



Notice of meeting of

West & City Centre Area Planning Sub-Committee

To: Councillors Horton (Chair), Sue Galloway (Vice-Chair), Crisp, Steve Galloway, Galvin, Gillies, Reid, Sunderland and B Watson

Date: Thursday, 13 May 2010

Time: 3.00pm

Venue: The Guildhall, York

AGENDA

Site visits for this meeting will commence at 11.00am on Wednesday 12 May 2010 at Memorial Gardens.

1. Declarations of Interest

At this point Members are asked to declare any personal or prejudicial interests they may have in the business on this agenda.

2. Minutes (Pages 5 - 28)

To approve and sign the minutes of the meeting of the West & City Centre Area Planning Sub-Committee held on Thursday 18 March 2010 and Thursday 22 April 2010.

3. Public Participation

It is at this point in the meeting that members of the public who have registered their wish to speak can do so. The deadline for registering is by 5pm the working day before the meeting, in this case **5:00pm on Wednesday 12 May 2010**. Members of the public can speak on specific planning applications or on other agenda items or matters within the remit of the committee.

To register please contact the Democracy Officer for the meeting, on the details at the foot of this agenda.

4. Plans List

Members will consider a schedule of reports of the Assistant Director (Planning and Sustainable Development), relating to planning applications with an outline the proposals and relevant policy considerations and the views and advice of consultees and officers.

a) The Heads House, 1 Love Lane, York, YO24 1FE. (10/00538/FUL) (Pages 29 - 40)

Erection of 1no, detached dwelling house (resubmission). *[Micklegate Ward]* **[Site Visit]**

b) The Lowther, 8 Cumberland Street, York, YO1 9SW. (10/00322/FUL) (Pages 41 - 48)

Retention of external seating area on Kings Staith - Variation of condition 5 of temporary planning permission 08/02093/FUL to extend the times of operation of the outside seating area until 22.00 hrs. *[Guildhall Ward]* **[Site Visit]**

c) Hotel Du Vin, 89 The Mount, York, YO24 1BL. (10/00376/FUL) (Pages 49 - 56)

Permanent retention of smoking shelter to rear. *[Micklegate Ward]* **[Site Visit]**

d) 106 Albion Avenue, York, YO26 5QY (10/00422/FUL). (Pages 57 - 66)

Erection of dormer bungalow and garage (retrospective). *[Acomb Ward]* **[Site Visit]**

5. Appeals Performance and Decision Summaries (Pages 67 - 86)

This report (presented to both Sub Committees and Main Planning Committee) informs Members of the Council's performance in relation to appeals determined by the Planning Inspectorate in the 4-month period up to 31st March 2010, and provides a summary of the salient points from appeals determined in that period. A list of outstanding appeals as at 31st March 2010 is also included.

6. Any other business which the Chair considers urgent under the Local Government Act 1972

Democracy Officers:

Name: Catherine Clarke and Louise Cook (job share)

Contact Details:

- Telephone – (01904) 551031
- E-mail – catherine.clarke@york.gov.uk and louise.cook@york.gov.uk

(If contacting us by e-mail, please send to both democracy officers named above)

For more information about any of the following please contact the Democracy Officer responsible for servicing this meeting:

- Registering to speak
- Business of the meeting
- Any special arrangements
- Copies of reports

Contact details are set out above.

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Further information about what's being discussed at this meeting

All the reports which Members will be considering are available for viewing online on the Council's website. Alternatively, copies of individual reports or the full agenda are available from Democratic Services. Contact the Democracy Officer whose name and contact details are given on the agenda for the meeting. **Please note a small charge may be made for full copies of the agenda requested to cover administration costs.**

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Every effort will also be made to make information available in another language, either by providing translated information or an interpreter providing sufficient advance notice is given. Telephone York (01904) 551550 for this service.

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The majority of councillors are not appointed to the Executive (38 out of 47). Any 3 non-Executive councillors can 'call-in' an item of business from a published Executive (or Executive Member Decision Session) agenda. The Executive will still discuss the 'called in' business on the published date and will set out its views for consideration by a specially convened Scrutiny Management Committee (SMC). That SMC meeting will then make its recommendations to the next scheduled Executive meeting in the following week, where a final decision on the 'called-in' business will be made.

