



Notice of a public meeting of

Planning Committee

- To:** Councillors Reid (Chair), Derbyshire (Vice-Chair), Galvin, Ayre, S Barnes, Boyce, Cullwick, Cuthbertson, D'Agorne, Dew, Doughty, Funnell, Richardson, Shepherd and Warters
- Date:** Thursday, 21 April 2016
- Time:** 4.30 pm
- Venue:** The George Hudson Board Room - 1st Floor West Offices (F045)

AGENDA

6. **Updates to the Committee Reports as Circulated at the Meeting** (Pages 1 - 16)

For more information about any of the following please contact the Democratic Services Officer responsible for servicing this meeting:

- Registering to speak
- Business of the meeting
- Any special arrangements
- Copies of reports and
- For receiving reports in other formats

Contact details are set out above.

This information can be provided in your own language.

我們也用您們的語言提供這個信息 (Cantonese)

এই তথ্য আপনার নিজের ভাষায় দেয়া যেতে পারে। (Bengali)

Ta informacja może być dostarczona w twoim własnym języku. (Polish)

Bu bilgiyi kendi dilinizde almanız mümkündür. (Turkish)

یہ معلومات آپ کی اپنی زبان (بولی) میں بھی مہیا کی جاسکتی ہیں۔ (Urdu)

 (01904) 551550

15/02856/FULM Erection of a Grocery Store for Aldi on Land at the Former Grain Stores Water Lane Clifton.

Committee Update:-

Since the Committee Report was written a detailed landscape scheme in an acceptable form has now been submitted , recommended condition 5 should therefore be amended to read as follows:-

5. The development hereby authorised shall not be undertaken otherwise than in strict accordance with the detailed landscape scheme outlined in drawing ref:- SF 2466 LL01 Rev K within the first planting season following completion of the development.

Reason:- To safeguard the visual amenity of the wider street scene.

Since the Committee Report was written the access and parking layout has been revised and as a consequence recommended condition 24 should be amended to substitute drawing refs:- **210-G and 3851-SK6 Rev C** for those previously included.

At the same time, recommended condition 2 should be amended to substitute plan refs:- **3851-SK6-Rev C , 1439-210 G and SF 2466 LL01 Rev K** for the drawings previously included.

The list of comparison goods outlined in recommended condition 26 vi) should be amended to delete **magazines**.

Recommended condition 10 should be amended to include the wording **"excluding the refrigeration unit"** after **"Details of all machinery, plant and equipment to be installed in or located on the use hereby permitted..."** as the issue has been addressed in the submitted noise report.

Recommended condition 11 should be amended to read **"Prior to development, an investigation and risk assessment** (in

addition to any assessment undertaken in association with the planning application) shall be undertaken”

Item 4a 15/02439/OUTM Land West Of Hagg Wood, Broad Highway, Wheldrake

Committee Update

Further Representations

Since publication of the agenda a further 57 representations have been received. The letter reiterates the concerns expressed with regard to the impact of traffic associated with the proposed development along Broad Highway and within Wheldrake Village, odour, attraction of rats and vermin, impact on wildlife, impact on the conservation area, archaeology, noise, impact on watercourses,

In addition a letter on behalf of the Parish Council and residents has been circulated to members raises concerns:-

- Regular HGV movements on the character of the Wheldrake Conservation Area.
- Accessibility to Wheldrake Woods for residents who are non drivers
- Health and safety issues of HGVs using Broad Highway and the local highway network to and within the village to access the site
- Risk to water contamination, and potential for spread of avian flu
- Health impact to vulnerable people and disposal of manure
- Potential for precedent to be set for similar developments in the York area and inappropriate nature of the use
- Impact on other business along Broad Highway and Swallow Hall to the west
- Impact on Local Wildlife which could suffer cross contamination

Response : The salient issues are covered in the existing officer report.

