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Meeting	Planning Committee
Date	24 January 2019
Present	Councillors Reid (Chair), Boyce (Vice-Chair), Shepherd, Ayre, Carr, Cullwick, Cuthbertson, D'Agorne, Doughty, Galvin, Looker, Richardson, Warters, Flinders (Substitute for Cllr Funnell) and Pavlovic (Substitute for Cllr K Taylor)
Apologies	Councillors Funnell and Pavlovic

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### Site Visits

Application	Reason	In attendance
Spark York Piccadilly	To allow Members to familiarise themselves with the site	Councillors Reid, Shepherd, Carr, Cullwick, Cuthbertson, Galvin, and Richardson
York Cemetery, Cemetery Road	To allow Members to familiarise themselves with the site	Councillors Reid, Shepherd, Carr, Cullwick, Cuthbertson, Galvin, and Richardson

### 52. 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.

### 53. Minutes

Resolved: That the minutes of the last meeting held on 19 December 2018 be approved and then signed by the chair as a correct record.

**54. 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.

**55. 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.

**56. Land Adjacent Sewage Works At Hessay Industrial Estate, New Road, Hessay, York [17/00670/FUL]**

Members considered a full application from Anthea Tate for the erection of an asphalt plant with associated infrastructure on the land adjacent to Sewage Works at Hessay Industrial Estate, New Road, Hessay, York.

An officer update was given during which Members were advised of a correction to paragraph 4.11 of the report which should have stated that the Applicant's case for very special circumstances will be examined in detail in paragraphs 4.12 – 4.19 and 4.36 – 4.39 of the report.

Members were informed of the receipt of two additional detailed further representations from the Applicant's solicitor on 21 January 2019 and from the Applicant's agent on 22 January 2019 which had been circulated to Members. The representations raised additional planning issues concerning sustainability, the case for Very Special Circumstances and the alternative sites for the asphalt plant. Officers addressed the representations made on behalf of the applicant and confirmed that it was the view of officers that presumption in favour of sustainable development is dis-applied by virtue footnote 6 to paragraph 11 to the NPPF when the application of Green Belt policies in the NPPF provide a clear reason for refusing the

development proposed. Officers advised Members of further local representations that had been received.

In response to questions from Members, officers clarified that: Concerning the potential for the works to harm or result in removal of the boundary hedge lying directly to the west of the A59/New Lane junction, the overall conclusion was that the landscape harm was not in reference to the hedge and this was not a reason for refusal of the application.

Roger Hildreth (neighbouring farmer to the site), spoke in objection to the application. He explained that his dairy farm was less than 130 metres from the industrial estate. He noted the effect of pollution on his cows and that if the plant was built this would result in the closure of his farm which would affect employment.

Steve Mills (local resident), spoke in objection to the application. Representing three generations of his family living in Hessay, he explained that the plant was an inappropriate development in the Green Belt and he noted that the plant would impact noise and the Green Belt, and transport, namely the junction of the A59/New Lane, Hessay.

Mark Barratt (Chair of Hessay Parish Council), spoke in objection to the application. He noted that Hessay was a tranquil village and the plant was the equivalent of a 6/7 storey building in the Green Belt. He noted that there had been no public meeting with the applicant and he outlined residents concerns regarding safety, health, the effect on wildlife and the impact on residents' quality of life. He suggested that the access to the site could not be delivered and the approval of the application would set a precedent for Green Belt applications.

Jeremy Williams (Agent on behalf of a number of residents of Hessay and Hessay Parish Council), spoke in objection to the application. He explained that the applicant had failed to demonstrate that very special circumstances existed and the development constituted inappropriate development. He added that there was significant concern from residents on the transport levels via the introduction of heavy and slow moving traffic.

Cllr Steward (Rural West York Ward Councillor), spoke in objection to the application. He outlined his concerns regarding

transport and traffic noting that the junction of the A59/New Lane was problematic for slow moving vehicles, and that the hedge was also a significant issue. He stated that there were no very special circumstances for the plant and cited the resulting light, noise and smell as well as the site being in the Green Belt and there being issues with transport as reasons for refusal.

In response to Member questions, Cllr Steward explained that:

- Regarding the lack of other available and suitable site, a very small area had been looked at.
- As well as the neighbouring dairy farm, concerning food production on the industrial estate there was a facility dealing with raw meat on the industrial estate.
- Concerning the noise impact of the development, he noted the reference to noise in the Officer report.