Scrutiny Committees

The purpose of all scrutiny and ad-hoc scrutiny committees appointed by the Council is to:

- Monitor the performance and effectiveness of services;
- Review existing policies and assist in the development of new ones, as necessary; and
- Monitor best value continuous service improvement plans

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WEST AND CITY CENTRE AREA PLANNING SUB COMMITTEE

SITE VISITS

Wednesday 12 May 2010

The bus for members of the sub-committee will leave Memorial Gardens at 11.00am

TIME (Approx)	SITE	ITEM
11.10	The Head's House, 1 Love Lane	4a
11.40	Hotel Du Vin, 89 The Mount	4c
12:15	106 Albion Avenue	4d

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City of York Council

Committee Minutes

MEETING	WEST & CITY CENTRE AREA PLANNING SUB-COMMITTEE
DATE	18 MARCH 2010
PRESENT	COUNCILLORS HORTON (CHAIR), SUE GALLOWAY (VICE-CHAIR), CRISP, GALVIN, GILLIES, REID, SUNDERLAND, B WATSON AND MOORE (SUBSTITUTE)
APOLOGIES	COUNCILLORS STEVE GALLOWAY
IN ATTENDANCE	COUNCILLOR C VASSIE

55. INSPECTION OF SITES

The following sites were inspected before the meeting.

Site	Attended by	Reason for Visit
Manor Church of England School, Millfield Lane, Nether Poppleton	Councillors Crisp, Gillies, Horton and B Watson.	As objections had been received and the officer recommendation was for approval.
Land to the Rear of Field View and Avondhu, Millfield Land, Nether Poppleton	Councillors Crisp, Gillies, Horton and B Watson.	As objections had been received and the officer recommendation was for approval.
Playing Field, Millfield Lane, Nether Poppleton	Councillors Crisp, Gillies, Horton and B Watson.	As objections had been received and the officer recommendation was for approval.
Land Adjacent to Northminster Business Park, Wykeham Road, Upper Poppleton	Councillors Crisp, Gillies, Horton and B Watson.	As objections had been received and the officer recommendation was for approval.
Castle Museum, The Castle	Councillors Crisp, Gillies, Horton and B Watson.	At the request of Cllr B Watson.
Edmund Wilson Baths, Thanet Road, York	Councillors Crisp, Gillies, Horton and B Watson.	As objections had been received and the officer recommendation was for approval.

56. 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 Sunderland declared a personal and prejudicial interest in Plans Item 4c (Doctors Surgery, 40 Moorcroft Road) as she has longstanding family ties and a close relationship with the surgery. She left the room for discussion on this item and took no part in the debate or vote on this application.

Councillor Reid declared a personal interest in Plans Item 4c (Doctors Surgery, 40 Moorcroft Road) as she also has ties with the surgery.

Councillor Horton declared a personal interest in Plans Item 4d (Edmund Wilson Baths, Thanet Road) as he knew the speaker.

57. MINUTES

RESOLVED: That the minutes of the meeting of the West and City Centre Area Planning Sub Committee held on 18 February 2010 be approved and signed by the Chair as a correct record.

58. PUBLIC PARTICIPATION

There were no registrations to speak under the Council's Public Participation Scheme on general issues within the remit of the Sub-Committee.

59. 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.

59a Castle Museum, The Castle, York, YO1 9RY (09/02258/LBC)

Members considered an application for Listed Building Consent from Mr Michael Woodward for external and internal alterations at ground and first floor levels in the concourse and debtors prison.

Officers confirmed that that they had now received comments from English Heritage, therefore the Committee could now determine the application in line with normal procedures rather than officers requiring delegated authority to do so as stated in the report.

Officers drew Members' attention to an error in paragraph 1.3 of the report which they advised should refer to the "original *internal* (not external) walling of the Debtor's Prison"

Some Members raised concerns that the proposed outside seating area, would detract from the appearance and ambience of the museum and could create a noise disturbance to the court house opposite and also queried the ownership of the land to be used for this seating area. Officers reminded Members that any concerns over the seating area or noise could not be considered as this was an application for listed building consent.

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

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 visual amenity and character of the listed building. As such, the proposal complies with Policies HE4 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. "

59b Crabtree And Evelyn Ltd, 7 St Helens Square, York, (10/00347/LBC)

Members considered an application for Listed Building Consent from Mr Colin Hughes for the infilling of basement vaults to provide additional structural support.

Officers reported that a response had been received from Guildhall Planning Panel which asked if there were other methods in which the building could be underpinned. They advised that both the Conservation Officer and City Archaeologist had no objections to the application and circulated photographs of the vaults for Members information.

Representations were received from Alan Wood and Partners, Consulting Civil and Structural Engineers for Crabtree and Evelyn, in support of the application. They circulated some information and advised Members that the method of infilling of the vaults with a foamed concrete, which they had recommended, would cause minimum intervention and would be reversible if a full archaeological investigation was required in the future and answered Members queries on specific issues.

Some Members raised concerns that alternative options had not been fully explored and voiced their concerns that damage may be caused to the vaults and that there was not sufficient proof that the infill could be safely removed. Other Members agreed that it was the simplest and least obtrusive way to make the vaults safe which would preserve them and could be easily removed in future if required.

RESOLVED: That officers be given delegated authority to approve the application, subject to the conditions listed in the report, once the consultation period had expired.

