
MEETING	WEST & CITY CENTRE AREA PLANNING SUB-COMMITTEE
DATE	16 JULY 2009
PRESENT	COUNCILLORS HORTON (CHAIR), SUE GALLOWAY (VICE-CHAIR), STEVE GALLOWAY, GILLIES, REID, SUNDERLAND, B WATSON, BOWGETT (AS A SUBSTITUTE FOR CLLR CRISP) AND WISEMAN (AS A SUBSTITUTE FOR CLLR GALVIN)
APOLOGIES	COUNCILLORS CRISP AND GALVIN

6. INSPECTION OF SITES

The following sites were inspected before the meeting.

Site	Attended by	Reason for Visit
Hunters Estate Agents, 47 York Road	Councillors Sue Galloway, Gillies, Horton, Brian Watson and Wiseman.	As objections had been received and the recommendation was to approve.
106 Albion Avenue, York	Councillors Sue Galloway, Gillies, Horton, Brian Watson and Wiseman.	As objections had been received and the recommendation was to approve.
Harewood Whin Landfill Site, Tinker Lane	Councillors Sue Galloway, Gillies, Horton, Brian Watson and Wiseman.	As objections had been received and the recommendation was to approve.
OS Field 6031, Millfield Lane (Poppleton's Juniors Clubhouse)	Councillors Sue Galloway, Gillies, Horton, Brian Watson and Wiseman.	As objections had been received and the recommendation was to approve.
68 Clarence Street, York	Councillors Sue Galloway, Gillies, Horton, Brian Watson and Wiseman.	As objections had been received and the recommendation was to approve.
14 Feasegate, York	Councillors Gillies, Horton and Wiseman.	At the request of Cllr Brian Watson.
Railway Station, Station Road	Councillors Sue Galloway, Steve Galloway, Gillies, Horton, Brian Watson and Wiseman.	Due to significant public interest in the application and as objections had been received and the recommendation was to approve.

7. DECLARATIONS OF INTEREST

Members were asked to declare at this point in the meeting any personal or prejudicial interests they might have in the business on the agenda.

Councillor Reid declared a personal and prejudicial interest in respect of Plans List item 5c (Harewood Whin Landfill Site, Tinker Lane, Rufforth) as she is the Council's representative on Yorwaste. She left the room for this item and took no part in the debate or voting on this application.

Councillor Bowgett declared a personal and non-prejudicial interest in respect of Plans List item 5e (OS Field 6061, Millfield Lane, Nether Poppleton) as her daughter is a member of the Poppleton Ladies Football Club.

8. EXCLUSION OF PRESS AND PUBLIC

RESOLVED: That Members of the Press and Public be excluded from the meeting during consideration of Annex A to agenda item 12 on the grounds that it contains information that if disclosed to the public, would reveal that the Authority proposes to give, under any enactment or notice by virtue of which requirements are imposed on a person or that the Authority proposes to make an order or directive under any enactment. This information is classed as exempt under Paragraphs 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.

9. MINUTES

RESOLVED: That the Minutes of the meeting of the West and City Centre Planning Area Sub-Committee held on Thursday 18 June 2009 be approved and signed by the Chair.

10. PUBLIC PARTICIPATION

Councillors Merrett and Gunnell had registered to speak on Plans Item 4F (Railway Station, Station Road, York) but, as they were unable to stay until that item was considered due to other commitments, the Chair agreed that they could speak at this point in the meeting.

Councillor Merrett made the following points:

- The railway station is one of York's grandest and finest listed buildings in terms of scale and design and that the *train sheds*¹ are

one of York's grandest spaces. It is important to maintain the character of York Railway Station as a grand Victorian public space and barriers would destroy this open character and hinder the view within the station particularly the best view from the footbridge.

- Barriers would hinder convenient free access through the station.
- The public toilets in the station are used by people waiting at the city's principal taxi rank situated outside the station – barriers would prevent access to toilets which could lead to increase in anti-social behaviour and urination outside the station.