A further letter from a Mr. Newlove has been circulated : raising the following -

- The scheme needs to consider wider environmental impacts and is it over 500 sq metres in size and
- Not-free-range unit, as described in the submission so arguments submitted for the choice of location are now obsolete.
- The site is within the NVZ (Nitrate Vulnerable Zone), as highlighted by the Environment Agency. Any contaminated water leaving this facility runs the risk of contaminating the river system.
- The packing and distribution element is not agricultural. No provision for hazardous waste handling and removal has been provided for.
- The Ecology report did not include the adjacent woodland which has habitats within it. It was commissioned was done in the winter rather than May and September. There are water voles actually living in the ditch to the side of the proposed unit.
- Hagg Wood is not owned by the applicant, and woodland would be felled and the facility was in full view.

- Local businesses have not been properly consulted and their concerns have not been addressed, this scheme puts these existing successful businesses at risk.
- This is Industrial Development within the Green Belt, not purely agricultural as it has a packaging and distribution facility attached.
- The safety of the residents and their enjoyment of their homes has been overlooked.

Response : Notwithstanding the reference to Environmental Impact Assessment at 4.13, the proposed development has been subject to a screening opinion in accordance with the Environmental Impact Regulations 2011. The development falls into Schedule 2 of the Assessment regulations, as it is over 500 sqm. It is below the *indicative* threshold for significant environmental effects (60,000 birds) but has still been screened.

The agent refers to the development as free range at one part of the design and access statement, but this is in error and the rest of the submission/ assessments refers to the development correctly.

58% of the Country is covered by an NVZ. The development has been assessed to take account of the potential for pollutants

The development is defined as agricultural including ancillary packaging and distribution. Intensive livestock farming is recognised within the Environmental Impact Assessment Regulations as mentioned above.

The impact on Hagg Wood has been subject to an assessment by the applicant's ecologist and the Council's ecology and Countryside officer who is satisfied that there would be no significant adverse impact on the ecology.

There is no reason to believe that the ancient woodland of Hagg Wood would be felled by the owner

The impact on residents has been taken into account in assessing the proposal

A letter from an Alison Chalk has been circulated referring to the ownership of the application site, land financial charges registered against the applicant company and the possibility of issuing a personal permission .

Response : The matters raised in the letter would not affect the Council's ability to determine the planning application before it. A personal consent would not meet the tests for condition. .National planning guidance says "Unless the permission otherwise provides, planning permission runs with the land and it is rarely appropriate to provide otherwise. There may be exceptional occasions where granting planning permission for development that would not normally be permitted

on the site could be justified on planning grounds because of who would benefit from the permission. For example, conditions limiting benefits to a particular class of people, such as new residential accommodation in the open countryside for agricultural or forestry workers, may be justified on the grounds that an applicant has successfully demonstrated an exceptional need.... A condition limiting the benefit of the permission to a company is inappropriate because its shares can be transferred to other persons without affecting the legal personality of the company.”

A Petition against the development has now exceeded 2000 signatories.

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PLANNING COMMITTEE UPDATE

21 APRIL 2016

ITEM 4B

13/03481/FULM

RMBI, CONNAUGHT COURT, ST OSWALDS ROAD

ADDITIONAL CONSULTATION RESPONSES

INTERNAL

Planning and Environmental Management (Conservation Architect)

1. The drawings and documents summarized at 1.2 & 1.3 of the Planning Statement Further Addendum report dated February 2016 do not change the scheme in a way which is significant to heritage interests.

Planning and Development Manager, School Services

2. As a result of slightly lower per pupil cost multipliers and updated pupil number projections a revised contribution is sought:

- £12,147 Primary – towards one additional place at St Oswald's CE Primary
- £30, 368 Secondary – towards two additional places at Fulford School

EXTERNAL

Fulford Parish Council

3. The proposal will cause substantial harm to the Fulford Village Conservation Area and the setting of the Fulford Road Conservation Area. The parkland is described in the Fulford Village Conservation Area Appraisal as "*a spacious landscaped area, with very fine mature trees*", which "*helps to preserve the distinction between Fulford Village and the city suburbs and the open space which encircles the settlement.*"

4. Development in Area A would dominate and harm the open setting of the former gatehouse for the park which is a listed building.

5. Lack of an open space contribution weighs heavily against the proposals in the planning balance.

6. Considerable weight should be given to the preservation of the setting of listed buildings and conservation areas. There are very few public benefits identified and these do not outweigh the harm to heritage assets.

