

Meeting	Planning Committee A
Date	1 December 2022
Present	Councillors Cullwick (Chair), Pavlovic (Vice-Chair), Ayre, D'Agorne, Doughty, Fenton, Kilbane, Looker and Melly
Apologies	Councillor Waudby
In Attendance	Becky Eades (Head of Planning and Development Services) Mark Baldry (Development Projects Senior Officer) Erik Matthews (Development Management Officer) Ian Stokes (Principal Development Control Engineer) Sandra Branigan (Senior Solicitor)

35. Declarations of Interest [16.33]

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. No interests were declared.

The Chair informed Members of the death of Michael Hammill.

36. Public Participation [16.33]

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 A.

37. Minutes [16.34]

Resolved:

- i. That the minutes of the meeting of Planning Committee A held on 8 September be approved and signed as a correct record, subject to second sentence of the public speaker Eamonn Keogh's statement

being changed to 'Neil Brown, the architect for the application explained that when the application was refused the previous year.....'

- ii. That the minutes for the meetings held on 5 October 2022 and 3 November 2022, be approved and signed as a correct record.

38. Plans List [16.35]

Members considered a schedule of reports of the Head of Planning and Development Services, relating to the following planning applications, outlining the proposals and relevant policy considerations, and setting out the views of consultees and officers.

39. Land to the West of Newlands Lane, Upper Poppleton, York [21/02444/FULM] [16.35]

Members considered a major full application from Mr D Brown for the extraction of clay and restoration of the site through the importation of inert wastes at land to the west of Newlands Lane, Upper Poppleton, York.

The Head of Planning and Development Services gave a presentation on the application. This was followed by an update from the Development Management Officer in which he advised Members of a change to the draft conditions for the Restoration Scheme plans, contours, cross sections and planting plan and of further representations that had been made. The points raised in the further representation were addressed. Members were also provided with further points of clarification in which they were advised that the applicant had indicated that a sufficient depth of clay would be retained on site to ensure that any issue of "ground heave" would not take place leading to materials either from the extraction or the restoration penetrating ground water below. The applicant had also indicated that they were willing to undertake clearance of vegetation from a 1 metre strip of verge to secure visibility and refuge for other road users approaching the A59.

Public Speakers

Philip Runacres spoke in objection to the application. He asked the Committee to be aware of the waste prevention strategy. He noted that many landfill operators had closed their landfills early. He suggested that the clay extracted could be used for flood defences and he asked if the applicant had the funding to complete the restoration of the site.

Neville Ward spoke in objection to the application on five grounds. These were listed as environmental damage, risk of flooding, Newlands Lane being unsuitable for HGVs, the A59 already being dangerous and the risk of more accidents occurring, car users already using Newlands Lane as a cut through to Poppleton and there not being suitable consultation. In response to questions he explained that the area was at risk of flooding with the water going to the small Foss into the river Ouse. He was also asked and explained that it was an industrial mining site and that inappropriate material was being put back into the ground.

Cllr Hook (Rural West Ward Councillor) spoke on the application. She explained that single track roads in Poppleton were used for recreation and that cyclists from Hessay turned off into Newlands Lane. She noted that the verges on Newlands Lane were low during the site visit but were not usually like that. She added that the application would put walkers and cyclists in danger and that it would remove their amenity. She was asked and confirmed that Newlands Lane was a much used recreational route.

Chris Jarvis spoke in support on behalf of the applicant. He advised that the site was allocated for extraction in the minerals and waste local plan and Poppleton Neighbourhood Plan. He explained that the development of extraction was carefully designed and explained how the clay would be extracted. He noted that the development had shown to have no increased risk of flooding or water going into the Foss or Ouse. He added that no HGVs would be leaving the site via Poppleton and that the restoration of the site would take place in phases. In response to Member questions, he clarified that:

- Regarding concerns about the oak woodland, the site sat within the white rose forest area and their landscape architect had liaised with the officer responsible for the community woodland.
- The applicant would operate on an environment permit which included conditions.
- There were different phases for the site which included a transitory water area in phase 1. He added that the inert materials had nowhere to go and that there were not many sites that managed inert waste.
- Condition 10 set out the hours of operation. There would be two traffic movements per hour.
- The measures utilised would be standard measures and the environmental assessment included noise restrictions.
- Concerning alternatives to staff travelling to the site in their own vehicles, the site would not be labour intensive and staff could use other means to travel to the site.

