

MEETING	EAST AREA PLANNING SUB-COMMITTEE
DATE	13 OCTOBER 2011
PRESENT	COUNCILLORS WISEMAN (CHAIR), DOUGLAS (VICE-CHAIR), FIRTH, FITZPATRICK, FUNNELL, HYMAN, KING, MCILVEEN, WARTERS AND WATSON

INSPECTION OF SITES

Site	Attended by	Reason for Visit
Newlands, Back Lane South, Wheldrake	Councillors Douglas, McIlveen, Watson and Wiseman	To familiarise Members with the site as the Officer's recommendation was for refusal.
22 Mill Lane, Wigginton	Councillors Douglas, McIlveen, Warters, Watson and Wiseman.	To re-familiarise Members with the site following approval of outline consent in July 2010.
Stray Garth Community Home	Councillors Douglas, McIlveen, Warters, Watson and Wiseman.	To re-familiarise Members with the site, as planning permission for a previous application had been granted on the site.
Park House Farm Caravan Site	Councillors Douglas, McIlveen, Watson and Wiseman.	To familiarise Members with the site as the Officer's recommendation was for refusal.

27 Bedale Avenue, Osballdwick	Councillors Douglas, McIlveen, Watson and Wiseman.	To familiarise Members with the site and to appreciate the concerns of local residents.
24 Low Mill Close, Osballdwick	Councillors Douglas, McIlveen, Warters, Watson and Wiseman.	To re-familiarise Members with the site following changes to the membership of the Committee.
Land adjacent to 5 South Lane, Haxby	Councillors Douglas, McIlveen, Warters, Watson and Wiseman.	To familiarise Members with the site.

21. DECLARATIONS OF INTEREST

Members were invited to declare at this point in the meeting any personal or prejudicial interests that they might have in the business on the agenda.

Councillor Firth declared a personal non prejudicial interest in Agenda Item 4b) as the Ward Member and a Parish Councillor.

Councillor Hyman declared a personal non prejudicial interest in Agenda Item 4a) as one of the applicants had been in touch with him regarding the previous application and he had entered into correspondence but had not expressed an opinion.

As amended at the East Area Planning Sub-Committee on the 13th November 2011.

No other interests were declared.

22. EXCLUSION OF PRESS AND PUBLIC

RESOLVED: That the Members of the Press and Public be excluded from the meeting during the consideration of Annex A to agenda item 6 (Enforcement Cases Update) (Minute 30 refers) on the grounds that it contains information that if disclosed to the public,

would reveal that the Authority proposes to give, under any enactment or notice by virtue of which requirements are imposed on a person or that the Authority proposes to make an order or directive under any enactment. This information is classed as exempt under Paragraphs 6 of Schedule 12A to Section 100A of the Local Government Act 1972, as amended by the Local Government (Access to Information) (Variation) Order 2006.

23. PUBLIC PARTICIPATION

It was reported that there had been one registration to speak under the Council's Public Participation Scheme on general issues within the remit of the Sub-Committee.

Matthew Laverack addressed the Committee in relation to the determination of planning applications under the scheme of delegation. He felt that a delegated decision should only be used on non-controversial applications with the agreement of all parties involved in the application. He felt that the system of delegated decision making was inconsistent, in breach of government legislation and that it should be reviewed.

24. PLANS LIST

Members considered a schedule of reports of the Assistant Director (Planning and Sustainable Development), relating to the following planning applications, outlining the proposals and relevant policy considerations and setting out the views and advice of consultees and officers.

24a Newlands, Back Lane South, Wheldrake. York, YO19 6DT. (10/01637/FUL).

Members considered a full application by Mr Simon Crowther for the demolition of an existing building and erection of a replacement dwelling on an extended footprint, including a substantial excavated basement area.

In their update to Members, Officers stated that one letter of support had been received since publication of the agenda. They also reported that the Council's Tree Officer had expressed concerns about the impact of the proposal, in particular the basement, on the protected ash tree on the western boundary of the site.

Representations in support of the application were received from the applicant. She outlined that any suggested tree protection measures would be undertaken and that there would be no evidence of excavation following construction. She added that timber cladding would be used for the building due to its appropriate nature in the rural location.

Further representations in support of the application were received from a representative of Wheldrake Parish Council. He outlined the recent history of use of the building to the Committee. He stated that although the Parish Council had originally objected to a previous application on the site in February 2009, that they felt that the overall design of the proposed application was more suitable. He added an extension above ground would result in a lack of visual amenity and that if permission be given for the application, that a condition would be included for the protection of trees and hedges.

Questions from Members to Officers and the applicants related to the visual impact of the replacement dwelling, and the very special circumstances in the event that the application be approved.