Councillor Gunnell stated that she had had been contacted by several residents in her ward who were concerned about the plans for the station. She emphasised that for people arriving at York Station by train, the ambience within the station was phenomenal and that work on the station would be extremely detrimental to this.

[¹ amended at meeting on 20 August 2009]

11. 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.

11a 14 Feasegate York YO1 8SQ (09/00742/FUL)

Members considered a full application from Mr Michael Page for the use of the highway as an outside seating area in connection with "Subway" at 14 Feasegate.

Officers confirmed the number of tables and chairs shown on the drawings in front of Members as 6 tables and 14 chairs and advised that conditions 4 and 5 should be combined.

In response to a query from Members, officers clarified that this these premises operated as a sandwich bar and not a takeaway and under A1 use class they may sell cold food to take away.

Members raised concerns about litter and the planning officer advised that the applicants intended to provide litter bins as all food was served in takeaway wrappers.

RESOLVED:

That the application be approved subject to the conditions listed in the report and the amended condition listed below.¹

Amended Condition 4

The tables and chairs shall not be placed on the highway except between the hours of 11:00 - 16:00 Monday to Saturday and 12:00 to 16:00 on

Sundays. Outside of these hours, all equipment associated with the use shall be removed from the public highway.

Reason: In the interests of users of the public highway and to avoid clutter, in the interests of the character and appearance of the conservation area.

REASON:

The proposal, subject to the conditions listed in the report and the amended condition above, would not cause undue harm to interests of acknowledged importance, with particular reference to the character and appearance of the Conservation Area, the amenities of nearby occupants and highway safety. As such the proposal complies with policies GP1, HE3 and S6 of the City of York Development Control Local Plan Deposit Draft, incorporating the 4th set of changes.

Action Required

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

11b 68 Clarence Street York YO31 7EW (09/00622/FUL)

Members considered a full application from Mr Chris Georgiou for a part single/part two storey pitched roof rear extension resulting in a 3-bed flat above ground floor shop and detached building at rear to provide a 2-bed dwellinghouse.

Officers advised Members that the proposal as stated in the report had been amended. They advised that the extension would project 3m from the rear elevation not 2.2m as stated in the report and that the additional single storey building to provide a further 2 bedrooms and living area would be 8.5 metres beyond the rear extension not 8m as stated in the report.

Representations were received from a neighbour who spoke on behalf of her landlord and partner. She advised Members that the majority of the nearby properties were either unoccupied or occupied by students who were unlikely to object to these plans. She questioned whether, as there were already vacant properties in the area, there was a need for further accommodation. She told Members that the building in the back garden was only 1m from her back door and also raised concerns that additional properties would add to the existing parking and noise problems in the area.

Members agreed that their main concerns were with the proposed development of the additional building in the garden of the existing property and access to the property which was via an alleyway.

In response to a query from Members, officers explained that because the proposals had been submitted as one application, Members would need to either approve or refuse the application as a whole but if refused the reason for refusal would explain why the application had been refused.

Members agreed that the proposal would constitute overdevelopment and that it would detract from the dwelling to the rear, be hindered by poor and inconvenient access and be contrary to policy GP1 and 10 of the Local Plan.

RESOLVED:

That the application be refused for the reason given below. ¹

REASON:

The proposed detached building in the rear garden would constitute overdevelopment of the site which would offer inadequate levels of amenity for future occupants. The proposed means of access because of its width and tight corner would also be inadequate and inconvenient for future occupants of the dwelling. As such the proposal is contrary to PPS3 'Housing' (paragraph 10) and policies GP1 and GP10 of the local plan.

Action Required

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

**11c Harewood Whin Landfill Site Tinker Lane Rufforth York YO23 3RR
(09/00460/FUL)**

Members considered a full application by Mr Mark Hall for the retention for an existing compost pad extension.

