

Meeting	Planning Committee
Date	11 July 2019
Present	Councillors Cullwick (Chair), Pavlovic (Vice-Chair), Ayre, D'Agorne, Doughty, Douglas, Fitzpatrick, Hollyer, Kilbane, Warters, Cuthbertson (Substitute), Fisher (Substitute), Melly (Substitute) and Hunter (Substitute)
Apologies	Councillors Barker, Daubeney, Widdowson, Fenton and Perrett

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## **12. 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. Referring to the objections to Agenda Item 3a [OS Fields 5475, 7267 and 8384, Moor Lane, Acomb, York [18/02687/OUTM] from York Environment Forum and the Green Party, Cllr D'Agorne declared a personal non prejudicial interest as a member of both groups. He noted that he had not taken part in any discussions regarding the application. Cllr Fisher also declared a personal non prejudicial interest in the same application as a member of York Environment Forum and had not taken part in any discussions. No further interests were declared.

## **13. 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.

## **14. 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.

**15. OS Fields 5475, 7267 and 8384, Moor Lane, Acomb, York [18/02687/OUTM]**

Members considered an application for outline planning permission from Rebecca Mitchell for (with all matters reserved except for means of access) for up to 516 residential units (Class C3) with local centre (Use Classes A1-A4, B1a, C3, D1) public open space with pavilion and associated infrastructure and full application for demolition of existing buildings and structures and creation of ecological protection and enhancement zone at OS Fields 5475 7267 And 8384, Moor Lane, Acomb, York.

The Development Management Officer outlined the site, highlighting the ecological protection and enhancement zone. She advised that the main issues were that the site was not allocated in the Local Plan, was considered as being in the Green Belt and the impact of the development on the Site of Scientific Interest (SSSI) Askham Bog. She noted that 7500 objections had been received, of which there were 900 individual objections. The main areas concern included the impact on Askham Bog and infrastructure.

An Officer update in which Members were provided with a number of points of clarification as follows:

- Paragraphs 3.15 and 4.34 of the Committee Report related to concern raised by the ecology officer about how increases in traffic would impact on air quality and, consequently, the ecology of Askham Bog SSSI. At the time of writing the report, the Council's Highways consultant had suggested that proposed trip rates were too low and there was concern that higher trip rates would result in an impact on air quality in relation to the Bog. Revised trip rates have now been agreed but relevant thresholds are not exceeded on the highways closest to the Bog and officers are comfortable that there will not be an impact on air quality in relation to the SSSI.
- Paragraph 4.13 stated that 'much of the Bog is currently openly accessible with little substantial restriction between movement in and out of the SSSI and the fields to the North of it'. The applicant has commented that the fields to the North are privately owned and there is no authorised access. While this is the case, there are clear paths with no obstructions from the Bog, around the field edges and back

to Moor Lane indicating that there is already a desire for residents to walk between the two locations. It is considered that closer proximity of residential development to the SSSI will only increase the likelihood of such movements.

- Concerning representations, paragraph 3.82 of the report stated that two letters of support had been received, and one letter making general comments. The numbers were clarified as being three letters of support and two making general comments. No new issues were raised.
- Concerning education, the applicant had confirmed that they are still considering the required education contribution in terms of its appropriateness and CIL compliance.
- With regard to highways, more appropriate trip rates had been agreed. Additional analysis based on these revised trip rates has been provided but officers have advised that this analysis is not complete and does not provide an adequate understanding of the impacts of the proposed development on the highway network. Officers are therefore unable to support the application at this stage.
- The holding objection to the development from Highways England was maintained due to concern about potential impact of development traffic upon the operation of the A64.

Members were advised that the additional information had been assessed and the planning balance and the recommendation are unchanged from the published report. In answer to a question concerning bund enclosing the site, Officers explained that there was only one way for wildlife movement through the site.

