

Meeting	Planning Committee
Date	17 June 2021
Present	Councillors Barker, Daubeney, Douglas, Fenton, Hollyer, Warters, Pavlovic (Vice-Chair), Fisher (Chair), Widdowson (Substitute), Crawshaw (Substitute), Rowley (Substitute), Looker, Melly and Waudby
Apologies	Councillors Ayre, D'Agorne, Doughty and Lomas

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## **27. 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. Cllr Rowley declared a non-prejudicial interest in agenda item 4b [Cherry Tree House, 218 Fifth Avenue, York YO31 0PN [20-02034-FULM] as he had a previous working relationship with the Agent for the Applicant for the application. Two further non prejudicial interests were declared. Cllr Melly declared a non-prejudicial interest as she had joined Heworth Tennis Club which would potentially benefit from S106 funding. Cllr Douglas declared a non-prejudicial interest as the Ward Councillor for item 4b. There were no further declarations of interest.

## **28. Minutes**

Resolved: That the minutes of the last meeting held on 21 April 2021 be approved and signed by the chair as a correct record.

## **29. 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.

### **30. 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.

### **31. Plumbase, Waterloo House, Fawcett Street, York YO10 4AH [20/01521/FULM]**

Members considered a major full application from KMRE Group (Church Fenton) Limited for the erection of three buildings to form 48 apartments with associated works and infrastructure following the demolition of existing building at Cherry Tree House 218 Fifth Avenue York YO31 0PN. It was highlighted that the item had previously been deferred.

The Head of Development Services gave a presentation on the application, which was followed by an update informing Members of the change of recommendation to approve the application subject to completion of S106 agreement. Members were updated on the contribution towards open space, loss of retail space and of a minor amendment to Condition 22. The additional information had been and the planning balance remained unchanged from the published report.

Following the presentation and update, Members asked Officers a number of questions to which they responded that:

- There was no national guidance on the size of communal space and this would vary from scheme to scheme.
- Outdoor amenity space could be conditioned.
- The change in amenity space was nominal.
- There was no reduction in the number of rooms.
- Student accommodation was included as contributing to housing need.
- There was no specification for student accommodation in the draft Local Plan.
- The developer could be asked to provide information on the collection and drop off of students. It was not anticipated that there was a need to change highways for this.

- An additional condition could be added regarding designing out crime, as requested by the police.
- The location of the cycle store was confirmed. There were 48 covered and secure cycle spaces.
- An obscure opaque covering could be requested as part of condition 17.
- The comparisons to the accommodation on Lawrence Street were explained.
- A variation to loading and unloading 8am to 6pm Monday to Friday could be added.

### Public Speakers

Gary Swarbrick, Agent for the Applicant, spoke in support of the application. He explained that the scheme was high quality purpose built student accommodation. He detailed the facilities in the apartments, which were all single occupancy, comparable with other similar developments in the city. He noted that there was no adopted policy regarding room sizes. He explained that there were robust management arrangements for students moving in and out and that there would be no deliveries around peak times and at school drop off times.

In response to questions from Members, Mr Swarbrick and colleagues (available to answer questions) explained that:

- They would be happy for no deliveries before 9am to be conditioned.
- They would look to undertake the demolition of the existing building during the school holidays and for large deliveries to be outside school hours.
- Regarding concern about the lack of communal space, as the accommodation was close to the city centre and university, students could socialise elsewhere and it was felt that the communal space was acceptable.
- They accepted the concerns of students being isolated and the effect of this on their mental health. They noted that there was no correlation between student mental health and the scheme.
- The original scheme was for 100+ units, which had been reduced and it was felt that the scheme was acceptable. It was noted that there was an outdoor amenity space.
- The changes made to the original scheme were outlined. They would consider losing one unit on the ground floor to create an amenity space.

- The inclusion of a communal space on each floor would create problems with the viability of the scheme and the offer of one further amenity space was more than that of comparable schemes.
- The outdoor amenity space was included s communal space on the landscape plan and there was an element of control due to the neighbours. A retractable awning would be considered.
- There was two disabled spaces, which was felt adequate for a scheme of that size.
- The cycle and parking provision was of a similar level to similar schemes and any further spaces would affect amenity space. The style of cycle parking was explained.
- There had been no consultation with the universities regarding the accommodation. A study by the CBRE showed that there was a demand for that type of accommodation.
- The intention for heating was photo voltaic or and ground source heat pump. The design included space for a ground source heat pump. Thermal modelling would be undertaken.

[The meeting adjourned from 17:45 to 17:55]

Members were given the opportunity to ask officers further questions. Officers were asked and clarified that:

- The scheme was submitted to show the loss of one unit and provision of amenity space.
- Student accommodation came under the NPPF definition of homes and counted towards the delivery of 1000 homes per year.

Cllr Crawshaw moved refusal of the application on the grounds that the scheme did not meet the NPPF requirements for the development to be safe, inclusive and promote health and wellbeing. This was seconded by Cllr Melly. Following debate a named vote was taken with the following result:

- Cllrs Barker, Crawshaw, Douglas, Looker, Melly, Rowley, Warters, Waudby, Widdowson and Fisher voted for the motion;
- Cllrs Daubeney, Fenton, Hollyer and Pavlovic voted against the motion

The motion was carried and it was

Resolved: That the application be refused.

