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Meeting	Area Planning Sub-Committee
Date	6 February 2014
Present	Councillors McIlveen (Chair), Gillies (Vice-Chair), Douglas, Watson, Semlyen, Looker, Fitzpatrick, Galvin, Cuthbertson, Hyman and Warters

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<b>Site Visit</b>	<b>Attended by</b>	<b>Reason for Visit</b>
Fox and Hounds, 39 Top Lane, Copmanthorpe.	Councillors Cuthbertson, Fitzpatrick, Galvin, Gillies, McIlveen and Watson	As the officer's recommendation was for approval and objections had been received.
34 Eastward Avenue.	Councillors Cuthbertson, Fitzpatrick, Galvin, Gillies, McIlveen, Warters and Watson	As the officer's recommendation was for approval and objections had been received.
Royal Masonic Benevolent Institute, Connaught Court, St. Oswalds Road.	Councillors, Cuthbertson, Fitzpatrick, Galvin, Gillies, McIlveen, Warters and Watson	As the officer's recommendation was for approval and objections had been received.
Health Centre, 1 North Lane, Huntington.	Councillors Cuthbertson, Fitzpatrick, Galvin, Gillies, McIlveen, Warters and Watson	As the officer's recommendation was for approval and objections had been received.
10 Shilton Garth Close, Earswick	Councillors Cuthbertson, Fitzpatrick, Galvin, McIlveen, Warters and Watson	As the officer's recommendation was for approval and objections had been received.

Manor Park, Sheriff Hutton Road, Strensall.	Councillors Cuthbertson, Fitzpatrick, Galvin, Gillies, McIlveen and Watson	As the officer's recommendation was for approval and objections had been received.
122 York Road, Haxby.	Councillors Cuthbertson, Fitzpatrick, Galvin, Gillies, McIlveen, Warters and Watson	As the officer's recommendation was for approval and objections had been received.
Westholme, 200 York Road, Haxby.	Councillors Cuthbertson, Fitzpatrick, Galvin, Gillies, McIlveen, Warters and Watson	As the officer's recommendation was for approval and objections had been received.
4 Hilbra Avenue, Haxby.	Councillors Cuthbertson, Galvin Gillies, McIlveen, Warters and Watson	As the officer's recommendation was for approval and objections had been received.

## 42. Declarations of Interest

At this point in the meeting, Members were asked to declare any personal, prejudicial or disclosable pecuniary interests that they may have in the business on the agenda.

Councillor Semlyen declared a personal and prejudicial interest in plans item 4g (The Blind Swine, Unit 3, 24 Swinegate) as she knew the owner's business partner. She also declared a personal and prejudicial interest in plans item 4f (Royal Masonic Benevolent Institute, Connaught Court, St Oswalds) as she knew Mr David Wilkinson who had registered to speak on behalf of Fulford Friends in objection to the scheme. She left the room during discussion of both these item and took no part in the debate or vote on either application.

Councillor Galvin declared a personal non prejudicial interest in plans item 4h(9 Maple Avenue, Bishopthorpe) as he was a

trustee of the Old School, Bishopthorpe which owns land adjacent to the application site.

Councillor Gillies declared a personal and prejudicial interest in plans item 4l (10 Shilton Garth Close, Earswick) as Councillor Wiseman was formerly a member of his political group and his son in law had undertaken work at the premises in the past. He left the room during discussion of the item and took no part in the debate or vote on this application.

Councillor Cuthbertson declared a personal non prejudicial interest in plans item 4j(Health Centre, 1 North Lane, Huntington) as he was a patient at the practice but advised that he used the services at Wigginton rather than Huntington.

#### **43. Minutes**

Resolved: That the minutes of the last meeting held on Thursday 9 January 2014 be approved and signed by the Chair as a correct record.

#### **44. 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.

#### **45. 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 views of consultees and Officers.

##### **45a) 122 York Road, Haxby, York, YO32 3EG (13/02280/FUL)**

Consideration was given to a full application by Mrs T Devlin for the erection of two new dwellings and garages to the rear of 122 York Road with access from Old Orchard (resubmission).

Officers circulated an written update to the committee and advised that since publication of the report, a revised layout

(12:39:03 Rev.F) had been submitted which showed that the width of the shared drive through the site had been reduced by 1m to 3.1m thereby enabling more screening to be planted along the northern boundary with Old Orchard.

