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Meeting	Planning Committee
Date	15 September 2016
Present	Councillors Reid (Chair), Derbyshire (Vice-Chair), Boyce, Ayre, Cullwick, Cuthbertson, D'Agorne, Dew, Funnell, Galvin, Looker, Cannon (Substitute) and Brooks (Substitute)
Apologies	Councillors Doughty, Richardson, Shepherd and Warters

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## 27. Site Visits

Application	Reason	In Attendance
Oliver House, Bishophill Junior	As objections had been received and the officer recommendation was to approve	Councillors Cannon, Cullwick, Cuthbertson, Dew, Galvin and Reid

## 28. Declarations of Interest

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

Councillor Brooks declared a personal non prejudicial interest in plans item 4b (Oliver House, Bishophill Junior) as she was a member of the Executive when agreement for the sale of land was made.

Councillor Ayre declared an interest in plans item 4b (Oliver House, Bishophill Junior) as he had been a member of the Executive when the sale of land was agreed and was still a member of the Executive. He stated that he did not feel comfortable taking part in the decision and left the table and took no part in the discussion or vote on this item.

Councillor Reid declared a personal and prejudicial interest in plans item 4a (Yorwaste, Harewood Whin, Tinker Lane, Rufforth) as the Council's Director on the Yorwaste Board. She

left the room for consideration of this item and Councillor Derbyshire (Vice Chair) took the chair for this item.

Councillor D'Agorne declared a personal non prejudicial interest in plans item 4a (Yorwaste, Harewood Whin, Tinker Lane, Rufforth) as a member of Cycling England and York Cycle Campaign.

**29. Minutes**

Resolved: That the minutes of the meeting held on 18 August 2016 be approved as a correct record and then signed by the chair.

**30. Public Participation**

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

**31. Plans List**

Members considered the following reports of the Assistant Director (Development Services, Planning and Regeneration) relating to the following planning applications which outlined the proposals and relevant planning considerations and set out the views of the consultees and officers.

**32. Yorwaste, Harewood Whin, Tinker Lane, Rufforth, York (16/00357/FULM)**

Members considered a major full application by Yorwaste Ltd for the construction of a waste transfer station with associated ancillary buildings, hard standings, car parking and alterations to access.

The Committee had previously considered this application at their meeting on 12 May 2016 and had resolved to grant planning permission for the proposed development subject to the conclusion of a Section 106 Agreement. The draft Section 106 agreement included provision for a cycle track running along the frontage of the site with the B1224 Wetherby Road. Members noted that the applicant had subsequently sought to have this requirement re-considered in terms of the requirements of Section 122 of the CIL Regulations, which the

provisions of Section 106 Agreement are required to meet, as another cycle route running to the north of the site had now been constructed and was in use.

A hard copy of the annexes to this agenda item, which had been omitted in error when the agenda was originally printed, were circulated to Members for their information. These comprised the original committee report presented to the 12 May meeting, the officer update from that meeting and a minute extract of that meeting.

Mr Geoff Derham, Group Operations Director for Yorkwaste, had registered under public participation in case members had any questions to ask him at the meeting. No questions were asked.

Members noted that, as there was already alternative provision in place, there was no need for the requirement for a cycle track running along the frontage of the site with the B1224 Wetherby Road.

Resolved:

That the application be approved subject to the conditions listed in the report considered at 12 May 2016 meeting, the conclusion of a Section 106 Agreement to include the matters referred to in the Minute of 12 May 2016 meeting but without the requirement for the provision of a cycle way along the B1224 Wetherby Road frontage of the site and subject to the conditions set out in the minute of 12 May 2016 meeting.

Reason:

Further re-examination of the requirement for a road side cycle track in consultation with Highways and PROW officers along with Rufforth and Knapton Parish Council indicates that it would not comply with the statutory tests for acceptable planning obligations set out at bullet points a) and c) of Regulation 122 of the CIL Regulations 2010. Officers do not consider that the removal of this obligation from the proposed Section 106 Agreement affects the planning balance of this planning application or that it should otherwise affect the resolution of the 12 May 2016 meeting.

**33. Oliver House, Bishophill Junior, York YO1 6ES  
(15/02645/FULM)**

Members considered a major full application by McCarthy & Stone Retirement Lifestyles Ltd for the demolition of the existing building and erection of Retirement Living Housing for the elderly with associated communal facilities, landscaping and car parking.

The Chair reported that she had received a marketing leaflet from McCarthy & Stone and several emails from residents in relation to this application and advised that she had forwarded these onto the planning case officer.

Officers provided a comprehensive update. They advised that paragraph 4.31 of the report should read “18.5 % developer profit ...” and not 18% as stated and informed Members of the following amended and additional conditions.

