

MEETING	WEST & CITY CENTRE AREA PLANNING SUB-COMMITTEE
DATE	13 NOVEMBER 2008
PRESENT	COUNCILLORS HORTON (CHAIR), SUE GALLOWAY (VICE-CHAIR), CRISP, STEVE GALLOWAY, GALVIN, GILLIES, LOOKER, REID AND SUNDERLAND

35. INSPECTION OF SITES

The following sites were inspected before the meeting

Site	Attended by	Reason for Visit
Dick Turpin, 49 Moorcroft Road	Councillors Crisp, Galvin, Gillies and Horton.	As objections had been received and the recommendation was to approve.
9 Lochrin Place	Councillors Crisp, Galvin, Gillies and Horton.	As objections had been received and the recommendation was to approve.
2 Friars Terrace	Councillors Crisp, Galvin, Gillies and Horton.	As an objection had been received an the recommendation was to approve.
The Lowther PH, 8 Cumberland Street	Councillors Crisp, Galvin, Gillies and Horton.	As objections had been received and the recommendation was to approve.
5 Silver Street	Councillors Crisp, Galvin, Gillies and Horton.	As the application had been referred to Committee by Cllrs Horton and Looker given the local business and resident interest in the scheme.

36. DECLARATIONS OF INTEREST

Members were invited to declared at this point in the meeting any personal or prejudicial interest they might have in the business on the agenda.

Councillor Reid declared a personal and prejudicial interest in Plans Item 5B (City of York Council, 5 Silver Street), an application for external alterations and conversion of a former electricity sub-station into public toilets) as this fell within her portfolio area as Executive Member for

Neighbourhood Services. She withdrew from the room and took no part in the discussions on this item.

Councillor Reid also declared a personal non prejudicial interest in Plans Item 5E (The Dick Turpin) as she had been contacted by a resident regarding this application but not discussed the matter with the resident.

37. MINUTES

RESOLVED: That the minutes of the meetings held on 16 September 2008 and 16 October 2008 be approved and signed by the Chair as a correct record.

38. EXCLUSION OF PRESS AND PUBLIC

RESOLVED: That the Press and Public be excluded from the meeting during consideration of the annexes to agenda item 6 (Enforcement Cases Update) (Minute 41 refers) on the grounds that they contain information classed as exempt under paragraph 6 of Schedule 12A to Section 100A of the Local Government Act 1972, as amended by the Local Government (Access to Information) (Variation) Order 2006. This information, if disclosed to the public, would reveal that the authority proposes to give, under any enactment, a notice under or by virtue of which requirements are imposed on a person or that the Authority proposes to make an order or directive under any enactment.

39. 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.

40. PLANS LIST

Members considered a schedule of reports of the Assistant Director (Planning and Sustainable Development, relating to the following planning applications, outlining the proposals and relevant policy considerations and setting out the views and advice of consultees and officers.

40a The Lowther, 8 Cumberland Street, York YO1 9SW (08/02093/FUL)

Members considered a full application by Mr S Binns for the retention of an external seating area on Kings Staith (renewal of temporary permission 07/01756/FUL) with freestanding sunshades; and formation of associated furniture storage area on land at the rear of 15 Kings Staith.

Officers reported that an additional consultation response had been received from British Waterways who had no objections to the renewal of the application subject to the imposition of the planning condition relating to the previous approval enabling safe and unhindered access to the waterfront. They also requested that if the application was approved an informative be added to ensure that necessary consents were obtained and the works were compliant with the current British Waterways "Code of Practice for Works affecting British Waterways".

Officers also reported that an additional representation had been received from the occupier of 15 Kings Staith whose main concern related to the storage area and the disturbance caused. The objector also stated that amenity bodies/societies should be consulted regarding the increase in umbrellas as they were more qualified to comment on the impact on the environs of Cumberland House.

Officers suggested an addition condition be added requiring the 3m passage between the river and the tables be kept clear at all times. They also advised that Condition 1 should be amended to prevent use as an external seating area after 14 November 2013 unless permission was obtained from the Local Planning Authority to extend that period.