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 fabric of the Grade II listed building. As such the proposal complies with Planning Policy Guidance 15: Planning and the Historic Environment and Policy HE4 of the City of York Development Control Local Plan.

59c Doctors Surgery, 40 Moorcroft Road, York, YO24 2RQ (10/00035/FUL)

Members considered a full application from the Partners at York Medical Group for the erection of a two storey GP surgery building after demolition of the existing building.

Officers updated that further objections had been received from 29 Moorcroft Road, submitting photographs indicating parking problems, from 38 Moorcroft Road raising concerns over the accuracy of site measurements and issues regarding the car port wall, and from 40 Moorcroft Road reiterating their objections to the scheme due to its width and height.

Officers advised that an additional condition be added to require that a minimum gap of 1 metre be retained between the flank wall of the new surgery and the flank wall of no.38 Moorcroft Road in the interests of the visual amenities of the street.

Representations were received from a resident who raised concerns about parking. He advised that the parking situation had worsened over the years and warned that it was now time to rectify the problem.

Representations were also received from a further local resident raising concerns over the accuracy of the site measurements used. Officers confirmed that they were now in possession of an accurate representation of the site.

Representations were also received from a doctor at the practice. She explained that they had reduced the height of the proposed building and addressed the issue of the gap with no 38 Moorcroft. She confirmed that she had taken on board residents' concerns regarding parking issues and agreed to contribute to finding a solution to this.

Members acknowledged that the practice had gone as far as reasonably practical to address the concerns of residents but noted that parking was still an issue of concern. Officers advised that this could be addressed with an additional condition requiring parking restrictions to be implemented.

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

Additional Condition

A minimum gap of 1 metre shall be retained between the flank wall of the new surgery and the flank wall of no.38 Moorcroft Road.

Reason: In the interests of the visual amenities of the street.

Additional Condition

Unless otherwise agreed in writing by the local planning authority, the new surgery shall not be brought into use until parking restrictions have been implemented in the vicinity of no.40 Moorcroft Road.

Reason: The new surgery is considered to be likely to result in additional parking on Moorcroft Road which will harm the free-flow of traffic, road safety and existing residential amenity.

REASON: The proposal, subject to the conditions listed in the report and the additional conditions listed above, would not cause undue harm to interests of acknowledged importance, with particular reference to residential amenity, the character of the area and highway safety. As such the proposal complies with Policies GP1 and C1 of the City of York Development Control Local Plan.

**59d Edmund Wilson Baths, Thanet Road, York, YO24 2PE
(09/02284/FULM)**

Members considered a major full application (13 weeks) from Lidl UK GMBH for the erection of a foodstore with associated parking and landscaping after demolition of the existing swimming pool.

Officers advised that although the agent had submitted additional drainage details, Structures and Drainage still considered some information to be outstanding and recommended that this information be requested through the addition of a Surface Water Drainage (Drain 1) condition which officers considered would also cover the information required by Yorkshire Water.

A letter of support received from Councillor Steve Galloway was circulated to the Committee for information. This expressed his support in principle for the proposed development but questioned the requirements for Condition 17 (cycle parking location, and additional cycle parking), Condition 26 (additional glazing on the Thanet Road elevation), Condition 27 (duo post structure), and Condition 28 (number of parking spaces reduced). In respect of condition 25 (boundary fencing) he suggested that the fencing should be the same as existing at present.

Officers recommended the following amendments to the conditions listed in the report:

- Condition 17 – remove reference to the siting of the cycle parking adjacent to the entrance but require details of additional cycle parking areas within the car park to be submitted to and approved in writing by the Local Planning Authority before occupation of the building.

- Condition 25 – revise to require details of the colour of the paladin fence to the northeast and northwest boundaries to be submitted to and approved in writing by the Local Planning Authority.
- That an additional condition be added requiring the external car park lighting to be switched off a maximum of 30 minutes after the store has closed for business, and switched on a maximum of 30 minutes before the store opens for business.
- that the reason for approval refer specifically to the “retail impact on Acomb District Centre and the City Centre”

Officers advised that a letter had been received from the Acquisitions Manager from Lidl with regard to the consultation responses shown in the report and other points raised in the report. They also advised that a letter of objection had been received from Peacock and Smith acting on behalf of Morrisons Supermarkets with regard to the Lidl retail study and stating that the proposed store would not comply with certain areas of planning policy, to which the Council’s City Development Team had provided a written response.

Representations were received from a representative of York Natural Environment Trust (YNET) in objection to the application. He reminded Members that Hob Moor had one been linked with Acomb Moor and now that the land was no longer required for a swimming baths there was the opportunity to enable this corridor of open space to exist again.

Representations were also received in objection to the application from a local resident. He urged Members to look into the legal aspect of a Ministry of Housing requirement for the site to be used for a swimming baths. He also asked that, should be application be approved, that consideration be given to local residents during demolition, construction and operation of the store.