ADDITIONAL REPRESENTATIONS

Fulford Friends

7. Harm to the Fulford Village Conservation Area and the setting of the Fulford Road Conservation Area. This part of the Conservation Area is characterised and valued for its parkland setting and spacious layout, the infilling of visible spaces with new housing will be harmful. Within Area A the development should take its cue from the Fulford Village Conservation Area ie the small scale, formally arranged and generously landscaped almshouses. The proposed houses are large, arranged and designed informally and grouped closely together. Area B affects the green belt (the Ings) and therefore the setting and special character of York. Because the houses are arranged as closely spaced pairs, the impression will be of a wall of buildings facing the Ings. The harm requires public benefits of considerable weight to overcome the strong presumption against granting permission.

8. Repeated comparison of the proposal to the refused 2005 scheme is misleading.

9. The statement that the site did not flood in December 2015 is seriously misleading. Change of use of the land in Area B to residential garden and building of the flood wall would be development in flood zone 3 under s.55 of the Act. Post and rail fencing will impede floodwater. Removing permitted development rights in flood zone 3 will be unenforceable.

10. Full bat survey should be required in line with NE advice where protected species are likely to be present. There are two confirmed bat roosts on the site and trees with high potential. The development will harm this intrinsically dark and tranquil landscape which is a Local Green Corridor.

11. The application site should be considered as Greenfield land.

12. The technical appraisal to the site selection process for the submission draft Local Plan is misleading and unsound. In any event very little weight can be afforded to the draft allocation.

13. It is highly likely that a 5 year housing supply can now be demonstrated without the inclusion of these 14 houses.

14. Open space could be provided on site or a contribution applied to a specific project without breaching CIL Regulations.

15. The planning decision needs to take account of the grant of planning permission in February 2015 for a workshop and amended car parking in terms of visual impact and in relation to the overall parking provision on the

site. Little assessment of parking provision within the site as a whole, no information of whether visibility splays onto St Oswalds' Rd can be achieved.

16. In the planning balance there are many factors weighing against granting planning permission:

- Harm to the conservation areas and listed building
- Harm to the historic setting of York
- No affordable housing
- Unsatisfactory housing mix of only large detached houses
- Proceeds of the sale of the land will be used to improve other RMBI homes
- Residents of Connaught Court will lose the quiet amenity of their private gardens
- A bowling green facility has been lost
- A local Green Corridor will be interrupted and habitat lost
- No open space facilities will be provided on site and no contribution is offered towards off-site facilities

17. The financial contributions towards education and off-site bowling facilities are necessary compensation payments and cannot be regarded as public benefits.

18. Consistency of decision making. The Committee Report for application 15/01711/OUTM states that "*The contribution of 14 dwellings to the unmet housing need is only considered to be of limited weight*".

Publicity and Neighbour Notification

19. An additional 15 letters have been received. The letters raise objections similar to those already summarised at paragraph 3.53 of the main report. Where new or different points are made they are summarised below:

- St Oswalds Road is often narrowed to a single carriageway because of parking. It is the only access to the care home, riverside paths, boat clubs and caravan site, it has reached its sensible capacity.
- Car parking within the proposed development is limited adding to congestion
- Increased flood risk to surrounding properties and wider river corridor from changes in land levels. Major flooding occurred in the area in 2015, 2012, 2007, 2000, 1995, 1991 and 1982.
- Has the design taken climate change into account.
- Walls, fences and gardens in the flood plain will impede the flow of flood water.
- Additional development already allowed on the Connaught Court site will affect the capacity of the land to absorb water.
- Support the Fulford Friends objection letters.

- The gap between Fulford Parish and Fishergate must be retained which is the role of the conservation area.
- The care home residents will be robbed of their open space.
- The developers have ignored requests from residents to make simple changes to reduce the impact of the development.