Representations were received from a local resident in objection to the application. He circulated photographs of the area behind numbers 1 and 2 Lower Friargate and 13 and 15 Kings Staith taken in August 2004 and February 2008 to show how the use and appearance of the area had changed. He advised the Committee that he had no problems with the seating area for the pavement café although he welcomed the restrictions on hours on use. His concerns related to the nature of furniture storage which he believed had an adverse affect on security in the area due to an unlocked broken gate to the yard and also resulted in a loss of the communal seating area. He suggested that an area of the yard behind the raised garden could provide a more suitable storage area. He answered Members queries in relation to the communal seating area, its ownership and use.

The applicant presented the Chair with a letter from Streamline Taxis (York) Ltd confirming that Plonkers Wine Bar and the Lowther Hotel rent storage space from themselves at the rear of 7 Cumberland Street, with this arrangement being purely for the storage of tables and chairs from their riverside concern. This letter was circulated to Members of the Committee.

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

Amended Condition 1

The use as an external seating area shall cease by 14 November 2013 unless prior to that date the permission of the Local Planning Authority has been obtained to extend the period of the permission.

Reason: The seating area forms part of the public highway where it is considered to be inappropriate to grant a permanent planning permission in the interests of the freeflow of traffic and pedestrians and highway safety.

Additional Condition 8

The 3 metre passage between the river edge and the area for tables and chairs as indicated on drawing no. 1.32 revision B shall be kept clear at all times and shall not be obstructed by the pavement cafe use or any furniture associated with the use.

Reason: To ensure that amenity and a comfortable access is maintained along the riverbank and to enable safe and unhindered access to the waterfront in accordance with policy L4 of the Development Control Local Plan

Additional British Waterways requested Informative

The applicant is advised to contact the Third Party Works Engineer (British Waterways, Fearn's Wharf, Neptune Street, Leeds, LS9 8PB) in order to ensure that any necessary consents are obtained and the works are compliant with the current British Waterways' "Code of Practice for Works affecting British Waterways".

REASON: That the proposal, subject to the conditions listed in the report and the amended and additional conditions listed above, would not cause undue harm to interests of acknowledged importance, with particular reference to the character and appearance of the conservation area, vitality and viability of the city centre, public access to the riverside, residential amenity and highway and pedestrian safety. As such the proposal complies with Policies HE2, GP1, L4, GP23 and S6 of the City of York Local Plan Development Control Local Plan- Incorporating the Proposed 4th Set of Changes (2005); and national planning guidance contained in Planning Policy Statement 6 " Planning for Town Centres, "Planning Policy Guidance Note No. 15 " Planning and the Historic Environment " and Planning Policy Guidance Note No. 13 " Transport" and Planning Policy Statement 1: "Planning for Sustainable Development. "

Action Required

1. To issue the decision notice and include on the weekly SS
planning decision list within agreed timescales.

40b City Of York Council 5 Silver Street York YO1 8RY (08/02031/GRG3)

Members considered a General Regulations (Reg3) application by Russell Stone for external alterations and conversion of a former electricity sub-station into public toilets (resubmission).

Officers updated that additional consultation responses had been received from the Environmental Protection Unit who had no objections to the application and also from the Safer York Partnership who had raised no issues.

Officers also advised Members that in response to the York Action Group's comments, the applicant had advised that the accessible WC was in line with current thinking as it was accessible from either side from a wheelchair and that both disabled facilities were equipped with panic alarms in accordance with current requirements.

Members raised the issue of the narrowness of the pavement and suggested that bollards be placed to protect pedestrians from cars mounting the pavement. They also raised the question as to whether dropped curbs were in place. Officers suggested these issues could be added as an informative.

Members discussed the issue of signage which they thought would be necessary but may be a sensitive issue due to the area. They also welcomed the fact that this development, if granted, would provide a changing place for disabled people which would be the 5th in York and would open up the City Centre to disabled people.

RESOLVED: That the application be approved subject to the conditions listed in the report and the informative listed below.

Additional Informative

Members of the Sub Committee ask that full consideration be given to provision of the following:

- a. Bollards should be erected along the pavement edge to prevent vehicles blocking the entrance to the proposed public toilets.
- b. Consideration should be given to whether there are sufficient dropped kerbs existing along Silver Street to allow convenient access to the proposed toilets.
- c. The new facility should be adequately signposted.