Officers advised Members that representations had been received from Rufforth with Knapton Parish Council regarding the need for an Environmental Impact Assessment (EIA). The explained that new figures received from Yorwaste detailing the total amount of compostable material takes the development into a category where the Environmental Impact Assessment Regulations require that a screening opinion would need to be undertaken to establish whether an EIA is required. They advised that they would therefore be seeking deferral in order for this to be carried out.

The Chairman of Rufforth with Knapton Parish Council, who had registered to speak on this item, confirmed that he was happy to withdraw his registration and speak on the matter when the application was considered at a later date.

RESOLVED:

That the application be deferred. ¹

REASON:

In order that a screening opinion can be undertaken as required by the Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 1999 to establish whether an Environmental Impact Assessment is required.

Action Required

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

**11d Hunters The Estate Agents, 47 York Road, Acomb, York, YO24 4LN
(08/02738/FUL)**

Members considered a full application from Mr John Waterhouse for the change of use of the property from Estate Agents (A2) to hot food takeaway (A5) with a rear kitchen extract flue.

Officers circulated a statement from a resident of a neighbouring property who was not able to attend the meeting. He objected to the late opening hours which had been requested which he was concerned would result in his two small children being kept awake at night by delivery vehicles and noise.

Following discussion which had taken place at the site visit, Members requested that a condition be added to ensure that improvements would be carried out to the rear of the property if the application was approved.

RESOLVED:

That the application be approved subject to the conditions listed in the report and the additional condition listed below.¹

Additional Condition 6

Prior to the commencement of the use hereby permitted a fence or wall with gates to enclose the rear yard shall be erected in accordance with details which shall have been previously submitted to and approved in writing by the local planning authority.

Reason: In the interest of the visual appearance of the area in accordance with policy S7 of the local plan and to aid in preventing anti-social behaviour in accordance with policy GP3 of the local plan.

REASON:

The proposal, subject to the conditions listed in the report, would not cause undue harm to interests of acknowledged importance, with particular reference to the vitality and viability of the shopping area, or have a detrimental impact upon residential amenity in terms of noise, litter, traffic generation or antisocial behaviour. As such the proposal complies with Policies S6 and S3a of the City of York Development Control Local Plan.

Action Required

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

11e OS Field 6031, Millfield Lane, Nether Poppleton, York (09/00474/FUL)

Members considered a full application from Mr Val Duggan for the erection of a one storey club house, extended car parking, cycle park, bin store and the retention of one storage building.

Officers advised that a response had been received from the Environmental Protection Unit on 7 July. They raised no objections to the extension in hours (as stated in the condition in the report) but advised that they would have concerns if the hours were extended further as it would “result in a community centre/public house/private club that could cause noise which may have a substantial affect on the amenity of the nearby residents.” Officers advised Members that Condition 15, which had been reworded, covered this issue.

They also advised that further information had been received from the agent/applicant. This stated that they had submitted a club statement (which had been circulated to Members at the meeting), that they would not contribute to the bus stop facilities as the percentage of people who use the bus to get to the site was only 5%, and requested late opening hours as follows:

- Training coursed (12 per annum) 19.00 – 23.00 hours Mon – Fri
- Tournaments, max 5 per annum, 0800 – 18.00 hours Saturday, Sunday and Bank Holidays.

Officers advised that Condition 13 in relation to the hours of operation had been amended to enable more flexibility and that Informative 2 should be removed as this related to the bus stop facilities.

Representations were received from the agent in support of the application. He read from the Club Statement which made the following points:-

- Poppleton Tigers JFC is a subsidiary of The Poppleton Community Trust. They have just completed 4th season at Millfield Lane
- Pitches at Millfield Lane are used by Poppleton Tigers JFC, Poppleton Colts U19 and Poppleton Ladies and also provides an alternative venue for many school teams and York City’s first team practices when their pitch is unavailable.
- New purpose built clubhouse would enable them to provide training for coaches and referees and first aiders.
- Clubhouse would have full disabled access including showering and changing facilities.
- Design will include environmental features
- Project will benefit local and wider community

Members welcomed the new development which they agreed would be of benefit to the local area and the city as a whole. They suggested that the hours of operation on weekday evenings be extended to 10pm to allow more flexibility

RESOLVED:

That the application be approved subject to the conditions listed in the report and the amended conditions below.¹

Amended Condition 13

The hours of operation of this approved use shall be confined to

Monday to Fridays	09.00 to 22.00
Saturdays	09.00 to 18.00
Sunday	09.00 to 18.00

In addition up to 12 training courses per annum may be carried out (Monday to Friday only) which shall cease by 23.00 hours.

