
Meeting	Planning Committee
Date	8 June 2016
Present	Councillors Reid (Chair), Ayre, Boyce, Cullwick, Cuthbertson, D'Agorne, Funnell, Richardson, Shepherd, Warters, Cannon (as a Substitute for Cllr Derbyshire) and Mercer (as a Substitute for Cllr Galvin)
Apologies	Councillors Derbyshire, Galvin, Dew and Doughty

1. Site Visits

Application	Reason	In Attendance
Huntington Stadium, Jockey Lane, Huntington	As objections had been received and the officer recommendation was to approve	Cllrs Cannon Cullwick, D'Agorne, Funnell, Reid, Richardson and Warters
Land Lying to the West of Metcalfe Lane, Osbaldwick	As objections had been received and the officer recommendation was to approve	Cllrs Cannon Cullwick, D'Agorne, Funnell, Reid, Richardson and Warters
York Designer Outlet, St Nicholas Avenue	As objections had been received and the officer recommendation was to approve	Cllrs Cannon Cullwick, D'Agorne, Funnell, Reid and Richardson.

2. Declarations of Interest

At this point in the meeting, members were asked to declare any personal, prejudicial or pecuniary interests they may have in the business on the agenda.

Councillor Ayre declared an interest in Plans list item 3a (Huntington Stadium, Jockey Lane, Huntington) as Executive Member for Culture, Leisure and Tourism with responsibility for delivering the project. He took no part in the debate or vote on this application.

Cllr Cutbertson declared a personal and prejudicial interest in plans list item 3c (York Designer Outlet, St Nicholas Avenue) as he had a connection with Fulford Parish Council who had objected to the application. He left the room for consideration of this item and took no part in the debate or vote on this application.

Cllr Funnell declared personal non prejudicial interests in plans item plans item 3a (Huntington Stadium, Jockey Lane, Huntington) as a Trustee of Be Independent and in plans item 4b (Land Lying to the West of Metcalfe Lane, Osbaldwick) as the council's appointed representative on the Derwenthorpe Partnership Board.

3. Public Participation

It was reported that there had been no registrations to speak under the Council's Public Participation scheme on general issues within the remit of the Planning Committee.

4. Plans List

Members then considered the following reports of the Assistant Director (Development Services, Planning and Regeneration) relating to the following planning applications, which outlined the proposals and relevant planning considerations and set out the views of the consultees and officers.

5. Huntington Stadium, Jockey Lane, Huntington, York YO32 9JS (16/00484/FULM)

Members considered a major full application from Wrenbridge Sport York Limited and GLL for the variation of condition 2 of application 14/02933/FULM to allow minor material amendments to the approved drawings including an increase in the height and length of the commercial development building

with alterations to internal layout and an increase in cinema and restaurant floorspace; alterations to the internal layout of the East Stand and variations of permitted uses; and alterations to the internal layout and permitted uses within the Leisure Centre.

Officers provided an update and responded to two queries which had been raised at the site visit. Officers confirmed that roof heights of the three retail stores (M&S, Next and John Lewis) at the Vangarde development was 11.5m, as stated in the officer's report, which is measured from finished floor level to the top of the parapet.

With regard to sustainability issues and in response to a query as to whether the cinema building would have solar panels, officers advised that the Vangarde permission did not require solar panels but it did require at least 10% of the predicted energy requirements to be from low or zero carbon technologies. They explained that since then, national carbon/energy policies had undergone major changes by successive governments which included the scrapping of the government's zero carbon building policies. In order to conform to these changes the council had amended its Interim Planning Statement on Sustainable Design and Construction by removing both domestic and non-domestic standards including the requirement to generate a proportion of a development's energy demand from renewable sources.

Officers advised that, separate to these changes the stadium project team had carried out a study to assess the suitability of the proposed council-owned buildings (the hub, stadium and leisure building) for photo-voltaic (PV) panels. This study, completed in 2014, concluded that PV was not cost effective due to the costs of reinforcing the roof structures on these buildings and the falling tariffs available and the Stadium Project Board had consequently rejected the proposal.

Members were advised that Condition 15 of the 2015 planning permission for the stadium required details of the playing pitch to be submitted to and approved in writing by the local planning authority after consultation with Sport England. Sport England subsequently had written to the council to say that they would have no objection to the omission of the playing pitch condition as it was no longer necessary. The officers' report of the current application therefore stated that condition 15 is no longer applicable. However, in September 2015, details of the previous condition 15 were formally submitted and discharged. In order to be consistent with the other conditions that have

been formally discharged officers recommended that condition 15 of the current application be included as detailed in the resolution below.