Ann Reid, former Dringhouses and Woodthorpe Ward Councillor, spoke in objection to the application. She noted that a number of organisations objected to the application. She explained that the site had been removed from the Local Plan and was in Green Belt land with very special circumstances preventing it from development. She added that the Green Belt preserved the setting of Moor Lane and urged refusal of the application.

Michael Thornton, Secretary of Friends of Hob Moor and as Secretary of the Dringhouses & Woodthorpe Residents

Planning Panel, spoke in objection to the application. He explained that the development would affect the watercourse of Hob Moor. He expressed concern regarding the impact of the development on traffic, health and education provision.

Sara Robin Conservation Officer (Planning) Yorkshire Wildlife Trust, spoke in objection to the application. She stated that the application was adjacent to Askham Bog and she highlighted that the Bog contained a lowland fell which was referred to as irreplaceable in the NPPF. She explained that the bunds and fencing in the application would not protect the bog. In response to a question from a Member in regard to the Bog being irreplaceable she explained that it had taken 15,000 years for the Bog to develop and if the hydrology was changed it was not possible to predict what would happen to the Bog in the next few hundred years.

Professor Fitter, Professor of Ecology, University of York, spoke in objection to the application. He stated that the site was exceptional and that the isolation of the site was a serious issue and there was a need to stop the isolation of wildlife sites. He emphasized that all habitats at Askham Bog met the criterion as being irreplaceable. He explained that the site relied on a high water table. In answer to a question about the site being irreplaceable, he explained why the site was so important to York and nationally as there were rare species on the site and there was a threat that it would dry out. He added that the site had a complex interaction between people and the landscape over thousands of years.

Philip Crowe Treemendous York, spoke in objection to the application. He cited the major concerns of residents in respect of the application and explained that Treemendous York proposed that the site be contributed to the Northern Forest initiative. He noted that Treemendous York was supported by the council who supported tree planting in York and he added that the benefits of tree planting were known. He urged the applicant to withdraw the application.

Cllr Fenton Dringhouses and Woodthorpe Ward Councillor, spoke in objection to the application. He explained that the key to the Local Plan was identifying sites suitable for development and this site was not identified for development in the Local Plan. He noted the impact of the development on the local transport infrastructure, the outer ring road, the A64, congestion near Tesco Askham Bar, and local services. He noted that the

proposal failed to comply with the relevant policy.

Gary Halman, Agent for the Applicant, spoke in support of the application. He explained that York was in a housing crisis and there was a massive affordable housing need. The site would have a significant impact on this as there would be 33% affordable housing. He noted that the site was identified in 2014/15 as a housing site. He gave an overview of the layout of the site detailing the housing and open space provision. He explained that the applicant had commissioned their own research in respect of the ecological impact of the site and he explained the outcome of that research. He noted that there were some net benefits of the development and he added that there was no certainty over the when the Local Plan would be adopted.

In response to questions from Members, Mr Halman clarified:

- There was a need for affordable housing
- The amount to be paid towards education provision was to be confirmed
- How ground water would be prevented from entering the site.

Ms Robin Conservation Officer (Planning) Yorkshire Wildlife Trust and Mr Halman, Agent for the Applicant were then asked and explained the differences between their opinions in relation to the ecological impact of the development.

It was:

Resolved: That the application be refused.

Reasons:

- i. The position of the Council is that the site is within the general extent of the Green Belt. When taken as a whole, the development represents inappropriate development within the Green Belt when assessed against paragraphs 145 and 146 of the NPPF. Inappropriate development can not be approved except in very special circumstances (para.143) and these very special circumstances will only exist where the harm through inappropriateness, and any other identified harm, is clearly outweighed by other considerations (para.144). Openness has both a

spatial and a visual aspect and here it is clear that the quantum of development would harm openness through both its scale and massing but also through the introduction of a built form in an otherwise undeveloped site. Para.133 of the NPPF states that the essential characteristics of Green Belts are their openness and their permanence. This proposal would cause considerable loss of openness and permanence of the York Green Belt. Further harm has been identified to Green Belt purposes including, preventing neighbouring towns from merging, encroachment in to the countryside and impact on the setting and special character of York. Substantial weight is to be given to these harmful impacts on the Green Belt.

