

Meeting	Planning Committee
Date	3 December 2020
Present	Councillors Cullwick (Chair), Pavlovic (Vice-Chair), Daubeney, Doughty, Douglas, Fenton, Fitzpatrick, Hollyer, Kilbane, Warters, Lomas, Fisher, Widdowson (Substitute for Cllr Ayre), Baker (Substitute for Cllr D'Agorne) and Waudby (Substitute for Cllr Barker)
Apologies	Councillors Ayre, Barker and D'Agorne

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### 1. **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. None were declared.

### 2. **Minutes**

Resolved: That the minutes of the meetings held on 9 July 2020 and 8 October 2020 be approved and then signed by the Chair as a correct record.

### 3. **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.

### 4. **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.

**5. Land at Boroughbridge Road, West of Trenchard Road, York [20/00752/FULM]**

Members considered a Major Full Application from Karbon Homes & York Housing Association for the erection of 60 affordable homes with associated infrastructure, including access, public open space and landscaping at the land at Boroughbridge Road, west of Trenchard Road, York.

The Head of Development Services gave an update advising Members of an extra reason for the proposed refusal on the basis of the Applicants not agreeing to the required S106 obligation to education and of an adjustment to Green Belt reason for refusal, to include the Upper and Nether Poppleton Neighbourhood Plan. Members were also advised on the comments from the Council's housing officers and it was confirmed that the additional information had been assessed and the planning balance and recommendation remained unchanged from the published report.

The Head of Development Services then gave a presentation on the application detailing the proposed layout, site plan, proposed elevations, 3D visuals, site plan in relation to the Green Belt and site allocation in the emerging local plan. In response to Member questions Officers confirmed that:

- The site was previously used as sports and recreation space and included an agricultural field.
- The civil service sports field no longer fitted the Green Belt objective and the Planning Inspectors had asked the Council to do more development on the Green Belt boundaries.
- When the Planning Inspector reached their conclusion on the planning appeal from Miller homes they found that the site had no Green Belt weighting to the application.
- The site would be windfall as it was not in the draft local plan allocation. The site allocations in the local plan were clarified and there were policies in the plan to address housing need.

Public speakers

Martin Wistow spoke in objection to the application as Chair of

York Trenchard Residents Company Ltd, and as a resident directly affected by the application. He expressed concern regarding building in the Green Belt (as designated in the Emerging Local Plan) and that the designs had not addressed the concerns by residents. He noted that there was housing being built on the former British Sugar and Civil Service sites and that no Very Special Circumstances (vsc) were sufficient to allow the building of housing on Grade 2 agricultural Green Belt.

Simon Grundy (Carter Jonas, Agent for the Applicant) spoke in support of the application. He explained that the application was for a unique not for profit development for affordable housing. He explained that significant weight should be given to the very special circumstances. He challenged a number of points made in the report in not setting out how acute the housing supply had become. He set out the land supply position, suggesting that heavy weighting should be applied to this. He noted that the land beyond Trenchard Road was urban fringe and he considered that the failure to allocate the land in the local plan should not be considered as a reason for refusal. He was asked and explained to Members:

- Why the education contribution under S106 was refused.
- That is permission was granted, building would start as soon as possible in 2021.
- There would be a mix across the tenures, including the individual right to buy.
- The occupants of the housing were already in the education system in York and York Housing had advised that families on the waiting list would not place additional burden on education across York.
- Regarding the suitability of alternative sites, a number of sites in the emerging local plan were not suitable for family housing.
- It was felt that there was no policy basis (nationally or in York) for the education contribution and 100% of the occupants would be drawn from families in York.
- Children living on the site would attend schools across York.
- The S106 agreement would be negotiated for the tenure of future dwellings.
- The application should be determined on its own merits not on the basis of residents suggest may come in the future. He referred to the Barwood decision to exemplify

this.

Peter Rollings (Chairman of Rufforth with Knapton Parish Council) spoke on the Parish Council's objection to the application. He explained that whilst the site was not in the direct boundary of Rufforth and Knapton, it was clearly in the Green Belt as defined by the examiners for the Rufforth and Knapton Neighbourhood Plan. He noted that the applicant failed to provide very special circumstances, adding that the development would cause harm to the local area. He suggested that the need for affordable housing could be met without this inclusion of this site.

Cllr Barker, Ward Councillor, objected to the application on the grounds that it was in the Green Belt. He noted that the Miller site opposite was to provide 266 homes, 80% of which would be affordable, as well as the development on the former British Sugar site, which would also provide a number of affordable homes. He explained that the infrastructure would not cope with the development and he felt that there were other brownfield sites that should be used for development.