David Farnsworth had registered to speak in objection to the application. He urged the committee to refuse the application due to the numerous objections received. He expressed concerns about some of the information contained in the committee report which he felt was flawed and misleading as it appeared to be based on an earlier design which had substantially changed. He expressed disappointment that no attempt had been made by the site owner or agent to liaise with the local community with regard to the application. In response, officers confirmed that the information contained in the report was correct and based on the correct set of plans.

Father Kevin Trehy, of St Margaret Clitherow Church, had also registered to speak in objection. He voiced his concern about the impact on drainage of the grounds and the additional pressure on the pumping station. He advised Members that the proposed house on plot 2 would be seen through the window behind the altar in the church. He explained that that altar was central to the worship at Mass and that as the windows were translucent, the introduction of a fixed permanent structure would be invasive and would distract from worship. He stated that he would welcome discussion with the developer on the scheme. In response, Officers advised that the proposed house on plot 2 would be 12 metres from the window in question and 16 metres away from the first pew in the church and the building. Officers confirmed that as this window was not south facing, there would be no overshadowing effect on the church.

The agent for the applicant had registered to speak in support of the application. He stated that the scale and massing of the proposed houses were typical of any dwelling in the area and the reduction in mass of the house at plot 1 would reduce the impact on trees. He questioned the loss of light to the church pointing out that the boundary was sufficiently tree lined.

Members raised concerns that traffic moving south accelerating round the bend may not be aware that there was access on the corner. They suggested that a warning sign might be required to warn drivers of the access.

Members discussed the effect of the proposed house on plot 2 on worship during church services. They considered whether it was significant enough to refuse the application but noted the distance from the church window.

Members noted that the proposed plans showed the removal of an existing tree close to the boundary of 109 Old Orchard and questioned whether it was possible to retain this tree for the amenity of residents. Officers confirmed that the tree was not suitable for a tree preservation order due to its proximity to the garage and warned against adding a condition regarding the tree without knowing what the implications of retaining the tree would be for the retention of another important tree on the site frontage.

Resolved: That delegated authority be given to officers to approve the application (in consultation with the Chair and Vice Chair of the committee) following discussions with the applicant regarding the implications of the possibility of the retention of the oak tree adjacent to the garage of number 109 Old Orchard.

Reason: The proposal accords with national and local planning policy and is considered to be acceptable however it was agreed that there should be an opportunity to discuss with the applicant whether the oak tree adjacent to the garage to number 109 Old Orchard could be retained for the amenity of local residents.

**45b) Fox And Hounds, 39 Top Lane, Copmanthorpe, York, YO23 3UH (13/03099/FULM)**

Consideration was given to a major full application by McCarthy and Stone Retirement Lifestyles Ltd for the erection of a 3 storey building comprising 28 later living retirement housing units, communal facilities, landscaping and car parking.

Officers circulated an update to the committee report and advised that following further negotiations, the applicant and officers had agreed a developer contribution of £365,000 which would be split as follows: Affordable Housing (£350,604); Highways (£9000); and Public Open Space (£5396). They informed Members that the highway contribution was sufficient

to implement the “real-time” bus information system at the nearby bus stop, however the costs of a Traffic Regulation Order, should waiting restrictions need to be introduced, would not be funded from the development.

Officers advised that the recommendation should be amended to “approve subject to a Section 106 Agreement”.

Officers suggested the following amendments to proposed conditions.

- Condition 14 - Amend to require Code for Sustainable Homes level 3-star rather than BREEAM ‘Very Good’.
- Condition 17 - Amend to include details of the acoustic fence, the glazing of the living room windows and bedroom windows.
- Condition 5 – Delete as officers are now in receipt of details of cycle parking.

Members questioned what value had been attributed to the Copmanthorpe Village Design Statement (VDS) in coming to the recommendation to approve the application. Officers confirmed they had taken the VDS into account and explained that the site was on a slope therefore the 3 storey building across the site was mitigated by a change in ground levels. They advised Members that in the past planning permission (now lapsed) had been granted for a 3 storey development on the site and officers felt that this was an appropriate location within the village.

Members raised concerns that no condition was included to control working hours during development. Officers advised that this was implied in condition 16 but that Members could add specific hours if they wished.