Officers explained that, at the committee site visit, a question had been asked as to whether the conditions of the previous 2015 consent (14/02933/FULM) would be included in an approval of the current application. This had been briefly addressed at paragraph 1.12 of the officers' report. For the avoidance of doubt officers confirmed that the new permission would describe the whole development and list all relevant conditions of the planning permission for which the amendment is being sought. All of the matters covered in the previous permission remained relevant and were being recommended for approval, some with minor amendments. Some of the conditions were likely to include matters covered by conditions of the July 2012 consent for the stadium and accompanying retail development (Vangarde). Nevertheless, that was an entirely separate application and any such conditions would only be included in an approval of the current application if they were justified.

Members questioned the proposed increased height of the light box and officers drew members' attention to the proposed condition which required details to be submitted for this. The issue of potential overshadowing of the sports pitch was also raised and officers responded to this. Members also requested confirmation of the lawfulness of the decision to assess the application through the Section 73 process and the legal officer confirmed that the proposed changes were not considered by officers as a fundamental change and they had confirmed they were happy to deal with through a section 73 rather than requiring a new application to be made.

Mr Daniel Brown, the planning consultant, with assistance from Paul Forrest, member of the Council's Stadium project team, addressed the committee. They confirmed that the pitch would be a reinforced grass pitch, details of which were still to be finalised, but that it would be the same as pitches which were used across the country. He advised that at some stadiums the stands were much higher than the proposals here and confirmed that although there would be some overshadowing, this was not significant.

Mr Chris Edgehill read out a statement on behalf of Honorary Alderman Brian Watson who had registered to speak at the meeting but was unable to attend. It put forward the following points:

- Proposed changes should not be classed as minor alterations
- Condition 29 of previous application stated that the stadium should not be demolished until alternative facilities for knights games could be found – the stadium has been demolished and there was nothing in place after this season for the Knights.
- Paragraphs 3.4 and 3.5 contradicted each other. It was questionable how the proposed trees would alleviate the impact of the development.
- Large increase in cinema floorspace
- Traffic flows provided excluded Sundays but the shops were open on Sundays and the Knights played on Sundays.
- The number of parking spaces allocated to the sports clubs, next to the stadium, had been reduced by a half.

A suggestion was put forward that a condition be added to restrict illumination of the light box to the already approved height. Officers drew members attention to proposed condition 11 which required a full lighting impact assessment to be undertaken within 3 months of commencement of development and to be submitted to and approved by the local authority, and condition 16, and advised they were satisfied that these conditions were sufficient to control any potential impact.

It was also suggested that condition 3 (landscaping scheme) be amended to state that “any trees or plants which within the *lifetime of the development* of the development die, are removed or become seriously damaged or diseased shall be replaced.....” , rather than requiring replacements only within the first five years after completion of the development. There was general support for this proposal.

Resolved: That the application be REFERRED to the Secretary of State for Communities and Local Government and provided that the application is not called in for his own determination, DELEGATED authority be given to the Assistant Director of Development Services, Planning and Regeneration to APPROVE the application subject to the conditions set out in the

report and the amendments to condition 3 (landscaping scheme) and condition 15 (playing pitch) below.

Amended Condition 3

Within three months of commencement of development a detailed landscaping plan shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall illustrate the number, species, height and position of trees and shrubs. This scheme shall be implemented within a period of six months of the completion of the development. Any trees or plants which, *during the lifetime of the development*, die are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of a similar size and species, unless alternatives are agreed in writing by the Local Planning Authority.

Reason: So that the Local Planning Authority may be satisfied with the variety, suitability and disposition of species within the site.

Amended Condition 15

The development shall be carried out in accordance with the playing pitch details approved by the Local Planning Authority on 6 October 2015 under application reference AOD/15/00338

Reason: To ensure that the playing field is prepared to an adequate standard and is fit for purpose.

Reason: The development as changed would have some impact on the highway network, parking, the city centre and the character and appearance of the development, all of which are capable of being examined through the Section 73 process. None of the proposed changes would result in a development that would be fundamentally substantially different from the approved description of the development. The scheme in this amended form is considered to be acceptable in planning terms.