Cllr Hook, Ward Councillor spoke in objection, citing that it was contrary to the Upper and Nether Poppleton Neighbourhood Plan and Rufforth and Knapton Neighbourhood Plan. She explained that the GP practice in Poppleton was oversubscribed and this development would place more stress on the practice. A Member noted that there was a number of doctors' surgeries in the local area.

Mr Grundy, Agent for the Applicant clarified the housing mix as 60% social housing, 25% right to buy housing and 15% shared ownership. The Head of Development Services was asked and clarified that the amount of affordable housing on the former British Sugar site had not been agreed but this was a minimum of 38 dwellings which could rise to circa 200 depending on the viability. She further clarified that there would be an offsite contribution if the affordable housing was not met.

Cllr Lomas moved and Cllr Warters seconded, that the application be refused. The Head of Development Services clarified the proposed reasons for refusal as detailed in the report and update. Members were asked and confirmed they were all present for the consideration of the application.

Members debated the application, expressing a number of different views. In accordance with the revised Standing Orders,

a named vote for the refusal of the application was taken with the following result:

- Cllrs Baker, Daubeney, Doughty, Fenton, Fisher, Hollyer, Lomas, Warters, Waudby, Widdowson and Cullwick voted for the motion;
- Cllrs Douglas, Fitzpatrick, Kilbane and Pavlovic voted against the motion.

The motion was therefore carried and it was

Resolved: That the application be refused.

Reason:

- i. The Applicants do not agree to the required s106 obligation for education (£633,630). There is currently no capacity at local pre-schools, primary and secondary schools within the catchment of the application site to accommodate the proposed development. The scheme would not contribute towards providing education places required in the locality to meet the needs of this development. As such the proposals are not compliant with the following policies; NPPF paragraph 94, the NPPG on Planning Obligations and education contributions and Publication Draft Local Plan 2018 policies ED6 and DM1.
- ii. The proposal by reason of its location within the Green Belt would constitute inappropriate development in the Green Belt as set out in Section 13 of the National Planning Policy Framework. Inappropriate development is by definition harmful to the Green Belt. The proposal would also result in a detrimental impact on openness of the Green Belt due to its scale and location and conflict with the Green Belt's purposes, as identified in NPPF paragraph 134.
- iii. The site is not one which has been identified for development in the Publication Draft Local Plan 2018 (which is at examination stage) or the Upper and Nether Poppleton Neighbourhood Plan (made on 19 October 2017). The benefits put forward by the applicant do not, either individually or cumulatively, clearly outweigh the totality of this harm and therefore do not amount to very

special circumstances necessary to justify the proposal for the purposes of the NPPF. The proposal is, therefore, considered contrary to advice within the National Planning Policy Framework, in particular section 13 'Protecting Green Belt land', policy PNP1 of the Upper and Nether Poppleton Neighbourhood Plan and policy GB1 'Development in the Green Belt' of the emerging Local Plan.

[The meeting adjourned from 17:48 to 18:17]

#### **6. Castle Mills Car Park, Piccadilly, York [19/02415/FULM]**

Members considered a Major Full Application from City Of York Council for the erection of 106 apartments including 36no. 1-bed, no. 68 2-bed and 2no. studios, flexible commercial floorspace (A1-A3 and B1 1458sqm gross), provision of new pedestrian and cycle bridge across the River Foss and creation of new public realm and pedestrian and cycle route at riverside north at Castle Mills Car Park, Piccadilly, York.

The Head of Development Services provided the Committee with an update outlining further comments received from York Civic Trust (in support of the application), Historic England and from the Applicant. Members were advised of amended wording to Condition 45 and of a change to paragraph 6.4 of the Committee Report. Paragraph 6.4 stated that the approval was recommended subject to conditions and the undertaking of a legal agreement. This should however be subject to conditions and Grampian conditions. The Council was unable to enter into a legal agreement with itself therefore Grampian conditions were recommended to secure the require mitigation measures. It was confirmed that the additional information had been assessed and the planning balance and recommendation were unchanged from the published report.

The Development Services then gave a presentation on the application detailing the site location plan, elevations and visualisations. The City of York Council (CYC) Conservation Architect responded to Member questions as follows:

- The new development would perpetuate looming over between Ryedale House and the Travelodge. If a storey was lost this would make a difference.

