

Meeting	Planning Committee A
Date	6 July 2023
Present	Councillors Crawshaw (Chair), Fisher (Vice-Chair), Ayre, Baxter (Substitute for Cllr Steels-Walshaw), B Burton (Substitute for Cllr Merrett), Kelly, Nelson, Steward, Whitcroft and Fenton (Substitute for Cllr Waudby) and Widdowson (Substitute for Cllr Hollyer)
In Attendance	Victoria Bell (Development Management Officer) Ruhina Choudhury (Senior Solicitor) Becky Eades (Head of Planning and Development Services) Emma Leonard (Development Control Engineer) Natalie Ramadhin (Development Management Officer) Ian Stokes (Principal Development Control Engineer (Planning))
Apologies	Councillors Hollyer, Merrett, Steels-Walshaw and Waudby

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### **1. Declarations of Interest (16:33)**

Members were asked to declare at this point in the meeting any disclosable pecuniary interest or other registerable interest they might have in respect of business on the agenda, if they had not already done so in advance on the Register of Interests. Cllr Ayre noted that he was a member of the enterprise car club. No further interests were declared.

### **2. Minutes (16:34)**

Resolved: That the minutes of the meeting of Planning Committee A held on 2 March 2023 be approved and signed as a correct record.

### **3. Public Participation (16:34)**

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 A.

Johnny Hayes requested the reintroduction of in person site visits, information on S106 and CIL payments and financial viability assessments for planning applications. The Chair responded to the points made by Mr Hayes and advised that there would be a return to in person site visits for large applications and that he would speak to the Head of Planning and Development Services and Executive Member for Housing, Planning and Safer Communities regarding information on S106 and CIL payments. He added that the default position would be to publish financial viability assessments in full unless otherwise decided by the Head of Planning.

#### **4. Plans List (16:38)**

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.

##### **4a) T.K.maxx 48 Coney Street York YO1 9ND [23/00059/FUL] (16:38)**

Members considered a full application from Harrowells (No. 221) Ltd for the conversion of existing retail unit (Use Class E) to restaurant and shop (Use Class E) at ground and basement level, and change of use of upper floors from retail (Use Class E) to a 64 key aparthotel (Use Class C1) including provision of additional storey on roof and associated external alterations (amended plans received) at T.K.maxx, 48 Coney Street, York.

The Head of Planning and Development Services gave a presentation on the application. The Development Management Officer gave an update advising Members of comments from the Conservation Officer, pre-commencement Conditions, and updates to errors on the published report. Members were advised that the additional information had been assessed and the Officer's recommendation remains for approval subject to conditions.

In response to questions from Members, officers explained that:

- The façade on the Coney Street entrance would be retained with minor repairs.
- The windows on the Coney Street entrance were not being replaced and would have internal secondary glazing.

#### Public Speakers

Matthew Mortonson, Planning Agent for the Applicant, spoke in support of the application. He explained that it would be a restaurant and café occupied by Hard Rock Café. He advised that the Grade 2 façade on Coney Street would be retained, and the Market Street façade would be changed following discussions at the design stage. He explained the economic benefits it would have on York including job creation. He added that it would be an improvement to the appearance of the building in a conservation area.

In response to questions from Members, Mr Mortonson explained that:

- There had been discussions between the applicant and the police, and the comments of the police had been noted.
- Regarding potential archaeology being of national importance, there had been discussions with their own archaeologist that had been passed on the applicant.
- The waste was kept at the service entrance on Market Street and there would be regular servicing of waste.

[The Head of Planning and Development Services advised that a condition on the management of the waste area could be added].

- It was not anticipated that many people would be using cars to travel to the hotel. There were 12 cycle parking spaces and not all staff would be on site at the same time.
- Archaeology was conditioned and their archaeologist would be on site.

Honorary Alderman Brian Watson spoke in objection to the application. He supported the comments of Guildhall Planning Panel. He expressed concern regarding the impact of the building on the skyline and the principle of rooms with no windows. He noted concern regarding a licensed premises in the cumulative impact zone (CIZ) and acknowledged that this was a licensing, not planning consideration.

Members then asked further questions to officers to which they responded that:

- The restaurant being in the CIZ fell under licensing.
- Planning permission is not needed for changes in use class E.
- The application had to meet all six requirements of the draft Local Plan policy R1 and weight had been given to the application being in the same use class (E) as retail use. The draft Local Plan policies R1 and R3 were outlined, and it was confirmed that the under permitted development the Hard Rock Café could open as a shop and change to restaurant use. It was noted that the floor plans were conditioned.

