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Meeting	Planning Committee B
Date	8 December 2022
Present	Councillors Craghill, Crawshaw, Daubeney, Fisher, Galvin, Orrell, Perrett and Looker (Substitute for Cllr Melly)
Apologies	Councillors Hollyer and Melly

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Apologies had been received from both the Chair and Vice-Chair, it was therefore necessary to elect a Chair for the meeting. Cllr Fisher was nominated by Cllr Daubeney and this was seconded by Cllr Orrell. A vote was taken and Cllr Fisher was unanimously appointed to Chair the meeting. A subsequent vote was taken for Vice-Chair and Cllr Crawshaw was unanimously appointed to the role.

#### **44. Declarations of Interest (4.33 pm)**

Members were asked to declare at this point in the meeting any disclosable pecuniary interests or other registrable interests that they might have in the business on the agenda, if they had not already done so in advance on the Register of Interests.

In relation to items 4a and 4b (Ascot Mews, York) Cllrs Craghill and Looker declared that, in their position as Ward Councillors, they had received correspondence from residents with respect to the applications however, they were not pre-determined to the outcome.

Also in relation to items 4a and 4b, Cllr Fisher declared that he had received correspondence from residents but was not pre-determined. In relation to item 4f (Toft Green), he declared, for transparency reasons, that his son played in a band.

Cllr Crawshaw highlighted that he would make a statement in relation to item 4f (Toft Green), at the start of that item.

#### **45. Minutes (4.36 pm)**

Resolved: That the minutes of the last meetings, held on 19 October 2022 and 10 November 2022, were approved as a correct record.

#### **46. Public Participation (4.37 pm)**

It was reported that there had been no registrations to speak at the meeting under the Council's Public Participation Scheme.

#### **47. Plans List (4.37 pm)**

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

#### **48. 1 Ascot Mews, Emerald Street, York, YO31 8LT [22/01235/FUL] (4.37 pm)**

Members considered a change of use application at 1 Ascot Mews, Emerald Street, York from dwelling house (use class C3) to short-term letting holiday accommodation (sui-generis). The Principal Development Management Officer gave a presentation on the application.

#### Public Speakers

Cllr Melly, spoke in objection to the application. She highlighted the negative impact the existing short term let had on the local residents noting increased noise and vehicle movements. She noted the requirements of the NPPF and explained that the objectives had been undermined with no economic benefit to the area.

Cllr Fitzpatrick, the Ward Member for Guildhall, spoke in objection to the application. She stated that she had called in the application having heard concerns regarding the nature of the short term holiday let for some while. The business had damaged community cohesion, the target market was unsuitable given the location close to a primary school and was not in keeping with the residential street.

In response to Member questions she confirmed that there was a third unrelated property on the Mews which was also a short term holiday let.

Following debate, Cllr Crawshaw proposed the officer recommendation to refuse the application. This was seconded by Cllr Looker. A vote was taken with a unanimous vote in favour it was;

Resolved: that the application be refused.

Reason:

The application relates to the retrospective change of use of Ascot Mews to holiday accommodation. Although the property has been used previously as accommodation for stag and hen parties the applicant has stated that he is now restricting occupancy to 6 people. He has also stated that the property is no longer let with the adjacent house (number 2).

It is considered that the site specific circumstances are such that additional noise and activity that can often be associated with holiday accommodation has the real potential to create harm. This relates principally to the property's position at the end of a quiet street, the shared use of the front courtyard and the very close proximity of the courtyard to an upstairs side facing bedroom. Furthermore, the application is submitted in association with a retrospective application for a 6 person short term let at the adjacent property (number 2) which shares the same external space. Although the applicant has stated he would seek to ensure that groups who let the two homes were not part of a single group, it is difficult to envisage how this could be controlled and monitored. It is considered the ability of large groups to rent the two properties together (or two groups to subsequently mix) creates particular concerns regarding the use of the homes for 'party' type gatherings with shared use of the communal courtyard.

Accordingly, it is considered that the proposal conflicts with national and local policy regarding the need to maintain a high standard of amenity for nearby neighbours and is therefore recommended for refusal. It is not considered that the economic benefits from the proposal outweigh the impacts of this harm.

**49. 2 Ascot Mews, Emerald Street, York, YO31 8LT  
[22/01236/FUL] (4.52 pm)**

Members considered a change of use application at 2 Ascot Mews, Emerald Street, York from dwelling house (use class C3) to short-term letting holiday accommodation (sui-generis). The Principal Development Management Officer gave a presentation on the application.

Public Speakers

Both Cllr Melly and Cllr Fitzpatrick requested that their comments relating to item 4a (1 Ascot Mews) be taken into consideration for this application.

Following debate, Cllr Orrell proposed the officer recommendation to refuse the application. This was seconded by Cllr Craghill. A vote was taken with a unanimous vote in favour, it was;

Resolved: that the application be refused.