- Condition 2 - A revised drawing had been supplied and therefore condition 2 needed amending to incorporate it.
- Condition 5 – wording should be amended to read at the beginning “Prior to construction above foundation level a landscaping plan shall be submitted to and approved in writing by the LPA which shall illustrate.....”
- Condition 6 - Detail has been submitted in respect of items b) c) and e) of this condition 6 and it is recommended that those items be deleted from the condition.
- Condition 20 should at the same time be amended to read “The premises shall be used for Retirement Housing (Category 2) for a primary occupant aged 60 years or over....” The reason should also be amended to remove the reference to Later Living.
- Additional Conditions - In view of further detailed comments from Highway Network Management it was recommended that conditions be added to cover: the junction between the internal access road and the highway; reinstating the kerbing and footway after removal of existing vehicular crossings not being retained; highway works; and a travel plan.

- Informative to cover works on the highway

Officers advised that since the committee report had been written, further consultation responses had been received. Flood Risk Management had confirmed that they had no objection to the proposed development. A further 16 letters of representation had also been received, 14 of objection and two of support. The letters of objection expressed concern that the proposal would greatly increase the level of on-street parking in the locality, would harm the setting of St Mary Bishophill Junior and the wider City skyline and would harm the residential amenity of neighbouring properties. The letters of support highlighted the benefits to the wider community of the development of a specialist residential use in close proximity to the city centre.

In response, officers advised that it had been confirmed that the proposal would be removed by Traffic Regulation Order (TRO) from the residents parking area with the result that any on-street parking associated with the site would be subject to the same controls as any other ad hoc parking in the locality. Officers advised that the design of the scheme had been extensively amended in order to lessen any impact upon the setting of St Mary Bishophill Junior and the Central Historic Core Area and any impact upon the residential amenity of neighbouring properties was felt to be acceptable.

With regard to the Section 106 Agreement, officers advised that the following legal advice, with amended recommendation had been received. The advice was that, as the applicant was not currently in a position to enter into a s106 planning obligation with the council that would bind the freehold interest in the land to the planning obligations, it would be necessary for the applicant, prior to the grant of planning permission, to enter into an initial contractual arrangement with the Local Planning Authority under section 106 and also under section 111 of the Local Government Act 1972 that requires the applicant to enter into a further confirmatory S106 obligation once the land is sold to it. Additionally, consent should be granted subject to a condition restricting development until a non Local Planning Authority freeholder has entered into a further agreement in a form which has been agreed and appended to the decision notice. Because the final terms of the initial section 106/111 agreement, the second confirmatory section 106 planning obligation and the condition are not yet agreed, it is

recommended that authority be delegated to the Assistant Director for Development Services, Planning and Regeneration to finalise the terms of these arrangements and the condition.

With regard to paragraph 4.30 to 4.31 of the report, officers provided an update and clarification in relation to commuted sum payments, advised that they considered that the agreed commuted sum payment was appropriate given the site specific circumstances.

Mr Chris Boxall, a local resident, addressed the committee in objection to the application. He raised concerns in relation to the height of the proposed building stating that it would block other dwellings of light and views. He advised that granting permission would conflict with the character of the conservation area and requested a maximum ridge height of three storeys.

Mr Gareth Rees, another local resident, also spoke in objection to the application. He stated that there were a number of vulnerable individuals residing in Prospect House who would be affected by reduced light to their properties as a result of this development. He stated that views of the bar walls would also be affected.

Ms Hazel Fox, the agent for McCarthy & Stone Retirement Lifestyles Ltd, addressed the committee. She advised that they had worked with officers to overcome the concerns of residents. She stated that the proposed development would meet the need for older people's housing in the local area on what was a highly accessible and sustainable brownfield site and responded further to concerns which had been raised.

Ms Elizabeth Harris, a York resident, spoke in support of the development. She explained that she was an older retired person currently living in Bishopthorpe. She stated that there was a shortage of this type of housing in York and felt that the proposed development would fit well with the existing buildings. She advised that the location was ideally suited to offer amenities close at hand including nearby shops, cinema, Bishopthorpe Road and all the city centre had to offer, without the need to use a car.

Members agreed that there was a need for retirement living accommodation in York and that the proposed development

would provide the opportunity for older people to remain independent and have access to amenities.

They noted the concerns expressed by objectors and accepted that people living in the immediate area would notice a change. However they acknowledged that the applicant had done as much as possible to address the concerns which had been raised.

Members felt that the building worked well from bar walls and from other end of Priory Street and noted that the height was stepped down towards Fairfax Street and the smaller terraces. They agreed that it would sit well within the street scene and didn't feel that it would look out of place and expressed their overall support for the scheme.