Mr Chris Butt, the agent for the applicant, had registered to speak in support of the application. He explained that the applicants had been looking for a site in York for a number of years and had identified this site in Copmanthorpe which they felt suited the needs of elderly occupiers. Furthermore the accommodation would meet the profile of the Copmanthorpe’s aging population. The accommodation would comprise a mix of 1 and 2 bed apartments, communal facilities, landscaping and car parking. In response to a question from a member, he

confirmed that there would be charging facilities for mobility scooters. Whilst the minimum age of residents would be 60, it was envisaged that the average occupier would be in their late seventies. This age range coincided with a drop off in car ownership.

Members welcomed the extensive consultation which had taken place within the village. They sought assurance that the development would be no higher than that of other properties on Top Lane. The agent advised that the development had been carefully modelled by the architect to ensure a relationship with other nearby buildings but was unable to give a definitive answer but confirmed it would be of similar height to existing properties. Members were happy that it would not be out of context with other buildings.

Members discussed whether there was adequate parking for visitors noting that on street parking on Top Lane was difficult. The agent advised Members that the development would provide three times the level of parking to some similar schemes across the city but assured them that levels of parking would be kept under review

Resolved: That the application be approved subject to a Section 106 Agreement and subject to the conditions listed in the report, the amended and additional conditions below and the deletion of proposed condition 5.

Amended Condition 14

Prior to the commencement of the development, the developer shall submit for the written approval of the Local Planning Authority an initial Code for Sustainable Homes (CSH) Design Stage assessment for the development. Unless otherwise agreed in writing with the Local Planning Authority, this shall indicate that at least the minimum code level 3-star rating will be achieved. This shall be followed by the submission of a CSH Post Construction Stage assessment, and a CSH Final Certificate (issued at post construction stage). These documents shall be submitted to the Local Planning Authority after completion and before first occupation of the building.

Both documents submitted shall confirm that the code rating agreed in the initial CSH Design Stage assessment has been achieved.

Reason: In the interests of sustainable development.

#### Amended Condition 17

The development hereby approved shall be implemented in full accordance with the submitted Noise Assessment, by SRL Technical Services dated 23<sup>rd</sup> August 2013:-

- The Acoustic Fence indicated on Site Plan(drawing no.1919-01-02 REV A) will be a close boarded timber fence(2m in height) to meet requirements of BS8233;
- Living Room Windows Glazing: 10mm glass, 12mm air cavity, 6mm glass to the northern elevation and 4mm glass,12mm air cavity, 4mm glass in all other elevations.
- Bedroom Windows Glazing: 10mm glass, 12mm air cavity, 6mm glass to the Northern elevation, 10mm glass, 12mm air cavity, 6.4 mm glass(laminated) to the Southern elevation, and 4mm glass 12mm air cavity, 4mm glass installed in all other elevations.

Reason: To safeguard the amenities of occupants of the development hereby approved and to secure compliance with Policy GP1 of the York Development Control Local Plan.

#### Additional Condition

The hours of construction, loading or unloading on the site shall be confined to 8:00 to 18:00 Monday to Friday, 9:00 to 13:00 Saturday and no working on Sundays or public holidays.

Reason: To protect the amenities of adjacent residents.

Reason: It is felt that the proposed design is acceptable in the context of the site and that no significant adverse impact would be caused to the residential amenity of neighbouring properties. At the same time it is felt that any impact upon the local highway network would be acceptable subject to the payment of the appropriate commuted sum in respect of sustainable transport. The site can be effectively drained and it is felt overall that the development is acceptable providing the requisite commuted payments are given in respect of the provision of affordable housing, open space and sustainable transport.

**45c) Westholme, 200 York Road, Haxby, York (13/03168/FUL)**

Consideration was given to a full application by Mr. Daniel Gath for the erection of 4 detached two storey dwellings with associated garages, access and landscaping (resubmission).

Officers provided an update to Members. They explained that the proposals showed attenuated surface water draining to a manhole at the south west corner of the application site and onwards to a Yorkshire Water public surface water sewer in Sunnydale. They advised that on 31st January the council's drainage engineer witnessed a test demonstrating that surface water discharge from the manhole did indeed connect to the surface water sewer in Sunnydale and ultimately discharged into Westfield Beck, which was controlled by the York Consortium of Internal Drainage Boards. The council's drainage officers were satisfied that the surface water drainage measures proposed by the applicant, for draining the whole of the application site and including attenuation, were acceptable.

