

Meeting	Planning Committee
Date	6 January 2022
Present	Councillors Fisher (Chair), Ayre, Barker, D'Agorne, Daubeney, Doughty, Douglas, Fenton, Hollyer, Looker, Lomas, Melly, Pavlovic (Vice-Chair) and Waudby
Apologies	Councillor Warters

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#### **61. 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. There were none.

#### **62. Minutes**

Members were informed that it was a virtual meeting being held remotely at which the Committee would make a recommendation which would be ratified by the Chief Operating Officer.

The Director of Governance (and Monitoring Officer) explained that the decision to revert to holding council meetings remotely was taken at the end of December in light of public health advice on COVID. She advised that this was an informal meeting and that decisions would be made by the Chief Operating Officer. She added that the meeting arrangements were being kept under review by Group Leaders, the Leader of the Council, the Chief Operating Officer and public health.

A Member expressed concern about the legal status of the meeting and asked if the Chief Operating Officer was required to follow Committee recommendations. He asked for reassurance on this from the Monitoring Officer and Senior Solicitor. The Director of Governance (and Monitoring Officer) explained that it was an informal meeting that would be used in consultation with the Chief Operating Officer in his decision making. She added that he had indicated that he would follow Members' recommendations. She advised that the Council's Constitution allowed for the Chief Operating Officer to make

decisions. She noted that if the Chief Operating Officer had concerns regarding recommendations being put forward, he could ask for further consultation with Members. She then clarified that this was an informal meeting to make recommendations to the Chief Operating Officer. She confirmed that she was satisfied that the meeting could go ahead and the legalities of it.

A Member requested that the Public Participation agenda item should be taken before the Minutes agenda item. Cllr Ayre proposed and Cllr Daubeney seconded the following amendment to the minutes of the meeting held on 6 October 2021 (minute 49 paragraph 13 of the minute for the Os Field 2800, Eastfield Lane, Dunnington, York[20/01626/FULM] application:

*After members voted, the Chair commented on his reasons for abstaining which some other members considered to pre-determine him for future applications.*

Concerning the minutes of the meeting held on 2 December 2021, Cllr Daubeney proposed the removal of his name from the attendance list and to be added to the apologies list. The Chair proposed a further amendment under Declarations of Interest of those minutes to amend the last sentence to:

*The Chair noted that Roger Pierce, registered to speak on the item, was a senior officer at a council that the Chair was a Council Member of, and as such, the Chair would leave the meeting for that item with Cllr Pavlovic, Vice Chair, taking over as Chair for that item.*

Concerning the minutes of the meeting held on 7 October 2021, a Member asked for clarification on the final bullet point of the minute for the Os Field 2800, Eastfield Lane, Dunnington, York [20/01626/FULM] application regarding consultation with Ward Councillors and local Parish Councillors on Construction Environment Management Plan. At this point in the meeting, a Member expressed concern regarding the amendment to minutes of the meeting held on 7 October 2021 (minute 49 paragraph 13 of the minute for the Os Field 2800, Eastfield Lane, Dunnington, York [20/01626/FULM] application that had been moved by Cllr Ayre.

[At 16:52 Cllr Waudby asked if she could turn off her camera as she had internet network issues. She then turned off her camera and remained present at the meeting with her camera off].

A Member requested that each proposed amendment be taken one at a time. A further Member agreed with this approach.

Cllrs Ayre and Daubeney confirmed their acceptance of the further proposed amendments to the minutes of the meeting held on 2 December 2021.

Concerning the question regarding consultation with Ward and Local Parish Councils, it was clarified that Ward Councillors and local Parish Councillors would be made aware of the Construction Environment Management Plan. Cllr Ayre proposed this as an amendment to the minutes.

The Director of Governance (and Monitoring Officer) advised that she had observed the meeting held on 7 October 2021 and she confirmed that the proposed amendment from Cllr Ayre addressed the meaning of what was said. In response to a request from a Member Cllr Ayre repeated his proposed amendment.