Reason:

The application relates to the retrospective change of use of Ascot Mews to holiday accommodation. Although the property has been used previously as accommodation for stag and hen parties the applicant has stated that he is now restricting occupancy to 6 people. He has also stated that the property is no longer let with the adjacent house (number 1).

It is considered that the site specific circumstances are such that additional noise and activity that can often be associated with holiday accommodation has the real potential to create harm. This relates principally to the property's position at the end of a quiet street, the shared use of the front courtyard and the very close proximity of the courtyard to an upstairs side facing bedroom. Furthermore, the application is submitted in association with a retrospective application for a 6 person short term let at the adjacent property (number 1) which shares the same external space. Although the applicant has stated he would seek to ensure that groups who let the two homes were not part of a single group, it is difficult to envisage how this could be controlled and monitored. It is considered the ability of large groups to rent the two properties together (or two groups to subsequently mix) creates particular concerns regarding the use of the homes for 'party' type gatherings with shared use of the communal courtyard.

Accordingly, it is considered that the proposal conflicts with national and local policy regarding the need to maintain a high standard of amenity for nearby neighbours and is therefore recommended for refusal. It is not considered that the economic benefits from the proposal outweigh the impacts of this harm.

**50. Fishergate CP School, Fishergate, York, YO10 4AF  
[22/00787/GRG3] (6.23 pm)**

Members considered an application from Fishergate Primary School for the installation of enclosed Multi Use Games Area (MUGA) pitch to playing field at rear of school.

The Development Manager gave a presentation on the application and provided an update as follows:

#### Flood Risk Management Team comment

The MUGA is to be constructed in a grass field the applicant has not provided any surface water drainage or construction details. MUGAs are constructed in a semi-impermeable material therefore will increase surface water run-off (0.04 - 4.2 l/sec).

Recommend a surface water drainage condition.

#### Additional conditions

No development shall take place until details of the proposed means of 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 constructed in accordance with the approved details.

Reason: In the interest of satisfactory and sustainable drainage.

He also noted that Public Protection had requested a condition limiting the use of the pitch to 6pm. As floodlights are not proposed, the use was limited to daylight hours.

#### Public Speakers

Tina Clark, Headteacher of Fishergate Primary School, spoke in favour of the application and explained that the MUGA would ensure that the children could access outdoor space all year round. She confirmed that it was for school use only and that a curfew would not cause a problem for them.

David Pennington, PE Co-ordinator, explained how the MUGA would enable the school to offer a wider range of sports and extracurricular clubs and also allow house competitions to be played at the same time.

In response to questions from Members he confirmed that the Sports England objection related to the size of the pitch and confirmed that tennis, netball and basketball would be provided including house competitions.

The officer responded to questions from Members and confirmed that the addition of floodlights would require a further planning application.

Following debate, Cllr Crawshaw moved the officer recommendation to approve the application. Cllr Looker seconded the proposal. The addition of a condition limiting the use of the MUGA until 18:00 only was clarified and agreed by Members. A vote was taken and Members voted unanimously in favour of the motion, it was;

Resolved: that the application be approved, subject to referral to the Secretary of State as recommended in the report.

Reason: Having carefully assessed the proposed development, all material planning considerations and all representations received, it is considered to represent an appropriate form of development in this location that will not result in harm to the amenity of residents, the setting of heritage assets or be harmful to the provision of recreation spaces in the area.

In accordance with statutory requirements, Sport England have been consulted.

The unresolved Sport England objection means that the provisions of The Town and Country Planning (Consultation) (England) Direction 2021 apply. The Direction requires local planning authorities in England to consult the Secretary of State before granting planning permission for certain types of development. Should members be minded to grant permission the application is required to be referred to the Secretary of State before a decision can be issued.

Resolved: The hereby approved Multi Use Games Area shall not be used outside of the following hours:

Monday to Friday 08:00 to 18:00  
Saturdays & Sundays 09:00 to 18:00

Reason: To protect the amenity of residents living in the vicinity of the site.

**51. 67 Grantham Drive, York, YO26 4UE [22/01864/FUL] (6.40 pm)**

Members considered an application at 67, Grantham Drive, York, for a single storey rear and side extension, following the demolition of the existing conservatory.

The Development Manager gave a presentation on the plans following which there were no public speakers or questions for officers.

Cllr Galvin moved the officer recommendation to approve the application and this was seconded by Cllr Crawshaw. Members voted unanimously in favour and it was;

Resolved: that the application be approved.

Reason: The proposed works would respect the general character of the building and area and cause no neighbouring harm. It is considered that it complies with national planning guidance, as contained in the National Planning Policy Framework, and local policies in the Publication Draft Local Plan 2018, Development Control Local Plan 2005 and the City of York Council's Supplementary Planning Document (House Extensions and Alterations).