John Howlett, the agent for the applicant, spoke in support of the application. He advised Members that in response to concerns that the high density of the original scheme would have resulted in a cramped development, the number of houses had been reduced from 5 to 4, which along with a different composition of house types, allowed for greater landscaping.

Members agreed that the changes in layout was a considerable improvement and asked the applicant to maintain as much planting on the outer side of the site as possible.

Resolved: That the application be approved subject to a Section 106 agreement.

Reason: The proposal accords with national and local planning policy and is considered to be acceptable. The applicant has agreed to pay the required contribution towards open space and education totalling £23,328.

**45d) Manor Park, Sheriff Hutton Road, Strensall, York, YO32 5TL (13/03299/FUL)**

It was reported that this application had been withdrawn by the applicant prior to the meeting.

**45e) Manor Park, Sheriff Hutton Road, Strensall, York, YO32 5TL (13/03303/FUL)**

Members considered a full application from Nelson Park Lodges for the conversion of existing offices to two holiday cottages.

John Chapman from Strensall and Towthorpe Parish Council expressed the concerns about the operation of the site and drainage arrangements. He stated that there was no indication that concerns raised by officers in the Flood Risk Management Team had been addressed. He advised that the previous approval for the office block was conditioned to be used only in conjunction with the caravan park. He asked that the issue of drainage provision be revisited and that current enforcement action be allowed to reach its conclusion before a decision is made on this application.

With regard to ongoing enforcement action, officers reminded the committee that enforcement issues elsewhere on the site could not be taken into account when determining this application which must be considered on its own merits. They also advised that the issue of surface water drainage has been addressed to the satisfaction of the planning officer.

Members expressed concerns that the proposed change of use to two holiday cottages would impact on the amount of surface

water as well as the amount of foul water created, in comparison to that associated with its current use. Officers advised that the change of use would not lead to any increase in surface water and advised that they would not normally comment on foul water, explaining that the Environment Agency grant the permit to discharge foul water. Members were informed that the applicant had confirmed that there was adequate capacity for the treatment of any increase in foul water on site. Members accepted that if the amount of foul water was to increase this would just require the owner to empty the cesspool on a more regular basis.

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

Reason: The proposed conversion would involve minimal external works and would be consistent in land use terms with the other activities taking place on the site. Subject to occupation of the cottages being controlled by condition on any permission to require their retention in holiday use then the proposal would comply with the terms of Policy GB3 of the York Development Control Local Plan along with the requirements of paragraph 28 of the National Planning Policy Framework.

**45f) Royal Masonic Benevolent Institute, Connaught Court, St Oswalds, York (13/03481/FULM)**

Consideration was given to a major full application (13 weeks) by RMBI and Shepherd Homes Ltd for the erection of 14 new dwellings following the demolition of an existing bowling clubhouse and garage block.

Officers circulated an update to the committee report, full details of which are attached to the online agenda, which highlighted that:

- Comments had been received from the Conservation Area Advisory Panel, who raised no objections and commended what they felt was a much improved scheme.
- Four further objections had been received from local residents but that all issues raised had already been covered in their report.

- Further comments had been received from Fulford Parish Council who raised no new issues except that whilst the site was put forward as part of the call for sites it was not allocated for housing in the consultation draft of the local plan. In response officers advised that the site was small and was being treated as a windfall site, and therefore not specifically allocated for housing. They confirmed that the current application accorded with the council's criteria for determining such windfall sites therefore the proposal could be determined in advance of the local plan process.
- Further comments had also been received (and distributed to members in advance of the meeting) from Fulford Friends and all issues raised had been addressed in the officers' report. Nevertheless the council's countryside officer had responded to the argument that the submitted bat survey was inadequate and advised that the areas to be developed were both amenity grassland with few trees and scrub. As such they had limited potential for bats either for roosting or foraging. Their locations were also likely to reduce any impact on the use of the area as a corridor. Connaught Court was likely to be a good foraging and corridor route but this was limited to the areas of suitable habitat, predominantly in the corridor of mature trees running from Fulford Road through to the Ings between Fulford Park and the Connaught Court buildings. The legislation mainly referred to the likely presence of roosts and the likelihood that development would affect roosts or have a significant impact on the local population. The Countryside Officer's view was that it was unlikely to affect any roosts directly or have a significant impact on the bat population and felt that a bat forage survey would be unnecessary and unreasonable. He confirmed that the surveys of the buildings to be demolished were valid and showed no use by bats and this coupled with the unsuitability of the habitat for foraging meant that there was no reason not to consider this application.
- Fulford Friends also argued that the flooding risks of Area B should undergo further scrutiny. Flood risk issues were covered in the officer's report. Nevertheless officers agreed with the objection that the proposed fencing between the curtilages in flood zone 3, if close-boarded, could inhibit movement of flood water. Officers