Resolved:

That delegated authority be given to the Assistant Director, Development Services, Planning and Regeneration, to approve the application subject to:

- (i) The conditions set out in the report and the amended and additional conditions listed below.
- (ii) Prior completion of a satisfactory agreement made pursuant to section 106 of the Town and Country Planning Act 1990 and section 111 of the Local Government Act 1972 between the Council and the applicant setting out the obligations listed below and obligating the applicant to enter into a further confirmatory section 106 agreement with the Council immediately after the completion of the land transfer to bind the freehold interest to the planning obligations:-
  - £561,600 towards off-site affordable housing
  - £3,000 – to be used towards the creation/amendment of Traffic Regulation Orders in the vicinity of the site. The funds are likely to be used to;
- (iii) exclude the property from the R22 Residents parking scheme. It is considered necessary to prevent residents from the proposed development being able to apply for

R22 resident parking permits in order to prevent existing residents being disadvantaged by an increased demand for car parking within the res-park scheme.

- (iii) modification of existing on-street parking bays in order to enable site access to be formed
- (iv) creation of car club bay
  - £160 per residential dwelling to provide membership, marketing and other promotional benefits in order to incentivise use of the car club by future residents of the development.
- (v) That prior to the planning permission being issued, delegated authority be granted to Assistant Director, Development Services, Planning and Regeneration, to finalise an appropriate condition to prevent development until such time as the freehold interest in the site has been adequately bound by the planning obligations under s106 of the Town and Country Planning Act 1990.

#### Amended Condition 2

A revised drawing had been supplied and therefore condition 2 needed amending to incorporate it.

NE-2118-03-AC-065-1-Brick Detail Type 1

NE-2118-03-AC-065-2-Brick Detail Type 2

NE-2118-03-AC-065-3-Brick Detail Type 3

NE-2118-03-AC-065-4-Brick Detail Type 4

NE-2118-03-AC-031-Proposed Site Plan With Levels\_Rev -

NE-2118-03-AC-032-Proposed Boundary Conditions\_Rev -

NE-2118-03-AC-033-Section through homeowners roof terrace

NE-2118-03-AC-022-Block 7 -Detail elevations and sections\_Rev E

NE-2118-03-AC-023-Block 8 -Detail elevations and sections\_Rev E

NE-2118-03-AC-012-Detail Elevations Sheet 1\_Rev B

NE-2118-03-AC-013-Detail Elevations Sheet 2\_Rev B

NE-2118-AC-010-Context Elevations Sheet 1- Rev C

#### Amended Condition 5

Prior to construction above foundation level a landscaping plan shall be submitted to and approved in writing by the Local Planning Authority which shall illustrate the number, species, height and position of trees shrubs, and hard landscaping This



scheme shall be implemented within a period of six months of the completion of the development. Any trees or plants which within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of a similar size and species, unless alternatives are agreed in writing by the Local Planning Authority.

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

#### Amended Condition 6

Large scale details (1:20 and 1:5 with specifications as appropriate) of the items listed below shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of the development and the works shall be carried out in accordance with the approved details.

- a) Special eaves and verge conditions (including gutters and outfalls)
- b) Bay windows
- c) Windows incorporating louvers (notwithstanding the submitted details)
- d) Other external doors

#### Amended Condition 20

The premises shall be used for Retirement Housing (Category 2) for a primary occupant aged 60 years or over and for no other purpose, including any other purpose in Class C3 in the Schedule of the Town and Country Planning (Use Classes) Order 1987 or in any provision equivalent to that Class in any Statutory Instrument revoking and re-enacting that Order.

Reason: The nature of the development means that the mix of unit sizes, the lack of provision for on-site affordable housing and the level of contributions towards off-site open space and affordable housing provision does not comply with policies H2a, H3c, L1c and GP13 of the Development Control Local Plan and paragraphs 50 and 203 of the National Planning Policy Framework, as such the occupation of the development for general market housing would be inappropriate.

#### Additional Condition

The development shall not be begin until details of the junction between the internal access road and the highway have been approved in writing by the Local Planning Authority, and the development shall not come into use until that junction has been constructed in accordance with the approved plans.

Reason: In the interests of road safety.

#### Additional Condition

The development shall not be first occupied until all existing vehicular crossings not shown as being retained on the approved plans have been removed by reinstating the kerbing and footway to match adjacent levels.

Reason: In the interests of good management of the highway and road safety.