A vote was then taken with seven Members for, five Members again and two abstentions that it be:

Resolved: That the Chief Operating Officer;

- i. Approve the minutes of the meeting held on 7 October 2021 subject to the following amendments:
  - Paragraph 13 of the minute for the Os Field 2800, Eastfield Lane, Dunnington, York [20/01626/FULM] application to change to:  
*After members voted, the Chair commented on his reasons for abstaining which some other members considered to pre-determine him for future applications.*
  - Final bullet point of the minute for the Os Field 2800, Eastfield Lane, Dunnington, York [20/01626/FULM] application to change to:  
*It was not considered reasonable for the Construction Environment Management Plan for the development to be brought to the ward councillors and local parish council for consultation before approval since the decision was solely to local planning authority's to make, although they could be made aware.*

- ii. Approve the minutes of the meeting held on 4 November 2021
- iii. Approve the minutes of the meeting held on 2 December 2021 subject to the following amendments:
  - Removal of Cllr Daubeney from the attendance list and add to the apologies list.
  - Under Declarations of Interest of those minutes to amend the last sentence to:

*The Chair noted that Roger Pierce, registered to speak on the item, was a senior officer at a council that the Chair was a Council Member of, and as such, the Chair would leave the meeting for that item with Cllr Pavlovic, Vice Chair, taking over as Chair for that item.*

### **63. Public Participation**

It was reported that there had been one registration to speak at the meeting under the Council's Public Participation Scheme on general matters within the remit of the Planning Committee. The registered speaker, Gwen Swinburn, was not available at this point in the meeting and the Chair noted that she would be contacted to speak at later point in the meeting.

### **64. Plans List**

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

#### **64a Aubrey House, Foss Islands Road, York YO31 7UP [20/01200/FULM]**

Members considered a major full application from Urbanite, S & J D Robertson Group Ltd And Portman Land Ltd for the erection of 5 storey student accommodation building with associated car parking following demolition of existing buildings at Aubrey House, Foss Islands Road, York, YO31 7UP.

The Head of Planning and Development Services gave a presentation on the application. She then gave an update to Members advising that further comments had been received from York Civic Trust, the submission of revised plans for the application, and proposed additional conditions on the flood

evacuation plan, cycle parking, and removal of a redundant crossing. She also advised Members of the following change to the recommendation:

*In light of the urgent decision making procedures contained within the Council's Constitution being invoked, this Planning Committee meeting will be held remotely. Upon considering the Application, Members will make a recommendation as to whether they are minded to approve or refuse the Officer's recommendation. The outcome of this meeting will then be communicated to the Chief Operating Officer who will make the formal decision taking into account views of the Members.* She then outlined the recommendation to the Chief Operating Officer should Members agree.

At this point the Chair advised Members that following consultation with the Vice Chair, Chief Planning Officer (Head of Planning and Development Services), and Monitoring Officer, there was agreement on the change of procedure at the meeting to take public participants on the application first, followed by Member questions to the public participant and Officers.

#### Public Speaker

Emma Lancaster, Agent for the Applicant, spoke in support of the application. She explained that the applicant had a strong track record of student accommodation, including the Courtyard student accommodation in York. She noted that it was high quality accommodation. She noted that whilst Aubrey House was a reminder of the past, it was not listed and that the building behind it was temporarily used by a community group but was not suitable for community use.

In response to Member questions, Emma Lancaster explained that:

- The layout of the cycle parking store was devised working with highways officers and as a result the cycle parking on ground level had increased. There were single and two tier cycle racks.
- Regarding there being no windows on the rear elevation, it was the relationship with the building to the rear that led to the blank elevation to avoid the sense of overlooking into the building behind.
- The accessible rooms on the ground, first, and second floors were in proximity to the central lift and there was

level access from the car park to those rooms, which were fully DDA compliant.

