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Meeting	Area Planning Sub-Committee
Date	9 November 2017
Present	Councillors Galvin (Chair), Shepherd (Vice-Chair), Cannon, Carr, Craghill, Crawshaw, Flinders, Gillies, Hunter, Mercer and Orrell
In Attendance	Councillors Fenton and Reid

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**Site Visits**

<b>Site</b>	<b>Visited by</b>	<b>Reason</b>
26 Tadcaster Road, Dringhouses	Cllrs Cannon, Carr, Craghill, Crawshaw, Flinders, Galvin, Gillies, Mercer and Shepherd.	As the recommendation was to approve and objections had been received.
30 Southfield Close, Rufforth	Cllrs Cannon, Carr, Craghill, Crawshaw, Flinders, Galvin, Gillies, Mercer and Shepherd.	As the recommendation was to approve and objections had been received.
10 Great North Way, Nether Poppleton	Cllrs Cannon, Carr, Craghill, Crawshaw, Flinders, Galvin, Gillies, Mercer and Shepherd.	As the recommendation was to approve and objections had been received.
Colin Hicks Motors, Garage and Yard Rear of 33 Bootham	Cllrs Cannon, Carr, Craghill, Crawshaw, Flinders, Galvin, Gillies, Mercer and Shepherd.	As the recommendation was to approve and objections had been received
The Falcon Tap, 94 Micklegate	Cllrs Cannon, Carr, Craghill, Crawshaw, Flinders, Galvin, Gillies, Mercer and Shepherd.	As the recommendation was to approve and objections had been received

## **17. Declarations of Interest**

Members were invited to declare, at this point in the meeting, any personal interests not included on the Register of Interests, any prejudicial interests or any disclosable pecuniary interests that they might have in the business on the agenda.

Councillor Carr declared an interest in plans item 4a (26 Tadcaster Road, Dringhouses) as he knew the agent, who was speaking on the application, on a professional basis. He confirmed that he did not know the applicant, land owner or developer but advised that he would not participate in the debate or vote on this item and left the room for consideration of this application.

## **18. Minutes**

Resolved: That the minutes of the last meeting of the Area Planning Sub-Committee held on 5 October 2017 be approved and then signed by the Chair as a correct record.

## **19. 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 Sub-Committee.

## **20. 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.

### **20a) 26 Tadcaster Road, Dringhouses YO24 1LQ (15/02726/FULM)**

Members considered a major full application by William Cloughton for the erection of 11 dwellings.

Officers advised that one additional support comment had been received from the resident at 26 Tadcaster Road who advised that:

- The National Trust were worried about excessive traffic when they have a number of deliveries to the site and have in the past allowed coaches to park on the highway to let visitors alight
- The bus stop was originally located outside what is now Pocklington Carpets and was only enlarged to allow the purple bendy buses to use the lay-by. These no longer run.
- The development would stop the parking outside of the hairdressers that spills onto the footpath

For clarification, officers advised that in paragraph 3.31, the objections listed were raised by Cllr Fenton and Cllr Mason as well as Cllr Reid, all Dringhouses and Woodthorpe Ward Councillors, and that, in the same paragraph, the comments of the Dringhouses and Woodthorpe Planning Panel, which had been submitted separately, were included as the last 5 bullet points.

Officers recommended that two additional conditions be added to cover street lighting and the use of obscure glazing to the first floor rear dormer windows in the southern elevation of plots 8 and 9.

They also recommended that condition 9 (Tree Protection) be amended and condition 14 (Off-site highway works) be amended to remove the reference to “installation of BLISS real time display”

Mr Bruce Kyte, a local resident, addressed the committee in objection to the application. He raised concerns that the proposed development would add to existing congestion on Tadcaster Road and Mayfield Grove and increase the difficulty for those turning out of Mayfield Grove. He also expressed the view that the increase in number of houses in the area would lead to increased risk of surface water flooding.

