
Meeting	Planning Committee
Date	25 October 2017
Present	Councillors Ayre (Chair), Derbyshire (Vice-Chair), Reid, Cullwick, Cuthbertson, D'Agorne, Dew, Doughty, Funnell, Galvin, Looker, Pavlovic, Richardson and Shepherd
Apologies	Councillors Warters

1. **Declarations of Interest**

Members were asked to declare, at this point in the meeting, any personal interests, not included on the Register of Interests, or any prejudicial or disclosable pecuniary interests they may have in respect of business on the agenda. None were declared.

2. **Public Participation**

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

3. **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.

3a **British Sugar Corporation Ltd, Plantation Drive, York, YO26 6XF (15/00524/OUTM)**

The Senior Solicitor (Planning) referred Members to the Introduction to the Report (page 3, item 3a). She advised that as an appeal for non-determination had been made, the report sought Members approval of the case to be put to the Inquiry to defend the deemed refusal.

The Development Management Officer asked Members to note that in Section 1 of the report there were two occasions where the application was incorrectly referred to as the 2014 application rather than the application 15/00524/OUTM.

The Development Management Officer explained that the reasons for the Council's case for non-determination were on the grounds that if it were required to determine the application at this time, the application would have to be refused due to the following reasons:

- The affordable housing provision had been not agreed – this was subject to a viability assessment and the figures to inform the assessment, for example around remediation, land value and construction costs, were yet to be agreed
- 106 Agreement – appropriate terms are not agreed including the claw back provisions required by the developer
- The amounts in the planning obligation had not been agreed and would be subject to more negotiation. It was noted that the amounts listed in the table at the end of the report were subject to adjustment as these would also need to be brought up to date / index linked since they were first proposed.

Councillor Pavlovic asked officers for an update on the design parameters and principles document submitted in October. Officers advised that they had now had chance to review the document and considered it did need some alteration. It was clarified officers were confident issues could be resolved prior to the hearing and consequently members were not being asked to oppose the application on design grounds at this stage.

Members considered the case to be put to the Inquiry to defend the deemed refusal. They expressed support for the reasons put forward.

Following discussion it was:

Resolved:

(i) That the Council's case for non-determination is on the grounds that if it were required to determine the application at this time, the application would have been refused due to the inadequate provision of necessary infrastructure and other mitigation required as a direct consequence of the development and lack of affordable housing provision.

Lack of Necessary Infrastructure

The need to secure sports, community and education facilities are advocated within section 8 of the NPPF. There are reasonably up to date local evidence bases which justify the requested facilities to support the proposed residents of the application site and these are agreed in principle by the applicants. Inadequate provision to deliver these needed facilities, specifically pre-schools, primary school, secondary school funding and off site sports provision, is grounds to refuse the application.

In addition to non-compliance with NPPF policy the lack of provision of such infrastructure conflicts with the following local policy -

Draft 2005 Local Plan policies

- GP13: Planning Obligations which states that where appropriate the Council will expect developers to enter into planning obligations to provide for infrastructure, including necessary community facilities which are relevant to planning, directly related to the proposed development in scale and kind to the proposed development, over-coming or mitigating against the effects or deficiencies resulting from the proposed development.
- ED4: Developer Contributions Towards Education which advises that where additional provision is required as a direct result of a proposal, developers will be expected to provide these facilities, typically through S106 contributions.
- L1c: Provision of New Open Space in Development which states developments for all housing sites will be required to make provision for the open space needs of future occupiers, based upon the latest planning guidance note(s) on open space.

Emerging Local Plan Publication Draft September 2017

- HW2: New Community Facilities requires that residential developments of more than 10 dwellings audit existing community facilities and where necessary provide for facilities to meet demand as a consequence of the development. The proposals do not accord with the policy because based on the size of the development it is not contended that community facilities are reasonable and necessary. However the proposals do not provide for delivery of such needed facilities.
- GI5: Protection of Open Space and Playing Pitches - The site includes playing pitches which are designed as such in the 2017 Open Space and Green Infrastructure Update. As such based on policy GI5 the pitches may only be lost provided it is satisfied they are suitably replaced. This is not allowed for in the applicant's legal agreement.
- GI6: New Open Space Provision which explains how residential developments will be expected to contribute to the provision of open space for leisure and amenity, giving due consideration to existing provision in the area.
- ED6: Preschool, Primary and Secondary Education requires facilities to meet identified need, in particular at strategic sites such as the application site. There is agreed need arising from the development, specifically for on site pre-school facilities and off site secondary school places. However the applicants 106 does not provide adequate funding to deliver the needed facilities.

Lack of Affordable Housing

NPPF section 6 requires local planning authorities use their evidence base to ensure that their Local Plan meets the full, objectively assessed needs for market and affordable housing in the housing market area. There is a demonstrable need for affordable housing in York, as established in the evidence base that under-pins the emerging local plan and in line with affordable housing requirements established in policy H10 of the emerging plan.

The applicant's position of no affordable housing is unacceptable. The Council is not convinced by the viability

work undertaken to date that this is a reasonable position and that the scheme would be unviable if there were an affordable housing requirement.

Reason: In order that the “deemed” reasons identified the present deficiencies that were considered to remain with the new application would be relied upon in defending the non-determination appeal.

And (ii) That the Assistant Director (Planning & Public Protection) be given authorisation to remove or add to the above putative reasons for refusal in response to new evidence, information or amendment in the run up to and during the forthcoming public inquiry and to deal with outstanding issues in relation to securing a satisfactory S106 agreement.

Reason: In order that the “deemed” reasons identifying the present deficiencies that are considered to remain with the new application would be relied upon in defending the non-determination appeal.

Cllr N Ayre, Chair

[The meeting started at 6.00 pm and finished at 6.20 pm].