- There was a number of other views where the development would have a negative impact on heritage assets.
- There was a cumulative effect of the development, and it was the conservation area appraisal that used the word loom. Ryedale House was assessed as having a negative impact on the setting and his view was that the application would have a cumulative effect on that harm.
- Less storeys would mitigate but not remove the harm. However, without seeing the visualisation, he could not say what the harm would be.

Officers were then asked and clarified that:

- The design of the bridge had been had been agreed by officers and the design presented was considered the most appropriate.
- Visualisations had been used to show the views from the bridge and there were limited views.
- Historic England had concerns about the views and massing.
- There had been a dialogue between the case officer, conservation architect, and project officers on the application. All views had been taken into account for the planning balance and recommendation.
- The loss of the car park and Ryedale House would benefit the heritage asset and it was the Ryedale House was more harmful than the car park.
- The simple design for the bridge was considered the best design.

### Public Speakers

Chris Donegani spoke in objection to the application. He asked that the Committee consider the harm to the Piccadilly and Walmgate areas. He suggested that the design of the northern building was poor and expressed concern regarding the narrowness of spaces and service arrangements.

Andy Kerr (Applicant, City of York Council) spoke in support of the application. He explained that it was a key site delivering public benefit from the masterplan. He noted that the design of the bridge had changed to allow children and wheelchair users to see through the bridge. He explained that the application would be 106 new homes, including affordable homes

managed by the council, that were sustainably designed and car free. He noted the high quality designs and he outlined the changes to the designs. He explained the reasons why the application caused less than substantial harm. In answer to Member questions he clarified that:

- The scheme had reduced in size and there was a masterplan that is public realm dominated. It had been ensured that the design made the masterplan viable.
- The design of the bridge and public space created a meander through space that would naturally slow down cyclists. There had been engagement with cycling groups about this and the council had worked with cycle lobby groups on the design of the bridge.
- There was a widening on the bridge beyond the minimum standards required. The bridge allowed for shared spaces and the council would work with cycle groups on the use of the space. It was felt that shared space was the best option.
- The parapet height on the bridge had been reduced and the railings had been introduced to create views for all people.
- The revenue generated by the scheme would determine the masterplan for St George's carpark.
- The fencing off of the water sides was linked to safety.
- Pocket parks were included to create spaces to be used all year round and the council was happy to work on the design of these to include more vegetation.
- The public consultation was part of the My Castle Gateway consultation and it took into account the views of different groups.

Chris Bush (York BID) spoke in support of the application, outlining the importance of the regeneration project. He explained that the retail footprint in York needed to change and repurpose itself for retail, leisure, hospitality and housing, which the scheme presented. He advised that York BID believed that the application supported the city centre to build back better and the regeneration would help the masterplan for the area.

Andrew Morrison (York Civic Trust) spoke in support of the application noting that the Trust supported the overall Castle Gateway development. He acknowledged and understood the concern regarding the heritage and noted that the scheme



would bring a surplus of benefit to the heritage of York. In answer to Member questions he responded that:

- The design of the bridge brought into the focus the river Foss in terms of heritage benefit and in opening up views of the Foss for pedestrians and cyclists. He noted the importance of understanding the Foss in the context of the history of the city.
- There was a need to maintain the character of the city and in this case it was about the balance of benefit; the removal of the car park was of greater benefit and would open up views of the area at ground level.
- The Civic Trust maintained a strong planning committee in considering applications coming forward.

Paul Lambert (Yorkshire Museums Trust - YMT) spoke in support of the application. He noted that Castle Gateway formed part of the jigsaw of the public realm and created place making and a new destination for visitors and residents on a positive development. He explained that the design brought high quality infrastructure to the city centre by opening up landscapes and it was an important stepping stone between Piccadilly and the public realm area.

A number of further questions arose following the end of speakers on the application:

- The Senior Solicitor was asked whether it was appropriate for a Member of the Executive to sit in judgement of the application. She advised that it was for the Executive Member to determine if there was a conflict of interest.
- The Head of Development was asked and confirmed that the masterplan could be taken into consideration as part of the planning balance. She advised that the harm was less than substantial.
- The council Conservation Architect explained the criteria for substantial harm, which worked on a 10 point level. He explained how he considered the application to constitute substantial harm.

Cllr Fenton then moved and Cllr Fisher seconded approval of the application subject to the conditions outlined in the report and additional information. Following debate, and in accordance with the revised Standing Orders, a named vote was taken with the following result:

- Cllr Baker abstained
- Cllrs Daubeney, Doughty, Fenton, Fisher, Hollyer, Waudby, Widdowson and Cullwick voted for the motion;
- Cllrs Douglas, Fitzpatrick, Kilbane, Lomas, Pavlovic and Warters, voted against the motion.