Members then asked questions to officers to which they responded that:

- The mineral and waste plan and Poppleton Neighbourhood Plan formed part of the Local Plan.
- The wheel washing applied to any vehicle size.
- The council would ask for a scheme on the upgrade of passing places.
- Regarding whether the nature of the lane allowing for additional passing places, the verges were wide but did not involve the removal of hedges.
- All phases of the application would take place within 10 years and this was a standard condition.
- The section of hedge to be removed was the north western hedge to allow an entrance into the site compound.
- The site of the white rose woodland was demonstrated to Members.
- There had been a difference of opinion between ecologists regarding a flood meadow.
- It was not planning policy to increase woodland.
- Noise monitoring would be agreed with Public Protection.
- The extraction of clay was on a regular cycle.
- Two vehicle movements an hour allowed access for future use as well as for current use.

Following debate, Cllr Pavlovic proposed the officer recommendation to approve the application subject to amended conditions 1, 7 and 8. This was seconded by Cllr Fenton. Following a unanimous vote in favour it was:

Resolved: That the application be approved subject to amended conditions 1, 7 and 8:

Amended Condition 1

To state that extraction and remediation would take place within 10 years.

Amended second part of Condition 7

To add in the upgrade of passing places, expansion in the number of passing places and maintenance of verges to enable them to be in a usable state.

Amended Condition 8

Wording of the dilapidation survey delegated to officers in conjunction with the Chair and Vice Chair.

Reason:

- i. The proposal is for the extraction of approximately 330,000 tonnes of clay for use in flood defences, repairing canals and reservoirs and lining waste disposal sites remaining from the previous unauthorised extraction of clay for farm holding purposes in the early 2000s. The proposal is subject to an Environmental Impact Assessment under Schedule 2 of the 2017 Town and Country Planning (Environmental Impact Assessment) Regulations and the site lies within the general extent of the York Green Belt.
- ii. The clay is of a specialist nature which self-evidently may only be worked where it occurs and forms an allocation within the Adopted Minerals and Waste Local Plan. Restoration would be by means of tipping of sifted and inert soils to form a woodland native species habitat with a water body retained. The principle of the development is felt to be acceptable. The works to the access track, the laying out of the site compound and storage area and the erection of a site cabin and weighbridge are inappropriate development by reason of impact upon the openness of the Green Belt. The proposed restoration scheme would of itself not be inappropriate.
- iii. The impact of the proposed extraction upon the surrounding landscape would be modest taking account of the surrounding topography and the proposed hedge planting to the south and south west. At the same time the impact of the proposed restoration would be acceptable creating a new woodland habitat. In relation to biodiversity the site is not identified as the habitat of any protected species and the proposed restoration incorporates a retained wetland habitat with enhanced hedgerow planting and an additional woodland. The proposal is therefore felt to be acceptable in landscape and biodiversity terms.
- iv. In terms of highway impact the site would be accessed from a farm track from Newlands Lane a single track road joining the A59 subject to a TRO limiting the weight of vehicles travelling its length. The nature of the process would involve only modest vehicle movements per hour with no staff permanently based at the site. The passing places linking the site with the A59 would be upgraded to accommodate the vehicles used. The access track and its junction with Newlands Lane would also be upgraded to restrict access of vehicles in a northerly direction towards Upper Poppleton. The nature of visibility and the availability of wide verges for the remainder of Newlands Lane approaching the A59 is such as to minimise conflict

with other road users. The proposal is therefore felt to be acceptable in highway terms.