Reason: The application fails to meet the tests in paragraph 3.24 of the NPPF due to the lack of usable amenity space.

[The meeting adjourned from 18:25 to 18:32]

**31a Cherry Tree House, 218 Fifth Avenue, York YO31 0PN [20-02034-FULM]**

Members considered a major full application from Cherry Tree Venture LLP for the erection of three buildings to form 48 apartments with associated works and infrastructure following the demolition of existing building at Cherry Tree House 218 Fifth Avenue York YO31 0PN.

The Head of Development Services gave a presentation on the applications and updated the Committee on a correction to paragraph 5.10 of the committee report noting that the site was wrongly identified and was not allocated in the Local Plan and the education allocation related to the adjoining presbytery and community centre. As a result the planning balance and recommendation remained unchanged from the published report.

Officers were asked and clarified that:

- The education allocation was staying the same.
- Access had been assessed by highways officers and it was acceptable to use the existing access points.
- The depth of the aisle was sufficient for vehicles turning.
- The landscaping to the rear of the site was being retained and the regarding planting trees on the verge, the verge was not within the line of the application site.
- There was no affordable housing and an offsite contribution would be made.
- The site had been granted vacant building credit and this was explained in the context of the NPPF and the application was policy compliant.
- The location of the cycle and bin storage and electric vehicle charging were explained.
- There was external amenity and good levels of light from the way the apartments were set out.

- It was not reasonable to condition proof of first time buyers buying the apartments.
- Housing officers were satisfied with the scheme and it was confirmed that there was a need for one two bedroom properties in the area.
- The retained landscaping would fall under the existing landscaping condition.
- There were not enough two bedroomed units for a S106 contribution to education.

### Public Speakers

Killian Gallagher, the Agent for the Applicant, spoke in support of the application. He explained that Cherry Tree House has been sold by the NHS as it was surplus to requirements. No offers had been received to retain the building for its use. He explained the intended buyers of the apartments, that the design was energy efficient and measures in place for energy efficiency, cycle and car parking (including electric vehicle charging). In answer to questions from the Committee he and the Architect (in attendance to answer questions) confirmed that:

- The Applicant in principle had no issue with putting in trees in the proviso that this could be done technically. They would also be willing to make a contribution towards trees as part of the S106 agreement.
- It was intended that the development would begin as soon as possible.
- The scheme was in line with national policy and the development of brownfield sites. It was felt that £135,000 for an apartment in York within walking distance of the city centre was considered affordable.
- Purchasers would own a share of the freehold and would make their own decisions on this.
- The retention of properties with owner occupiers would be similar to that of the Aura developments. A condition on the number of days for invites of advance offers from first time buyers fell outside planning policy.
- Regarding the increase in property prices, lower prices would mean a lower percentage increase in the prices of the apartments.

[At this point the Senior Solicitor advised Members that the application was not for an affordable housing scheme].

- The entry point of £130-£140,000 was at a level accessible for first time buyers and the provision for affordable housing would be made by way of an offsite contribution.
- An explanation of the purchase of the site was given.
- The allocation of disabled parking spaces was noted.
- There was no direct access to the cycle track adjacent to the site as this was not possible due to the topography of the site.

Members then asked officers further questions to which officers clarified that:

- There was no time limit in applying for vacant building credit.
- The sports contribution would go to publicly available sports sites in the area.

During debate, officers advised the Committee that S106 agreements needed to meet statutory requirements. Cllr Warters moved approval subject to the inclusion of red bricks being used, seconded by Cllr Rowley. Following debate a named vote was taken with the following result:

- Cllrs Barker, Crawshaw, Daubeney, Douglas, Fenton, Hollyer, Looker, Melly, Pavlovic, Rowley, Warters, Waudby, Widdowson and Fisher voted for the motion;

The motion was unanimously carried and it was

Resolved: That the application be approved subject to the landscaping condition being amended to in perpetuity, and addition of an informative for red bricks to be incorporated into the building and for a S106 contribution for tree planting if so required following consultation with the Chair and Vice Chair of the Committee.

Reason:

- i. This site within a sustainable residential location has become available for redevelopment as it is no longer required by the NHS. The form of the building is such that its retention would not result in an optimal use of the site and so demolition and redevelopment is being supported.

- ii. Para.11 of the NPPF sets out that decisions should apply a presumption in favour of sustainable development. Para.11d notes that where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date (this includes applications for housing where a 5 year housing land supply cannot be demonstrated) then applications should be granted permission. The Council cannot currently demonstrate a 5 year housing land supply and the site is not within the Green Belt or impacts on a designated heritage asset and therefore the presumption in favour of sustainable development should apply.
- iii. The scheme provides 48 new flats with good levels of amenity for future residents and without significantly harming to the amenity of neighbours. The existing building is of little architectural merit and will be replaced by a development which enhances the local area. Financial contributions towards affordable housing, amenity open space, play areas, sports facilities and upgrades to the local cycle network will also be secured via a legal agreement.
- iv. The proposal is considered to meet draft Local Plan policy and policy contained within the NPPF and is therefore recommended for approval subject to conditions and the undertaking of a legal agreement.

Cllr T Fisher, Chair

[The meeting started at 4.30 pm and finished at 8.06 pm].