#### Additional Condition

The development hereby permitted shall not come into use until the following highway works (which definition shall include works associated with any Traffic Regulation Order required as a result of the development, signing, lighting, drainage and other related works) have been carried out in accordance with details which shall have been previously submitted to and approved in writing by the Local Planning Authority, or arrangements entered into which ensure the same.

- i) The creation of a landscaped area adjacent to the entrance (currently used as an emergency vehicle dropped crossing);
- ii) Installation of a tactile crossing linking the landscaped area with Dewsbury Terrace.

Reason: In the interests of the safe and free passage of highway users.

#### Additional Condition

Prior to first occupation, a Full Travel Plan should be submitted and approved in writing by the LPA. The travel plan should be developed and implemented in line with local and national guidelines. The site shall thereafter be occupied in accordance with the aims, measures and outcomes of said Travel Plan. Within 12 months of occupation of the site a first year travel survey shall have been submitted to and approved in writing by the LPA. Results of yearly travel surveys shall then be submitted annually to the authority's travel plan officer for approval.

Reason: To ensure the development complies with advice contained in local and national planning and transportation policy, and to ensure adequate provision is made for the movement of vehicles, pedestrians, cycles and other forms of transport to and from the site, together with parking on site for these users.

Additional Informative

**WORKS IN THE HIGHWAY INFORMATIVE:-**

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

Adoption of highway - Section 62 - Mr M Kitchen (01904) 551336

Planting in the highway- Section 142 - Mr S Partington (01904) 551361

**Reason:**

The amendments to the scheme are felt to satisfactorily address the previous concerns in respect of the relationship of the building to the setting of the Church of St Mary Bishophill Junior and the City Walls as well as the character and appearance of the Historic Core Conservation Area with the loss of the existing building amounting to a significant public benefit to outweigh the less than substantial harm to the significance of these designated Heritage Assets even when considerable importance and weight is attached to the harm. At the same time the adjustment to the scale and massing of the development as it approaches properties in Fairfax Street would effectively address concerns in relation to residential amenity.

The proposal generates a requirement for the payment of a commuted sum in lieu of the provision of on-site affordable housing. The applicant has identified a significant viability issue in terms of the manner in which the sum has been calculated through the costs of demolition and the need to establish a bespoke foundation design and construction method to protect important buried archaeological remains. In order to comply with Regulation 122 c) of the CIL Regulations it is therefore recommended that their suggested compromise commuted sum payment of a total of £570,000 towards a TRO and the provision of off-site affordable housing be agreed to and secured by

means of a Section 106 Agreement. The scheme as a whole is therefore felt on balance to be acceptable in planning terms.

**34. Land West Of Hagg Wood, Broad Highway, Wheldrake, York (16/01534/REMM)**

Members considered a major reserved matters application by Mr Chris Hobson for approval of access, appearance and landscaping for an egg production building (following outline approval 15/02439/OUTM).

Officers provided a brief update to Members. They advised that condition 8 should make reference to the first 10m of the access road from Broad Highway needing to be tarmac. They also informed Members that two letters have been received from residents since the report had been written. One letter raised concerns about the safety of pedestrians using the proposed access road and questioned whether there would be protective barriers or a raised kerb to mark pedestrian areas. The other letter stated that they were unhappy with the way that the outline application had been dealt with.

Mr Ian Pick, the agent for the application, had registered to speak at the meeting but advised Members that he no longer felt the need to address the committee.

Members accepted that the principle of development had already been accepted and agreed by the committee previously. Members felt that the access road had been designed taking account of pedestrian safety and acknowledged that the road was of sufficient width to allow an HGV to pass a pedestrian safely, and passing places were only needed in order for two vehicles to pass each other.

Resolved:

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

Amended Condition 8

The first 10m of the access with Broad Highway shall be constructed of tarmac. The rest of the proposed access road linking Broad Highway with the egg production unit buildings shall be constructed of a 200mm base course of hardcore, topped with 60mm of graded stone. The wearing course for the

road surface shall be 40mm of tarmac planings rolled and compacted to create a smooth surface.

Reason: For the avoidance of doubt and to ensure that it is fit for purpose.

Reason:

It is considered that the proposed details submitted with the application are acceptable in respect to key issues including the impact on public rights of way, highway safety and the character and appearance of the countryside and Green Belt. It is considered that there are not any reasons to withhold the grant of reserved matters approval.

It is considered that the application, subject to the suggested conditions complies with relevant advice in the National Planning Policy Framework and guidance in the Wheldrake Village Design Statement. In addition, it is considered acceptable in respect to policies of the Local Plan, particularly GP1 (Design), GB1 (Development in the Green Belt) and NE1 (Trees, Woodlands and Hedgerows).

Cllr A Reid, Chair

[The meeting started at 4.30pm and finished at 5.25pm].

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