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Meeting	Area Planning Sub-Committee
Date	15 April 2021
Present	Councillors Hollyer (Chair), Crawshaw (Vice-Chair), Fisher, Galvin, Craghill, Melly, Orrell, Waudby, Webb, Perrett and Daubeney (Substitute)
Apologies	Councillor Cullwick

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#### **46. 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.

Cllr Crawshaw and Cllr Craghill declared a personal non-prejudicial interest in Agenda Item 3b) 52 Broadway Café, as the architect may be employed for work on their own properties. Cllr Crawshaw and Cllr Craghill confirmed no discussion had taken place with the architect in regards to Agenda Item 3b.

Cllr Crawshaw and Cllr Melly declared a personal non-prejudicial interest in Agenda Item 3a) The Jubilee, they had signed a petition against a previous planning application for this site. It was noted that this was a substantially different application, and that advisement had been sought from the Monitoring Officer.

Cllr Fisher declared a personal non-prejudicial interest in Agenda Item 3a) The Jubilee, as a member of CAMRA he had previously objected to the closure of pubs but not to conversions.

Cllr Hollyer declared a personal non-prejudicial interest in Agenda Item 3b) 52 Broadway Café, as a customer of the attached Hairdressing business that was owned by the applicant. Cllr Hollyer confirmed no discussion had taken place in regards to Agenda Item 3b.

#### **47. 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.

#### **48. 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.

##### **48a) The Jubilee, Balfour Street, York, YO26 4YU [20/01498/FUL]**

Members considered an application (resubmission) for the conversion of The Jubilee into three self-contained apartments, public house and function room with beer garden and residents parking on site.

Officers gave a presentation based upon slides on agenda pages 37 – 47 detailing existing and prospective site plans, floor plans and elevations.

In response to Members questions it was confirmed that:

- A kitchen for the public house would not be included but there would be space for a kitchen or an area for a pool table dependant on what the prospective owner would prefer.
- There would be allocated bin and bicycle storage for the public house, separate to residential.
- The building being a non-designated Heritage Asset does not prevent internal works but should be a material consideration when assessing a new proposal.
- In order for the applicant to resubmit at a later date, to convert the public house space to apartments, they would need to provide evidence of marketing at reasonable terms and conditions. It was however, outside the scope of the Planning Authority to put in place a condition that would prevent such a resubmission.
- The sound-proofing condition needed to be extended to include the function room.

- Residents of the self-contained apartments would have the right to complain if sound issues arose, however public protection were satisfied with the sound-proofing report.
- Without on-site landlord accommodation, the public house would be run as a 'lock-up pub' and the license would have to reflect this.

[The meeting adjourned from 17:14 to 17:30]

### Public Speakers

Sophie Howard spoke in objection to the application stating that The Jubilee was the only asset to the community in the neighbourhood. She expressed her concerns, explaining that reducing the size of the public house, the limit on live music due to addition of residential space, no landlord accommodation and no parking for staff would limit the viability of the public house as a functioning business. She added that there was community concern over the lack of an on-site landlord and in response to Member's questions she offered alternate uses for the space. She felt that the renovation and running costs could be covered by community hub funding and a share scheme.

Nick Love, a CAMRA officer, spoke in objection to the application. Mr Love confirmed he had visited The Jubilee in its last month of trading in 2016 and he believed it would be a viable business outside of a public house franchise company, which charged unreasonable rents. He was concerned that the developer may attempt to alter the public house in its entirety to apartments following likely noise complaints from residents. Mr Love expressed some solutions, stating that a new covid-related community ownership funding whereby the government would match any raised funds (up to 250k) by the community, could be used to purchase The Jubilee and renovate in keeping with community values. In response to Member's questions Mr Love referenced other communities that had successfully received community ownership Funding.

Luke Thompson, Chair of Leeman Road Resident's Association, spoke in objection to the application referencing the community support from the previous application with approx. 1000 signatures. He highlighted how The Jubilee could become community owned through various charities, government grants and schemes. He added that the reduced space of the public house in the new application added to the already limited

community space in the area. In response to Member's questions he reiterated the options for community ownership and referenced The Golden Ball in York as a comparison for successful ownership.