Representations were received from the Acquisitions Manager of Lidl in support of the application. She advised Members that a retail assessment had shown that there was a requirement for a retail store in the area with a public consultation even held in November 2009 revealing a desire for a deep discount foodstore in the locality. She commented on some of the proposed conditions and advised the Committee that the store would seek to employ up to 25 employees from the local area.

Officers responded to Members queries regarding the ownership and use of the land and confirmed there was no longer a need for the land to be used for leisure facilities (as alternative facilities were provided nearby) and no requirement to return the land to stray land.

Members requested that the following amendments be made to the conditions listed in the report:

- that Condition 9 which covers the Construction Environmental Management Plan be amended to include not just heavy goods vehicles but all contractors vehicles.

- that Condition 14 be amended to refer to a “minimum” of BREEAM standard of very good.
- That the condition limited parking to 59 car parking spaces be deleted as this could force people to park on the road which could lead to safety concerns in view of the large number of elderly residents living close by.
- that condition 26 regarding glazed panels on the Thanet Road elevation be strengthened to include additional glazed panels agreed by the applicant.

RESOLVED:

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

Conditions to be removed:

Existing Condition 17 (re siting of cycle parking)

Existing Condition 21 (re landscaping)

Existing Condition 28 (re limit on car parking spaces)

Amended Condition (re plans)

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

Drawing Number 01 Revision F received 3 February 2010

Drawing Number 02 Revision H received 3 February 2010

Drawing Number 03 Revision E received 2 March 2010

Landscaping Detail, Drawing Number R/1063/1A received 3 February 2010

Except where conditions have been imposed which require amendments to the above drawings.

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

Amended Condition (re Construction Environmental Management Plan)

Before the commencement of development, a Construction Environmental Management Plan shall be submitted to and approved in writing by the Local Planning Authority. The Construction Environmental Management Plan shall identify the steps and procedures that will be implemented to minimise the creation and impact of noise, vibration, dust and waste disposal resulting from the demolition, site preparation, groundwork and construction phases of the development and manage Heavy Goods Vehicle access to the site. It shall include details of measures to be employed to prevent the egress of mud, water and other detritus onto the public highway. It shall include for the provision of a dilapidation survey of the highways adjoining the site. Once approved, the Construction Environmental Management Plan shall be adhered to at all times, unless otherwise first agreed in writing with the Local Planning Authority.

Reason: To safeguard the amenity of residential occupants on the site and in the surrounding area and in the interests of highway safety.

Amended Condition (re BREEAM Standard)

The development hereby approved shall be constructed to a minimum of BREEAM standard of 'very good'. No building work shall take place until a BREEAM Pre-Assessment Estimator (Design and Procurement Stage) is submitted to the Local Planning Authority documenting a 'very good' rating. A formal Post Construction assessment by a licensed BREEAM assessor shall be carried out and a copy of the certificate shall be submitted to the Local Planning Authority prior to occupation of the building. Should the building fail to achieve a "very good" BREEAM rating a report shall be submitted for the written approval of the Local Planning Authority demonstrating what remedial measures shall be undertaken to achieve a "very good" rating. The remedial measures shall then be undertaken within a timescale to be approved in writing by the Local Planning Authority.

Reason: To ensure that the proposal complies with the principles of sustainable development and the Council's adopted Interim Planning Statement on Sustainable Design and Construction

Amended Condition (re fencing)

Prior to the commencement of development on site details of the colour of the paladin fence to the northeast and northwest boundaries shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details.

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

Amended Condition (re glazed panels)

Notwithstanding the submitted plans and prior to commencement of development on site details shall be submitted to and approved in writing by the Local Planning Authority showing at least one further feature rendered panel/bay on the Thanet Road/south west elevation replaced with 3 full length glazed panels. The development shall be carried out in accordance with the approved details.

Reason: in the interests of the amenity of the area

Additional Condition

The external car park lighting shall be switched off a maximum of 30 minutes after the store has closed for business, and switched on a maximum of 30 minutes before the store opens for business.

Reason: In order to protect the amenities of the neighbours and the character and appearance of the area from excessive illumination.

Additional Condition

Development shall not begin until details of foul and surface water drainage works have been submitted to and approved in writing by the Local Planning Authority, and carried out in accordance with these approved details.

Reason: So that the Local Planning Authority may be satisfied with these details for the proper drainage of the site.

REASON: The proposal, subject to the conditions listed in the report and the removed, 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 building and the locality, the retail impact on Acomb District centre and the city centre, and highway safety. As such, the proposal complies with Policies SP7a, GP1, L1b, GP4a of the City of York Council Development Control Local Plan (2005); and national planning guidance contained in Planning Policy Statement 1 "Delivering Sustainable Development", Planning Policy Statement 4 "Planning for Sustainable Economic Growth", and Planning Policy Guidance 13 "Transport".