Mr Mark Newby, of Yew Tree Associates, the agent for the applicant, spoke in support of the application. He advised that the scheme had been developed to have a minimum impact on surrounding residential buildings and was not obtrusive or out of character with area. In response to concerns relating to drainage, he advised that Yorkshire Water had not objected to the drainage scheme submitted by the applicant. Although there were heritage assets nearby, the proposed site was not within the Tadcaster Road conservation area and there were no protected trees on site.

Councillor Reid, Ward Member for Dringhouses and Woodthorpe, addressed the committee to raise residents' concerns in relation to the effect the proposed development would have on surrounding housing (privacy, inadequate parking) and transport as well as on wildlife and drainage. She expressed concern that the proposed access to the site, and the amount of traffic which would need to leave the site during rush hour, would cause problems to wider road users, as access was located on a busy stretch of road. She advised that the report did not include any information on access from the proposed development to Mayfield Grove and asked that this access be conditioned if Members were minded to approve the application.

Officers confirmed that the access to/from the development site onto Mayfield Grove was not intended for vehicles but that Members could condition this to restrict use to cyclists/pedestrians if they felt this was necessary.

Some Members expressed concerns about the impact of the proposed development on the amenity of surrounding residents and on the conservation area, as well as the impact of the access route onto Tadcaster Road, acknowledging the difficulties expressed in relation to turning into/out of Mayfield Grove. Concern was also expressed that the limited green spaces which still existed in central York were being built on.

In relation to traffic issues other Members noted that the traffic generation was small and felt that the natural break in traffic on Tadcaster Road, caused by the traffic lights, would allow access to/from the site. They accepted that there were no objections in the report in relation to flooding and that the proposed development met the requirement of the NPPF and local plan.

Resolved: That on completion of a S106 agreement to secure contributions of £27,164 towards the provision of sports, play area and amenity open space facilities and £19,317 to increase the capacity of Dringhouses Primary School, DELEGATED authority be given to the Assistant Director (Planning and Public Protection) to APPROVE the application subject to the conditions listed in the report and the additional and amended conditions below, as well as an additional condition to restrict the access onto Mayfield Grove to cyclists and pedestrians only.

Additional Condition - Street Lighting:

Notwithstanding the approved drawings a detailed lighting scheme shall be submitted to and approved in writing by the local planning authority and implemented on site prior to first occupation.

Reason: So the Local Planning Authority are satisfied that the design and level of illumination would not have a detrimental impact upon neighbouring residential properties.

Additional Condition - Obscure Glazing plots 8 and 9:

Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any order revoking or re-enacting that Order), unless otherwise approved in writing by the Local Planning Authority the first floor rear dormer windows in the southern elevation of plot 8 and 9 shall at all times be obscure glazed to a standard equivalent to Pilkington Glass level 3 or above and remain fixed shut.

Reason: In the interests of the amenities of occupants of adjacent residential properties.

Amended Condition 9 (Tree Protection)

Before the commencement of and during building operations, measures shall be taken to protect the trees and planting shown to be retained on and adjacent to the site. This means of protection shall be approved in writing by the Local Planning Authority and shall be implemented prior to

demolition, the storing of materials, the erection of site huts or the commencement of building works.

Reason: The existing planting is considered to make a significant contribution to the amenities of this area which should be protected throughout the development process.

Amended Condition 14 (Off-site Highway works)

Remove reference to “installation of BLISS real time display” (see para 4.27 of report)

Additional Condition

The existing access between the site and Mayfield Grove shall not be used by vehicular traffic. The details of the bollards shown on drawing: Site Plan: ROG-305-029 002 Rev J shall be submitted to and approved in writing by the local planning authority. The approved bollards shall be erected prior to the commencement of development unless temporary arrangements to prevent access during the demolition and construction process have been approved in writing by the local planning authority whereby the bollards shall be erected prior to first occupation.

Reason: In the interests of highway safety and residential amenity as the access is considered to be substandard in terms of its width and junction design for use by vehicular traffic.