OFFICER COMMENTS ON THE ADDITIONAL REPRESENTATIONS/CONSULTATION RESPONSES

20. It is considered that the majority of the issues are discussed within section 4.0 of the officer's report. Additional comments are considered to be required in respect of the following:

Flood Risk

21. In December 2015 the site flooded to the 9.5m contour. This is within the functional flood plain (flood zone 3b). The proposed finished floor levels of the houses partially within flood zone 2 are at 11.50m and 11.75m. The upper garden areas (above the level of the proposed retaining wall) are generally above 11m. The post and rails fences are designed to allow flood water to flow. The proposed retaining wall will not increase the risk of flooding elsewhere because of the compensatory capacity measures proposed. Removing permitted development rights is enforceable.

Ecology

22. The Ecological Impact Assessment produced by Access Ecology Ltd has evaluated the impact of the proposed development on bats informed by a desk study and site survey and comes to a reasonable conclusion on the result of loss of habitats and makes recommendations regarding mitigation and enhancement which are covered in recommended conditions.

23. Surveys and assessment should be proportionate to the environmental risk associated with the development and its location. The level of ecology information submitted in support of this application is sufficient to assess the impacts and allow determination and is in accordance with good practice guidelines.

24. Green corridors are not fixed boundaries but are a consensus of where green infrastructure assets occur. The proposed new buildings do not extend beyond the southern line of the existing Connaught Court buildings and a reasonable area is retained on the western boundary due to the flood zone. It is considered that the functioning of the green corridor, including habitat connectivity to Fulford Ings, through its key elements of open space and mature tree cover, will be maintained.

Consistency of decision making

25. Application 15/01711/OUTM relates to development within the Green Belt. Ministerial Statements and Planning Practice Guidance has stated that housing need does not justify the harm done to the Green Belt by inappropriate development. New housing is inappropriate development in the Green Belt and the application was refused in accordance with Green Belt policy as set out in the NPPF. In the case of Connaught Court whilst the conservation area designation means that the presumption in favour of sustainable development does not apply the application has to be determined in accordance with the Act and relevant policies of the NPPF. This is set out in the planning balance within sections 4.0 and 5.0 in the officer's report.

AMENDMENTS AND CLARIFICATIONS TO THE OFFICER REPORT

Relevant Planning History

26. At the time of the Inspector's decision the application site was outside of the conservation area. The land was included in the Fulford Village Conservation Area in October 2008.

Policy Context

27. Paragraph 2.3 of the officers report refers to the weight to be given to the emerging local plan. In accordance with paragraph 216, very limited weight should be given to the policies of the emerging plan. This also amends paragraph 4.9. However this does not affect the overall conclusions and recommendation within the report.

28. In paragraph 2.8 reference should be made to a more recent Court of Appeal case *Jones v Mordue* which establishes that in cases where there is less than substantial harm to a heritage asset the balancing exercise in paragraph 134 should be carried out. The quoted *East Northants* case remains relevant.

Housing Land Supply

29. The 5 year housing land supply figure quoted in the Forward Planning comments (Officer's report paragraphs 3.29 – 3.37) and later in paragraphs 4.6 is an indicative figure and is not compliant with paragraph 47 of the NPPF. The quoted figure is an indication that the LPA has a supply of housing land however it is likely that the weight given to the quoted figure would have limited weight at appeal and as such should have limited weight in the planning balance. Substantial weight should be should be given to the delivery of housing in the planning balance in any event.

Impact on Heritage Assets

30. Paragraph 4.25 of the officer report should also refer to paragraph 134 of the NPPF which states that where a development proposal will lead to less than substantial harm to the significant of a designated heritage asset, this harm should be weighed against the public benefits of the proposal, including securing its optimum viable use.

Flood Risk and Drainage

31. Amendment to paragraph 4.47 – delete final sentence which refers to the sequential test.

Education Provision

32. Revised paragraph 4.54 to take account of latest School Services response:

4.54 At primary level the schools serving the area are forecast to be oversubscribed in a number of year groups. Fulford School is over subscribed. The development would generate the need for one additional place at St Oswald's Junior School and two additional places at Fulford Secondary School. Financial contributions totalling £42,515 would therefore be required under policy ED4 of the 2005 local plan towards classroom expansion at St Oswalds and kitchen and dining expansion at Fulford. This contribution is considered to be:

- (a) Necessary to make the development acceptable in planning terms;
- (b) Directly related to the development; and
- (c) Fairly and reasonably related in scale and kind to the development,

and therefore complies with regulation 122 of the Community Infrastructure Levy Regulations 2010. This contribution would also comply with regulation 123 as there have not been 5 or more separate obligations which provide funding or provision of that project or type of infrastructure since April 2010.

