

Meeting	Planning Committee
Date	16 January 2020
Present	Councillors Cullwick (Chair), Pavlovic (Vice-Chair), Ayre [minutes 31-37 inclusive], Barker, D'Agorne, Daubeney, Doughty, Douglas, Fenton, Fitzpatrick, Hollyer [minutes 31-36 inclusive], Kilbane, Perrett, Warters and Widdowson

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### **31. 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.

### **32. Minutes**

Resolved: That the minutes of the last meeting held on 14 November 2019 be approved and then signed by the chair as a correct record.

### **33. 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.

### **34. 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.

**35. Frederick House, Fulford Road, York YO10 4EG  
[19/00603/FULM]**

Members considered a major full application from Summix FHY Developments Ltd for the erection of six purpose-built 4 storey student accommodation buildings (providing 368 bedrooms), associated change of use of and alterations to the existing 'Guard House' building to a multi-amenity use associated with the accommodation, construction of energy/plant facility, car and cycle parking, refuse/recycling storage and landscaping (re-submission of withdrawn application 18/02797/FULM) at Frederick House Fulford Road, York.

An officer update was given under which Members were updated on the objections have been received from local residents following re-consultation. There had also been a consultation response from Highways, who confirmed that that the scheme has been further reviewed and drawings revised to increased cycle parking. The Highways letter also stated that the applicant had agreed to detailed design of the improvements to the pedestrian refuge on Fulford Road and the extension of the shared use path to the existing pelican crossing north of Kilburn road to be incorporated into the planning conditions and/or S106 requirements. Members were also advised of an additional condition relating to a parking survey. It was noted that the additional information had been assessed and the planning balance and the recommendation are unchanged from the published report.

In response to Member questions, officers explained that:

- The success of the design would be in the details and quality of the construction and landscaping.
- The height of the buildings in relation to neighbouring buildings, including those on Kilburn Road.
- The shared pedestrian footpath had been extended to the north of the site.
- The applicant had offered a sample bus pass to students for free when they arrived.
- The transport team had retracted their objection to the cycle parking.
- The 2018 travel survey results did not give an indication of student car ownership.

- The applicant had used aerial photography to determine to level of parking on side streets.
- There was some provision for off street parking on side streets and this needed to be considered with developers.
- The highways department had retracted their objection.

Bryn Bircher, a local resident, spoke in objection to the application. He explained where he lived and explained that the buildings were too big and too close to residential buildings, blocking their light. He noted that the proposed building was higher than the current building and was much closer to the boundary. He requested that the application be deferred.

Angela Johnson, Chair of the Low Moor Allotments Association and a local resident, spoke in objection to the application in regard to the effect on the allotments. She thanked the applicant for taking the cycle lane away from the allotments. She expressed concern about the gate at the Walmgate Stray end of the cycle lane. She noted that the allotment plot holders had not received notification of the application and added that all stakeholders affected should have been consulted. In response to Member questions she confirmed that it would be useful to discuss the gate and additional barriers for accessibility with the applicant.

Stuart Black, agent for the applicant, spoke in support of the application. He confirmed that the allotment had been written to and as there had been no reply, that there may have been problems with email. He noted that the applicant would be happy to work with them. He explained the layout of the accommodation that was for first, second and third year students, who were generally good neighbours. The accommodation was also built in a sustainable location that would be well run.

In answer to Member questions, Mr Black clarified that:

- The scheme would be operated as car free in principle and the tenancy agreement would stipulate that students could not bring cars onto the property.
- The provision of bus passes could be reviewed after a year and the provision of a bus passes would be passed on through rent.
- The provision of a bus pass could not be made to perpetuity as the applicant did not have all of the information needed in order to do this.

- The height of the buildings were within the remit for the application.
- The current travel survey was taken as a benchmark and the applicant would be happy to work with officers on the frequency of the survey.
- There would be an on-site manager that would be the liaison point with local residents and any problems could be checked by looking at CCTV.

Barry Rankin, agent for the applicant, spoke in support of the application. He outlined the height of the buildings in detail noting the scale and height of the buildings were considered acceptable. He noted that the applicant considered the building to be one of the most sustainable student site facilities in York.

Members asked Mr Rankin a number of questions to which he gave clarification on:

- The external lighting on the buildings
- The height of the buildings, which at 1.5m over the height range was considered to be acceptable.

Then, in response to further questions, officers clarified that:

- There was an increase in height but the gaps between the buildings had been broken up.
- It was possible to have parking zones on unadopted highways.
- The gaps in the buildings were acceptable within the NPPF.

Resolved: That the application be approved subject to a Section 106 agreement, conditions listed in the report and following additional condition:

Additional condition

Parking survey. Wording as follows:

No development (other than demolition) shall take place until the developer has carried out a survey of on street parking on highways with an area previously agreed with the local planning authority and thereafter to repeat the survey annually. The surveys shall be carried out to a specification and at a time agreed with the local planning authority.