recommended that details of fencing were made a condition of approval.

- The applicant had agreed to change the route of the temporary access road so that it would not go between the trees along the St Oswalds Road frontage but instead would now enter the site through the front gate before following a new alignment parallel to the internal access road. Officers welcomed the new alignment.
- Tree protection measures had now been received therefore the tree protection condition (16) should be amended accordingly.
- The latest proposals showed the house at plot 9 being 6m from the boundary with the rear garden of 26 Atcherley Close. A proposed sewer would run under the strip, requiring an easement which would prevent construction – as long as the sewer, as built, followed this alignment. In case it did not, officers recommended that a condition be attached removing permitted development rights in this area.
- The proposed Section 106 unilateral undertaking for financial contributions was still awaited.

Mary Urmston spoke on behalf of Fulford Friends. She commented that:

- The principle for building on Area B was not supported by planning policy
- The green space separating Fulford Village from York was important. If existing gaps were replaced with views of buildings this space would be spoilt forever. Heritage assets were irreplaceable and any harm or loss must have convincing justification.
- Areas in Zone 1 should be developed first as access was already in place. Approving development in a higher risk zone when areas in Zone 1 were available, would conflict with planning policy.
- There were concerns over drainage which raised uncertainty as to whether sewers could cope with demand.
- The application required a comprehensive bat survey

Members noted that Yorkshire Water had not submitted a formal response. Officers explained that surface water from the site was attenuated then discharged into water courses that were not the responsibility of Yorkshire Water. An officer from the Flood Risk Management Team advised that the applicant had not only agreed to reducing the run-off by 30 percent (in accordance with the council's Strategic Flood Risk Assessment) but had also offered betterment by storing more water underground and applying further restrictions to its discharge than they had been asked to. With regard to foul water, Yorkshire Water had been consulted as the applicant wanted to divert this. City of York Council has no control over this issue.

One Member stated that in the draft local plan the area in question had been allocated as a green corridor. Officers advised that the site was a small site and was being treated as a windfall site and that, according to current local and national policy, housing was justifiable on these two sites. Officers stressed that Members should not use the draft position in the draft local plan to make this decision.

David Wilkinson also spoke on behalf of Fulford Friends. He circulated a handout to Members which provided a summary from their response report which had been circulated to Members and plans showing Area A on the latest revision of plan K as well as a suggested layout of Area A produced by the Fulford Friends Group and a number of photographs. He made the following points:

- Proposed houses in Area A were out of character – single storey houses would be more appropriate.
- In the latest revision of plan K, houses 1, 3 and 4 were out of line and too close to boundary trees. The road into Area A would destroy the rare pear tree. The applicant stated it was not possible to retain this tree without losing a dwelling but the suggested layout retained this tree.

Cliff Caruthers of O'Neill Associates, the agent for the applicant, spoke in support of the application. He made the following points:

- The report explained differences between the current proposal and the previous scheme.
- RMBI were owners of the site who were undertaking a countrywide upgrade of their homes. There had been no updating to Connaught Court since the 1970s.

- The current proposals reflected comments of the Planning Inspectorate appeal decision.
- Pre-application and post submission consultations had been undertaken and concerns raised had been responded to where possible.
- Construction routes would be constructed at the earliest possibility in order to minimise disturbance.

Karin de Vries had registered to speak on behalf of Fulford Parish Council. She raised the following issues:

- The application was on historic parkland.
- Fulford Parish Council wrote to City of York Council on 15 January objecting to the principle of development of the site – this was not referred to in the committee report.
- The proposed housing would have an impact on Fulford Park House which was a major feature.
- Lack of affordable homes – these houses would be out of reach for local residents.
- The proposed development would lead to a loss of open space and would impact on trees.

