

Meeting	Planning Committee
Date	12 March 2020
Present	Councillors Cullwick (Chair), Pavlovic (Vice-Chair), Ayre, Barker, D'Agorne, Daubeney, Doughty, Douglas, Fenton, Hollyer, Kilbane, Perrett, Warters, Widdowson and Melly (Substitute)
Apologies	Councillor Fitzpatrick

43. Declarations of Interest

Members were asked to declare, at this point in the meeting, any personal interests, not included on the Register of Interests, or any prejudicial or disclosable pecuniary interests they may have in respect of business on the agenda. Cllr Pavlovic declared an interest in agenda item 4b [Former Gas Works, Heworth Green, York YO31 7UG [19/00979/OUTM] as he had a previous working relationship with Joe Gardham, who was speaking on the application.

44. Minutes

Resolved: That the minutes of the last meeting held on 11 February 2020 be approved and then signed by the Chair as a correct record.

45. Public Participation

It was reported that there had been no registrations to speak at the meeting under the Council's Public Participation Scheme on general matters within the remit of the Planning Committee.

46. Plans List

Members considered a schedule of reports of the Assistant Director, Planning and Public Protection, relating to the following planning applications, outlining the proposals and relevant policy considerations and setting out the views of consultees and officers.

46a Playing Field, Sycamore Terrace, York [19/02347/FUL]

Members considered an application from Emma Beever for flood alleviation works comprising of the replacement and extension of the existing flood/retaining wall located within the south-west corner of Olave's School playing field, Sycamore Terrace, York.

Officers demonstrated the layout of the applications using plans and photographs. In answer to a Member question they confirmed that there was a condition regarding operating hours on the site.

David Morrey (Environment Agency) spoke in support of the application on behalf of the applicant. He explained the context of the application and that the works were for a flood cell which was part of 19 flood cells. He explained that the application had come to committee as the wall encroached onto the Green Belt. He advised that approval of the application would allow the completion of flood defences with minimal impact.

It was:

Resolved: That the application be approved, subject to the conditions listed in the report.

Reasons:

- i. The application site is located within the general extent of the York Green Belt and serves a number of Green Belt purposes. As such it falls to be considered under paragraph 143 of the NPPF which states that inappropriate development, is by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Very special circumstances will not exist unless the potential harm to the Green Belt by reason of inappropriateness and any other harm are clearly outweighed by other considerations. National planning policy dictates that substantial weight should be given to any harm to the Green Belt.
- ii. National planning policy (para. 145) states that the construction of new building in the Green Belt should be regarded as inappropriate unless it falls within one of the exceptions to this outlined in paragraph 145 b of

the NPPF. The proposal has been assessed to represent engineering operations as outlined in paragraph 146 (b) of the NPPF however, the development is inappropriate development because, for the reasons outlined above in this report, it fails to preserve the openness of the Green Belt and conflicts with the purposes of including land within the Green Belt, namely parts C and D of policy 134 of the NPPF (assisting in safeguarding the countryside from encroachment and preserving the setting and special character of historic towns), contrary to paragraph 145b of the NPPF.

- iii. The proposal, providing flood defence assets, cannot be located in land at lower risk of flooding as the level of protection would not be achieved. A sequential and exception test has been applied, and as the development is assessed as 'Water Compatible', this is appropriate development within any of the Flood Zones.
- iv. The application will lead to less than substantial harm to the significance on archaeological features and deposits which are situated within the Central Area of Archaeological Importance. Public benefits are considered to justify this harm. There are limited impacts in respect to landscape setting, ecology and any impacts can be mitigated by condition.
- v. This area has a history of flooding and the proposed development is in response to an identified need to protect residential and non-residential properties as well as transport routes. Having attached substantial weight to the harm to the Green Belt and great weight to the conservation of designated heritage assets (archaeology), it is therefore considered that the considerations set out in paragraphs 5.33 to 5.36 and 5.37 above would collectively clearly outweigh the harm to the Green Belt and designated heritage assets. No other harm has been identified and it is considered that the very special circumstances necessary to justify the proposed development exist.