Within three months of the annual survey being carried out, the developer will review the on street parking survey results and submit the review to the local planning authority to demonstrate whether the volume of on street parking in any of the areas shown on the plan has increased by more than 20% of the first annual survey as a consequence of the development.

Reason: To monitor on-street parking levels as result of the development and to determine if as a result of the development, further previously agreed measures are required to be undertaken by developer to restrict on street parking in this areas.

Reasons:

- i. Paragraph 11 of the NPPF states that where there are no relevant development plan policies planning permission should be granted unless the application of policies in the NPPF that protect areas or assets of particular importance provides a clear reason for refusing the development proposed or any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF taken as a whole. In this case, there are no restrictive NPPF policies that give a clear reason for refusing the proposals and the proposed development is considered to be acceptable in principle with justification for the student housing provided. It is also noted that the provision 368 student housing beds is positive with regard to the national and local policy requirements for new housing. A condition is recommended that the site be restricted to student housing, otherwise affordable housing contributions would be required. With regard to the loss of employment at the site it is noted there is a permitted development fall back to convert the existing building to a residential use. Furthermore it is noted that the existing building due to its scale and age is unlikely to be attractive to potential commercial operators.

- ii. The revised design of the site is considered to be an improvement to both the original submitted scheme in 2018 and also the initial resubmission in 2019. It is noted that there is relatively limited public view of the site and that some of the design constraints of the site such as the 'dead end' nature and the lack of access to the south and east are outside of the applicant's control to remedy. The landscaping scheme is considered acceptable and the TPO'd trees on site can be retained. Conditions are proposed with regard materials, landscaping and tree protection.
- iii. The proposed development, including the erection of new buildings, the alterations to the Guard House and the retention of the protected trees are considered to preserve the character of the Fulford Road conservation area.
- iv. The proposed development is also considered to be acceptable with regards to ecology, noise, light, privacy, contaminated land and also archaeology subject to recommended conditions.
- v. It is recognised that there are concerns with regard to parking and highway safety that include an objection from the Highways Officer and also from local residents. This is primarily due to the distance of the site from the University of York, particularly during inclement weather or poor light which will reduce the appeal of travelling via Walmgate Stray to the university. The resultant concerns are that this will lead to increased use of Kilburn Road both by cyclists and also for on street parking. The applicant has proposed measures to restrict private car usage including subject to a legal agreement covering car ownership in student tenancies, parking surveys and if deemed contributions towards permit parking for residents of nearby streets.
- vi. In the planning balance it is considered that the identified benefits of the site, including the re-use of brownfield land for residential use and the sustainable transport measures proposed. Significant weight should be given to the acceptable

design and the positive landscaping scheme in favour of granting planning permission, as should the sustainable design and construction measures. Limited weight should also be attached to the proposed ecological enhancements. While the objection from Highways is acknowledged and this should carry appropriate weight in the decision making process, moderate weight should also be attached to previous appeal decisions that have indicated that the principle of using planning conditions or obligations to control student parking via tenancy agreements is acceptable. Overall, the proposal is considered to comply with Paragraph 11 of the NPPF in that the adverse impacts do not significantly or demonstrably outweigh the identified benefits.

**36. Naburn Lock, York Road, Naburn, York, YO19 4RU  
[18/02552/FUL]**

Members considered a full application from Ewan Campbell-Lendrum for a hydroelectric generation plant and associated infrastructure including turbine house, hydraulic channels, intake screen, crane pad and electrical substation at Naburn Lock, York Road, Naburn, York.

Officers updated Members on the application, noting additions to condition 2 drawing numbers, a minor report spelling clarification and the applicant's response to the objections raised. It was noted that the additional information had been assessed and the planning balance and the recommendation are unchanged from the published report.

Officers were asked and noted that:

- The Canal and River Trust was the land owner.
- There was no direct evidence of otters in the area.
- The grid connection was a matter of discussion between the applicant and grid provider.
- The fish harbour allows the fish to go upstream and there was already a fish pass on the weir. The design in the application was an improved design.
- The timescale for the hydroelectric generation plant could not be shortened through the planning process.

- The agent for the applicant stated that the size of the hydroelectric generation plant was optimal.