The applicant responded that the special circumstances were that it was felt that the design of the new building respected the countryside, that it would be for family occupation and that something needed to be done to approve the appearance of the site.

Some Members felt the application should be approved, as if permitted development rights were exercised in relation to the existing property, it would result in a similar or worse situation than that now proposed.

Some were concerned about the proximity of the replacement dwelling to the protected tree and the lack of natural light to the 2 bedrooms in the basement, and the detrimental effect this could have on living conditions. They suggested that the

decision to grant permission should be delegated to Officers upon receipt of revised plans. In response Officers suggested that the application could be deferred to be considered at a future meeting in order to negotiate a revised plan with the applicant.

RESOLVED: That the application be deferred.

REASON: In order for Officers to negotiate the submission of a revised plan from the applicant.

24b 22 Mill Lane, Wigginton, York, YO32 2PX. (11/01969/REM).

Members considered a reserved matters application by Daniel Gath Homes Ltd for the erection of nine dwellings with associated access and parking.

In their update, Officers informed Members that the roof pitch of the garage at Plot 4, on the north west of the site, would be reduced and that this would then lessen the visual impact on properties at numbers 23 and 25 Steeple Close. It was also suggested, that if Members were minded to approve the application, that the formulation of landscaping conditions be delegated to Officers. Members were informed that three of the proposed dwellings would have internal garages.

Representations in support of the application were received from the applicant. He referred to the positive responses from consultation with neighbours in relation to the application. He added that there had been one objection to the removal of a conifer hedge along the boundary, but that the hedge would be replaced with native specimens.

Representations in objection were received from the Chair of Wigginton Parish Council. He considered that the road should be constructed to an adoptable standard and should incorporate streetlighting. He also felt that there was inadequate provision for garages, recycling, deliveries and parking for the new properties. In his opinion, the development could increase traffic problems on Mill Lane and that the application constituted overdevelopment.

Representations were received from the Ward Member, Councillor Cuthbertson. He outlined a number of concerns which included; that the nine dwellings would be in particularly close proximity to neighbouring properties, that due to the height difference that the dwellings would overlook these properties and that there had been notorious drainage problems on the site. He also added that he was concerned about access on to the site as the existing access went on to the public highway and was opposite to a layby.

Officers clarified to Members the issues that could be considered under a reserved matters application, and stated that they were confident that soakaways would be an acceptable drainage solution as a successful percolation test had taken place, witnessed by Council Officers. Full details of drainage would still need to be submitted for approval. The applicant spoke about the location of the house on plot 4, and stated that it was placed in a corner position to avoid the house being closer to the adjacent property, rather than the garage.

Councillor Firth, as the Member who called in the application for consideration by the Committee, highlighted the reasons why he wished for it to be considered. He felt that the development would increase movement on to the main highway and that the access for recycling was not adequate and that there was a potential for the drainage system to fail.

In relation to drainage issues, the applicant advised Members that processes to reduce the flow of water from the hardstanding would be investigated. Some Members suggested that a condition, for a watching brief on trees on the site should be added to approval, in order to prevent damage to the trees during development of the site.

RESOLVED: That the application be approved, subject to;

- The receipt of final landscaping proposals from the applicant.
- An additional condition relating to the removal of permitted development rights from Plots 1 and 4 as detailed below;

(i) Notwithstanding the provisions of Article 3 of the Town and Country Planning (General

Permitted Development) Order 1995 (or any Order revoking or re-enacting that Order), development of the type described in Classes A and E of Part 1 of Schedule 2 to that Order shall not be erected or constructed within the curtilage of the dwellings numbered 1 and 4 on the plans hereby approved.

Reason: In the interests of the amenities of the adjoining residents the Local Planning Authority considers that it should exercise control over any future extensions or alterations which, without this condition, may have been carried out as "permitted development" under the above classes of the Town and Country Planning (General Permitted Development) Order 1995.

REASON: The proposal, subjected to the conditions listed above and in the Officer's report, would not cause undue harm to interests of acknowledged importance, with particular reference to:

- Impact on Protected Trees
- Access and Highway Safety
- Design and Street Scene
- Neighbour Amenity
- Flood Risk and Drainage
- Bio Diversity
- Sustainability
- Public Open Space

As such the proposal complies with policies GP1, GP4a, GP15a, NE1 and L1c of the City of York Local Plan Deposit Draft.

24c Stray Garth Community Home, 7-9 Stray Garth, York, YO31 1EL. (11/01467/FUL).

Members considered a full application by Mr AP and Mrs PM Smith for a change of use to a dwelling with granny annexe, erection of two storey front extensions, two rear dormers and alterations to rear to create roof terrace.