6. Land Lying To The West Of Metcalfe Lane, Osbaldwick, York (16/00342/FULM)

Members considered a major full application by the Joseph Rowntree Housing Trust for the erection of 36 dwellings with associated roads and public open space (revised layout of part of phase 4 of the Derwenthope development) (resubmission)

Officers provided an update to Members. They advised that the National Grid had raised no objection as there were no apparatus recorded in the immediate vicinity.

They advised that Councillor Jenny Brooks, Councillor for Osbaldwick and Derwent Ward, had provided a written submission which was circulated to Committee Members. She raised the following points:

1. A construction traffic management plan must be agreed by CYC and the developers before any construction can start;
2. TV and speeding cameras must be installed and used for the duration of construction to ensure that JRNT/David Wilson Homes can properly enforce the construction traffic management plan;
3. Individual householders should be compensated for noise and inconvenience of having construction traffic so close to their homes;
4. Field 9 should be used for car parking, if used at all, as the amount of parking in other phases has proved inadequate;
5. Objection by Internal Drainage Board was being ignored – the development should have to meet IDB specifications or be refused.

In respect of the points raised by Councillor Brooks, officers advised that a condition could be attached to require a construction traffic management plan to be submitted for approval prior to the commencement of development of the revised Phase 4. Having considered points 2 and 3, officers did not feel that these matters could be imposed on the developer through specific obligations and conditions. The scheme was a revision to the approved phase 4 and would include a lesser number of houses and, as such, it would not be reasonable to require a higher provision of parking spaces than previously agreed. The Council's Flood Risk Management Team, as the

Lead Local Flood Authority, has considered the proposal and raised no objection on flood risk grounds.

They advised that Councillor Mark Warters, also a councillor for Osbaldwick and Derwent Ward, had submitted a series of photographs taken at different locations of the site and these were circulated to Members for their information.

Officers advised that a letter had been received from JRHT's ecology consultant providing further background about the presence of great crested newts at the site and surveys that had been undertaken. It confirmed that, following a visit on 3rd June, the pond remained unsuitable for great crested newts and provided a reasoned statement as to why it was considered unlikely that this species would be impacted by the development. The revised proposals for Phase 4, including the retention of the existing pond, most of Field 9 and a new pond, would benefit biodiversity by providing a suitable habitat for common amphibians. The Council's Countryside and Ecology Officer had considered the further information and was satisfied that this addressed any concerns regarding the potential presence of great crested newts.

In view of the above information, officers recommended an additional condition to cover a Construction Traffic Management Plan, as well as one to cover the requirement for an Ecological Design Strategy to be submitted, which was omitted from the original report.

With regard to the Section 106 Agreement, officers proposed a further obligation, that a payment is made to the occupier upon first occupation of each residential unit of a maximum of £160 towards car club incentives, including membership and drive time of the on site car club.

Joseph Rowntree Housing Trust had confirmed that it had no intention of building houses on the open land in the event that the power lines were undergrounded or taken down. As part of the community development of Derwenthorpe, the Trust had been liaising with residents about the best way of using this space. Suggestions have been as a wild flower meadow or community orchard/vegetable growing area. A mix of high quality open space was considered to be a big part of the ethos of Derwenthorpe by the Trust and it aimed to create a balanced community with good access to open space. Officers advised

that, if Members still had concerns about the future development of this land, which would require a separate planning permission, then a further clause could be added to the Section 106 agreement to require the land to remain as public open space.

Officers responded to questions raised regarding parking, potential for flooding during construction of the development and the route for construction traffic.

Mr Michael Jones addressed the committee on behalf of the Joseph Rowntree Housing Trust. He advised Members that approval of phase 4 of Derwenthorpe would result in 198 affordable homes in total representing over 40% affordable housing across the site with the council having 100% nomination rights ensuring those residents most in need would be given a high quality home. The homes would meet lifetime homes standards and the Trust was continuing to provide facilities and support to help foster a strong and inclusive community. Phase 4 would see the first bungalow provided on site, the vast majority of which would be affordable housing meeting a housing need which was rarely catered for. The homes would be built to high energy performance standards. He reminded Members that Derwenthorpe had been developed to include high quality outdoor space with a range of uses and the green wedge on the east edge of the site would provide publically accessible amenity space for use by the local community. The area of land to south would be enhanced with new planting and a pond for purposes of nature conservation. In response to concerns raised about potential for flooding, he advised that Derwenthorpe was sustainably drained with all surface water finding its way through a network of pipes into the 2 attenuation ponds, which discharge into Osbaldwick Beck at a controlled rate to ensure there is no increase in flood risk off site. The attenuation ponds had been severely tested during the record rainfall in November and December 2015 and had worked well and did not reach full capacity.