Julian Sturdy, York Outer MP, spoke in objection to the application. He explained that the proposal would have significant detrimental effect on Hessay residents and would have a dangerous impact on the junction of the A59/New Lane. He added that the height of the building would impact on visual amenity, that the applicant could not demonstrate very special circumstances and that the development threatened the openness of the Green Belt. In response to a Member question he stated that as noted by Mr Hildreth, the plant would severely impact Mr Hildreth's farm and land around the site.

Anthea Tate (Applicant), spoke in support of the application. She stated that the application was the same as that submitted in March 2017 and was recommended for approval at the August 2017 Planning Committee meeting. She noted that with regard to traffic, the Secretary of State concluded that significant impacts were unlikely regarding any congestion, highway capacity or road safety issues. She noted that regarding noise concerns, CYC officers agreed there would not be a material impact on the amenity of neighbouring properties. She added that concerning visual impact, of the 16 viewing plains, that were submitted in the Heritage Impact Assessment and the Landscape and Visual Impact Assessment, only two of these were concluded as being of borderline significance. She outlined the number of agencies that had not objected to the application and then addressed why the two suggested alternative sites of Pigeon Cote, Huntington and Full Sutton Industrial Estate were unsuitable. She concluded by listing the reasons for very special circumstances.

Members asked Officers a number of questions to which it was clarified that:

- The site was clearly in Green Belt and the designation of a major site in the Green Belt did not exist in the NPPF. Because the site was in Green Belt it needed to be determined in Green Belt policy.
- The site was comparable to the alternative Pigeon Cote site.
- There had been no representations from the minerals industry regarding a lack of available sites.
- It was the view of CYC highways officers that the concerns regarding the junction of the A59/New Lane had been addressed.

Following a detailed debate it was:

Resolved: That the application be refused.

Reason:

- i. Hessay Industrial Estate comprises a medium sized employment site of some long standing occupying a former MOD depot on land within the general extent of the York Green Belt to the north of Hessay village. Planning permission is sought for erection of a coated aggregates manufacturing plant situated within a building incorporating a mixing tower with associated chimney to be located at the western edge of the site. The site had a planning permission for erection of a fuel storage depot ref: - 10/00861/FUL dating to 2010 which was not implemented. A previous proposal incorporating an asphalt plant linked with the reinstatement of the rail head within a materially larger section of the site was submitted in 1999 but subsequently withdrawn. The total application site comprises some 7,200 sq metres in area which sets it within Schedule 2 of the 2017 Town and Country Planning (Environmental Impact Assessment) Regulations for which the application has been screened.
- ii. The development comprises inappropriate development within the Green Belt. In terms of other harms the height and design of the proposed mixing tower and chimney would detract from the setting of the

historic City contrary to the purposes of designation of the Green Belt outlined within paragraph 134 of the NPPF. The height of the associated structures even not notwithstanding their relationship to the buildings of the former depot would also give rise to substantial harm to the openness of the Green Belt. At the same time it has been identified that the scheme would give rise to conditions prejudicial to the safe and free flow of traffic at the junction of the A59 and New Lane Hessay by the introduction of an increase in heavy slow moving vehicles entering and leaving the junction at peak times. A scheme has been submitted to address the junction layout however it would involve a degree of harm to the adjacent boundary hedge to the west which is in third party ownership. The landowner has indicated their opposition to the scheme and as such there is not a reasonable prospect of the scheme being implemented within the lifetime of any permission.

- iii. In order to support the proposal the applicant has provided a case for “very special circumstances” as required by paragraphs 143 and 144 of the NPPF to clearly outweigh the harm to the Green Belt and any other harms. This is based upon a shortage of production capacity within the standard 35 mile travel distance and that does demonstrate some lack of capacity within the area of the City and the rural area directly to the north with consequent impacts upon the deliverability of construction projects. The case should be read in conjunction with the submitted alternative sites exercise. This appears to indicate that no suitable non-Green Belt sites are available for the proposal. However, detailed research indicates that two sites at Pigeon Cote Farm Huntington and Full Sutton Industrial Estate which are outside of the Green Belt are both suitable and available. As a consequence attaching substantial weight to the harms identified to the Green Belt, “very special circumstances necessary to justify the inappropriate development in the Green Belt are not therefore demonstrated. Planning permission should therefore be refused.
- iv. The proposal would give rise to conditions substantially prejudicial to the safety and convenience of highway users at the junction of the A59/New Lane Hessay by

introducing volumes of heavy and slow moving traffic to the junction at peak times which may not reasonably be mitigated by works within the existing highway without harm to third party land contrary to Policy IO2 of the Publication Draft North Yorkshire and York Minerals and Waste Local Plan.