- ii. Officers recognise that policies in the emerging Local Plan can only be given weight in accordance with para.48 of the NPPF. There are unresolved objections to emerging Local Plan policy SS2 'The role of York's Green Belt' and it can only be given limited weight at the present stage in the examination process. However the evidence base that underpins the proposed emerging policies is a material consideration in the determination of planning applications. Topic Paper 1 Approach to defining York's Green Belt Addendum has been used for assessing the Green Belt as part of the emerging Local Plan process. This document is currently at consultation but represents the most up to date and thorough assessment of the defined boundaries and character areas of York's Green Belt.
- iii. As well as the harm to the Green Belt through inappropriateness, harm to openness and to the purposes of including land within the Green Belt, further harm has been identified as a result of the scale, form and proximity of the proposed development to Askham Bog SSSI. The Applicant has submitted detailed technical reports which seek to explain the hydrology and hydrogeology connecting the site and the SSSI and which claim

to evidence that the Bog is predominantly rainwater fed. However, technical submissions from Natural England and the Yorkshire Wildlife Trust, and the findings of the Council's consultants' Mott MacDonald indicate that the Applicant's findings are flawed. The most likely scenario is that the Bog is predominantly groundwater fed via infiltration from neighbouring land, including the application site, and the proposed development and surface water drainage proposals will therefore significantly impact on the hydrology of the Bog.

- iv. Further harm is likely to occur to the SSSI as a result of urban edge impacts from the increased residential population in closer proximity to the site. These impacts would include pet predation, littering, vandalism and dog fouling all of which would harm the integrity of the SSSI.
- v. The Applicant has sought to prevent unauthorised intrusion in to the SSSI from people and animals by the introduction of an Ecological Enhancement and Protection Zone. However this, in its turn, has caused further harm to ecology and also detrimental visual and landscape impacts. The EPEZ contains a long body of water with a bund to the South and fencing North and adjacent to the SSSI. The EPEZ is intended to form a physical barrier to stop people and animals crossing from the development site to the SSSI. However gaps in the body of water and bund to allow access for IDB maintenance of drains limit its effectiveness as well as doubts about long term maintenance of the fencing, thorny hedging and water levels. The EPEZ is in itself a finite structure which it would be quite possible to circumvent at the western end adjacent to the golf course.
- vi. The EPEZ is necessary only to attempt to mitigate harm from the proposed residential development on the SSSI yet in doing so it clearly causes additional harm to ecology and to the landscape and visual amenity of the locality. The

attempt to create a barrier to stop traffic from the development site to the SSSI also has the effect of restricting wildlife movement in and out of the Bog and further isolating the SSSI from any other green space. This is particularly crucial given that the SSSI is already enclosed on three sides by the golf course, A64 and East Coast mainline.

- vii. The proposed development will have a harmful impact on the landscape character of the site and Askham Bog and consequently result in harm to visual amenity. The development site is currently arable farmland which forms part of the landscape setting of York. The introduction of 516 houses with associated infrastructure and the EPEZ will irreversibly change the character of the area from undeveloped countryside to suburban development. The change in character of Moor Lane from one marking the edge of the urban area to a road passing through housing development will be acute and harmful to the character of the city as a tight urban area surrounding by countryside.
- viii. The EPEZ introduces a new landscape form of man-made water features and bunding which is not already experienced in the existing flat countryside. It will have the effect of removing views both into Askham Bog from the North and out of the Bog towards Moor Lane. This reduces the experience of the Bog as set within a rural setting outside the urban area and results in an enclosure of the SSSI which is alien to its existing open and level character.
- ix. The transport assessment with the application is not considered acceptable as submitted trip rates are unlikely to reflect the car usage on the site. As such it is not possible to adequately assess the likely impacts on the highway network of the proposed development. It is further noted that higher trip rates would increase emissions with a likely impact on the ecology of Askham Bog.