Reason: It is considered that the development of this site for 11 dwellings is acceptable. The applicant has demonstrated that the acceptable drainage of the site can be achieved and no objections are raised to highway safety. The impact upon the setting of nearby listed buildings has been assessed and the impact upon residential amenity is considered to be acceptable. As such the application accords with policies contained within the Draft Local Plan, the Emerging Local plan, the NPPF and Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990.

**20b) 10 Great North Way, Nether Poppleton, York  
(16/02285/FULM)**

Members considered a major full application by Mr Robert Bennett for the erection of a single storey car showroom and workshop with associated facilities.

Officers provided an update to Members. They recommended that, in the interests of visual amenity, an additional condition be added to state that there should be no displaying of vehicles within the frontage landscaping strip, adjacent to the public highway as shown on plan 1605/001H. They advised that paragraph 4.14 should refer to Policy D1, and not D2 as stated. They reported that an additional letter of objection had been received from a neighbouring resident highlighting the impact on residential amenity from the existing Arnold Clark dealership and expressing concern about the additional impact from the proposal. They also advised that, for the purpose of clarification, paragraph 5.4 should be amended to read *“Given that acceptable proposals have been put forward to compensate for the loss of the SIN, officers consider on balance that this provides material planning considerations which justify a recommendation other than in accordance with the development plan and that the application should be recommended for approval subject to planning conditions. “*

Mr Jackson, a local resident, addressed the committee in objection to the application. He advised that he worked in the care home adjacent to the site. He expressed concerns that the proposed development would restrict the view for residents and questioned whether this area needed any more car dealerships. He stated that residents felt that their views were not being listened to and advised that they were facing ongoing issues with regard to lighting and the playing of music from another car dealership and feared that this could happen with this development.

Mr Ian McGregor, the agent for the applicant, spoke in support of the application. He advised that both noise and lighting would be controlled by condition and that the applicant was aware of residents' concerns in relation to this and that there would be no noise audible from outside the premises and that lighting would be directed away from residential properties.

In response to concerns raised about noise disturbance, clarification was sought by Members on the playing of music in relation to condition 6 which stated background music only with no external loudspeaker. Officers advised that this condition could be strengthened to state that any music played inside the building must not be audible outside the building which was supported by Members.

Members acknowledged that the site was designated as green infrastructure in the Upper Poppleton and Nether Poppleton Neighbourhood Plan due to the Site of Local Interest to Nature Conservation (SINC). Some Members accepted that plans were in place to move and relocate the SINC, which would mean that the site would no longer be designated green infrastructure, and that officers felt that this was a material consideration and reason to recommend a decision which is not in accordance with the development plan.

Councillor Carr moved, and Councillor Galvin seconded a motion to approve the application in line with the officer recommendation. On being put to the vote, this motion was lost.

Other Members felt that the decision should be made following national planning law and the development plan for the area. They expressed the view that as the Upper Poppleton and Nether Poppleton Neighbourhood Plan had been recently adopted, it should not be ignored and they felt that moving the SINC to another ward was not good enough reason to set aside the development plan policy.

Councillor Flinders moved, and Councillor Gillies seconded, a motion to refuse the application on the grounds that the site was shown as green infrastructure in the Upper and Nether Poppleton Neighbourhood Plan (the development plan) and Policy PNP2 of the development plan stated that Green Infrastructure would be safeguarded. Approval would therefore represent a departure from the development plan as there felt that were no material considerations to indicate that determination of this application should not be made in accordance with the development plan. On being put to the vote, this motion was carried, and it was:

Resolved: That the application be refused.



Reason: The proposed development results in a loss of an area of green infrastructure designated in the Upper and Nether Poppleton Neighbourhood Plan which forms the Development Plan for this area. Section 38a of the Planning and *Compulsory Purchase Act* 2004 requires that decisions are made in accordance with the development plan unless material considerations indicate otherwise. Policy PNP2 of the Neighbourhood Plan states that Green Infrastructure will be safeguarded and no satisfactory material considerations to justify the loss of the designated green infrastructure to the local areas have been put forward.