**46b Former Gas Works, Heworth Green, York YO31 7UG
[19/00979/OUTM]**

Members considered a major outline application with all matters reserved except for access, layout and scale from Heworth Green Developments Ltd and Moda Living Ltd for the erection of a maximum of 625 residential apartments (use class C3), 130sqm (GIA) retail or community use floorspace (flexible use incorporating use classes A1-A4/ D1), 2 gas governor compounds, site remediation, associated access, car parking, amenity space and landscaping after demolition of existing pipework, structures and telephone mast at the Former Gas Works, Heworth Green, York YO31 7UG.

An officer update was provided. Members were informed that revised plans had been received since the site meeting. The revised plans:

- Reduced the amount of development in block B2, which was the block closet Layerthorpe / Hawthorne Grove
- Reduced the total number of dwellings 607.
- Pushed back the 6-storey element away from Hawthorne Grove and the 7-storey omitted. The tallest parts of the development would be 3m higher than Apollo House. This was shown in an illustrative floor plan.

It was noted that the revised plans meant that the relevant numbers / percentages in the committee report were superseded. The S106 items remained detailed in section 7 and the on site affordable in Build to Rent was noted as thirty one roomed and ten two bedroomed apartments. It was noted that the highway works on Heworth Green included a zebra crossing and improved safety for cyclists at roundabouts.

Members were informed that a further objection had been received from Heworth Mews and an outline of this was given. They were also advised of amendments to condition Conditions 4, 5, 17, 21, 36 and 37; and minor changes to Conditions 20, 23, 24, 26, 39 that did not have a material change to their requirement. Members were advised that the additional information had been assessed and the planning balance and recommendation remained unchanged from the published report.

In answer to Member questions, officers confirmed that:

- The number of affordable housing had not changed from

the previous application and the percentages in the housing mix stayed the same. Officers were happy with the mix of housing and had been working with the developers so that there was a variety in the types of flats in the design guide.

- The S106 contribution would go towards affordable housing.
- There needed to be a lot of housing on the site to make it viable.
- The detailed design of the roundabout had not been received but a contribution towards it had been secured.
- The housing densities were right for the city centre. The NPPF requirements for this were noted and the view of the Forward Planning Officer was explained in context of the case officer's view.
- An explanation was given about the transition of the site between a suburban area and former industrial site.
- The detail of Conditions 21 and 30 was explained.
- The applicants were spending more than was required to make the buildings sustainable and the building fabric would be up to building regulations.
- The service charges would be included in the rent.
- £2.71million had been set for offsite affordable housing that would be used to contribute to the council's affordable housing delivery.
- The over massing numbers had changed by having a diminishing scale. There was no seventh storey, the sixth storey had changed and the fifth storey remained the same. The housing mix was detailed.
- The apartments could not be used as a hotel as this was a different use class but the use class for Airbnb was that same as that for a house.
- With regard to the unadopted road, the Applicant had refused but there was a condition for the road to be adopted to a constructable standard.
- There was an additional park and ride stop near the site.
- The context of the site allocation in the Draft Local Plan was explained.
- Car parking had been negotiated with the developer and £50k had been allocated to address this. This could be used for the development of a residents parking scheme but would not cover the year on year cost of this after 1-2 years. The cost for respark was £5k to £20k. It was noted that the majority of the surrounding area was respark.

Sara Ma, a local resident, spoke in objection to the application. She explained that she lived in one of the residences most affected by the development. She noted that plans were far from satisfactory and she expressed concern about the height and density of the development which would impact her amenity. She added that there was a need for family housing. She was asked and that although she was pleased the height had been reduced, she had personal concern about the height of the buildings and that the development would change the nature of the site.

Ian Anderson, a local resident, spoke in objection to the application. He expressed concern concerning traffic as traffic and congestion had increased since the introduction of traffic lights in Eboracum Way and whilst the developers encouraged non car use he believed that there would be an increase in car use. He suggested that 50 car parking spaces was not enough and there would be an increase in the use of taxis. He further suggested that not enough weight had been given to the York Civic Trust response.