- v. The proposal lies directly adjacent to a watercourse maintained by the Ainsty IDB of significant importance to the local pattern of surface water drainage. The proposal has been accompanied by detailed supporting evidence indicating how the existing water body can be dewatered to enable clay extraction without pollution and without increasing flood risk elsewhere in the vicinity. The restored scheme also incorporates a retained water body which in addition to having a biodiversity benefit would help stabilise the local pattern of surface water drainage. The proposal is therefore felt to be acceptable in terms of hydrology and flood risk.
- vi. In terms of amenity impacts there would be no fixed lighting, but mobile lighting would be clearly required at certain times of year which would be acceptable if controlled by condition on any permission. In terms of dust there would not be any generalised impact because of the nature of the material and the nature of the extraction method. Any permission would however be conditioned to require dust management in the circumstances where it would arise. In terms of visual impact key activities such as the storage area and site compound would be located away from more visible areas and the vulnerable south and south west boundary would be planted with a native species hedge. The method of work is designed to minimise noise and may be subject to a condition on any planning permission.
- vii. Taken together and accounting for the various mitigations the proposal is felt to be acceptable, satisfying the test of very special circumstances in paragraph 148 of the NPPF.

[The meeting adjourned from 17.35 to 17.42]

40. Land to the East of Middlewood Close, Rufforth, York [22/01844/FULM] [17.42]

Members considered a major full application from Mulgrave Developments Ltd for the Erection of 21no. dwellings and associated works (resubmission) at land to the East of Middlewood Close, Rufforth, York. The Head of Planning and Development Services gave a presentation on the application. The Development Projects Senior Officer gave an update on the application noting that additional consultation comments have been received from the Councils Planning Policy Team. He outlined the comments and noted that there were no outstanding Regulation 19

objections. He also advised Members that at paragraph 5.113 of the report it was stated that the very special circumstances relating to the case were laid out within paragraph 5.106 of the report. This was incorrect and the very special circumstances were summarised at paragraph 5.108 of the report.

Public Speakers

Daniel Russell spoke in objection to the application. He explained that nothing had changed since the application had been previously presented to Members. He explained that residents on Middlewood Close had their drains pumped out once a month. He noted that the site was in green belt . He noted that he lived to the south east of the site and had a riding area next the site. He explained that there was a principle of the existing amenity of the land and he explained the impact the application would have on his amenity.

Darren Seamark spoke in objection to the application. He explained that he lived directly adjacent to the site and that there were existing infrastructure, access and drainage problems. He added that traffic from the pig farm would have to drive through the development to the pig farm. He added that the development was next to a school and the road was busy during school drop off and pick up times. He also explained that the development would have an impact on wildlife. He was asked and explained the route to the pig farm

Ian Martin spoke in objection to the application. He explained that he had spoken to all residents on Middlewood Close. He noted that the application was on Green Belt and had not demonstrated very special circumstances. He noted that the draft Local Plan had not been approved. He listed his concerns regarding infrastructure, flooding, ingress of sewerage, the road surface on Middlewood Close, and parking, especially at school drop off and pick up times. He noted his concern regarding the safety of children. In response to Member questions he explained that:

- He would still object to the application if the site was taken out of Green Belt.
- Regarding there being no representation regarding the site being allocated for housing in the Local Plan, he had not received notification of the Local Plan examination process.
- Concerning parking becoming worse, the development had no pavements on it and it would create additional danger for people accessing Middlewood Close as pedestrians.

Catherine Martin spoke in objection to the application. She explained that the site was in the Green Belt and there were no very special circumstances. She added that building on the Green Belt was encroaching

on the countryside. She added that the sewage system was not suitable and noted that Yorkshire Water had been called out in June and October to unblock sewage. She noted that Middlewood Close gardens collected standing water and that Rufforth was a linear village. She suggested that there should be an incentive for landowners to plant trees.

Mark Reynolds spoke in objection to the application. He explained that he moved to Rufforth because it was on Green Belt. He explained that residents attended a Parish Council meeting to object to the development and there was substantial objection from residents. He noted that the boundary was extended because of the drainage on the development and it did not demonstrate very special circumstances. He added that if approved, there was a potential for more developments in the Green Belt. He was asked and explained that Rufforth was a linear village.