[Amended at Committee meeting on 11 January 2018]

**20c) 30 Southfield Close, Rufforth, York YO23 3RE  
(17/01251/FUL)**

Members considered a full application by Mr Alex Kirby for the variation of condition 3 of permitted application 16/01635/FUL for a single storey extension to connect the garage to the house and the re-orientation of the garage roof (retrospective) and an alteration of windows throughout to hardwood casements with an off-white finish (revised scheme).

Peter Rollings spoke on behalf of Rufforth with Knapton Parish Council in objection to the application. He stated that the proposed extension would not meet the necessary guidelines and would dominate both the property itself and the street scene. He expressed concern that there had been a history of non compliance on this site and asked that if Members were minded to approve this application, it should be made clear to the applicant that further breaches of planning legislation would not be tolerated.

Members felt that the single storey link would be below the level of hedge and that it would not impact on neighbouring properties or the street scene. They felt that the alteration to the windows was a neutral change which was acceptable. They noted that the application for the variation of condition 3 had been made retrospectively but felt that if these changes had been included with the original application, they would have been acceptable.

Resolved: That the application be approved subject to the conditions listed in the report.

Reason: The alterations to the previously approved drawings are not considered to cause harm to the appearance of the dwelling, street scene or neighbour amenity. As such the scheme complies with guidance in the NPPF, draft Local Plan policies GP1 and H7, the Council's SPD and the Rufforth VDS.

**20d) The Falcon Tap, 94 Micklegate, York YO1 6JX  
(17/01468/FULM)**

Members considered a major full application by 2 Pubs Ltd for external alterations relating to retained ground floor public house and renovation of upper floors to form two flats, and demolition of extensions and construction of two residential blocks to rear forming 9 flats.

Consideration of the application for listed building consent 17/01469/LBC (minute 20e refers) took place alongside this application.

Officers advised that a representation had been received from Smith Marston Ltd on behalf of the owner of the apartments at 8 Toft Green with respects to loss of Light. The submission stated that the mass created by the proposed scheme poses a real risk of diminished light to the units at 8 Toft Green. It was noted that these units currently received very little daylight and sunlight. The consultant provided two sketches which demonstrated that the 25 degree guideline (as forwarded in the BRE guide) would fail meaning that there was potential for the daylight and sunlight in the properties at 8 Toft Green to be adversely affected and also, for the proposed units to be poorly lit. It was forwarded that without the applicant commissioning detailed daylight and sunlight assessments in accordance with the requirements in the validation checklist, it was not possible for officers to fully assess amenity and be able to make an informed decision. It was requested that no decision be made until officers had been able to view and consider fully the implications of the scheme with regards Daylight and Sunlight and failure to do so, would be grounds for the owner of 8 Toft Green to consider Judicial Review.

In response to this, officers advised that in validating the application, Officers made a planning judgement that a Daylight and Sunlight assessment was not required in this case. This judgement was based on the site circumstances with this site having an urban rather than suburban context, the use of 8 Toft Green being restricted to short term lets only and the consideration that 8 Toft Green does not incorporate any windows in its north-eastern elevation (further detail is provided at paragraph 4.35 of the report.

Officers advised that condition 2 (Plans) be amended to include updated plan references and that condition 10 (Sound Insulation internal transmission) also be amended.

Officers also advised that two further conditions be added, one to prevent the demolition of the existing extension to the rear of the building which houses the WCs until a phasing plan providing details of the timings for the construction of the replacement rear extension has been submitted and approved, and another condition to cover the provision of cycle and refuse storage.

Richard Paskauskas, owner of the next door property which had been converted to 8 serviced apartments, addressed the committee in objection to the application. He expressed concerns that the proposed new blocks would restrict light to his building but also result in limited light to proposed flats.

A copy of a letter from Smith Marston Ltd Right to Light, appointed by Mr Paskauskas in relation to concerns about loss of daylight and sunlight to his property by the proposed development, was circulated to Members at the meeting for information.