Members commented that this was an exemplary development. However they expressed disappointment that Joseph Rowntree Housing Trust had not been able to underground the power cables but noted this was not part of the outline permission. They also expressed some concern about the introduction of houses into what would have been a larger area for biodiversity, thus reducing the biodiversity aspect. Members acknowledged

the full and informative response which had been provided by the council's drainage officer in response to concerns which had been raised regarding flooding.

Members noted that the Section 106 agreement would cover affordable housing provision, education, off site sports provision and sustainable travel. Members agreed that it should be updated to require that the open land remained as public open space to ensure that the open land was not developed in future.

Members agreed that the landscaping condition should be amended to refer to the lifetime for the development rather than 5 years in respect of replacement planting.

It was also agreed that the construction management plan condition be amended to require that contact details were made publically available in order that residents could easily raise any concerns/issues they had during construction.

Resolved: That on completion of a S106 legal agreement to secure affordable housing provision, education, off site sports provision and sustainable travel, a payment towards car club membership as well as the requirement for the open land to remain as public open space, as agreed by Members, DELEGATED authority be given to Assistant Director, Development Services, Planning and Regeneration, to APPROVE the application subject to the conditions listed in the report, the additional conditions listed below for a construction management plan (to be amended to require contact details to be made publically available) and an ecological design strategy, and subject to the landscaping plan condition being amended to refer to lifetime of the development in respect of replacement planting.

Additional Condition (Construction Traffic Management Plan)

Prior to the commencement of any works on the site, a detailed method of works statement identifying the programming and management of preparatory and construction works shall be submitted to and approved in writing by the local planning authority.

Such a statement shall include at least the following information:

- the routing that will be promoted by the contractors to use main arterial routes and timings for construction vehicles to arrive/depart the site;
- where contractors will park;
- the location of alternative parking for school staff during the construction period when the on-site car park is not available;
- where materials will be stored within the site;
- measures employed to ensure no mud/detritus is dragged out over the adjacent highway.

Reason: To ensure that the development can be carried out in a manner that will not be detrimental to the amenity of local residents, free flow of traffic or safety of highway users. The details are required prior to commencement in order to ensure that they are in force during the whole of the construction phase of the development.

Additional Condition (Ecological Design Strategy)

No development shall take place until an ecological design strategy (EDS) addressing the mitigation and enhancement outlined in *Derwenthorpe Revised Application Phase 4 – Ecological Conservation and Management Plan* by AECOM and dated June 2015 (Revision 3) as already submitted with the planning application and agreed in principle with the local planning authority prior to determination, has been submitted to and approved in writing by the local planning authority.

The EDS shall include the following;

- a) Purpose and conservation objectives for the proposed works.
- b) Review of site potential and constraints.
- c) Detailed design(s) and/or working method(s) to achieve stated objectives.
- d) Extent and location/area of proposed works on appropriate scale maps and plans.
- e) Type and source of materials to be used where appropriate, e.g. native species of local provenance.

- f) Timetable for implementation demonstrating that works are aligned with the proposed phasing of development.
- g) Persons responsible for implementing the works.
- h) Details of initial aftercare and long-term maintenance.
- i) Details for monitoring and remedial measures.
- j) Details for disposal of any wastes arising from works.

The EDS shall be implemented in accordance with the approved details and all features shall be retained in that manner thereafter.

Reason: To take account of and enhance the biodiversity and wildlife interest of the area, and comply with Section 11 of the NPPF.

Reason: It is considered that the other considerations set out in paragraphs 4.51 of the officer report together with mitigation of other harm through planning conditions, clearly outweigh the potential harm to the Green Belt, even when affording this harm considerable weight. This therefore amounts to the very special circumstances necessary to justify the otherwise inappropriate development.

7. York Designer Outlet, St Nicholas Avenue, York, YO19 4TA (16/00215/FUL)

Members considered a full application by Ms Maria Farrugia for the temporary use of the car park for the siting of an ice rink and funfair.