Resolved: That the application be approved subject to the following amendment to condition 2:

Condition 2

Add the following drawing numbers:

1. 2350005 – Development Boundary
2. ARBTECH TPP01 Rev A – Tree Protection Plan

Reason:

- i. Naburn Lock is located on the River Ouse in a rural location to the south of Naburn village. The construction of the locks (in 1757 and 1888) has created an island upon which is located the workshops, stores and offices associated with the operation and maintenance of the lock. Directly to the east lies the Naburn Banqueting House, a Grade II listed building, together with the lock keeper's house. The locks themselves are separately listed at Grade II. Planning permission is sought for construction of a hydroelectric generating plant together with associated infrastructure on the western bank of the island.
- ii. The proposal would constitute inappropriate development in the Green Belt which is by definition harmful to the Green Belt and should not be approved other than in very special circumstances. However, it is considered that the impact of the proposal on the openness of the Green Belt would be mitigated by the characteristics of the locality and its setting adjacent to Naburn Lock. Whilst the proposal represents a relatively small scale project, Central Government guidance in the NPPF makes it clear that local planning authorities should recognise that even small-scale projects provide a valuable contribution to cutting greenhouse gas emissions, and approve the application if its impacts are (or can be made) acceptable. With this in mind, and bearing in mind the nature of the location and characteristics of the application site, it is considered that very

special circumstances exist that clearly outweigh the harm to the Green Belt. No other harms have been identified arising from the proposal.

- iii. In terms of the previously identified significant concerns relating to harm to local habitat and biodiversity the proposal has been amended in detail and additional information provided which allows for the previously identified harm to the habitat of the ocean and river lamprey to be effectively mitigated and harm to the habitat of the sand martin and tansy beetle avoided altogether subject to any permission being properly conditioned. Subject to conditions, no objections are raised by the Environment Agency or Natural England, or by the Council's Ecologist. In accordance with paragraph 154 of the NPPF relating to renewable energy projects, it is considered that the impacts of the proposal can be made acceptable through the imposition of appropriate conditions, and the application is recommended for approval.

**37. Vacant site, Eboracum Way, York, YO31 7RE  
[19/01467/FULM]**

Members considered a major full application from Tiger Developments Limited for the erection of a 5 storey apartment building with basement comprising 62 residential units (Use Class C3), associated car parking and landscaping works at the vacant site, Eboracum Way, York, YO31 7RE.

An officer update was given under which the address of the application was clarified and Members were informed that revised plans had been issued to clarify the variable scale of the building on the opposite side of Layerthorpe. There was also an extra condition concerning the restricted use of flat roof areas, an amendment to the condition 10 (and informative), and to conditions 11 and 12. The additional information had been assessed and the planning balance and the recommendation was unchanged from the published report.

Following the update, Officers were asked and confirmed:

- The application was policy compliant in terms of sustainable construction.

- That a request had been made to officers in terms of the open space associated with the application.
- The distances between the buildings and neighbouring properties.
- The reasons for affordable housing being on the ground floor.
- That the street lighting for 119 and 121 Layerthorpe was not within the applicant's control.
- That the lighting on site could be conditioned as part of the landscaping scheme.
- The fifth floor component was set within the footprint of the building.
- How the scheme would fit in with surrounding buildings.
- That regarding early years provision, officers were content that there was capacity within existing places in early years settings.
- The amount of car parking was based on location and connectivity.
- The daylight and sunlight assessments were undertaken via the impact on windows and not gardens. It was explained why these assessments came out as acceptable.
- There were national space elements for building densities if there was an adopted Local Plan. As there was no Local Plan, officers were content that the floorplan was of a reasonable size.

Margaret Binnington, a neighbouring resident, spoke in objection to the application on the basis of the height and size of the development, and that it was out of place in the local area. She referred to the council home delivery plan and asked why there was not more social housing and less private development in order to support the local community.

In response to Member questions, Ms Binnington explained that:

- She had not been consulted on the application.
- Concerning the access and egress of construction traffic she questioned where the builders would park and where construction equipment would be stored.

Rupert Litherland, the agent for the applicant, spoke in support of the application. He explained that consultation on the scheme finished on 17 July and there had been three letters in objection

and three in support. He explained that the buildings met national housing standards and 20% affordable housing, and promoted sustainable travel through the 66 cycle spaces and 45 car parking spaces. He added that the building used sustainable technology and that the lighting was compliant with national standards.

Members asked Mr Litherland a number of questions to which he clarified:

- The ownership of roads adjoining the site, one of which was under the ownership of the gas board. Officers clarified the public right of way adjacent to the site.
- Construction traffic would be conditioned by a CEMP.
- The 2m drop on the boundary to the site was a boundary treatment.
- Regarding car parking it was originally hoped that the site would be car free
- The applicant had written to the residents at 119 and 121 Layerthorpe.
- It was not known whether the viability of a development without a fifth floor had been considered.

Councillor Craghill, Ward Member, spoke on the application. She commented that it was good to see a development on a neglected site. However, she had major concerns about the height and massing of the development. She welcomed the affordable housing and asked that if minded to approve the application that the committee seek specific requirements for contractor parking during the construction phase, that clarity was sought on the ownership of the lane at the side of the site, and that the provision of open space be delegated to Chair and officers.