Joe Gardham, on behalf of Social Vision spoke in support of the application. He explained the work of Social Vision and noted that they worked with Northstar. He explained that the application presented an opportunity for a community space noting that there was a lack of provision for dementia sufferers and their carers in a modern and welcoming space. He was asked and explained that he saw resident using the community space as an open access space inside and outside. He confirmed that he was involved in the application as part of the development of the community space and that he had a financial arrangement with Northstar to work one day a week.

Egg Cameron, on behalf of Move the Masses spoke in support of the application. She explained that there was not enough green space in York. She was in support of the application because of the inclusion of the outdoor fitness equipment on the green space on the site. She added that the better walking routes would make a big difference. She was asked whether there was a financial arrangement with Northstar and confirmed that they had sponsored Move the Masses.

The architect of the scheme, Lee Vincent spoke in support of the application. He outlined the changes to the amended

scheme, clarifying that the height was two meters lower than the existing buildings. He noted that the majority of the buildings were lower than the approved Tiger scheme buildings that were one metre higher.

He added that the footprint in terms of the scheme's development was less than 30% of the site and he outlined the green spaces in the application.

In response to Member questions, Mr Vincent explained that:

- The Sustrans route created a boundary
- The timing of the works for the gasworks diversion was needed on site and if not approved the application would be delayed by a year.
- The stepping on the site was site specific.
- The build to rent operators wanted to create a good space for people to live there.
- It was his view that the gas pipes were best below ground.

Officers confirmed that the details of the professional fees for the application were commercially sensitive and that the development was deemed a reasonable scale for the site.

Janet O'Neill, agent for applicant, spoke in support of the application. She spoke on the York housing need noting that the local authority had a duty to provide a 5 year housing land supply. She noted that the development would help supply towards housing needs and that the application was now at the deadline for the land decontamination. She noted the benefits of the scheme, adding that the site had been vacant for 15 years and that a further reduction in the scale of the development would not make it viable. Ms O'Neill was asked if the application was fixed and she explained that 18 months had been spent negotiating the site and that the number of storeys had been reduced and the amount of affordable housing kept the same. In response to further questions she explained:

- The reason why the road had not been adopted.
- The open space on the site
- The management company would be responsible for maintaining the highways.
- In terms of meeting housing need, one development could not address housing need for the SMAH.
- Regarding a reduction to five storeys, it was an expensive site to bring forward and there had been a number of applications brought forward previously.

In terms of cost, officers explained that the price paid for the site was not related to the viability of the site and there had been significant discussion with the District Land Valuer regarding the site. They also clarified that the service charge was included in the rent for affordable housing as part of the S106 agreement.

Cllr Webb, Ward Councillor, spoke in objection to the application. He explained that the development would overshadow the homes of residents in his Ward and that at meetings, residents had expressed that the heights and massings of the buildings were too much. He questioned how the block of flats would be used and added that the development would create strain on local services as well as congestion. He stated that the development would set a precedent.

Cllr Webb was asked whether he had explained the complexities of the site prior to asking residents their views and responded that the developers had been invited to both residents meetings, at which 80-100 residents attended and a number expressed the view that the buildings were too high and there was overmassing. He added that the development would affect far more people than live in the area and the residents knew that it was a difficult site. In response to further questions he noted there were other small sites that could be developed and that this site was in the suburbs and that there were townhouses on one side of the site but 90% of the houses were not townhouses.

Cllr Craghill, Guildhall Ward Councillor expressed mixed feelings about the application, noting that there were positive aspects. She welcomed the amendments to the application and inclusion of open green spaces and she recognised the use of the brownfield site. She wanted to see a high level of affordable housing and for the development to meet local plan policies, and in expressing concern regarding affordability versus sustainability requested deferral of the application.

During debate during which a number of views were expressed, further questions arose to which officers demonstrated the location of the Conservation Area in relation to the site and confirmed that the plans shown included the revised heights.