Officers clarified that the ice rink was 30m by 30 m and the cafe was now on the east side of the rink with the office and first aid areas being on the west side.

Officers advised that condition 3 should be amended to allow the opening of the event up to the 15th January. They also advised that condition 5 should be clarified so that it was clear that it related to the public address system and that condition 9 and 11 should also be clarified. They advised that a further condition covering music was also required.

A series of photographs submitted by Fulford Parish Council, showing car parking on the site on roads, grass verges and close to a mature tree, were circulated to Members of the Committee.

Maria Farrugia, the applicant, addressed the committee in support of the application. She advised that the event organisers had had an open dialogue with all interested parties, informing Members that Highways officers did not have any issues with the proposals and the parking was well managed by the Designer Outlet, with extra staff employed on peak days to manage the car parking. She explained that the event was hidden within the car park which was beautifully landscaped . She advised members that the event had been run since 2010 and that they worked closely with the Designer Outlet to ensure it was well managed.

Karin de Vries addressed the committee on behalf of Fulford Parish Council. She stated that the ice rink and funfair constituted inappropriate development in the green belt and therefore should only be approved if very special circumstances were proved. She did not feel that the considerations put forward by the applicant constituted very special circumstances. She stated that that the out of town location drew people out of the city centre and raised concerns in relation to issues with excessive parking on the site, unprecedented traffic movements, lighting and noise pollution.

Officers advised that their view was that the harm to the green belt was very limited, with only a very small impact on the openness of the greenbelt. Taking into account the considerations which the applicant had put forward (the ice rink being a significant tourist attraction for York, providing employment, providing opportunities for people with disabilities to enjoy a new activity, healthy family entertainment and having sustainable access), which could be considered as very special circumstances, it was felt that these were sufficient to outweigh the potential harm to the green belt.

Members considered the photographs which had been circulated by the Parish Council which showed parking around mature trees and on grass verges and some members expressed concern about potential damage to both trees and verges. However it was acknowledged that this could happen at

other times of the year such as bank holidays when the site was busier than during the period of the ice rink. They noted that only 100 parking spaces would be lost for the event which was only a very small proportion of the parking available on the site. They accepted that the protection of trees was not the responsibility of the applicant and had been advised that the Designer Outlet managed parking well and the parkland was immaculately kept by the Designer Outlet. They accepted that the Eye of York was not available for the ice rink and there were no other suitable city centre sites therefore this was best alternative location and only place for it in York.

Resolved: That the application be approved subject to the conditions listed in the report and the amended, clarified and additional conditions listed below.

Amended Condition 3

The use hereby approved shall not operate between 15th January and 31st October inclusive each year.

Reason: To safeguard the amenities of local residents, to ensure that the car park is available for the use of the retail outlet and in the interests of the visual amenity of the area.

Clarified Condition 5

No audio systems (Public Address system) associated with the development shall operate outside the hours of 09:15 and 19:30 hours, unless required for emergency purposes.

Reason: To safeguard the amenities of local residents

Clarified Condition 9

The funfair, including all rides and stalls located on the car park area between the entrance to designer outlet and the skating rink shall not operate outside the hours of 11:00 and 20:15 hours Mondays to Sundays.

Reason: To safeguard the amenities of local residents

Clarified Condition 11

The ice-rink, associated cafe and the plant and machinery required to operate the ice rink including the ice resurfacers and the outdoor heating units shall

not operate outside the hours of 09:15 and 21:30 hours Mondays to Sundays.

Reason: To safeguard the amenities of local residents.

Additional Condition (covering music)

Music played on the ice rink and at the funfair shall only be played during respective opening hours (9:15 and 21:30 and 11:00 to 20:15) and shall not be audible at the boundary of the nearest residential premises.

Reason: To safeguard the amenities of local residents.

Reason: For the reasons set out in paragraph 4.28 of the officer report, it is recommended that the application for the temporary use of the car park is granted on a permanent basis i.e. can take place each year between November and January indefinitely subject to the conditions of operation set out in the officer report.

It is considered that the other considerations put forward by the applicant together with the mitigation of other harm through the imposition of planning conditions clearly outweigh the potential harm to the Green Belt by reason of inappropriateness and any other harm, and thereby amount to very special circumstances to justify the inappropriate development in the York Green Belt even when substantial weight is given to any harm to the Green Belt.

Cllr A Reid, Chair

[The meeting started at 4.30 pm and finished at 6.40 pm].