- v. The proposal comprises inappropriate development within the Green Belt by virtue of the substantial harm caused by the associated structures to its openness. The submitted detail fails to demonstrate a case for “very special circumstances” that would outweigh the harm to the Green Belt caused by inappropriateness and any other harm resulting from the proposal as required by paragraph 144 of the NPPF.

**57. York Cemetery Trust Kiosk, York Cemetery, Cemetery Road [18/01620/FUL]**

Members considered a full application from Dr Richard Keesing for a single storey extension and alterations to building to form volunteers centre with associated facilities and tool store (resubmission) at York Cemetery Trust Kiosk, York Cemetery.

An officer update was given. This included clarification on the wording of paragraph 5.5 of the officer’s report and an update on additional representation received from the Flood Risk Management Team (FRMT). Following the advice of the FRMT it was recommended that an additional condition concerning drainage was imposed on any grant of planning approval.

Dr Richard Keesing (Applicant and Chair of Trustees at York Cemetery Trust), spoke in support of the application. He outlined the restoration work that had been undertaken at the cemetery and explained that the role of volunteers was essential to the running of the cemetery. He noted that there were no adequate facilities for volunteers and educational groups. This would be addressed by the proposal for a volunteers centre.

Clive Dawson, (Chairman of the Friends of York Cemetery), spoke in support of the application. He explained that there were up to 70 volunteers at the cemetery, who were missing a place to meet. He listed a number of projects with local schools,

noting the need for an educational facility. He explained how the visitors centre would be used and would be of benefit to volunteers and visitors to the cemetery.

The architect for the application was in attendance to answer questions and in response to a question from Members clarified the location of roof lights on the building plans.

Following debate during which a number of Members commended the work of volunteers at the cemetery, it was:

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

Additional condition

9. No development shall take place until details of the proposed means of foul and surface water drainage, including details of any balancing works and off site works, have been submitted to and approved by the Local Planning Authority. The development shall be carried out in accordance with the approved details.

Informative

The developer's attention is drawn to Requirement H3 of the Building Regulations 2000 with regards to hierarchy for surface water dispersal and the use of Sustainable Drainage Systems (SuD's). Consideration should be given to discharge to soakaway, infiltration system and watercourse in that priority order. Surface water discharge to the existing public sewer network must only be as a last resort therefore sufficient evidence should be provided i.e. witnessed by CYC infiltration tests to BRE Digest 365 to discount the use of SuD's.

If the proposed method of surface water disposal is via soakaways, these should be shown to work through an appropriate assessment carried out under BRE Digest 365, (preferably carried out in winter), to prove that the ground has sufficient capacity to accept surface water discharge, and to prevent flooding of the surrounding land and the site



itself. Testing should also be carried when proposing permeable paving.

City of York Council's Flood Risk Management Team should witness the BRE Digest 365 test.

If SuDs methods can be proven to be unsuitable then in accordance with City of York Council's Strategic Flood Risk Assessment and in agreement with the Environment Agency and the York Consortium of Internal Drainage Boards, peak run-off from Brownfield developments must be attenuated to 70% of the existing rate (based on 140 l/s/ha of proven by way of CCTV drainage survey connected impermeable areas). Storage volume calculations, using computer modelling, must accommodate a 1:30 year storm with no surface flooding, along with no internal flooding of buildings or surface run-off from the site in a 1:100 year storm. Proposed areas within the model must also include an additional 20% allowance for climate change. The modelling must use a range of storm durations, with both summer and winter profiles, to find the worst-case volume required.

If existing connected impermeable areas not proven then a Greenfield run-off rate based on 1.4 l/sec/ha or if shall be used for the above. For the smaller developments where the Greenfield run-off rate is less than 1.4 l/sec/ha and becomes impractical and unsustainable then a lowest rate of 2 l/sec shall be used.

Surface water shall not be connected to any foul / combined sewer, if a suitable surface water sewer is available.