- The Head of Planning and Development Services undertook to pick up the draft Local Plan policy with the Forward Planning Team.
- The application had 12 cycle parking spaces which was deemed sufficient.
- The extra height of the building was in line with neighbouring buildings.
- There was a number of rooms with no windows which was acceptable for short term stays and customers would be made aware of the rooms. Fire evacuation would be covered by building regulations.

Following debate Cllr Ayre proposed that a vote be taken on following up on a condition regarding policy R3 of the draft Local Plan. This was seconded by Cllr Widdowson. Following a vote with two Members voting in favour of the motion and nine against, the motion fell.

Cllr Crawshaw then proposed an amendment to Condition 15 to change to 'Prior to first use of the premises for the purposes hereby permitted, provision shall be made for the storage of refuse bins *of sufficient size* within the site.....' This was seconded by Cllr Whitcroft. This was carried following a unanimous vote in favour.

Cllr Fisher moved the officer recommendation to approve the application with the Pre-commencement Conditions and amended Condition 15. This was seconded by Cllr Steward. Following a vote with ten Members in favour and one against, it was;

Resolved: That the application be approved with the Pre-commencement Conditions and amended Condition 15.

Reasons:

- To conclude the general principle of the new uses can be supported and will preserve and enhance an important section of the Primary Shopping Area in York City Centre. A mixed use will deliver and enhance the daytime and night-time economy, whilst providing tourist accommodation in a highly accessible location. The principle of development therefore accords with paragraphs 81 and 86 of the NPPF, and policies R1, R2, SS3 and EC4 of the Draft Local Plan (2018).
- Taking into account the amendments made (to the design of the shopfront and roof extension), the proposal would aid in creating a viable use for the heritage asset whilst sustaining and enhancing the significance of the Listed Building and would preserve the character and appearance of the Central Historic Core Conservation Area, in

compliance with paragraphs 197 and 202 of the NPPF and policies D1, D4 and D5 of the Draft Local Plan (2018).

- iii. Technical matters such as archaeology, cycle parking, noise, opening hours, ecology, waste and sustainability can be adequately addressed by condition. Overall, in applying the approach to decision-making established in the NPPF approval is recommended subject to conditions.

#### **4b) T.K.maxx 48 Coney Street York YO1 9ND [23/00060/LBC] (17:46)**

Members considered a Listed Building Consent application for Internal and external alterations in association with change of use and provision of additional storey on roof (amended plans received) at T.K.maxx 48 Coney Street York YO1 9ND. The application was considered as part of the previous application.

Cllr Fenton moved the officer recommendation to approve the application. This was seconded by Cllr Burton. Following a unanimous vote in favour it was;

Resolved: That the application be approved.

Reason: Taking into account the amendments made, the proposal would aid in creating a viable use for the heritage asset whilst sustaining and enhancing the significance of the Listed Building, in compliance with paragraphs 197 and 202 of the NPPF, and Policy D5 of the Draft Local Plan (2018) and Section 16(2) of the Planning (Listed Buildings and Conservation Areas) Act 1990.

[The meeting adjourned from 17:47 to 17:57].

#### **4c) Enterprise Rent-a-car, 15 Foss Islands Road, York YO31 7UL [22/01795/FULM] (17:57)**

Members considered a major full application from The Hire Group and Gregory Projects Limited for the Erection of 3, 4, and 5 storey student accommodation building with associated car parking following demolition of existing buildings at Enterprise Rent-a-car, 15 Foss Islands Road, York.

The Head of Planning and Development Services gave a presentation on the application. The Development Management Officers gave an update, advising Members of revised plans for the third floor with the addition of a

common room. This was a revision to Condition 2 (Plans). Members were advised that the additional revised plan had been assessed and the planning balance, with the exception of the requested alterations to Condition 2, the recommendation was unchanged from the published report. A Member requested and was shown the communal areas in the plans. Officers were asked and confirmed that the waste access was from the first floor on Elvington Terrace.

### Public Speakers

Graham Connell, spoke in support of the application on behalf of the applicant. He clarified that in addition to the open plan communal space on the ground floor, there was also a gym, staff room and entertainment room. He explained why the location was suitable for student accommodation and the changes made to the application following refusal in 2021.