Reason: To safeguard the amenities of adjoining occupants.

Amended Condition 15

The proposed building shall be restricted to the use of football clubhouse and for no other purpose, including any other use falling within D2 of the Town and Country Planning (Use Classes) Order 1987, (or any provision equivalent to the Class in any Statutory Instrument revoking or re-enacting that Order with or without modification) unless a further change of use is granted planning permission by the Local Planning Authority.

Reason: To protect the residential amenity of the occupants of the nearby dwellings.

REASON:

The proposal, subject to the conditions listed in the report and the amended conditions 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 building and the locality, impact on the openness of the greenbelt, and highway safety. As such, the proposal complies with Policies GP1, GB1, and GB13 of the City of York Council Development Control Local Plan (2005); national planning guidance contained in Planning Policy Guidance 2 - Green Belts.

Action Required

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

11f Railway Station, Station Road, York (08/02755/LBC)

Members considered an application for Listed Building Consent for the installation of automatic ticket gates, glazed barriers, associated CCTV cameras and signage, alterations to the chaplain's office, the formation of passageway from the short stay car park to the Inner Concourse, the provision of ATM booths, relocation of various booths and kiosks and associated building works.

Officers reminded Members that this was an application for Listed Building Consent and not a planning application. They confirmed that the majority of proposed works were inside the station building and did not require planning permission with outside works covered by permitted development rights and referred Members to Section 16 of the Planning (Listed buildings and Conservation Areas) Act 1990.

Officers circulated an list of updates and briefed Members on these changes. They reported two corrections to the report as follows:

- Paragraph 3.15 – Date of CABYS letter should read 8.1.2009
- Paragraph 4.19 – insert date of 31.5.2009

They also advised Members that 6 further representations had been received expressing the following views that were material to the consideration of the listed building consent application

- Transient nature of franchise should not mar character the station
- Symbol of York
- Unacceptable visual intrusion adversely affecting the character and appearance of the station contrary to policy HE4.

They also reported that on 14 July 2009 they received a letter from York Civic Trust which stated that changes to the proposal *“has largely met our previous objections, and the overall benefits in visual terms now outweigh the introduction of new ticket gates. We would however expect that the gating scheme would only be acceptable in it is associated with the other aspects of the overall proposal”*

A letter which had been submitted by Councillor David Scott was circulated at the meeting. This urged Members to refuse the application for several reasons and asked Members to consider the visual impact of the proposed barriers on the station which he stated would be out of context for the building.

A statement had been received from the Public Affairs and Stakeholder Manager, on behalf of National Express East Coast and circulated to Members but the Chair advised Members to disregard it as it contained information on station management issues and revenue protection which could not be considered in respect of the Listed Building Consent application.

The Chair invited the Council's Senior Assistant Solicitor to address the meeting. The Solicitor had prepared a briefing note which had been circulated at the beginning of the meeting to Committee Members and members of the public. He reminded those present that this was not a planning application but as the station was a listed building, the applicant required Listed Building Consent in order to carry out the proposed works. He explained that it was necessary to consider the effect of the proposed works on the listed building and referred to the briefing note to explain what issues could be taken into account in reaching a decision on the application. The briefing note is attached as Annex 1 to the minutes.