The motion was therefore carried and it was

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

**a)** to the undertaking of a legal agreement to secure the following:

- (i) Affordable Housing - 20 affordable homes to be provided on site by the HRA. A commuted sum of £368,712 to be provided in lieu of onsite provision of the remaining 1.2 apartments.
- (ii) Open Space - Off-site contributions totalling £99,104 (Recreational open space £26,274, Play space £35,768 and Sports pitch provision £37,062)
- (iii) Education - Financial contribution of £366,753 towards 19 school places
- (iv) Highways - £400/unit for first residents to get bus pass or cycle offer, £200 per unit for car club and £300/unit Travel plan contribution (to cover implementation and monitoring by CYC for a 5 year period).

**b)** Amended wording to Condition 45:

No part of Blocks A and B shall be occupied until Castle Car Park, identified on drawing number CM-BDP-ZZ-RL-DR-A-PL-1001 Rev PO3 (Site Location Plan with red and blue line boundary), has permanently closed with all ticket machines, and associated car park signs removed, and

details of an interim surfacing scheme have been approved in writing by with the local planning authority. The interim surfacing scheme shall be implemented within 6 months of the car park closing unless a scheme and timetable for the implementation of permanent public realm works has been approved by the local planning authority.

c) Grampian conditions to secure the require mitigation measures:

\* Development shall not commence on the apartment block hereby approved until a scheme for the provision of affordable housing equivalent to 21.2 homes has been submitted to and approved in writing by the local planning authority. The affordable housing shall be provided in accordance with the approved scheme. The scheme shall include the provision of 20 affordable homes on site and shall include:

- The numbers, type and location of the affordable housing provision to be made;
- The timing of the construction of the affordable housing;
- The arrangements to ensure that such provision is affordable for both initial and subsequent occupiers of the affordable housing; and
- The occupancy criteria to be used for determining the identity of prospective and successive occupiers of the affordable housing, and the means by which such occupancy shall be enforced.

Reason: To address the need for affordable housing in the context of Local Plan Policy H10.

\* Development shall not commence on the apartment block hereby approved until the provisions outlined within the Travel plan has been submitted to and approved in writing by the Local Planning Authority.

\* The scheme shall be implemented before the apartment block is completed. The scheme shall include:

- Bus and cycle offers for first residents
- Car club provisions
- Travel plan monitoring

Reason: in order to promote sustainable travel

\* Development shall not commence on the apartment block hereby approved until details of off-site provisions of open space, play space and sports pitch provision has been submitted to and approved in writing by the Local Planning authority.

Reason: To contribute to the provision of open space for recreation and amenity in accordance with Local Plan Policy GI6

\* Development not shall commence on the apartment block hereby approved until a scheme for education provision has been submitted to and approved in writing by the Local Planning Authority. The scheme shall be implemented before the completion of the development.

Reason: To address the need for additional early years / school places arising from the development.

Reason:

- i. The application site is within an area proposed for redevelopment and regeneration as outlined in the draft 2005 and 2018 Draft Plan, forming a key component of the York Castle Gateway masterplan development proposals. The site is within Flood Zone 3 and lies in a sensitive location within the Central Historic Core Conservation and in the Area of Archaeological Importance. In accordance with paragraph 11 of the NPPF, the more restrictive heritage asset and flood risk policies in the NPPF apply. The proposal, by virtue of its scale and massing, would result in harm to the setting of a

number of designated and non-designated (archaeology) heritage assets.

- ii. The Courts have held that when a local planning authority finds that a proposed development would harm a heritage asset the authority must give considerable importance and weight to the desirability of avoiding such harm to give effect to its statutory duties under sections 66 and 72 of the 1990 Act. The harm to result is considered to be less than substantial and is outweighed by the environmental and social benefits associated with the closure of the Castle car park, the provision of new housing, including 20 affordable units, the creation of new public realm including the opening up of the rear of the Castle Museum to become a public park and riverside and improvements to pedestrian and cycle connectivity within the wider neighbourhood. Whilst the harm is assessed as being less than substantial, such harm has been afforded considerable importance and weight in the overall planning balance.
  
- iii. As set out in section 5 of the Committee Report, other identified potential harms to flood risk, highway safety, visual and residential amenity and other environmental matters could be adequately mitigated by conditions.

Cllr C Cullwick, Chair

[The meeting started at 4.30 pm and finished at 8.02 pm].

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