Paul Crossman, Chair of the new Campaign for Pubs, spoke in objection to the application. He felt that the applicant did not understand the community asset and that minimal management and security of the now closed Jubilee had led to it being in further disrepair. He expressed concern over noise complaints from the proposed apartments leading to the pub and function room being closed. In response to Member's questions he referenced his experience of reinstating public houses in the community and the need for the function room sizing to not be decreased. He noted that good quality landlord-manager accommodation was required to ensure viability and appeal to an experienced landlord/ manager.

Lawrence McNamara spoke in objection to the application, stating that he felt the applicant had no incentive to make the public house a viable business but rather a monetary incentive for it to become solely residential.

Shannon Edwards spoke in objection to the application stating that, as a locally listed community asset, removing the live-in landlord-manager function, reducing function room size and kitchen-pool area crossover would limit the business to solely a drinking space which was unsustainable. She also expressed concern over conscious neglect of the property as it stands, affecting the historical architecture.

Cllr Kallum Taylor spoke in objection to the application, he raised various concerns stating that he felt the public house was not being set-up as a viable business option with longevity and would ultimately fail leading to conversion of the entire building into residential. He supported the community share option and reiterated the need for a public house/ community space in the area as it was currently limited.

Richard Irving -spoke on behalf of the applicant-, in support of the application. He stated the applicant and planning inspector had created a comprehensive report addressing previous areas of concern leading to refusal of the earlier application. He reiterated that the applicant had adhered to the building retaining the public house aspect including function room and

beer garden and he believed it to be compliant with the NPPF. He stated comprehensive marketing and the flexible kitchen option would lead to a viable business opportunity. In response to Member's questions, he was unable to offer guidance on the applicant's history of public house conversions, the purchase history, the decision behind removing landlord / manager accommodation and the current or proposed premise license. He offered to put forward to the applicant the Deed of Easement option to control noise complaints. He stated that the benefit of the development would be to return a public house to the community and invest in the long term aesthetic and function of the property. He confirmed the acoustic testing had been approved by public health and a qualified acoustic manager and he did not believe it would be detrimental to the residential apartments.

In response to further questions from Members, officers confirmed:

- Parking would be solely for residential use.
- The option and negotiation process of a Deed of Easement would require applicant's presence and therefore result in deferring the application.
- That although the issues that resulted in the applicant's 2018 proposal being denied, having now been addressed, there was the new addition of being named a non-designated Heritage Asset.
- That the degree of harm in relation to the original architectural features being altered to include skylights and dormer would not warrant refusal, as the building was not grade I or II listed and had been agreed upon by a conservation expert.

[Cllr Waudby had her camera off between 16:55-16:58, she confirmed that she had heard all of the discussion when her camera was briefly off]

Following debate, Cllr Daubeney moved, and Cllr Waudby seconded, that the application be refused.

In accordance with the revised Standing Orders, a named vote was taken with the following result:

- Cllrs Craghill, Crawshaw, Daubeney, Fisher, Melly, Orrell, Perrett, Waudby, Webb and Hollyer voted for the motion.
- Cllr Galvin voted against the motion.

Resolved: That the application be refused.

Reason: Unnecessary loss of significant part of the public house, resulting in an unviable facility undermining the significance of the nondesignated heritage asset.  
Contrary to NPPF para 92, LP policy D1, HW1 and D7.

[The meeting adjourned from 19:10 to 19:32, during which time Cllr Orrell left the meeting].

**48b) 52 Broadway Café, 52 Broadway, York, YO10 4JX  
[20/02157/FUL]**

Members considered an application for the erection of a permanent timber shelter to the front of the existing 52 Broadway Coffee Shop, to provide seating for up to 16 people.

Officers gave a presentation based upon slides on agenda pages 63 - 67 detailing existing property and prospective extension and design.

In response to Member's questions it was confirmed:

- The current gazebo was not a temporary proposal to cover covid restrictions.
- A minimum of 2 metres would be needed as a gap for pedestrians to safely pass on the adjacent footpath.
- Roll up doors to the front had been suggested to prevent encroachment onto the footway.
- The applicant could use the space as a garage when not in use for the café.
- The applicant did not own the land for the prospective building, however this did not fall under the planning remit.
- There had been no material changes since the decision not to allow an outside seating area with the original planning application.

Public Speakers

Jayne Morrison, a direct neighbour, spoke in objection to the application stating the aesthetic did not blend with residential architecture. Mrs Morrison expressed concern with increased noise from customers, potential hub for anti-social behaviour, safety concern of restricted view when exiting her driveway and

the ongoing nuisance of limited parking resulting in customers blocking her driveway.