Mark Lane spoke in support of the application on behalf of the applicant. He noted that the applicant was appealing the decision to refuse the application at Planning Committee B in August. He noted that the points raised at that meeting were addressed in the officer report. He stated that there were very special circumstances and noted the material considerations in considering the application. He noted that site H38 was a longstanding housing allocation in the Local Plan and he added that there were no outstanding objections to the policy allocation to site H38. He further noted that there were no amendments to the Local Plan inspectors allocation and that the development would add to housing supply.

In response to Member questions, Mark Lane and colleague Andrew Gibson explained that:

- The drainage on the site was through a separate system. Yorkshire Water and the drainage board had been consulted and had no objections.
- There had been no objections to the housing allocation of the site at the Local Plan hearings.
- The Neighbourhood Plan had not allocated the site for housing as this was the responsibility of the Council and Local Plan.
- Regarding there being no pavements, there was a shared surface which was an acceptable adoptable surface.
- The majority of storm drainage was away from the site so as not to increase flood risk on the site.
- Yorkshire water had told the applicant where to discharge foul drainage.
- Parking on the site was above policy compliant.
- Regarding the difference between this application and the previous one, Phase 4 of the Local Plan hearings had been completed and as such, more weight should be given to the Local Plan.

- The pig unit was an isolation unit in ownership of the same landowner. There was no issues with odours from the pig unit and horse unit.
- The consultation undertaken with neighbouring residents was explained.
- Other forms of mitigation for the hedge with the horse unit could be examined.

In response to Member questions, officers clarified that:

- The Committee needed to consider the application before it.
- The Parish Council produced the Neighbourhood Plan.
- Highways officers had undertaken a site visit and found that there wasn't any additional parking from the school run. They demonstrated where the safest routes for walking were and added that it was a low speed development.
- The Parish Council had not raised objections to the application.
- It couldn't be guaranteed that the Local Plan would be adopted and should it be adopted there was every indication that would site would be allocated as a housing site. It was explained that more weight should be given to the Local Plan than the meeting at which the application was previously determined as the Phase 4 Local Plan hearing had been completed. This added to the weight of very special circumstances and the five year land supply.
- Consideration to the sustainable transport element of the S106 was a matter of the scale of the development.

[The meeting adjourned from 18.43 to 18.51]

Following debate, the Head of Planning and Development Services clarified the application and weight given to very special circumstances. Clarification was also given to conditions 8, 9 and 10. Cllr Ayre moved the officer recommendation to approve the application. This was seconded by Cllr Pavlovic. Following a unanimous vote in favour, it was:

Resolved: That the application be approved subject to referral of the application to the Secretary of State under the requirements of The Town and Country Planning (Consultation) (England) Direction 2021, and should the application not be called in by the Secretary of State then:

- i. Approve the application subject to the planning obligations and conditions set out below; and

- ii. The Head of Planning and Development Services to be given delegated authority to finalise the terms and details of the Section 106 obligations and conditions.

Reason:

- i. The committee report outlines that the proposed development, subject to conditions, would be compliant with the NPPF and relevant technical policies within the adopted Neighbourhood Plan and the 2018 Draft Local Plan with regard to the impact on the highway network, residential amenity, archaeology, biodiversity, flood risk and drainage. In addition to this there are considered to be suitable mechanisms to ensure that the infrastructure required to support the development can be secured.
- ii. At present the site is considered to remain within the general extent of the Green Belt. However, the site is allocated for housing development in the 2018 DLP. It has been determined, as part of the formulation of the DLP 2018, that the site, due to its performance against Green Belt purposes specific to York, the spatial strategy for sustainable growth and taking into account NPPF policy on setting Green Belt boundaries can be within the Rufforth settlement and not in the Green Belt. It is considered that there are very special circumstances as set out in paragraphs 5.93 to 5.107 above that cumulatively clearly outweigh the potential harm to the Green Belt by reason of inappropriateness and the limited adverse impact on the openness of the Green Belt and any other harms as identified above, even when giving substantial weight to the Green Belt harms. Further, there is no case for refusing the scheme on prematurity grounds.

Cllr Cullwick, Chair

[The meeting started at 4.32 pm and finished at 7.06 pm].