## **2a) 17 Newlands Drive, York, YO26 5PQ [22/01734/FUL] (6.44 pm)**

Members considered an application from Bergamo Holdings at 17 Newlands Drive, York, for change of use from dwelling (use class C3b) to 6.no. occupant House in Multiple Occupation (use Class C4).

The Development Manager gave a presentation and responded to questions from Members as follows:

- The C3 use class had been applicable to the Wilberforce Trust as it allowed for up to 6 residents in need of care to live as a single household.
- The original Highways objection related the dropped kerb and the occupation of the HMO by 7 residents.

### Public Speakers

Jane Barker, a resident, spoke in objection to the application. She explained that the previous occupants had been housebound and there had been no parking or noise issues. her main concern was the parking,

with residents having had their drives blocked and the road being too narrow to park on both sides. She requested that the item be deferred.

In response to questions Ms Barker clarified that there were no existing parking restrictions, large vans and lorries would sometimes need to straddle the pavement to pass and some car owners chose to park partially on the pavement to avoid blocking the road.

Following a Member question, the officer confirmed that the low wall at the front of the house could be removed under permitted development.

Mark Flynn, a resident, spoke in objection to the application on parking grounds. He raised concerns regarding vehicles blocking driveways and highlighted that six residents with vehicles would increase parking congestion and have a detrimental impact on neighbouring residents. He noted that the report described the road as a cul-de-sac, although it was a through road and was concerned that the Highways department did not have the correct information.

Cllr Lomas, the Ward Councillor, spoke in objection to the application on behalf of residents. She noted that the change of use from a community based care facility was a loss for Acomb Ward. She highlighted that unrelated tenants would not be able to manage the parked vehicles associated with the property and raised concerns regarding potential noise issues from separate households.

Claire Richards, the agent for the applicant, spoke in favour of the application and noted the previous occupiers would have had a number of additional vehicles associated with care workers and visiting friends and family. She highlighted the plans for the property in terms of the layout, bin storage and parking plan. She also explained the aim was to provide high quality accommodation for professionals and confirmed that it would be managed by a property manager. She also noted the access to public transport, e-scooter hire and local shops.

In response to Member questions she confirmed the plan for parking on the hard standing at the front of the property and that students were not the target market for the property.

Officers responded to Member questions and clarified the following:

- that the road could accommodate two passing vehicles.
- Highways had been clear that it was a through road when they made their recommendations.



- There was no requirement for a turning circle. An HMO (house in multiple occupation) required parking to operate independently, this could be achieved with 3 spaces for 6 bedrooms.
- The current application complied with parking guidelines, a refusal on highway grounds had to demonstrate an unacceptable impact on highway safety.

Following debate, Cllr Galvin moved the officer recommendation to approve the application, this was seconded by Cllr Orrell. On being put to the vote, with seven votes in favour and one vote against it was;

Resolved: that the application be approved.

Reason: The application property is considered to be appropriate for the needs of future occupants within a 6.no. bedroom small HMO. Adequate provision for off-road vehicle parking has been demonstrated and secure cycle storage exists. the existing density levels of current HMO's is well below the policy threshold (at both Street Level and Neighbourhood Level). The proposal is considered to comply with policy H8 of the 2018 draft Local Plan and the requirements of the Draft Supplementary Planning Document (SPD): Controlling the Concentration of Houses in Multiple Occupancy.

## **52. 3 Toft Green, York [20/00314/FULM] (5.00 pm)**

Members heard an application for the erection of a new building comprising of ground floor music venue (sui generis) and offices (use class E) at 3 Toft Green, York.

Cllr Crawshaw noted his objection to the original application which would have resulted in the loss of the music venue. Since the plans had changed, and the music venue was to be retained, he stated that having consulted with legal services and the Monitoring Officer, his previous objection was no longer relevant or material to the application for the revised scheme.

The Development Manager gave a presentation on the application and the Development Officer gave an update to the report as follows:

### **Amendment to report**

Paragraph 5.33 should read “Subject to any permission being appropriately conditioned the development would not be precluded on archaeological grounds, following on from the results of the submitted evaluation”.

The City Archaeologist, following on from receipt of the pre-determination evaluation, indicates that the location of piling will need prior investigation. A raft foundation would be preferred otherwise a light foundation solution with as few pile locations as possible with the thickness of slab and beams also as narrow as possible. Provision of attenuation for surface water and a lift shaft may result in some disturbance to Roman levels which would be covered in the suggested conditions.

### **Additional consultation response**

Public Protection recommend a post completion verification report which would establish the effectiveness of the proposed noise mitigation measures and indicate any remedial works which could be secured by condition.

### **Additional Representation**

The York Civic Society wish to withdraw their earlier objection on the basis of the reduction in scale of the scheme and the re-creation with the proposed roof garden of a setting to Micklegate House on the Micklegate street frontage. It is felt that the scheme could be improved by a hard landscaping scheme on the street frontage.