In response to Member questions, Mr Connell and the architect for the scheme explained:

- There was two disabled parking spaces and further disabled spaces available along Foss Islands Road. The expectation was that the number of disabled spaces would not be required by residents and the spaces would be controlled for the use of residents only.
- There was one lift and for the number of units this was more than adequate for the number of rooms and storeys. If the lift broke down there were emergency repair arrangements and there would be routine maintenance out of hours during which the lift may be out of action for a short period of time.
- There was a programme set up to allocate times for student drop off/pick up. This would fit into a weekend. There would be a management plan for this and it would be managed accordingly.
- The overlooking windows in the corner of the courtyard were perpendicular.
- The rationale for the layout was explained. The layout enabled more incidental interactions on the ground floor and the applicant had spoken with operators who had said that this type of layout worked best.

Members then asked questions to officers to which they responded that:

- Because of the specifics of the case it was unreasonable to ask for a contribution to affordable housing. The proposed modifications to Policy H7 of the draft Local Plan which introduced the requirement for an affordable housing contribution came through the Local Plan hearings. The Application has been in the system since October / November 2022 before the modifications to Policy H7 were proposed.

- The proposed wording for policy H7 of the draft Local Plan reflected the proposed modifications and this included the commuted sum for student accommodation.
- The size of the units was comparable with student flats allowed elsewhere.
- [The Chair noted the size of the units at the Plumbase student accommodation planning application.]
- Regarding the land not being marketed for employment use for 18 months, this was part of the draft Local Plan modifications. The applicant had given reasons regarding the quality of the land and the buildings being in a poor state of care, making the land commercially unviable to bring into use. There was a balance of industrial use next to residential buildings.
- There was a requirement for a contribution of £14,647 to amenity open space and regarding sports space, the universities provide sports provision. Therefore, sports provision contributions were not normally requested for student accommodation schemes.
- Concerning highways considerations regarding drop offs, it was standard to do to the management of a drop off in half an hour slots. The feedback was that this worked. The reason for the layout of the drop off space was explained. It was noted that there were other means of getting there and officers were comfortable with the numbers and management plan conditions.
- Because the accommodation was car free, the number of disabled car parking spaces was based on the number of spaces available. On balance, the number of disabled car parking spaces was acceptable and the application could not be refused on highways grounds.
- [The Chair had sought detail from officers and reported the distances to the offsite blue badge car parking spaces].
- There were two blue badge car parking spaces with electric vehicle charging and one car parking space to the south of the service substation.
- An explanation was given regarding why an environmental impact assessment was not needed.
- The room sizes were not included in the draft Local Plan.
- The weight given to room sizes was explained.

The Chair explained the Plumbase student accommodation application refusal reason. The Head of Planning and Development Services explained the timeline of the Local Plan modifications].

- Regarding student private car ownership, many of the adjacent streets were protected by respark and the tenancy agreement stated that students should not be the registered keeper of a car. It was

noted that planning enforcement may be involved in enforcement measures.

[The meeting adjourned from 18:55 to 19:00]

- There was a standard Yorkshire Water informative.
- Residents had waste collection on Elvington Terrace.
- Access to the cycle parking and refuse store was explained.

Members debated the application at length. Following debate, Cllr Fenton proposed the officer recommendation to approve the application. As there was no seconder the motion fell.

Cllr Steward moved refusal of the application on the grounds of drop off space, room size, scale of development and accessibility and loss of employment land. This was seconded by Cllr Baxter. The Chair read out the reasons for the Plumbase student accommodation application refusal. A Member noted that the two applications were not comparable. Following a vote with ten Members in favour of refusal and one against, it was:

Resolved: That the application be refused with the final wording on the reasons for refusal delegated to the Head of Planning and Development Services in consultation with the Chair and Vice Chair.

Reasons:

- i. The application does not create a safe, inclusive and accessible place which promote health and well-being, with a high standard of amenity due to the inadequate room size, lack of blue badge spaces, lack of space in the development for circulation, location and number of lifts and a lack of communal spaces on each floor.
- ii. There is insufficient information provided regarding the loss of employment land and evidence of the marketing of the site for alternative uses.

Cllr Crawshaw, Chair

[The meeting started at 4.30 pm and finished at 7.52 pm].