- x. A contribution towards the required additional school places generated by the residential development has been requested but not agreed with the applicant. Without the required contribution it is considered that the development would place undue pressure on the existing school system.
- xi. The Applicant has put forward a number of benefits that they consider the development would provide. Officers have carefully assessed these and consider that, whilst the scheme would provide benefits including the delivery of new housing, they do not individually, or cumulatively, clearly outweigh the harm to the Green Belt through inappropriateness and other identified harm. This is even when emerging Local Plan policy SS2 is given limited weight as a result of the unresolved objections and the stage of preparation of the Plan. Officers have accorded great weight to the harm to Askham Bog SSSI. Para.175 of the NPPF states that 'development on land within or outside a Site of Special Scientific Interest, and which is likely to have an adverse effect on it should not normally be permitted'.
- xii. Officers consider that, even with the limited weight which can be afforded to policy SS2, the harm to the SSSI that has been identified is so significant when combined with other identified harm that the benefits of the scheme, as put forward by the Applicant, are insufficient either individually or cumulatively to clearly outweigh the identified harm that the proposal would cause. Therefore the very special circumstances necessary to justify the proposal do not exist and officers recommend that the application be refused.

**16. Land to the North and East of Grid House, Metcalfe Lane, Osbaldwick, York [18/01778/FULM]**

Members considered a Major Full Application from Andrew Black for the erection of 40 dwellings with associated roads,

landscaping and public open space at Land To The North And East Of Grid House Metcalfe Lane Osbaldwick York.

Officers gave an overview the scheme to Members noting that the CTMP had been submitted and because it was a preliminary plan, there was therefore a condition proposed regarding the S106. During the Officer update, clarification was given on neighbour responses and the education contribution. Members were informed an update to the Plans Conditions. It was reported the additional information had been assessed and the planning balance and the recommendation remained unchanged from the published report.

In response to questions from a Member, the Applicant explained that having looked at the district heat network, ground source heat pumps were to be used instead of photovoltaic panels.

Officers were asked and explained:

- How the education places were calculated.
- That the Ecologist had raised no objections to the scheme.
- There had been a request for different access routes to the site from local residents.
- Fifth Avenue would be used for access to the site. Because of land for There could not be different access arrangements because of the land ownership of sites.
- The Applicant had indicated that they would carry out surveys on the condition of Fifth Avenue, which was included in the CTMP. There was a dilapidation survey carried out at phase 3 and there would be another one carried out at the end of the development.
- The access routes to the site were clarified.
- When a contractor had been appointed, further detail on the CTMP would follow and detailed matters would be resolved, which would be covered through Section 38 agreement, including road materials. Conditions had been requested.
- Traffic Management would work with the Applicant on the traffic management plan.

The Applicant, Andrew Black, spoke in support of the application. He explained that the development would provide 400 new homes on a brownfield site, 200 of which would be affordable. He noted that since the deferral of the application Joseph Rowntree Housing Trust (JRHT) had met with local Councillors and residents. Referring to the contractors delivering

the scheme, he noted that the previous development partner contractor would not be considered as part of the tender process.

In response to Member questions concerning the CTMP, Mr Black explained that the CTMP was not exhaustible and that JRHT would continue to meet with residents to discuss the CTMP

Further questions were raised by Members to which Mr Black responded that:

- Enforcement action from CYC would be used if needed.
- The articulated lorries being used had reduced from 42 tonne to 32 tonne vehicles.
- The current preference for energy was for ground source heat pump and the use of photovoltaic panels had never been a part of the energy strategy at Derwenthorpe.
- There were charging points in the centre of parking areas.
- The right of access down Metcalf Lane was for maintenance only and Fifth Avenue and Derwent Way were considered the most appropriate access route to the site.