59e Land Adjacent To Northminster Business Park, Wykeham Road, Upper Poppleton, York (09/02291/FULM)

Members considered a major outline application (13 weeks) from Northminster Properties Limited for the construction of a 2 storey building for business use (Class B1) with associated car parking and landscaping (on land to the south of Acer House).

Officers reported an error in paragraph 1.5 of the report which stated the plant/laser room on the roof would be 13m by 7m and which should read 11m by 7m. They also advised that Condition 3 should be amended to remove the word "indicative" and that an additional condition be added requiring that at least 10% of the development's predicted energy requirements would be provided by renewable energy sources.

Representations were received from a resident in objection to the application. He raised concerns that the proposed development was on safeguarded land within the green belt and this could set a precedent for future applications on safeguarded land. He also expressed concerns over the visual impact of the development stating that it would need to be properly screened.

Representations were also received from a representative of Measurement Devices Limited (MDL) who explained that the company had been established on the business park since 2004 and was serviced by an established skilled local workforce. He explained that due to recent and planned future growth, their current accommodation was no longer suitable and their assessments had shown this site to be the only suitable one for their new headquarters.

The representative from MDL answered Members' queries in relation to the operations of the company. Members acknowledged that the company had made thorough enquiries and visits in their search for alternative sites and noted that this site was on the edge of a high quality business park and was well shielded. They noted the residents concerns regarding safeguarded land however stated that his was a unique development with unique requirements.

RESOLVED: That the application be approved, following referral to the Secretary of State, subject to the conditions listed in the report and the amended and additional condition listed below

Amended Condition (re plans)

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

- Access and layout as shown on drawing A863.2009.05 date stamped 18.12.2009.
- Scale of the building as shown on A863.2009.03B date stamped 18.12.2009.
- Proposed pedestrian route as shown on A863.2009.06 dated Feb2010.

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

No building work shall take place until details have been submitted and approved in writing by the Local Planning Authority, to demonstrate how the development will provide from on-site renewable energy sources, at least 10 per cent of the developments predicted energy requirements. The development shall be carried out in accordance with the submitted details unless otherwise agreed in writing by the Local Planning Authority. The approved scheme shall be implemented before first occupation of the development. The site thereafter must be maintained to the required level of generation.

Reason: To ensure that the proposal complies with the principles of sustainable development, and as required by the council's adopted Interim Planning Statement on Sustainable Design and Construction and policy ENV5 of The Yorkshire and Humber Regional Spatial Strategy Plan 2008.

REASON: 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 historic character and setting of York, the highway network and flood risk. The Local Planning Authority are also of the opinion that very special circumstances have been demonstrated that outweigh the impact of the development on the green belt (within which the application site is located). As such the proposal complies with PPG2: Green Belts, PPS4: Planning For Sustainable Economic Growth, policies Y1 and YH9 of The Yorkshire and Humber Plan, and of the City of York Local Plan policies SP2, SP6, SP7A, GP1, GP3, GP4a, GP13, GP24, GB1, GB11, T2b, and T4.

59f Manor Church Of England School Site Millfield Lane, Nether Poppleton, York, YO26 6PQ (09/02306/FULM)

Members considered a major full application (13 weeks) from the Chair and Governors of Manor Church of England School for the erection of a two storey creative media centre building and a two storey link to the existing school, erection of single storey changing room facility and associated shelters and stores.

Officers updated that the authority's landscape architect had made further representations suggesting that a number of specimen trees be planted around the proposed informal student hard play area which they supported. They also noted that a further letter of objection had been received requesting that the proposals be reconsidered to allow for a greater depth of tree planting adjacent to the A1237 Outer Ring Road to enable the wider area including the planting associated with the proposed Poppleton Park and Ride and the Wheatlands Community Woodland to form an exemplar green approach to the City.

Officers provided clarification to Members regarding the intended access for construction vehicles onto the site and questioned whether this would be through a field gate close to the level crossing or through the school grounds and noted that there were problems with both options.

Representations were received from the York Natural Environment Trust (YNET) in objection to the application. They advised that they had made alternative suggestions with regard to the proposals put forward and were willing to enter into discussion with the school in order to move forward.

Representations were received from a local resident who expressed concerns about the availability of parking as a result of the expected rise in the number of students due to the increased numbers of diploma students attending the school.

Representations were received from the Headteacher of Manor Church of England School. He explained how the media centre would be a unique facility benefiting students across the city. With regard to the issue of access for construction traffic onto the site he stressed that this should not be through the school grounds for reasons of pupil safety. He provided additional information on how the facilities would benefit students from other schools and the community as a whole.

Members discussed the issue of access to the site by construction traffic. Officers advised that Network Rail had objected to access for construction traffic by the existing field gate due to its proximity to the level crossing. Members agreed that suitable access needed to be agreed but stressed that construction traffic should not be allowed to enter the site via the school grounds and asked that a condition to be added to state this. They also requested that sound restricting equipment be installed to protect the amenity of neighbours.