Philip Holmes of O'Neill Associates, the agents for the applicant then spoke in support of the application. He advised members that the proposals were sympathetic to the building, the separation distances were adequate, a noise impact assessment had been carried out and the proposals would have no significant additional adverse impact on light levels for surrounding properties.

Members commented that the Falcon Tap had been a positive introduction onto Micklegate. They felt that the proposals would allow the applicant to retain economic use of the grade 2 listed

building but expressed concern that that removal of beer garden may impact on the long term viability of the pub. One member expressed concern with the setting and appearance and felt that the impact on listed building would be too severe.

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

Amended Condition 2

The development hereby permitted shall be carried out in accordance with the following plans and other submitted details:-

Drawing No's;

001 Rev P01 (Location Plan)

104 Rev P09 (Proposed Site Plan with Context)

105 Rev P07 (Proposed Site Plan)

110 Rev P11 (Proposed Basement and Ground Floor)

114 Rev P04 (Proposed Basement and Ground Floor)

111 Rev P11 (Proposed First Floor)

112 Rev P10 (Proposed Second Floor)

115 Rev P03 (Proposed First and Second Floor)

113 Rev P10 (Proposed Third Floor)

116 Rev PO3 (Proposed Third Floor)

134 Rev P01 (Stair Section)

130 Rev P10 (Proposed Elevations 1 of 4)

131 Rev P07 (Proposed Elevations 2 of 4)

132 Rev P09 (Proposed Elevations 3 of 4)

133 Rev P08 (Proposed Elevations 4 of 4)

Reason: For the avoidance of doubt and to ensure that the development is carried out only as approved by the Local Planning Authority.

Amended Condition 10 (Sound Insulation internal transmission)

A detailed scheme of noise insulation measures to limit noise transference between the ground floor public house and the residential use above shall be submitted to and approved in writing by the Local Planning Authority. The scheme of noise insulation measures shall be prepared by a suitably qualified

consultant/engineer and shall take into account the provisions of BS 8233:2014 "Sound Insulation and Noise Insulations for Buildings - Code of Practice". The approved scheme shall be implemented prior to the occupation of the upper floors of 94 Micklegate and shall be permanently retained thereafter.  
Reason: In order to safeguard the amenities of future residential occupiers given the nature of the ground floor use.

Additional Condition

The existing extension to the rear of the building which houses the WCs, shall not be demolished until a phasing plan providing details of the timings for the construction of the replacement rear extension, which is to provide facilities for the public house, has been submitted to and approved in writing by the Local Planning Authority. The works shall be carried out in accordance with the approved phasing plan.  
Reason: To ensure the continued use of the ground floor of the building as a public house due to its significance as a heritage asset.

Additional Condition

Cycle and refuse storage shall be provided within the bin/cycle store hereby approved and shall thereafter be retained for this purpose.

Reason: In the interests of visual amenity and to promote the use of cycles thereby reducing congestion on the adjacent roads and in the interests of the amenity of neighbours.

Reason: The proposed development would provide 11 new residential units in a sustainable and accessible city centre location. There would be some minor harm to designated heritage assets, i.e. the setting of 94 Micklegate and the Central Historic Core Conservation Area. Having attached considerable importance and weight to the desirability of avoiding such harm the local planning authority has concluded that it is outweighed by the application's public benefits of providing new residential accommodation, reinstating a use for the upper

floors of 94 Micklegate and retaining historic use of the ground floor as a public house. In its massing, materials and general design, the new blocks have been designed to provide an improved frontage to Toft Green and are considered to preserve the setting of the listed building and the character and appearance of the conservation area taking into account views from street level and from the city walls. All other issues are satisfactorily addressed.

The application accords with national planning policy set out in the National Planning Policy Framework and with local planning policy.