Following a vote there were seven in favour and seven against and on the Chair's casting vote it was:

Resolved: That the application be approved subject to the conditions listed in the report and the following amended conditions:

Conditions 4, 5 and 17 revised to accommodate revised plans / reduced amount of development and updated Design Code.

Condition 17 – reworded – zones A & C are grouped - The scheme hereby permitted shall adhere to the following stipulations; to ensure that it is consistent with the details contained within the outline application –

The buildings hereby permitted shall not exceed the building footprints, scale and AOD heights as annotated on the approved parameter plans and shall adhere to the rules as detailed on the approved parameter plans.

The maximum number of dwellings shall not exceed 607 comprising 215 dwellings in Zones A and Zone C, and 392 dwellings in Zone B.

Housing mix – within each zone as shown on the illustrative layout – development zones; Drawing IS106 P03 the scheme shall provide at least the following amount of 2 and 3 bedroom sized dwellings (unless an alternative mix, which has a non-material impact on the amount of development hereby approved, is approved at reserved matters stage by the Local Planning Authority) –

Zones A and C – at least 20% of dwellings to be 3-bed; at least 32% of dwellings to be 2-bed.

Zone B – at least 5% of dwellings to be 3-bed; at least 31% of dwellings to be 2-bed.

Within zones A and C there shall be at least 130 sq m floor space (overall) which shall be available for commercial or community use

Within zone B there shall be at least 230 sq m which shall be available for either sports and/or recreation facilities for residents, health / leisure or community ancillary uses.

Car parking – at least the following number of car parking spaces shall be provided within each zone of development. In addition there shall be at least 10 spaces for visitor parking across the site (unless evidence is presented to the Local Planning Authority, and agreed, that the stipulated car parking provision is unnecessary) –

Zone A - 45 car parking spaces

Zone B - 90 car parking spaces

Zone C - 60 car parking spaces

Reason: To ensure a reasonable mix of housing and ancillary facilities, as detailed in the application and to ensure a mixed community with reasonable social, recreational and cultural facilities, in accordance with sections 5 and 8 of the NPPF.

Condition 21 – Sustrans connection – condition deleted. The requirement to install is now included in condition 20.

Condition 36 – Electric vehicle charging. One fewer point required – because the amount of dwellings reduced from 700 + to 625.

Condition 37- noise – re-worded to allow up to 10 exceedances of 45db max during the night (this is the standard approach).

Minor amendments to Conditions 20, 23, 24, 26, 39.

Reasons:

- i. The site is previously developed, vacant and in a sustainable location. It is allocated for housing in the 2018 DLP and on the Brownfield Land Register. Whilst the number of dwellings proposed is high and tall buildings are proposed, the site is in a location where national policy promotes high density. Officer consider the scale of buildings on site will be controlled to the extent that they would not appear out of character and provide a reasonable transition between the industrial and commercial areas of Foss Islands / Layerthorpe and the residential areas further east. This is assisted by the separation offered by the Sustrans route and tree cover around the eastern side of the site.
- ii. The amount of development proposed makes the scheme viable (the site is vacant; since 2006 there have been 4 approved residential schemes never implemented) and

can deliver a policy compliant amount of affordable housing in the Build to Rent blocks (with adjusted rents below the guideline 20% minimum) and a contribution towards off site affordable housing.

- iii. Whilst local affordable housing targets will not be fully met in terms of numbers, for Zones A and C the off- site contribution could deliver more variety; some 20 family houses off site (opposed to 36 flats on site which would be policy compliant).
- iv. The scheme will make adequate contributions in terms of accommodating demand for education facilities and its provision of open space. It will provide good connectivity and public realm to integrate the development into the locality; the Sustrans connection, the pedestrian and cycle routes that will be provided through the site and a significant new public green space, some 2,500 sq m in area.
- v. For the reasons set out above in this report, subject to approval of reserved matters there will be no adverse effect on heritage assets (and this includes the impact on views of the Minster) or neighbouring residents' amenity.
- vi. By virtue of its location and proposals for the public realm, limited car parking and the promotion of sustainable modes of transport, both on site and through improvements along Heworth Green sustainable travel is encouraged, as required by the NPPF. There is no evidence there will be a "severe" impact on the highway network and therefore there is no conflict with the NPPF in this respect. The scheme can also be sustainable in terms of its use of low carbon technology; the buildings will be energy efficient and provide facilities for cyclists.
- vii. The local concerns about the amount of development proposed for the site have to be considered against the following NPPF requirements and giving due weight to the aforementioned wider public benefits derived from comprehensive re-use and regeneration of the site -
 - To give "substantial weight to the value of using suitable brownfield land within settlements for homes and other identified needs.