In response to Member questions, Officer clarified that:

- There was a mix of accommodation on the site, with eleven cluster flats providing 62 bed spaces. There was also communal space and a terrace. Some rooms were smaller and some larger as was the mix of other student accommodation across the city. Officers did not have any concerns about the communal space.
- Concerning the environmental impact of demolition, there was no reason in planning policy not to allow demolition. There was no current reference to the use of environmental impact assessments in the NPPF.

[Cllr D'Agorne left the meeting at 17:20]

Planning Officers were satisfied with the revisions to the plans put forward and felt that the reduction in size and height were sufficient.

- Regarding flooding, the lower ground floor was designed to flood and there was a flood evacuation plan.
- The layout of the cluster flats was explained.
- Aubrey House was a C19 building and was last in residential use. Regarding the use of the building behind Aubrey House, this was a C20 building and was last in community use in 2020 and had ceased because of asbestos. The users of that building had found alternative use at 52A Stonegate.
- The proposed change to the condition regarding cycle parking (as detailed in the committee update) was for 81 cycle spaces
- Regarding the comments made by York Civic Trust, the committee needed to consider the application before it.
- Public Protection had received no complaints regarding noise and noise was conditioned with a management plan.

Cllr Pavlovic moved and the Chair seconded the recommendation to the Chief Operating Officer to delegate authority to the Head of Planning and Development Services to approve the application. After debate and on being put to the vote with all being unanimously in favour, it was:

Resolved: That the Chief Operating Officer delegate authority be given to the Head of Planning and Development Services to APPROVE the application subject to:

a) The completion of a Section 106 Agreement to secure the following planning obligations:

- Open Space £12,231 improve the amenity open space within the nearby St Nicholas Fields.
- Travel Plan £10,000 towards the City of York Travel Plan support
- Traffic Regulation Order £6,000 towards a review of parking/ loading restrictions on Mansfield street and Foss Islands Road in the vicinity of the site and associated Traffic Regulation Order

b) The conditions set out in the case officers report and additional information sheet

ii) The Head of Planning and Development Services be given delegated authority to finalise the terms and details of the Section 106 Agreement.

c) Condition 23 being amended to being in perpetuity

d) Condition 25 amended to remove cycle parking reference as it is covered in the additional information condition which specifically refers to cycle parking provision requirements.

iii) The Head of Planning and Development Services be given delegated authority to determine the final detail of the planning conditions

Reasons:

- i. The application site is in a sustainable location. The site is within Flood Zone 3 would not increase flood risk elsewhere. The proposal meets the requirements of the NPPF sequential and exception tests (as set out above) and is acceptable when considered against national planning policy on flood risk, the sequential and exceptions tests are passed. The proposed development is not considered to result in harm to residential amenity or highway safety, nor would the proposal have an unacceptable impact on ecology on or adjacent to the site.

- ii. The loss of the Aubrey house is considered to result in harm to the setting of the Central Historic Core Conservation Area. 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 finding of harm to a heritage asset gives rise to a strong presumption against planning permission being granted. Where a development proposal will lead to less than substantial harm to the significance of a heritage asset, this harm should be weighed against the public benefits of the proposal. The proposal would provide student accommodation where there is need for university accommodation within the city, and would benefit the wider housing supply. On balance it is considered that the public benefits of the scheme outweighs the aforementioned specified harm.

[The meeting adjourned from 17:44 to 17:53, during which time Cllr Hollyer left the meeting]

#### **65. Public Participation**

Gwen Swinburn felt that the meeting was unlawful and asked which councils were conducting their meetings online. She listed the councils that held their meetings in person. She suggested that the agenda should not have been issued without stating which law was being referred to. She requested that the Chief Operating Officer to include areas of recommendations that he had not approved. She requested a change to the order of the meeting and a peer review into the Planning Committee.

#### **Chair's Remarks**

The Chair asked if Members felt that questions to speakers and officers after public participation was better. A Member felt that it was better.

Cllr T Fisher, Chair

[The meeting started at 4.40 pm and finished at 5.57 pm].





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