In their update to Members, Officers reported that they had received a revised plan from the applicants which made changes to the width and height of the windows in the two rear dormers. Officers stated that, in their opinion, these alterations would not have a significant impact on the character or the amenity of the area.

Representations in objection were received from the adjoining neighbour to the property. She referred to demolition work that had taken place on the site during the week and the weekend in breach of the working hours condition on the original application. She also considered that the position of the dormer window on the property would mean that there would be a full view into one of the rooms on the western side of her house.

Representations in support were received from a representative for the applicants. He explained that the dormer windows would only serve the bedrooms and that he felt that there was not a full view of neighbouring gardens due to the oblique angle and separation distances from them. He also pointed out that there would be an element of overlooking in any urban or suburban situation.

Some Members recommended that the objector report her concerns about weekend demolition work to the Council's Enforcement Officers.

RESOLVED: That the application be approved.

REASON: In the opinion of the Local Planning Authority the proposal, subject to the conditions listed in the Officer's report, would not cause undue harm to interests of acknowledged importance, with particular reference to:

- Principle of change of use;
- Impact on the living conditions of neighbours;
- Design and visual amenity

As such the proposal complies with Policies GP1, NE6, NE7, H4A, H7 and C3 of the City of York Development Control Local Plan.

24d Park House Caravan Site, New Lane, (off Sheriff Hutton Road), Strensall. (11/02115/FUL).

Members considered a full application by Nelson Park Lodges for the variation of conditions 3, 14 and 15 of permission 04/01105/FUL for a caravan site to allow an increase in the number of caravans on site from 20 to 40 and to allow the use of the site throughout the year.

The Chair informed the Committee that during the site visits that took place on the previous day, access to the site was prevented by a barrier lowered across the entrance to the site, thus Members who attended the site visit were unable to inspect the site in detail.

RESOLVED: That the application be refused.

REASON: 1. The site is located within an area of Green Belt which is characterised by its open and rural appearance. It is considered that the increase in the number of touring caravans and the extension of opening the site to all year round would compromise the openness of this area and would conflict with the purposes of including land within the Green Belt. The proposal is therefore inappropriate development in terms of the advice contained in Planning Policy Guidance Note 2 "Green Belts", and is, by definition, harmful to the Green Belt. No very special circumstances have been advanced by the applicant which would outweigh harm to the Green Belt. The proposal would also conflict with Policy V5 of

the City of York Draft Local Plan (CYDLP) which does not permit touring caravan sites in the Green Belt where there is an adverse affect on the openness of the Green Belt and Policy GB1 of the CYDLP which does not support development which detracts from the open character of the Green Belt.

2. The application indicates that foul drainage is to be discharged to a non-mains drainage system. In these circumstances Circular 3/99 'Planning Requirement in respect of the Use of Non-Mains Sewage incorporating Septic Tanks in New Development' advises that a full and detailed consideration be given to the environmental criteria listed in Annex A of the circular in order to justify the use of non-mains drainage facilities. No such information has been submitted. The application does not, therefore, provide sufficient basis for an assessment to be made of the risks of pollution to the water environment arising from the proposed development. In particular the application fails to:

- (i) Address the issues set out in Section 6 Annex A of Circular 3/99 and
- (ii) Justify the use of a cesspool over preferred alternative means of foul disposal in accordance with the hierarchy set out in Circular 3/99.

**24e 24 Low Mill Close, Osbaldwick, York, YO10 5JN.
(11/02115/FUL)**

Members considered a full application by Mr and Mrs Ken and Sandra Harris for a change of use from dwellinghouse (use class C3) to house of multiple occupation (HMO) (use class C4).

Officers informed Members that there were two properties in Low Mill Close that were exempt from the payment of Council Tax and thus were likely to be student HMOs, although neighbours had stated that there were more than two. Members

were informed about a previous application at the site to convert the property into a HMO, which they had refused. It was reported that due to a change in national planning legislation that planning permission for a change of use from a dwelling house to an HMO was now not necessary. However, due to the timing of the change of use of this property, which was operating as an HMO when planning permission was required, legal advice had indicated that planning permission was required in this case.

Representations in objection were received from the adjacent neighbour. His grounds for objecting were that such proposals were resulting in a reduction in family houses in the area. He also stated that the new national planning guidance allowed Local Authorities to use their existing powers to restrict HMOs through the refusal of planning permission.