Representations were received from the Chairman of York Environment Forum in objection the application. He made the following points:

- Statement of Community Involvement has been disregarded
- Interpretation of PPG15 is unreasonable and incorrect
- Evidence of substantial benefits to the community not proved
- Although officers make it clear that station management issues cannot be considered, these are included in the report and will have influenced Members - to exclude challenges to them is to deny natural justice.
- Interpretation and analysis of Draft Local Plan which specifies that no adverse effect on the character or appearance of a listed building can take place.
- Impact on how the building works, in respect of movement within the building, has been ignored

Representations in objection were also received from a representative of the Campaign against Barriers at York Station (CABYS) She spoke with regard to the interpretation of PPG15 and voiced the view that the justification offered by National Express was an inadequate response to the requirement as stated in PPG15 to “justify why the proposed works are either desirable or necessary” and that they had therefore failed to provide “a convincing case”.

A further representation against the application was received from a York resident. She referred to the beauty and distinctiveness of the sweeping Victorian architectural grandeur of York Station and stated that ticket barriers would be ugly, unnecessary and costly. She reminded Members that the station was built to be enjoyed by people and to be a useable functional building therefore it was necessary to consider the impact on station users and retain its openness so it could continue to provide freedom of movement and ease of access.

The Public Affairs and Stakeholder Manager spoke on behalf of National Express East Coast in support of the application. He advised Members that the company were committed to developing stations sensitively and that they had the support of York Civic Trust, English Heritage and Visit York. He reported that listed building consent has been granted recently at Newcastle, Durham and Darlington stations for the introduction of barriers and Durham Station which is a listed building had been awarded station of the Year. He stated that it was important that stations should remain fully functional rather than becoming museums. He confirmed that they had worked with planning officers regarding the proposals and their corporate vision was for a progressive, modern, transport intersection where heritage is preserved and enhanced.

The Council’s Conservation Architect advised Members that in coming to a decision on whether to approve or refuse the application, they needed to determine whether or not the proposals adversely affect the special architectural and historic aspect of the station.

During debate Members discussed the following issues:

- Barriers were first installed in the 1930s and removed in 1984 when the travel centre was built. Barriers were in place when the building was listed.
- significant changes have been made to the internal appearance of the station in the past such as the large display boards, corporate signage etc and this could be considered more intrusive than the current proposals.
- Although barriers have been introduced in other stations, this doesn't necessarily mean it is the right choice for York as York station is unique.
- Some of the proposals such as removal of ATM machines and relocation of catering kiosks from the inner concourse would open up the vista across the concourse and therefore improve the station
- Question of whether barriers detract from view – mixed views on this issue.
- View of several Members that barriers would be detrimental to character and ambience of the station due to their size, location and materials used.

[The meeting was adjourned at 5.20pm and resumed at 5.30pm.]

RESOLVED:

That the application be refused for the reason below. ¹

REASON:

The design, location and materials of the proposed gates and barriers would have a serious adverse effect on the Grade 2* Listed Building by reason both of their incongruity with the existing structure and the detracting effect they would have on its unique character. This would be contrary to policy HE4 which states that consent will only be granted for internal alterations to listed buildings where there is no adverse effect on the character and appearance of the building and also contrary to advice contained within paragraphs 3.12 and 3.13 of PPG15 "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.

11g 106 Albion Avenue, York, YO26 5QY (09/00722/REM)

Members considered a reserved matters application for scale, appearance and landscaping of 1 dormer bungalow and garage to which outline planning permission (ref 07/02291/OUT) relates.

Officers circulated an list of updates and briefed Members on these changes.

They advised Members of the following corrections to the report:

- Page 122 para 1.9 – Delete final sentence
- Page 123 para 2.2 – Policy CYH10 should read CYGP10 (Sub-division of gardens)
- Page 126 para 5.1 – Delete Final Sentence

They advised that 2 further letters had been received from neighbours in response to the revised plans which raised objections relating to proposed width and height of the bungalow, stated that surface water flooding had not been addressed, advised that to prevent overlooking, the dormers should be replaced with flush fitting roof windows and stated that as there was provision for more than 3 cars this was overdevelopment. 2 letters had also been received raising concerns relating to potential problems with deliveries of building materials to the site.

Officers advised that Condition 4 should be removed as this was a condition of the outline permission. They also recommended that an additional condition regarding tree protection measures should be added.