- To support appropriate opportunities to remediate despoiled, degraded, derelict, contaminated or unstable land".
 - The requirement to “boost significantly housing supply” (in particular given the lack of a deliverable 5 year supply in the city (Council position is that supply is just below 3 years without Local Plan allocations within the general extent of the Green Belt).
- viii. Approval is given subject to completion of a S106 agreement and the recommended conditions. On this basis the scheme will reasonably comply with the economic, social and environmental objectives of the NPPF. There are no protected habitats, designated heritage assets or flood risk grounds that provide a clear reason for refusing the development and there would be no adverse impacts that would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF taken as a whole. The proposal therefore benefits from the presumption in favour of sustainable development.

**46c Ashbank, 1 Shipton Road, Clifton, York YO30 5RE
[19/01042/FULM]**

Members considered a major full application from P18-02072 for the emolition of Barleyfields and erection of 54 no. assisted living apartments and communal facilities; demolition of modern extensions to Ashbank and conversion to 4 no. assisted living apartments; associated parking and landscaping at Ashbank, 1 Shipton Road Clifton York.

Members were advised by officers of an additional condition that the building(s) would not be demolished until a contract for the works had been agreed by the council. The site and scheme were then outlined to Members.

Following the update, Officers were asked and clarified that:

- There was a sufficient number of parking spaces.
- The trees on site had been covered by the tree survey.
- Regarding the bus stop nearby, the footways were narrow and a justifiable, affordable and deliverable solution could not be found to this.
- Regarding the possibility of the right of way to the side of

the site, other sources of funding for this could be examined.

- Whilst there was considerable tree loss, high quality semi mature trees would be planted and the applicant would pay a green space contribution to works at the Homestead Park.
- Electric vehicle (EV) parking was included in Condition 6.
- With regard to provision being made for existing residents, affordable housing was included and there was no policy of the existing facility to be retained as council could only require what was required by housing policy, which had been achieved on site.

Janice Gray, a local resident, spoke in objection to the application. She expressed concern about the loss of 15 affordable housing units. She explained that there was a pelican crossing past the entrance to the site and she suggested that another one was needed on Clifton Green. She suggested that the inclusion of senior activity equipment for the senior outdoor space would be good idea, adding that some of the S106 contribution to the Homestead Park could go towards this. She was asked and explained that the Barleyfields residents had relatives to walk them to the Homestead Park.

Liz Fowler spoke in support on behalf of the applicant. She noted that the not for profit provider owned and operated the existing Barleyfields and in considering their options deemed redevelopment the best option. The provider had acknowledged the closure of the existing scheme and had offered residents first refusal on the units. She noted the use of the site as an existing brownfield site and that it was policy compliant in regard to affordable housing.

In answer to questions raised by Members she confirmed that: The access route would remain unobstructed.

The communal facilities included a staff kitchen and bistro and lounge for residents.

Regarding affordable units to rent, the application was policy compliant, and first refusal on the units had been offered to residents.

Cllr Smalley, Ward Member, spoke on the application noting that he was supportive of developments but concerns remained over the loss of tree canopy, the building overlooking residents and requirement for route to be maintained. He further

explained concerns about applications in unparished areas that had no planning panel, which he was happy to discuss with officers. He was asked and noted that Clifton Parish Council would be happy to look at this. Concerning the bus stops, Cllr Smalley explained that the path was narrow near the bus stop and there could be a programme to make the bus stop easier to use.