### **Amended Conditions:**

Condition 2 should be amended to include the following plans:  
17049\_130\_P4; 170\_134\_P4; and 1704\_110\_P4

Condition 29 to read:

The building(s) shall not be demolished other than as required to give effect to the archaeological works required in Condition 24 before a legally binding contract for the carrying out of the works of redevelopment of the site is made and evidence of the contract has been submitted to and approved in writing by the Local Planning Authority, or in the absence of such a contract an alternative confirmation of commencement of the development has been submitted to and approved in writing by the Local Planning Authority.

Reason: To ensure that the premature demolition of the buildings does not take place to the detriment of the character and appearance of the Conservation Area.

Condition 30 to read:

The development shall not be occupied until the waste stores have been completed in accordance with the approved drawings. The stores shall be retained only for the storage of waste and recycling and no waste shall be stored other than within the storage areas unless reasonably waiting for collection. No glass bottles shall be placed for collection between 23.00 and 07.00.

Reason: To ensure that waste materials arising from the site are properly stored and made available for collection in the interests of the amenities of the area.

### **Additional conditions –**

#### Verification of noise insulation measures

Prior to first use of the music venue, the approved noise mitigation measures under condition 15 shall be undertaken in accordance with the details submitted and a verification report that demonstrates the effectiveness of the measures carried out must be produced and is subject to the approval in writing of the Local Planning Authority.

Reason: To safeguard the amenity of neighbouring properties and to secure compliance with paragraph 130f) of the NPPF and to secure compliance with.

Officers confirmed that at paragraph 5.26 the date should read 2020, not 2017 and condition 23 should read 18m.

#### Public Speakers

Ravi Majithia, a representative for the Hampton by Hilton hotel operator, Avantis, spoke in objection to the application. He raised concerns regarding the appropriate nature of the site for a music venue, the planned noise mitigation measures and the impact of antisocial behaviour on the venue's close neighbours.

Following questions from members he further explained his concerns relating to noise.

Juliette Spencer, a representative from Portland Fuels, 1 Toft Green, spoke in objection to the application. She requested more detailed plans and a Construction Environment Management Plan (CEMP). She also noted that there had been no communication from the applicant or agent with regard to the application.

In response to questions from Members, she emphasised her lack of confidence in the conditions due to the lack of communication from the applicant.

Cllr Peter Kilbane, Ward Councillor for Micklegate, spoke in support of the application. He highlighted the importance of live music venues as significant cultural spaces that brought creativity and energy to an area. He welcomed the application and urged approval.

Philip Holmes from O' Neill Associates, the agent for the application, spoke in support of the application. He outlined the plans and introduced representatives from the music venue operator who outlined the expected operation of the venue and the noise mitigation measures that would be in place.

In response to questions from Members, the agent and his team confirmed that noise insulation would be addressed through the design and construction of the purpose-built music venue. In the experience of the venue operators, e tickets had dispensed with the problems associated with a build-up of queues. The building was in keeping and scale with other buildings on Toft Green and within the curtilage of the Micklegate property. The agents confirmed their willingness to work with the neighbours when drawing up the CEMP.

Officers responded to further questions from Members and explained that once planning permission was granted, the Local Authority does not have the power to enforce alterations to the development in response to archaeological finds, however, the conditions that required further archaeological surveys and specified foundation design were designed to protect any archaeological findings from unavoidable harm through negotiations with the site owners. Archaeology of national significance could be subject to scheduling by the Secretary of State.

Following debate, Cllr Galvin moved the officer recommendation to approve the application. Cllr Fisher seconded the motion. Members voted unanimously in favour of the recommendation and it was;

Resolved:           that the application be approved.

Reason: The site comprises a two-storey brick and timber faced structure with a substantial brick built extension to the rear largely reconstructed in the 20th Century. Planning permission is sought for its demolition and the construction of a part two storey building with further accommodation in a roof storey, as office suites and music venue and a terrace garden to the rear creating a separation with the Grade 1 Listed Micklegate House on the Micklegate frontage behind.

It is considered that the proposals as amended would result in less than substantial harm both to the setting of Micklegate House and to the character and appearance of the Central Historic Core Conservation Area. That harm would on balance be outweighed by the public benefit of the removal of the existing building which is in a deteriorating condition and forms a detractor in the Conservation Area. The supply of Grade A serviced offices within the City Centre together with the re-provision of a purpose built music venue provides public benefits which should be afforded significant weight. On balance it is considered that the proposal would not harm neighbouring amenity and that subject to conditions covering management of the music venue would be acceptable.

[The meeting was adjourned between 6.10pm and 6.23pm]

Cllr T Fisher, Chair

[The meeting started at 4.31 pm and finished at 7.33 pm].