RESOLVED: That the application be approved, following referral to the Secretary of State, subject to the conditions listed in the report and the amended and additional condition listed below

Amended Condition

Notwithstanding the application details hereby approved full details of the proposed construction site access (other than through the school) and associated compound including location, means of enclosure and mode of surfacing shall be submitted to and approved in writing by the Local Planning Authority before work on site commences. Work shall thenceforth be undertaken in strict accordance with the details thereby approved and shall be retained for the duration of the building contract. The access and associated compound shall be reinstated to their condition prior to the commencement of development within 28 days of the completion of building work.

Reason: To safeguard the residential amenity of neighbouring properties and to secure compliance with Policy GP1 of the York Development Control Local Plan.

Additional Condition

Prior to the commencement of the development full details of an acoustic fence to protect the residential amenities of Field View and Avondhu during the construction process shall be submitted to and approved in writing by the local planning authority. These details shall include the construction of, height, thickness, acoustic properties and precise location of the fence. The fence shall be erected in accordance with the approved details prior to any construction work taking place.

Reason: To protect the amenities of the residents of Field View and Avondhu from construction noise given the location of the construction compound and access.

REASON: 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 impact upon the open character and purposes of designation of the Green Belt, impact upon the safety and convenience of users of the nearby level crossing, impact upon the availability of suitable facilities for cyclists, impact upon the local pattern of surface water drainage, impact upon the visual amenity of the surrounding area, impact upon the residential amenity of neighbouring properties and the adherence to the principles of sustainable development. As such the proposal complies with Policy YH9 and Y1C of The Yorkshire and Humber Plan, policies GP1, GP3, GP4a), GP9, GP15, GB1, GB13, T4 and ED1 of the City of York Development Control Local Plan and Government policy contained within Planning Policy Guidance note 2 'Green Belts'.

59g Land To The Rear Of Field View And Avondhu Millfield Lane Nether Poppleton York (09/02302/FULM)

Members considered a major full application (13 weeks) from the Chair and Governors of Manor CE School for the change of use of agricultural land to sports pitches, allotments, and informal landscaped open space, hard surfaced recreational area and associated footpaths, car parking and ball fencing.

A copy of a letter dated 12 March 2010 from Wheatlands Education Community Woodland attaching a letter submitted to the Governors of Manor CE School on 3 March 2010, was circulated to Members for their information. This letter asked the school to give further thought to their proposals and laid down their points of objection. It stressed the importance of tree planting in contribution to the establishment of wildlife corridors and combating pollution and specifically asked for consideration to be given to reconfiguring the site by reducing the areas of playing field, hard informal and car park space so that a much greater depth of woodland could be provided along the A1237 boundary while still incorporating the allotment and orchard areas.

Officers updated that the Authority's landscape architect had made further representations suggesting that a number of specimen trees be planted around the proposed informal student hard play area. Officers gave their support to this proposal and advised an amendment to Condition 4.

They also advised that a further letter of objection has been received requesting that the proposals be reconsidered to allow for a greater depth of tree planting adjacent to the A1237 Outer Ring Road to enable the wider area, including the planting associated with the proposed Poppleton Park and Ride and the Wheatlands Community Woodland, to form an exemplar green approach to the City.

Officers recommended that an additional condition be added to stipulate a lockable gate should be erected a minimum of 5m within the access to the allotment car park. In response to points raised by Members, officers agreed that this distance should be increased to a minimum of 10metres to allow for a longer car and trailer to park safely while opening the gate.

Representations were received from the following groups and individuals:-

- Wheatlands Educational Community Woodland, in objection to the application. The speaker suggested deferring the application in order that the applicant could consider planting on the triangle of land by the railway. He pointed out that York did not have a tree strategy or any published guidance on tree planting and reminded Members that trees and green landscaping help to combat climate change, provide soft landscaping and habitats for wildlife and improve physical and mental wellbeing.
- a local resident in objection to the application. He asked that more time be given in order for the applicant to modify the proposals to allow the

creation of a tree belt along the bypass and to find an alternative to the removal of trees along the hedgerow.

- a further local resident who raised concerns that access into the allotments would be dangerous due to the proximity to the level crossing and questioned the height of the proposed gate in relation to its use in combating anti social behaviour)
- York Natural Environment Trust (YNET) in objection. The speaker confirmed that he concurred with the points raised by Wheatlands Educational Community Woodland and the first resident who spoke and asked for a deferment so that the school could engage with the community.
- The Head of Manor Church of England School, in support of the application. He stated that he had worked in conjunction with other interested parties on the application including Applefields (Special) School regarding the development of the learning classroom, Poppleton Tigers regarding the additional playing fields and changing room facilities, the York Natural Environment Trust regarding the orchard and the allotment committee regarding the allotments.