Cllr Rowley in his capacity as a Councillor and Vice Chair of Governors at St Aelred's RC Primary School, spoke in objection to the application. He expressed concern that there was no S106 funding for St Aelred's school and he requested that the Committee defer the application in order to receive clarification on the S106 funding and traffic management plan. He was asked and confirmed that the current situation remained unchanged with there being no offer of funding and no signage being installed. He explained the problems caused by construction traffic.

Officers then gave clarification on the education funding position noting that a contribution to a secondary school would be procured via the S106 Agreement.

Cllr Webb, Heworth Ward Councillor, spoke in objection to the application. He explained that the lack of a traffic management plan would adversely affect the amenity of residents and suggested that an alternative entrance needed to be considered. He questioned what provision was in place for St Aelred's school. He outlined the problems with works vehicles travelling down Fifth Avenue which he suggested were flouting

conditions. He added that the problems with traffic began in December 2010.

Mr Black was then given the opportunity to address the points raised by the speakers in objection. He explained that JRHT had requested information from the Local Authority on how the S106 finding had been spent. He also noted that Fifth Avenue entrance was not their preferred entrance.

In request to a question from Members, the Senior Solicitor clarified that there could be a condition for the development not to commence until the CTMP had been submitted and approved by officers.

Resolved: That the application be approved subject to:

- a) Additional conditions with regard to electronic car charging points and renewable energy as detailed in the officer update and the final wording of the additional conditions to be delegated to officers to be agreed with the Committee Chair and Vice Chair.
- b) The Section 106 to include a full construction management plan which should be made available to Ward Councillors and to delegated to officers to be agreed with the Committee Chair and Vice Chair.

Reason:

- a) The application site is within the general extent of the York Green Belt. The proposal constitutes inappropriate development for the purposes of paragraph 144 of the NPPF and by definition causes harm to the Green Belt. This harm, and other limited harm to openness of the Green Belt, must be afforded substantial weight and very special circumstances will not exist to justify the development unless the potential harm to the green belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations.
- b) It is considered that the other considerations set out in paragraph 4.60 of the Committee Report, together with mitigation of other harm

through planning conditions and obligations, clearly outweigh the potential harm to the Green Belt, even when affording this harm substantial weight. This, therefore, amounts to the very special circumstances necessary to justify the development.

- c) Any approval is subject to the signing of a Section 106 Agreement to cover the following matters, to include any necessary consequential variations being made to the original Section 106 obligation. The applicant has confirmed agreement to these heads of terms:
- 1) Affordable housing provision:- Provision of 9 no. affordable dwellings, being 5 no. social rented units and 4 no. shared ownership;
  - 2) Education:- £103,512 towards the cost of additional school places at Archbishop Holgate's Secondary Academy. An education contribution is required for secondary age provision (6 anticipated secondary pupil yield x 17,251 cost multiplier 2018/19 =£103,512).
  - 3) Off-site sports provision:- Financial contribution of £25,986, of which £15,000 would be allocated to outdoor sport and ancillary facilities at Burnholme Sports Pitches and £10,986 would be allocated to Osbaldwick Sports Club;
  - 4) Construction Traffic Management Plan:- Provision of a detailed Construction Traffic Management Plan that would be based on and incorporating the submitted preliminary statement submitted 7.6.19;
  - 5) Sustainable Travel:- Payment to the occupier upon first occupation of each residential unit either: £150 per dwelling towards the provision of a travel pass to

permit one adult to travel free of charge on buses operated within the Council's area, or a non-transferable voucher to the value of £150 to be used to purchase a bicycle;

- d) In light of the above, the proposal, subject to conditions and planning obligations, is considered to be acceptable in planning terms and complies with national and local planning policy. The application is, therefore, recommended for approval subject to the completion of a section 106 agreement and the conditions.

Cllr A Reid, Chair

[The meeting started at 4.30 pm and finished at 7.00 pm].