Theresa Burn, the applicant, spoke in support of the application stating it was a local hub for the community with limited amenities. Mrs Burn reiterated the daytime operating hours, the noise levels being low in comparison to the busy road, no alcohol being served on the premises and the height of the building standing slightly taller than the neighbouring wall. In response to Member's questions, she confirmed she would be open to altering the front doors to a roller shutter and the general design of the building. Mrs Burn explained her reason for expanding was due to the popularity and need for a community space and that an alternate premises was not an option due to personal limitations with illness.

Rebecca Eccles spoke in support of the application expressing the dedication the applicant had to the community and the support the application had received from customers. In response to Member's questions Mrs Eccles believed the building would not attract anti-social behaviour like the neighbouring co-op due to the pleasing aesthetic.

Gerald Ward spoke in support of the application stating it was an important hub for the community, with a wide spectrum of customers and a necessity following the isolation of the pandemic.

In response to further questions from Members, officers confirmed that altering the doors could be added as a condition, however altering the building size would be a Member's decision and require a deferral.

Following debate, Cllr Fisher moved, and Cllr Crawshaw seconded that the application be refused.

In accordance with the revised Standing Orders, a named vote was taken with the following result:

- Cllrs Crawshaw, Daubeney, Fisher, Galvin, Melly, Perrett, Waudby, Webb and Hollyer voted for the motion.
- Cllr Craghill voted against the motion.

Resolved: That the application be refused.

Reasons:

- (i) The proposed shelter would abut the front garden of 54 Broadway. In the absence of a noise impact assessment submitted by the applicant, concerns exist that noise from people using the structure would harm the reasonable living conditions of occupiers of the home and garden of number 54. Furthermore, the structure would appear intrusive when viewed from the lounge and front garden of the property and the expansion would further increase the prevalence of parking across the home's driveway. It was considered that the impacts were such that the proposal was unacceptable and would conflict with Central Government guidance regarding how an area functions contained within paragraph 127 (a) and (f) of the National Planning Policy Framework, and the fourth bullet point of policy D11 and the fourth bullet point of policy R2 of the Draft City of York Local Plan 2018.
  
- (ii) The proposed shelter would be located immediately in front of the existing shop front and conflict with the established building line in Broadway. It was considered that it would appear cramped in its setting and incongruous. As such, it was considered that the proposal conflicts with Central Government guidance regarding appearance and local character contained within paragraph 127 (b) and (c) of the National Planning Policy Framework, and the first bullet point of policy D11 of the Draft City of York Local Plan 2018.
  
- (iii) The proposed shelter would, when the doors were open, leave a gap of only 1.63m to pass on the adjacent footpath. It was considered that more than one person passing, including, those pushing prams could be forced to step onto the roadway. This was considered to be unacceptable in respect to the safety and convenience of pedestrians. As such the proposal conflicts with Central Government guidance regarding safety and accessibility contained within paragraph 127 (f) and paragraph 110 (a) and (c) of the National Planning Policy Framework, and policy T1 of the Draft City of York Local Plan 2018

[The meeting adjourned from 20:33 to 20:43]

**48c) Site To The Rear Of 5 Cherry Lane, York [21/00121/OUT]**

Members considered an application (resubmission) for the erection of one residential property to the rear of 5 Cherry Lane following the refusal of five dwellings in August 2020.

Officers gave a presentation based upon slides on agenda pages 93 - 97 detailing existing plot, prospective building layout and access. They then provided an update, reporting:

- An additional consultation response from the Senior Flood Risk Management Engineer.
- An amendment to Condition 3.
- Three additional conditions (Condition 26, 27 and 28).

It was noted that the information and representations noted above had been assessed and the planning balance and recommendation was unchanged from the published report.

In response to Member's questions it was confirmed:

- The removal of fencing and 7 metres of hedgerow, to allow for access, could be reviewed with safety guidelines for a possible reduction. Applicant had agreed to necessary access alterations and had indicated that they were willing to remove the approval of access details from the application.
- An updated drainage condition had been imposed.
- The applicant would need to apply for further dwellings in a separate application, Member's cannot impose a restriction on right to apply.