REASON: That the proposal, subject to the conditions listed in the report and the informative listed above, would not cause undue harm to interests of acknowledged importance, with particular reference to the visual amenity and character of the listed building. As such, the proposal complies with Policies C1, HE3, GP4a and GP1 of the City of York Development

Control Local Plan - Incorporating the Proposed 4th Set of Changes (2005) ; and national planning guidance contained in Planning Policy Statement 1 " Delivering Sustainable Development " and Planning Policy Guidance Note No. 15 " Planning and the Historic Environment. "

Action Required

1. To issue the decision notice and include on the weekly SS
planning decision list within agreed timescales.

40c 2 Friars Terrace South Esplanade York YO1 9SH (08/02148/FUL)

It was reported that a full application submitted by Mr N Cooper for a single storey pitched roof rear extension (resubmission) had been withdrawn by the applicant.

Action Required

1. To issue the decision notice and include on the weekly SS
planning decision list within agreed timescales.

40d 2 Friars Terrace South Esplanade York YO1 9SH (08/02142/LBC)

It was reported that an application for listed building consent submitted by Mr N Cooper for a single storey pitched roof rear extension (resubmission) had been withdrawn by the applicant.

40e The Dick Turpin, 49 Moorcroft Road York YO24 2RQ (08/02178/FUL)

Members considered a full application by Marstons Pub Company for a smoking shelter to the rear of the Dick Turpin.

Representations were received from the Agent on behalf of Marstons Pub Company in support of the application. He expressed his concerns at the objections raised by neighbours and stated that the licensee and brewery had not been aware of the anti-social problems mentioned in the report. He advised that he would pass on the comments and would encourage dialogue between local residents and the pub company and licensee. He also confirmed that the area in question was licensed (this fact had been disputed in an objection received) and this had been confirmed by the Company's solicitors and the Licensing officer.

Members remarked that the report did not include any details on whether ashtrays would be provided. The agent advised that these would be made available and that he fully expected this to be included as a condition.

Members advised that they had been contacted by residents regarding the noise issue and supported residents concerns but that they welcomed the comments from the speaker about entering into dialogue with the residents regarding any problems. They also raised concerns over the provision of

seating as the number of seats to be provided was unknown. They requested that a condition be added regarding the provision of ashtrays.

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

Additional Condition 5

The smoking shelter shall be provided with suitable cigarette bins in addition to that already in place on the doorway of the public house.

Reason: In the interests of the visual amenities of the area

REASON: That the proposal, subject to the conditions listed in the report and the additional condition listed above, would not cause undue harm to interests of acknowledged importance, with particular reference to the appearance of the building and area and the amenity of neighbouring residents. As such the proposal complies with Policies GP1 and GP18 of the City of York Draft Local Plan.

Action Required

1. To issue the decision notice and include on the weekly SS
planning decision list within agreed timescales.

40f 9 Lochrin Place York YO26 5QL (08/02073/FUL)

Members considered a full application by Mr Julian Davies for a two storey pitched roof side extension and new boundary wall.

Officers updated that Highways Network Management had suggested attaching a condition stipulating that the extension to the existing boundary wall should at no place be erected closer than 2 metres to the carriageway of the adjacent public highway.

Officers also advised of an amendment to Condition 4.

The Chairman circulated information which had been submitted in opposition to the application.

Representations were received from the Chair of the Acomb Planning Panel in objection to the application. He described the proposals as an oversized development in a well designed residential area and stated that the proposed extension would extend beyond the building lines of other houses and would restrict the sighting of approaching traffic.

Representations were also received from the applicant in favour of the application. He advised that by stepping in the proposed extension this would give a good amount of visual sight at the front and also at the side. He explained to Members that he wanted to create a family house for his

five children and needed the extra space. He stated that he understood that some residents had concerns over parking and offered to modify the parking of his van in front of his house.

Members were of the opinion that this was not an unreasonable development and welcomed the undertaking from the applicant to speak to neighbours about the parking situation.

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

Amended Condition 4

Notwithstanding the provisions of Article 3 of the Town and Country Planning (General Permitted Development) Order 1995 (or any Order revoking or re-enacting that Order) following the completion of the development hereby approved, no further extensions or curtilage buildings of the type described in Classes A, B, C, and E of Schedule 2 Part 1 of that Order shall be carried out to the dwelling without the prior written consent of the Local Planning Authority.

Reason: To prevent overdevelopment of the dwelling.

