the Local Government Act 1972, as this information, if disclosed to the public would reveal that the Authority proposes to give, under any enactment a notice under or by virtue of which requirements are imposed on a person, or that the Authority proposes to make an order or direction under any enactment".
4. In order to give Members an up to date report, the schedules attached have been prepared on the very latest day that they could be to be included in this report on this agenda.
5. Section 106 Agreements are monitored by the Enforcement team. A system has been set up to enable Officers to monitor payments required under the Agreement.

Current Position.

6. 54 new investigation cases were received for this area within the last quarter, 84 cases were closed and 298 remain outstanding.

There are 90 Section 106 monitoring cases outstanding for this area. 17 such cases have been closed in this quarter. Total East area S106 contributions received during this quarter total £157437. This remains an on-going piece of work and other outstanding contributions are being worked on.

We currently still have 3 pending prosecutions for the failure to comply with enforcement notices. Further information on the progress of these can be provided at the Committee meeting if Members require this. In this quarter we have served 4 enforcement notices on sites in the east area. We have also received authorisation for 3 further notices.

Consultation.

7. This is an information report for Members and therefore no consultation has taken place regarding the contents of the report.

Options

8. This is an information report for Members and therefore no specific options are provided to Members regarding the content of the report.

The Council Plan 2011-2015

9. The Council priorities for Building strong Communities and Protecting the Environment are relevant to the Planning Enforcement function. In particular enhancing the public realm by helping to maintain and improve the quality of York's streets and public spaces is an important part of the overall Development Management function, of which planning enforcement is part of.

10. Implications

- **Financial** - *None*
- **Human Resources (HR)** - *None*
- **Equalities** - *None*

- **Legal** - *None*
- **Crime and Disorder** - *None*
- **Information Technology (IT)** - *None*
- **Property** - *None*
- **Other** - *None*

Risk Management

11. There are no known risks.

Recommendations.

12. That Members note the content of the report. Officers do try to update the individual reports and cases when necessary but it is not always possible to keep up with these straight away. Therefore if members have any additional queries or questions about cases on this enforcement report then please e-mail or telephone Matthew Parkinson, Alan Kendall or Tim Goodall by 5pm on Tuesday 9th April 2013. Please note that the cases are now presented in Parish order so hopefully this will make it easier for members to reference cases in their respective areas.

Also, if Members identify any cases which they consider are not now expedient to pursue and / or they consider could now be closed, giving reasons, then if they could advise officers either at the meeting or in writing, then that would be very helpful in reducing the number of outstanding cases.

Reason: To update Members on the number of outstanding enforcement cases within the Sub-Committees area.

Contact Details

Author:

Chief Officer Responsible for the report:

Author's name
Matthew Parkinson
Planning Enforcement
Team Leader.

Chief Officer's name
Michael Slater
Assistant Director (Planning and
Sustainable Development)

Tel. No: 551657

Dept Name: **City and
Environmental Services.**

**Report
Approved**



Date 28/3/2013

*Chief Officer's name: Michael Slater
Title: Assistant Director (Planning and
Sustainable Development).*

**Report
Approved**



Date 28/3/2013

Specialist Implications Officer(s) *List information for all*

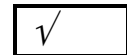
Implication ie Financial:

Name Patrick Looker.

Implication ie Legal:

Andrew Docherty.

Wards Affected: *All Wards*



For further information please contact the author of the report

Annexes

Annex A - Enforcement Cases – Update (Confidential)