Further questions were then raised by Members to which officers responded that:

- A scheme needed to be identified for the £25k S106 contribution, and this was to be put towards the tennis club and Homestead Park. The allocation for sports provision and open space was explained.
- Regarding an extension of the public right of way being extended to the pedestrian access along the back lane, this was a public right of way but not on a definitive map.
- A contribution towards the bus stop had not been requested.
- Whether some of the S106 contribution could be used towards benches depended on the specific works identified.

Following questions, a number of Members commented that it would be useful for the Executive Member for Culture to work with Officers to ensure that the S106 contribution was used for the benefit of residents.

It was:

Resolved: That the application be approved subject to the conditions listed in the report and the below additional condition:

Additional condition

The building(s) shall not be demolished before a legally binding contract for the carrying out of the works of redevelopment of the site is made and evidence of the contract has been produced to and agreed in writing by the Local Planning Authority, or in the absence of such a contract an alternative confirmation of commencement of the development has been submitted to and agreed in writing with the Local Planning Authority.

Reason: To ensure that the premature demolition of the buildings does not take place to the detriment of the character and appearance of the Conservation Area.

Reasons:

- i. Officers recognise that this is a balanced judgement. The benefits of the scheme are that it provides new residential accommodation on predominantly brownfield land and, in accordance with para. 118 of the NPPF, this should be given substantial weight. Other advantages of the scheme are the bringing back in to use of the villa; the removal of its modern and unattractive extensions; and the demolition of the Barleyfields building. The provision of modern purpose-built extra-care accommodation, where there is an identified shortfall, should also be given significant weight.
- ii. Weighed against these benefits are concerns about the level of tree loss within the Conservation Area, while recognising that the proposed landscaping scheme provides a high level of replacement planting; the scale of the building in relation to other buildings in the locality; overlooking to the neighbouring site; and levels of external amenity space.
- iii. The presumption in favour of sustainable development contained within para.11 of the NPPF requires that, where there are no relevant development plan policies, or the policies are out of date, permission should be granted unless the application of policies in the Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed. The policies referred to include those related to designated heritage assets which would include the Clifton Conservation Area. This means that the application should be approved unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF taken as a whole.

- iv. The proposal has been considered against the relevant NPPF policies particularly those in Section 16: Heritage Assets. When taking a balanced view, and assigning substantial weight to the provision of extra care housing on brownfield land, it is considered that the substantial benefits of the scheme would not be significantly and demonstrably outweighed by the less than substantial harm to the Conservation Area, tree loss, and concerns about amenity.

46d Telecommunications Mast, MBNL, Naburn Lane, Naburn, York [19/02766/FUL]

Members considered a full application from MBNL (EE Ltd And Hutchinson 3G UK Ltd) for the installation of telecoms cabinets and replacement mast at the Telecommunications Mast MBNL, Naburn Lane, Naburn, York. Officers were asked and confirmed that the application related to 5G roll out.

It was:

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

Reasons:

- i. The proposal would be inappropriate development in the green belt. It is harmful to the openness of the green belt and represents encroachment. Substantial weight must be given to this harm to the green belt in the planning balance. The proposal would also be harmful to the character and appearance of the area.
- ii. In the planning balance it is acknowledged that the scheme proposes an upgrade to help new 5G technology and that using existing sites is preferable to erecting new masts. As such it is considered that the harm caused by the mast and equipment has a relatively low impact on openness of the green belt and encroachment, the local context and the harm to the character and appearance of the area, are clearly outweighed by the cumulative benefits of the scheme identified in paragraph 5.25 above and

therefore very special circumstances are considered to exist which clearly outweigh the harm the green belt and any other harms.

- iii. The application therefore accords with the NPPF, particularly Chapter 10, Policies GB1 and C1 of the Draft Plan 2018 and Policies GB1 and GP20 of the Deposit Draft Local Plan 2005.

Cllr C Cullwick, Chair

[The meeting started at 4.30 pm and finished at 8.15 pm].

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