Councillor Aspden had registered to speak as Fulford Ward Councillor on behalf of local residents. He raised the following concerns:

- Flooding - some houses are located in flood zone 2 and the gardens (with retaining walls) of other houses lie within flood zone 3.
- Traffic issues
- impact on wildlife
- impact on landmark trees
- Lack of affordable housing
- Harm to parkland setting
- Harm to setting of listed building

He asked why the drainage conditions had not been amended to 1.4 litres per second as agreed.

Officers explained the 1.4 litre per second per hectare was based on greenfield run off but on brownfield sites this is 140 litres/sec/hectare. This is a brownfield site so, in drainage terms, brownfield run off (restricted to 70% of the existing rate) applies. They advised that they had spoken to the Internal Drainage Board who had agreed to 5 litres/sec/hectare.

Officers advised that all dwellings were located in flood zone 1 (all set above the 1 in 100 year + 20% climate change allowance flood zone level), but that the rear gardens of 10, 11, 12 and 14 encroach into flood zone 2 (but with means of escape within flood zone 1 to the front of the property).

Some Members acknowledged that they would have to accept some development on this land at some point (due to the inspector's decision) but did not feel that the design and layout of the proposed housing was right. They expressed the opinion that if it was not possible to have houses fronting onto St Oswalds Road due to the trees, it may be more sensible to come further away from the trees and look at something similar to what had been proposed by Fulford Friends. They also noted that they would have liked to have an affordable element to the scheme. They stated that the design of Area B needed to be more sympathetic as it backed onto the Ings and agreed with the views expressed by one speaker of the importance that the new homes fitted with the existing John Hunt homes. They suggested that Parish Council and Fulford Friends were involved in drawing up the scheme.

Other Members confirmed that they were relatively happy with the proposals. They accepted that there would be a loss of open space but noted that this was private open space. With regard to the layout, they acknowledged that people would always be able to come up with different layouts. They did not feel there was a need to be concerned about a flood risk.

Councillor Galvin moved and Councillor Gillies seconded a motion to approve the application subject to the conditions listed in the report and the additional/amended conditions proposed by officers in their update. On being put to the vote, the motion fell.

Councillor Reid moved and Councillor Cuthbertson seconded a motion to defer the application on the grounds of the design and layout of Area A and the effect on the conservation area and the listed building. On being put to the vote, this motion was carried.

Resolved: That the application be deferred.

Reason: Seek amendments to the design and layout of Area A. The current layout is unsatisfactory in terms of its

impact on the trees and the adjacent listed building the rear parking and access is poor.

**45g) The Blind Swine, Unit 3, 24 Swinegate, York, YO1 8AZ  
(13/03503/FUL)**

Members considered a full application from Mr Joseph Moore for a change of use from restaurant (use class A3) to mixed use restaurant and bar (use class A3/A4) with alterations to the front to form terraced dining.

Officers provided an update to the application. They advised that two objections had been received from residents of Lund's Court where there are five flats. The grounds for objection were as follows:

- There was already noise disturbance from the application site and this could increase.
- How would the condition of the premises licence, which required windows and doors be kept shut after 23:00, be enforced? The kitchen door was already left open at night and adding a window on the alleyway side would result in more noise breakout from the premises.
- Music from the application site had previously been audible at Lund's Court.
- Residential amenity levels had worsened in recent years now there was a proliferation of bars in the area – due to cooking smells, loud music, litter creation and crime and disorder.
- It is noted the police are looking to include the Swinegate area in their Cumulative Impact Zone due to crime and disorder issues. Restricting the opening hours of the application site would presumably assist the police in fulfilling their objectives.

Officers informed Members that the Environmental Protection Unit advised that they had not received any complaints about the premises. They had also confirmed they did not object to the application and that in their opinion much of the amplified music audible in the area did not originate from the application site.

Officers advised that conditions would control amplified and recorded music and also the equipment installed including air conditioning.