Additional Condition 5

The extension to the existing boundary wall shall at no place be erected closer than 2 metres to the carriageway of the adjacent public highway.

Reason: To protect the integrity of the public highway and its included service verge.

REASON: That the proposal, subject to the conditions listed in the report and the amended and additional conditions listed above, would not cause undue harm to interests of acknowledged importance, with particular reference the residential amenity of the neighbours, the visual amenity of the dwelling and the locality, and highway safety. As such, the proposal complies with Policies H7 and GP1 of the City of York Development Control Local Plan (2005); national planning guidance contained in Planning Policy Statement 1 "Delivering Sustainable Development"; and supplementary design guidance contained in the City of York's "A guide to extensions and alterations to private dwelling houses".

Action Required

1. To issue the decision notice and include on the weekly planning decision list within agreed timescales. SS

**40g The Orchard, Tyn Garth, Acaster Malbis, York YO23 2LX
(08/01177/FUL)**

Members considered a full application by Mr Tony Lumb for the replacement of three moorings.

Officers updated that two further letters of objection had been received from local residents. These raised no objection to the moorings but voiced concerns that the fence would have a detrimental effect on the visual impact

The Planning and Sustainable Development Area Team Leader reminded Members that the application had been deferred at a previous meeting to seek advice regarding the potential to withdraw permitted development rights. He advised that as the erection of the fencing had already taken place, the legal process would be to serve a discontinuance notice under section 102 of the Planning Act requiring the removal of the fence. This would need to be confirmed by the Secretary of State and compensation would be payable. He explained that for such a notice to be successful there must be exceptional circumstances and a real and specific harm to the amenity of the area and that there was little likelihood of such a notice being confirmed by the Secretary of State. He advised Members that in his opinion the grant of planning permission subject to conditions requiring an alteration to the type of fencing, the planting of a hedge and the restriction on domestic paraphernalia would achieve the best outcome that could reasonably be expected and that a refusal of permission would be likely to result in the retention of the fence in its current form.

Representations were received from a member of the Ramblers Association in objection to the application in view of public right of way issues. He spoke in support of the removal of the close boarding currently in place and replacement by a post and rail fence.

Representations were also received from Parish Councillor Tim Pumffney in objection to the high fencing. He gave his support to the officer recommendation in principle but suggested that the maximum height of 1.8m was too high for a post and rail fence. He reported that further along the riverbank, fences were about 1m in height. In relation to the proposed minimum height of the hedge at 1.8m, he requested that no height be specified as it was not necessary and would be difficult to monitor.

Members discussed issues surrounding the height of the fence and hedge and agreed that the minimum height of the hedge be reduced to 1 metre.

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

Amended Condition 2

Notwithstanding the application details hereby approved, a hedge utilizing species previously agreed in writing by the Local Planning Authority shall be planted directly parallel to the fence stipulated in Condition 1 to further

separate the renovated moorings from adjoining land. The hedge shall be allowed to grow to a minimum height of 1metres and shall be planted within the first planting season following the date of this permission. Any part of the hedge so planted which dies, or is removed or becomes seriously damaged or diseased shall be replaced in the next planting season to the satisfaction of the Local Planning Authority.

Reason: To safeguard and secure the pleasant rural ambience and visual amenity of the riverbank area and to secure compliance with Policies NE2 and GB2 of the York Development Control Local Plan.

REASON: That the proposal, subject to the conditions listed in the report and the amended condition listed above, would not cause undue harm to interests of acknowledged importance, with particular reference to management of floodrisk, fear of crime, impact of fencing upon visual amenity, impact upon nature conservation, impact upon Green Belt and the "Fallback Position" and as such complies with Policies GP 15,GP1,L4,GB2,and NE2 of the City of York Local Plan Deposit Draft.

Action Required

1. To issue the decision notice and include on the weekly planning decision list within agreed timescales. SS

41. ENFORCEMENT CASES UPDATE

Members considered a report, which provided them with a continuing quarterly update on the number of enforcement cases currently outstanding for the area covered by this Sub-Committee.

RESOLVED: That the reports be noted.

REASON: To update Members on the number of outstanding enforcement cases within the Sub-Committee area.

Councillor D Horton, Chair
[The meeting started at 3.00 pm and finished at 4.50 pm].