**20e) The Falcon Tap, 94 Micklegate, York YO1 6JX  
(17/01469/LBC)**

Members considered an application for listed building consent for internal works relating to retained ground floor public house and alterations to upper floors to form 2 flats. Demolition of two storey rear extension and erection of replacement extension to accommodate external stair and entrance canopy.

Consideration of this application took place alongside the major full application (17/01468/FULM) (minute 20d refers).

**Resolved:** That the application be approved subject to the conditions listed in the report.

**Reason:** There would be a degree of harm to the special interest of the building deriving from the removal of the existing rear extension and from the formation of two new openings and the creation of a fire lobby at second floor and the subdivision of a rear room at third floor to form a bathroom. The degree of harm however is low and "less than substantial". Having attached considerable importance and weight to the desirability of avoiding such harm it is considered that the degree of harm is balanced by the public benefit of encouraging the use of the upper floors and allowing the viable retention of the ground floor public house. The proposal is therefore considered to accord with the provisions of policy HE4 and guidance contained within the National Planning Policy Framework.

**20f) Colin Hicks Motors, Garage and Yard Rear of 33 Bootham, York YO30 7NP (17/01546/FULM)**

Members considered a major full application by Mr Kevin Mohan for the erection of 14 flats (use class C3) following demolition of a car repair garage.

Officers advised that Condition 10 of the committee report required the applicant to secure the implementation of a programme of archaeological work (a watching brief) in accordance with a specification to be approved by the local planning authority. They advised that since drafting the report the applicant had submitted such a report, which had been accepted by the council's archaeologist and therefore condition 10 should therefore be amended accordingly.

Officers advised that an additional condition in relation to cycle storage be added to any approval (as detailed below)

In relation to the contamination condition (para 4.21 of report), officers reported that since the committee report had been drafted, further ground contamination information had been submitted by the applicant but the contamination was such that a remediation strategy was required. The proposed planning condition required submission of a remediation strategy and a subsequent verification report should therefore remain in place.

Mr Boleslaw Posmyk, a local resident, addressed the committee in objection to the application raising concerns in relation to the density of the proposed development, planting and parking. He expressed concern that the intention was still for the bay windows to face the flats on Bootham place and asked that these be conditioned to avoid overlooking into the bedrooms of the flats on Bootham Place. The Architect advised that it was possible to recess the windows further into the bay. Officers advised that a new condition requiring details of item 3 on the drawing would be required, or specifying setting the windows back into recess. It was agreed that this could be delegated to officers.

Members agreed that the proposals would provide important additional housing to this part of the city and questioned whether it was possible to condition use of the flats. Officers advised that they had no powers to restrict the occupancy of

residential flats within the use class but advised that there was nothing in the application to suggest that they were not intended for normal residential housing.

Resolved: That on completion of a S106 agreement to secure a financial contribution of £3,195 towards off-site sports provision in the city, DELEGATED authority be given to the Assistant Director (Planning and Public Protection) to APPROVE the application subject to the conditions listed in the report and the amended and additional conditions below and an additional condition in relation to the design of the bay windows.

#### Amended Condition 10 (Archaeology)

The development shall be carried out in accordance with the written scheme of investigation by York Archaeological Trust received by the local planning authority on 31 October 2017.

Reason: The site lies within an Area of Archaeological Importance and the development will affect important archaeological deposits which must be recorded during the construction programme.

#### Additional Condition 14 - Cycle Storage

The residential building shall not be occupied until the proposed cycle storage facilities have been constructed and laid out in accordance with the approved plans and thereafter shall be retained solely for such purposes.

Reason: In the interests of sustainable transport.

Reason: The council's statutory duty under s.66 and s.72 of the Planning (Listed Buildings and Conservation Areas) Act gives rise to a strong presumption against planning permission being granted. The proposals as revised would not be harmful to any heritage assets. All other matters are acceptable, subject to the imposition of conditions where



appropriate. The application accords with national planning policy in the NPPF.

Cllr J Galvin, Chair

[The meeting started at 4.30 pm and finished at 7.10 pm].