Further questions were then raised by Members. Officers confirmed that:

- The committee could delegate officers to negotiate the S106 agreement.
- Highways could ask for the detail of contractor parking.
- Lighting could be conditioned.

Deferral of the application was moved and seconded on the basis of further detail being required in order to consider the application fully:

Construction management

An amendment to the proposed condition was requested to require approval of where contractors would park.

#### Education

Further justification and clarification was required with regards early years provision.

#### Open space

Officers were asked to identify projects where planning obligations could be used towards sport and open space. It was requested that ward members were consulted.

It was then:

Resolved: That the application be deferred until further detail had been provided on the details of construction management, early years provision, and open space provision.

Reason: In order to determine the application fully.

**38. Smith And Nephew Plc Research Centre, Innovation Way, Heslington, York YO10 5DF [19/02011/FULM]**

Members considered a major full application from the University of York for the change of use of a former research centre (Use Class B1) to non-residential institution for academic use (Use Class D1) with associated external works at the Smith and Nephew Plc Research Centre, Innovation Way, Heslington, York.

Members were provided with an officer update. It was reported that following the Committee Site Visit, there had been further discussion about landscaping along the site frontage with Church Lane, resulting in an indicative landscape plan being submitted. Whilst this was indicative, it showed a commitment by the applicant to reduce the amount of trees being removed along the frontage and replacement planting. Therefore it was recommended that there be amendments to conditions 2 and 4 to reflect this. The additional information had been assessed and the planning balance and the recommendation were unchanged from the published report.

Officers were asked and clarified that:

- Landscaping could be conditioned for the lifetime of the development.
- The university would need to be asked about becoming involved in the planting of replacement trees.
- The use of the BREEAM level of very good was acceptable at the site.
- The applicant had been looking at connectivity onto the site.
- Tree T26, a false acacia, was not retained in the application.
- The car parking proposed was an over provision and would benefit overall parking at the university.
- The car park on the site was currently gated off and was not in use.

Graham Holbeck and Janet O'Neill, the agents for the applicant spoke in support of the application. They explained the retention and replacement of trees. With regard to BREEAM they explained that BREEAM very good was to be used and that there would be an internal fit out of the building. The location of cycle routes into the site was explained and it was clarified that the car parking outside the building was for general use by the university on campus west. It was noted that the university was revisiting its travel plan.

Members raised a number of questions. Mr Holbeck and Ms O'Neill confirmed that:

- The university would be willing to enter a dialogue with the council regarding cycle provision.
- The replacement of trees could be conditioned.
- Pedestrian and cycle access could be looked at as part of the transport plan.
- Regarding the change of the use of the building, the history of the occupancy of the building was explained.
- They could check whether the extractor fans on the building could be removed.
- The pedestrian and cycle access to the site was explained.

It was then:

Resolved: That the application be approved subject to the conditions listed in the report, additional condition

relating to planting and amendments to conditions 2 and 4:

Additional condition

That the planting on the site be retained for perpetuity.

Condition 2 (Plans)

Amended to remove reference to the landscape proposals and tree removal drawings

Condition 4 (Landscaping)

Amended to require a revised landscaping scheme to be submitted for approval as follows:

Notwithstanding the landscape scheme and tree removal drawings submitted with the application, a detailed landscaping scheme shall be submitted to and approved in writing by the Local Planning Authority within three months from commencement of the hereby approved use of the building, which shall illustrate those trees within the site to be retained and specify the number, species, height and position of trees and shrubs or replacement or additional planting. This scheme shall be implemented within a period of six months of approval of the landscaping scheme or within the next planting season (whichever is the sooner). Upon completion of the development, any trees or plants which die, are removed or become seriously damaged or diseased shall be replaced in perpetuity in the next planting season with others of a similar size and species, unless alternatives are agreed in writing by the Local Planning Authority.

Note: The landscaping scheme should be based where possible on the indicative Landscape Proposals drawing submitted to the Authority on 15.1.2020, with particular reference to the retained and replacement planting along the Church Lane frontage.

Reason: In the interests of the character and appearance of the local area.

Reason: The proposal relates to the re-use by the University of York of an existing B1b research and development building on York Science Park adjacent to University of York Campus West. It has been vacant for around 2 years. The re-use is considered to be acceptable despite the loss of a straight employment use, given that the new occupier is a major employer, that alternative allocation of B1b land is proposed as part of the emerging local plan adjacent to Campus East to meet the City's needs, that there is limited capacity on the existing campuses and that the building was built for a single user. Whilst established trees would be removed, none are protected, some larger trees are to be retained on the roadside frontage and replacement planting is proposed. The site is sustainably located and accessible, though further details of cycle parking are required. There would be no harm identified to the visual amenity of the surrounding area.

Cllr C Cullwick, Chair

[The meeting started at 4.30 pm and finished at 8.15 pm].