Representations were received from Councillor Tracey Simpson-Laing in objection to the application. She raised concerns of residents in Albion Avenue and Beckfield Lane regarding the scale, density and appearance of the proposed development. She stated that this application was for a higher building and covering a larger site than the original application in 2007 when residents had also raised objections. She voiced concerns over the ridge height and the increased impact which the dormer window creates. She asked for assurance that the distances to the neighbouring properties took into account existing extensions.

Members were of the opinion that due to the large size of the site this should not impact on neighbours unduly.

RESOLVED:

That the application be approved subject to the conditions listed in the report, the removal of existing Condition 4 (demolition and construction work) and the inclusion of an additional condition regarding tree protection measures.¹

Additional Condition 4

Trees and shrubs shown to be retained on the approved plans shall be protected during the development of the site by the following measures:-

- (i) A chestnut pale or similar fence not less than 1.2 metres high shall be erected at a distance of not less than 4.5 metres from any trunk;
- (ii) No development (except where shown on the approved plans) shall take place within the crown spread of the trees;
- (iii) No materials (including fuel or spoil) shall be stored within the crown spread of the trees;
- (iv) No burning of materials shall take place within three metres of the crown spread of any tree;

- (v) No services shall be routed under the crown spread of any tree without the express written permission of the Local Planning Authority.

Reason: In order to safeguard the existing landscape features of the site.

REASON:

That, subject to the conditions listed in the report and the additional condition listed above, the scale, appearance and landscaping of the proposal would not cause undue harm to interests of acknowledged importance, with particular reference the residential amenity of the neighbours and the visual amenity of the locality. As such, the proposal complies with Policies H4a, H10 and GP1 of the City of York Local Plan Deposit Draft; national planning guidance contained in Planning Policy Statement 1 'Delivering Sustainable Development' and Planning Policy Statement 3 'Housing'.

Action Required

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

12. 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 report 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 6.35 pm].

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BRIEFING NOTE RE: LISTED BUILDING CONSENT APPLICATIONS

- 1) Section 16(2) of the Planning (Listed Buildings and Conservation Areas) Act, 1990 provides that in considering whether to grant consent for any works the Local Planning Authority “shall have special regard to the desirability of preserving the building or its setting or any feature of special architectural or historic interest which it possesses”.
- 2) Formal advice as to how Local Planning Authorities are to deal with such applications is given in “PPG15 Planning and the Historic Environment (1994)”. In paragraph 3.3 it picks up the approach contained in Section 16(2) above, by identifying an approach in favour of preservation except where an argument can be made out for their alteration. Whilst alterations we are told, cannot be ruled out, the starting point is Section 16(2).
- 3) How then to deal with such applications? For completeness I set out paragraph 3.4 in its entirety underlining the key words:-

“Applicants for listed building consent must be able to justify their proposals. They will need to show why works which would affect the character of a listed building are desirable or necessary. They should provide the Local Planning Authority with full information, to enable them to assess the likely impact of their proposals on the special architectural or historic interest of the building and on its setting”.
- 4) Annexe B of PPG15 in paragraph B.3 makes it clear that an authority must have “sufficient information” for it to understand the application.
- 5) The key element in paragraph 3.4 taken together with paragraph B.3 is that of justification. There is no further formal guidance either in legislation or advice as to how this is to be identified. An objective approach in dealing with the question of justification would be:
 - (a) What in detail are the works proposed?
 - (b) Have they been justified by submissions made by the Applicant?
 - (c) Has anything adverse arisen during the processing of the application that has not been addressed satisfactorily by the Applicant?
 - (d) In conclusion, and taking (a), (b) and (c) above together, is there anything outstanding that compromises the final position that has resulted?
- 6) Given the absence of advice as to how much detail the Local Planning Authority should seek, the Council has to arrive at a position whereby it has to decide whether it has sufficient information in terms of justification to process the application and come to a recommendation. Planning colleagues have confirmed that this is the position.

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