Public Speakers

Mr Eamonn Keogh, the applicant, spoke in support of the application stating the site had no designation and low ecological value. Mr Keogh explained there would be new planting to restrict the view of the racecourse and the access alteration was upheld from previous submission due to traffic safety concerns, however he was happy to alter to conserve hedgerow. He reiterated the original application was refused due to the lack of housing demand in the area, which was why it had been altered to one dwelling. In response to Member's

questions Mr Keogh confirmed it was a possibility to sell the land with planning permission.

There were no further questions from Members to officers.

Following debate, Cllr Galvin moved, and Cllr Fisher seconded that the application be approved subject to the applicant's agreement to remove approval of access from the application. Access would be subject to conditions in agenda report, recommended revisions and any amendments as a consequence of 'access' becoming a reserved matter. An additional informative attached by the sub-committee was the consideration of the site development for one dwelling only due to the potential impact on the setting of the Knavesmire and the green corridor.

In accordance with the revised Standing Orders, a named vote was taken with the following result:

- Cllrs Craghill, Crawshaw, Daubeney, Fisher, Galvin, Melly, Perrett, Waudby, Webb and Hollyer voted for the motion.

Resolved:

- (i) That approval be delegated to the Head of Development Services subject to:
  - i. receiving written agreement from the applicant to remove approval of access from the application.
  - ii. the conditions listed in the report, the recommended revisions, any amendments as a consequence of "access" becoming a reserved matter, an additional EOT if necessary.
  - iii. The following additional and amended conditions and informative:

#### Amended Condition 2

To include, reserved matters to be submitted for means of access

#### Amended Condition 3

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

Location plan Y81.1215.01

Vehicle tracking LCL-AWP-00-GF-DR-0007-P1

Illustrative site layout Y81.948.03

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

#### Additional Condition 26

Prior to first occupation of the dwelling a fence, details of which shall be submitted and approved in writing by the Local Planning Authority, shall be erected between the garden and paddock as shown on plan Y81.948.03 and retained and maintained for the lifetime of the development.

Reason: To delineate the boundary between the garden and the paddock in the interests of preserving the open setting to the Knavesmire.

#### Additional Condition 27

Notwithstanding the provisions of Article 3 of the Town and Country Planning (General Permitted Development) Order 2015 (or any Order revoking or re-enacting that Order), development of the type described in Classes E and F of Schedule 2 Part 1 of that Order shall not be erected or constructed within the paddock as identified on plan Y81.948.03.

Reason: In the interests of the preservation of the open setting of the Knavesmire the Local Planning Authority considers that it should exercise control over any future extensions or alterations which, without this condition, may have been carried out as "permitted development" under the above classes of the Town and Country Planning (General Permitted Development) Order 2015.

#### Additional Condition 28

The location of the approved dwelling shall be in general accordance with the siting shown on the illustrative site layout plan Y81.948.03.

Reason: To preserve the open setting to the Knavesmire.

Additional Informative

That the site can only be developed for one house because of the potential impact on the setting on the Knavesmire and the impact of the green corridor.

Reasons:

- i) The site had been considered through the Local Plan process and the majority of the Eastern side of the site had been assessed through that process as not suitable for development as a result of a likely adverse impact on the SINC hedgerow, character of Cherry Lane and open aspect to the Knavesmire. The area of the current site was considered appropriate for development providing trees and hedges were protected and the development reflected local character. It was not allocated within the draft Local Plan as there was not a need for the site to meet the level of housing need agreed by the Council for the Plan. However the Council does not currently have a 5 year housing land supply and the proposal would result in a new dwelling which was a small but not insignificant benefit of the scheme.
  
- ii) The scheme, as submitted, had been assessed as maintaining the integrity of the hedgerow SINC. A condition requiring a management plan would ensure its future maintenance. Evidence submitted with the application also indicates that the property would have a very minimal impact on views from the Knavesmire as a result of the scale of the dwelling, the tree cover and distance from the racecourse of the development. The layout had been designed to move the development away from Cherry Lane, the Stables SINC and the Knavesmire and issues raised during the Local Plan process were thereby considered to be overcome.

iii) Given the benefits of the scheme in providing housing while preserving the adjacent SINCs, it was considered that the previous concerns about impacts on the green corridor and views from the racecourse were overcome. The proposal was considered to meet relevant policy in the NPPF and emerging Local Plan and was recommended for approval subject to conditions.

Cllr Hollyer, Chair

[The meeting started at 4.30 pm and finished at 9.15 pm].