Hilary Ramili, the agent, had registered to speak in support of the application. She reminded Members that the proposed extension of the Cumulative Impact Zone was only a proposal at this stage and had not yet been agreed so should not have any bearing on this decision. She explained that the premises had had a late licence since 2005 and its occupancy and opening times had remained the same with no breach of the licence. The premises did not cause any additional impact on the area. She explained that the proposed alteration would allow a more continental style of dining with no intention to operate as a drinking bar, but mainly as a food led business. She advised that the Blind Swine was not responsible for the cooking smells or litter and there was no evidence that the use of the site gave rise to undue noise or disturbance.

Members noted that the previous planning permission for the property 00/00136/FUL which granted permission for a restaurant included a condition which specified the closing time as 23:30 however the premises had liquor licence to 03:00. It was acknowledged by the agent that by had been operating in line with the times specified on the liquor licence and that this was in conflict with existing planning permission. Members noted that this application if granted, as well as allowing an extension and change of use, would bring the operating times in line with the liquor licence.

Some Members advised that they had received emails from anxious residents regarding the potential for an increase in noise and disturbance and acknowledged that while it was not possible to pinpoint individual premises, the problem was the cumulative impact caused by the proliferation of bars in the area.

They noted that the Environmental Protection Unit had not received any complaints about the operation of these premises, and while they had been operating outside the times specified on the previously granted planning permission, this was an indication that increasing the hours on the planning permission would not give rise for concern.

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

### Amended Condition 7

Noise from any amplified or recorded music shall not exceed lowest measured background noise levels (LA90), taken at neighbouring buildings (with includes the offices upstairs and retail unit next door).

Reason: In the interests of the amenity of surrounding occupants.

### Additional Condition 8

Prior to installation details of any machinery, plant and equipment, which would be audible outside the site, and any proposed noise mitigation measures, shall be approved by the local planning authority, implemented in accordance with the approved details, and appropriately maintained thereafter.

These details shall include maximum (LA<sub>max</sub>(f)) and average (LA<sub>eq</sub>) sound levels (A weighted), and octave band noise levels they produce. The report shall be undertaken by a specialist noise consultant or suitably qualified person and conducted in accordance with BS4142:1997. The report shall assess the impact of the additional noise sources on nearby residential properties and include any mitigation measures that are required.

Reason: In the interests of amenity.

INFORMATIVE: To achieve compliance with this condition details should demonstrate that the noise levels at the properties comply with the requirements of the World Health Organisation Guidelines on Community Noise and BS5228 as follows:-

Day time internal noise level in living rooms of 35 dB(A) Leq 16 hour (07:00 to 23:00)  
Night time internal noise level in bedrooms of 30 dB(A) Leq 8 hour (23:00 to 07:00)  
Night time internal maximum noise level in bedrooms of 45 dB(A) L<sub>max</sub>

Reason: The proposed variation in use of the premises would have no undue impact on the vitality and the amenity of surrounding occupants can reasonably be controlled through the imposition of conditions. The external changes proposed, as shown on the revised plans, will not have an undue adverse impact on the host building and there will be no undue impact on the character and appearance of the conservation area.

**45h) 9 Maple Avenue, Bishopthorpe, York, YO23 2RG  
(13/03602/FUL)**

Members considered a full application from Mr Craig Delorenzo for a two storey side and single storey rear extension (revised plans).

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

Reason: It is considered that the proposal will not harm the living conditions of nearby neighbours or the appearance of the dwelling within the surrounding area. It is in compliance with the NPPF, policy H7 of the local plan and the SPD on house extensions and alterations.

**45i) 34 Eastward Avenue, York, YO10 4LZ (13/03642/FUL)**

Members considered a full application from Mr Ahmed Karbani for a porch to the front with glazed Juliet balcony screen above.

Vivienne Clare, a neighbour, spoke in objection to the application on behalf of residents of Eastward Avenue. She advised Members that these proposals contained only minor amendments to an application which had been refused previously. She expressed the view that there was a notable difference between a glazed door and a window in terms of overlooking onto neighbouring properties and questioned the need for a flat roofed porch to act as a disabled refuge.

Karin de Vries spoke on behalf of Fulford Parish Council. She stated that the reasons for refusing the application previously still stood and the proposals fell short of the supplementary guidance requirements. She advised Members that the

proposed extension, if granted, would affect residents unduly but asked that if Members were minded to grant the application, that a condition be attached to withdraw permitted development rights in order that no further openings were permitted.