Representations in support were received from the applicants agent. He made reference to the changes in legislation and stated that dwellinghouses could change into HMOs without the need for planning permission. He also saw no reason why planning permission could not be granted as long as there were no existing problems with the concentration of HMO's in the vicinity. He added that the property had operated as an HMO for two years without any problems, and that he believed that the total number of HMOs in Low Mill Close did not exceed five. He felt that as the application did not conflict with local or national planning legislation that permission should be granted. The Council would be in a position to monitor future applications for HMO's under the Article 4 Direction, which is likely to come into force next year.

Some Members were concerned about the legality of approving the change of use, whereas others felt that consideration of legal issues were outside of the remit of the Committee.

Councillor Douglas requested that her vote for refusal be recorded.

RESOLVED: That the application be approved.

REASON: In the opinion of the Local Planning Authority the proposal, subject to the conditions listed in the Officer's report, would not cause undue

harm to interests of acknowledged importance, with particular reference to:

-Principle of development

-Impact on the character and appearance of the area;

-Car parking;

-Cycle and bin storage;

As such the proposal complies with Policy H8 of the City of York Development Control Local Plan.

**24f 27 Bedale Avenue, Osbaldwick, York, YO10 3NG.
(11/02264/FUL).**

Members considered a full application by Mr B Singleton for a change of use from garage (Class C3) to a tattoo studio.

The application had been called in for consideration by the Committee by Councillor Warters and he gave his reasons for doing this, which were; to understand the reasons for objections to the application and because of the unusual nature of the application.

The applicant was present at the meeting to answer Members' questions.

In response to questions, the applicant responded that his business did not operate 24 hours a day and that he understood that a planning application was needed to be made due to the fact that his property was being used by paying customers.

RESOLVED: That the application be approved.

REASON: In the opinion of the Local Planning Authority the proposal, subject to conditions listed in the Officer's report, would not cause undue harm to interests of acknowledged importance with particular reference to:

- The impact on the amenity and living conditions of local residents;
- The impact on the vitality of local shopping centres;
- Highway safety;
- Visual impact;
- Provision of storage for the dwelling house.

As such the proposal complies with Policies E10 and GP1 of the City of York Draft Local Plan and national planning advice contained within Planning Policy Statement 4 and Planning Policy Guidance Note 24.

24g Land Adjacent to 5 South Lane, Haxby.

Members considered a full application by Mrs Toni Grainger for four numbered semi detached dwellings on land adjacent to 5 South Lane.

In their update to Members, Officers stated that the location plan that had been submitted with the application was inaccurate in that the application site included land at the rear of 14 York Road. This did not affect the consideration of the application or the recommendation of refusal by officers. They reported that a correction should be made in the reason for refusal, which should refer to the impact on the garden of **16** York Road, not 14 York Road. It was also reported that the Council's Environmental Protection Unit had no objections to the application. Additionally, Members were informed that part of the land set aside for the proposed car parking bays was owned by the property at number 8 York Road.

Representations were received from the Ward Member, Councillor Richardson. He spoke about a number of issues that had been raised by local residents including;

- That the land at the application should be classed as backland development and pointed out that access on to the highway was from a private road.
- That there would be increased levels of pollution due to the increase in the number of cars in the area.
- That local problems of on street parking would increase if the application was approved.

Further representations were received from the Ward Member, Councillor Cuthbertson. In addition to Councillor Richardson's comments he stated that the site plan did not show that the access from York Road to South Lane was one way, and that this access was also used by pedestrians and cyclists. In addition he felt that the application had not addressed the issue of surface water disposal, and that the style of the properties was not in keeping with the area.

RESOLVED: That the application be refused.

REASON: It is considered that the proposed development, by virtue of its size, height, and the number and position of windows within the rear elevation, would result in a loss of amenity for neighbouring residents. The garden of 16 York Road is long and narrow and the proposed dwellings run parallel to this with a separation distance of between 8.5m and 9.3m. It is considered that the proposal would appear dominant and overbearing when viewed from the garden of 16 York Road and would result in a loss of privacy through overlooking from the eight first storey windows within the rear elevation of the proposed houses. In addition, the proposed dwellings would be sited to the south of Wren Cottage with a separation distance of approximately 9m. It is considered that the proposal would result in a loss of light and outlook from Wren Cottage, harming the level of amenity currently enjoyed. Therefore the application is considered contrary to Policies GP1(criterion i) and H4a of the Development Control Local Plan.

25. ENFORCEMENT CASES UPDATE.

Members considered a report which provided them with a continuing quarterly update on the number of enforcement cases currently outstanding for the area covered by the Sub-Committee.

RESOLVED: That the reports be noted.

REASON: To update Members on the number of outstanding enforcement cases within the Sub Committee's area.

Cllr S Wiseman, Chair

[The meeting started at 2.00 pm and finished at 5.00 pm].