In response to queries from Members, the Head of Manor confirmed that the School had been working towards designation as a Forestry School and had been working with the Forestry Commission, had liaised extensively with interested groups and had invested a lot of time in staff training.

Members agreed that the proposals would provide a great improvement for the site and welcomed the involvement of Applefields Special School and the intended community use. They noted residents' concerns regarding anti social behaviour in the area and one Committee Member, who is also a local Ward Member, agreed to look into the issue.

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

Additional Condition

Notwithstanding the application details hereby approved a lockable gate to a design and precise location previously agreed in writing by the Local Planning Authority shall be erected a minimum of 10 metres within the access to the allotment car park before the site is first brought into use and shall be retained thereafter.

Reason: To safeguard the residential amenity of adjoining properties and to secure compliance with Policy GP1 of the York Development Control Local Plan.

REASON: The proposal, subject to the conditions listed in the report and the additional condition above, would not cause undue harm to interests of acknowledged importance, with particular reference to impact upon the open character and purposes of designation of the Green Belt , impact

upon the safety and convenience of users of the Millfield Lane level crossing, impact upon the residential amenity of neighbouring properties, impact upon the visual amenity of the neighbouring open countryside and impact upon the occurrence of crime and anti-social behaviour in the vicinity. As such the proposal complies with Policy YH9 and Y1C of The Yorkshire and Humber Plan, policies GB1 ,GP1, GP3, GP9 and ED1 of the City of York Development Control Local Plan and Government policy contained within Planning Policy Guidance note 2 'Green Belts'.

59h Playing Field, Millfield Lane, Nether Poppleton, York (09/01940/FUL)

Members considered a full application from Mr Val Duggan of Poppleton Junior Football Club for the erection of a wind turbine with an 18.3m mast.

Officers advised Members that in the report it was noted that the Environmental Protection Unit (EPU) had some concerns regarding the noise of the turbine. They advised that the EPU had since carried out a mini noise survey during the night at a weekend and subsequently have no objections to the proposed scheme.

Representations were received from Councillor Vassie in support of the application. He responded to concerns raised in 2 letters of objection with regard to the visual aspect of the proposal, the possible danger to wildlife and the issue of noise pollution. He stressed that the proposal would provide a benefit to the environment by reducing carbon emissions from the football club by approximately 60%.

Members welcomed the proposal and in respect of the issue of noise, one Member compared the noise created by a large wind turbine he had visited elsewhere to a slight whisper.

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

REASON: The proposal, subject to the conditions listed in the report, would not cause undue harm to interests of acknowledged importance, with particular reference the residential amenity of the neighbours, the visual amenity of the locality and the greenbelt. As such, the proposal complies with Policies GP1, GB1, and GP5 of the City of York Council Development Control Local Plan (2005); national planning guidance contained in Planning Policy Guidance 2 "Green Belts", Planning Policy Statement 22 "Renewable Energy" and "Planning for Renewable Energy - A Companion Guide to PPS22".

Councillor D Horton, Chair

[The meeting started at 3.00 pm and finished at 6.30 pm].

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MEETING	WEST & CITY CENTRE AREA PLANNING SUB-COMMITTEE
DATE	22 APRIL 2010
PRESENT	COUNCILLORS HORTON (CHAIR), SUE GALLOWAY (VICE-CHAIR), CRISP, GILLIES, REID, SUNDERLAND, B WATSON, MOORE (SUBSTITUTE) AND HEALEY (SUBSTITUTE)
APOLOGIES	COUNCILLORS STEVE GALLOWAY AND GALVIN

60. INSPECTION OF SITES

The following sites were inspected before the meeting.

Site	Attended by	Reason for Visit
1 Jorvik Close	Councillors Crisp, Healey, Gillies, Horton, Reid and Watson.	At the request of Councillor D Horton
75 York Road, Acomb	Councillors Crisp, Healey, Gillies, Horton, Reid and Watson.	At the request of Councillor A Waller
Student Union and Phoenix Buildings, York St John University	Councillors Crisp, Healey, Gillies, Horton, Reid and Watson.	As objections had been received and the officer recommendation was for approval.
Stores/Warehouse, Galmanhoe Lane	Councillors Crisp, Healey, Gillies, Horton, Reid and Watson.	As objections had been received and the officer recommendation was for approval.

61. 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 Horton declared a personal interest in Plans Item 4a (1 Jorvik Close), as he knew the applicant.

Councillor Reid reported that she had been contacted by a member of the public regarding a land matter in respect of Plans item 4e (Stores/Warehouse, Galmanhoe Lane) and that she had put the lady in contact with the relevant officer and had not discussed the application with

her. Councillors Gillies and B Watson advised that that they had also been contacted regarding this application but had not discussed the issue.