Councillor Aspden spoke on behalf of local residents as Ward Member for Fulford. He drew Members attention to the concerns raised by residents. He stated that the house had already been extended in front of its building line and that this porch would bring it even further forward. He expressed the view that the porch would be a prominent and incongruous addition to the building and impact negatively on the street scene.

Officers reminded Members that the fact that this application is part retrospective should not impact on members judgement of the scheme.

Members felt that very little had changed from the previously refused application and agreed that the proposed flat roof extension and door at first floor level would appear incongruous in the street scene.

Resolved: That the application be refused.

Reason: It is considered that the additional forward extension of the front porch coupled with its flat roof design and the addition of the door at first floor level would appear as an unduly prominent, incongruous and uncharacteristic addition which would be harmful to the appearance of the property and wider street scene. As such the proposal conflicts with Government advice in relation to design contained within the National Planning Policy Framework (paragraphs 17 and 56), policy GP1 (criterion a and b), and H7 (criterion a) of the 2005 Development Control Local Plan and guidance contained in paragraph 11.3 and paragraph 7.4 (c) and 7.5 of the House Extensions and Alterations Supplementary Planning Document, approved in December 2012.

**45j) Health Centre, 1 North Lane, Huntington, York  
(13/03659/ADV )**

Members considered an advert application from Mr J McEvoy for the display of four externally illuminated fascia signs.

Members noted that the applicant had agreed that the illuminated signs would be turned off when the building was not in use.

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

Additional Condition

The lighting to the approved advertisements shall be turned off when the premises are closed to the public.

Reason: In the interests of the visual amenity of the area.

Reason: It is considered that the proposed advertisements would not have an adverse impact on visual amenity or public safety therefore the proposals comply with local and national planning policy.

**45k) 4 Hilbra Avenue, Haxby, York, YO32 3HD (13/03768/FUL)**

Members considered a full application from Mr and Mrs Greenway for a single storey side extension incorporating a front dormer window, a side roof extension and dormer window to the rear (resubmission).

Officers informed Members that at the site visit the question had been asked as to whether there was potential for a side rather than a hipped gable. However the applicants took the view that as other hipped roof extensions had previously been approved in the same street, they would like to pursue their plans for a hipped roof.

Ian Robinson, the agent, spoke in support of the application. He confirmed his applicant would like the committee to consider the application as it stood. He expressed surprise that Haxby Town Council had not objected to the previously withdrawn application but had objected to the resubmitted scheme. He advised Members that the only other objection was from the applicant's next door neighbour whose reasons for objecting were not valid in his opinion. He explained that the single storey pitched roof extension would be set back and the removal of existing garage

would open up the back garden of no 2 Hilbra Avenue to more light.

Some members expressed concerns about a lack of conformity in the street scene stating they would prefer a sloped gable roof.

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

Reason: It is considered that the proposal would not unduly harm the living conditions of nearby neighbours with particular reference to 2 Hilbra Avenue or appear incongruous and over developed when viewed within the street scene. As such it would comply with the council's Draft Local Plan Policy relating to design (CYGP1) and residential extensions (CYH7).

**45I) 10 Shilton Garth Close, Earswick, York, YO32 9SQ  
(13/03862/FUL)**

Members considered a full application from Mr and Mrs Wiseman for a single storey rear extension.

Officers advised that Earswick Parish Council had responded to the consultation and confirmed they had no objections to the scheme.

Resolved: That delegated authority be given to officers (in conjunction with the Chair and Vice Chair) to approve the application following the end of the consultation period and subject to the conditions listed in the report.

Reason: The proposed extension has been well designed and is relatively modest in scale, in relation to the host property. It is not considered that it conflicts with the policies and design guidance detailed above. The proposal is considered to be acceptable.

**46. Appeals Performance and Decision Summaries**

Members received a report which informed them of the Council's performance in relation to appeals determined by the Planning Inspectorate from 1 October 2013 to 31 December 2013 and provided a summary of the salient points from appeals

determined in that period. The report also included a list of outstanding appeals to date.

Resolved: That the report be noted.

Reason: To inform Members of the current position in relation to planning appeals against the Council's decisions as determined by the Planning Inspectorate.

Cllr McIlveen, Chair

[The meeting started at 2.00 pm and finished at 6.30 pm].