The applicant should provide a topographical survey showing the existing and proposed ground and finished floor levels to ordnance datum for the site and adjacent properties. The development should not be raised above the level of the adjacent land, to prevent runoff from the site affecting nearby properties.

Details of the future management and maintenance of the proposed drainage scheme shall be provided.

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

Reason:

- 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 appropriate facilities for the cemetery, however, the development is inappropriate development because, for the reasons outlined above, 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. York Cemetery is a Grade II\* listed Historic Park and Garden and contains a number of individually listed buildings, most notably the Chapel (Grade II\*), Lodge (Grade II) and the railings along the boundary with Cemetery Road (Grade II). When considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be

given to the asset's conservation. It is considered that the siting of the proposed building would not harm the landscape and design heritage significances of the garden cemetery and the setting of the Lodge would not be harmed as a result of the current proposals. The proposal does not result in harm to any of the heritage assets identified.

- iv. It is also acknowledged that space within the Cemetery is at a premium and this proposal represents the most reasonable siting for a building of this use without further harming the Green Belt or causing harm to listed buildings (including the railings) and the character and appearance and setting of the Historic Park and Garden as a whole.
- v. The extensions and alterations to an existing tool shed and toilet provision to provide a multi-purpose room would provide suitable facilities to assist volunteers in operating and maintaining the cemetery for the public benefit. Having attached substantial weight to the harm to the Green Belt, it is therefore considered that the considerations set out in paragraphs 4.45 to 4.50, 5.3 and 5.4 of the Committee Report would collectively clearly outweigh the harm to the Green Belt. No other harm has been identified and that the very special circumstances necessary to justify the proposed development exist.

**58. York Cemetery Trust Kiosk, York Cemetery, Cemetery Road [18/01621/LBC]**

Members considered an application for Listed Building Consent from Dr. Richard Keesing for a Single storey extension and alterations to building to form volunteers centre with associated facilities and tool store (resubmission) at York Cemetery Trust Kiosk, York Cemetery.

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

Reason:

- i. York Cemetery is a Grade II\* listed Historic Park and Garden and contains a number of individually listed

buildings, most notably the Lodge (Grade II). When considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation.

- ii. It is considered that the installation of the gates between the Lodge and the existing 'potting shed' would not harm the Cemetery Lodge, in terms of impact upon fabric, subject to further details provided by condition nor would it harm its setting.

#### **59. Spark York Piccadilly York YO1 9PB [18/02268/FUL]**

Members considered a full application from Samuel Leach for the erection of a temporary stretch tent canopy over existing shipping containers (retrospective) at Spark York, Piccadilly, York.

An officer update was given in which Members were advised that condition 3 would be applied from when the canopy was erected the following September.

In response to Member questions it was confirmed that:

- Each planning application would be looked at on its own merits.
- The health and safety assessment of the canopy would have been undertaken by building control.
- If refused, the timescale for appeal was 6 months from the decision notice.
- The period for the installation of the canopy was conditioned in line with the application.

Following debate in which Members expressed a number of different views it was:

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

Reason:

- i. The application is to allow the canopy during temporary periods, between September and May the following year.

- ii. In principle allowing the structure subject to a condition requiring a temporary installation only would not conflict with National Planning Policy Guidance on the use of planning conditions which states that "a temporary planning permission may be appropriate on vacant land/buildings to enable use for a temporary period prior to any longer term regeneration plans coming forward (a meanwhile use) or more generally to encourage empty property to be brought back into use. This can benefit an area by increasing activity".
- iii. The addition of the canopy causes a low level of harm to the character and appearance of the Central Historic Core Conservation Area. The applicants consider the canopy is necessary for Spark to be viable during its tenure. It is accepted that the Spark development is desirable on economic grounds, both in terms of the business it facilitates and also assisting with the vitality, viability and regeneration of Piccadilly.
- iv. To grant permission, subject to conditions, on times the canopy can be in-situ and regarding the finish above the entrance, would bring about a public benefit that would outweigh the low level of harm to the conservation area and prevent any harm to the significance of the grade II listed Red Lion or to St Deny's Church. As a consequence the proposals would be acceptable when assessed against the NPPF and even when considerable weight and importance is given to this harm.

Cllr A Reid, Chair

[The meeting started at 5.00 pm and finished at 7.25 pm].

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