Revised Conclusion

5.1 The application would provide 14 dwellings in a highly sustainable and accessible location. There would be some minor harm to designated heritage assets, i.e. Fulford Village Conservation Area, the setting of Fulford Road Conservation Area and the setting of the Grade II listed building (The Cottage). Having attached considerable importance and weight to the desirability of avoiding such harm the local planning authority has concluded that in accordance with paragraph 134 of the NPPF the identified harm is

outweighed by the application's public benefits of providing housing in a sustainable location within defined settlement limits and with good access to public and sustainable transport links and local services. This is in line with the aim of the NPPF to boost, significantly, the supply of housing and to deliver a wide choice of high quality homes. In terms of flood risk the site fails the sequential test as there appears to be reasonably available sites for the proposed development in areas with a lower probability of flooding. However following consultation with the Environment Agency the development would be appropriately flood resilient and resistant, limited parts of three of the proposed houses would be in flood zone 2 (areas of medium risk of probability of river flooding) with the remainder within flood zone 1. Whilst paragraph 100 of the NPPF states that development should not be permitted in such cases, it is considered that on balance the development provides wider benefits with the provision of new housing and that the submitted flood risk assessment has demonstrated that the site can be safely developed without increasing the risk of flooding elsewhere. All other issues are satisfactorily addressed.

5.2 The developer would contribute £42,515 to fund additional capacity St Oswalds Primary school and Fulford Secondary School arising from the development and £19,381 towards improvements to bowling green facilities at Scarcroft Green. These contributions are considered to be:

- (a) necessary to make the development acceptable in planning terms;
- (b) directly related to the development; and
- (c) fairly and reasonably related in scale and kind to the development,

and therefore comply with Regulation 122 of the Community Infrastructure Levy Regulations 2010. These contributions can be secured through a s.106 Obligation. The Planning Obligation would also be in accordance with Regulation 123 of the Community Infrastructure Levy Regulations 2010 as there have not already been 5 or more separate obligations which provide funding or provision of that project or type of infrastructure.

The application accords with national planning policy set out in the National Planning Policy Framework. The proposal accords with the draft policies in the 2005 Development Control Local Plan and emerging policies in the Draft York Local Plan (2014 Publication Draft) where those policies are considered to have material weight in the decision process.

Revised Conditions

Condition 2 – Add text:

“Plot 6 to be House Type B as confirmed by Richard Wood Associates dated 20/04/2016”

Condition 9 – Amend the list of plans as follows:

- b. Drainage Layout - 34511 003K**

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15/02639/FULM Elvington Water Treatment Works, Installation of solar photovoltaic array with associated infrastructure

Agenda Item 4c – Planning Committee Update

Amended recommendation: Approve after referral to Secretary of State

Should Planning Committee be minded to approve the application, as it is both non-residential development of over 1ha in size and is defined as inappropriate development within the Green Belt, and is considered to have a significant impact on the openness of the Green Belt, then the Secretary of State must be consulted. Planning permission cannot be granted for a period of 21 days following the start of the consultation to allow the Secretary of State to consider whether she will determine the application. (The Town and Country Planning (Consultation) (England) Direction 2009)

Updated condition

10 No development shall take place until there has been submitted and approved in writing by the Local Planning Authority a detailed landscaping scheme which shall illustrate the number, species, height and position of trees and shrubs. The scheme shall include details of new hedges or hedgerows to be planted along the inside of the existing hedgerows immediately adjoining the site. This scheme shall be implemented within a period of six months of the completion of the development. Any trees or plants or any parts of the new hedges or hedgerows which during the life-time 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: To ensure the maintenance of screening to the site and to protect the appearance and character of the area and so that the Local Planning Authority may be satisfied with the variety, suitability and disposition of species within the site.

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