Councillors Gillies and Crisp declared a personal interest in Plans Item 4e (Stores/Warehouse, Galmanhoe Lane) as Director and Board Member respectively of Visit York who had submitted written representations in respect of this application.

62. 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 5 (Enforcement Cases Update) (Minute 65 refers) 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.

63. PUBLIC PARTICIPATION

There were no registrations to speak under the Council's Public Participation Scheme on general issues within the remit of the Sub-Committee.

64. 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.

64a 1 Jorvik Close, York, YO26 5HB (10/00159/FUL)

Members considered a full application from Mr Alan Potter for the erection of three 2-storey terraced dwellings (resubmission).

Officers advised the Committee that no response had been received from Structures and Drainage and that a condition be added to limit the height of the development to a maximum of 7.8m above ground level.

Members requested that the informative regarding hours of construction, loading or unloading on the site be made into a condition.

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

Additional Condition

Notwithstanding the information contained on the approved plans, the height of the approved development shall not exceed 7.8 metres, as measured from existing ground level. Before any works commence on the site, a means of identifying the existing ground level on the site shall be agreed in writing, and any works required on site to mark that ground level accurately during the construction works shall be implemented prior to any disturbance of the existing ground level. Any such physical works or marker shall be retained at all times during the construction period.

Reason: to establish existing ground level and therefore to avoid confusion in measuring the height of the approved development, and to ensure that the approved development does not have an adverse impact on the character of the surrounding area.

Additional Condition

The hours of construction, loading or unloading on the site shall be confined to 8:00 to 18:00 Monday to Friday, 9:00 to 13:00 Saturday and no working on Sundays or public holidays.

Reason: To protect the amenities of adjacent residents.

REASON: The proposal, subject to the conditions listed in the report and the additional conditions above, would not cause undue harm to interests of acknowledged importance, with particular reference to impact of the proposal upon the visual amenity of the street scene, impact of the proposal upon the residential amenity of neighbouring properties; impact upon the safety and convenience of highway users; impact upon the local pattern of surface water drainage; construction of the development according to sustainable principles and provision of off-site open space. As such the proposal complies with Policies H4a); GP1 ,GP10, L1c) , GP10 and GP 4a) of the City of York Development Control Local Plan.

64b 75 York Road, Acomb, York (10/00247/FUL)

Members considered a full application from Securities Ltd for the subdivision of a retail unit (use class A1) and use as one hot food takeaway (use class A5) and one retail unit (resubmission).

Members queried paragraph 4.12 of the report which stated that this application for change of use would exceed the 35% threshold for criterion (c) of policy S3a (percentage of frontage of non A1 use). Officers acknowledged that this application would contribute to this threshold being exceeded and would result in a reduced shopping frontage but advised that it would not reduce the overall number of retail units in the area.

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

REASON: The proposal, subject to the conditions listed in the report, would not cause undue harm to interests of acknowledged importance, with particular reference the residential amenity of the neighbours, and the vitality and viability of the Acomb District Centre. As such, the proposal complies with Policies GP1, GP16, S3a, S6, and S7 of the City of York Council Development Control Local Plan (2005); national planning guidance contained in Planning Policy Statement 1 "Delivering Sustainable Development".

64c Student Union York St John University, Lord Mayors Walk, York (10/00209/FUL)

Members considered a full application from Mr Richard Hirst of the Student Union, York St John University, for alterations to the façade of the students union building and new beer store, alterations to windows and doors of the Phoenix Building and a new canopy and landscaping seating area.

Representations were received from an architect in support of the application. He advised Members that this application was part of a wider initiative to enhance the overall environment of York St John University and explained for Members' benefit how the different aspects of the application would achieve this goal. In response to queries raised, he confirmed that the Phoenix Building would be used for business purposes, therefore its use would be limited to normal business hours and occasional evenings. He stated that the courtyard would be used as a breakout space for up to 10 people and that this area included a 3m area of landscaping to act as a buffer and prevent any sound from disturbing residents in neighbouring properties.

Members noted the objections raised by residents of St John's Street due to concerns about noise disturbance from the courtyard and recommended that use of the courtyard be limited to 8pm in the evening. Members agreed that the proposed developments would improve the campus which had seen many piecemeal changes in the past.

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

Amended Condition

The use of the Phoenix Court garden shall be confined to the hours of 08.00 to 20.00 Mondays to Saturdays and shall not be used on Sundays.

Reason: To protect the amenities of adjacent residents.

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 impact on the setting of the adjacent listed buildings and the wider Central Historic Core

Conservation Area. As such the proposal complies with Policies HE2 and HE3 of the City of York Development Control Local Plan.

64d Phoenix York St John University, Lord Mayors Walk, York (10/00210/LBC)

Members considered an application for Listed Building Consent from Mr Richard Hirst for internal and external alterations to the Phoenix Building.

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

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 impact on the character and appearance of the listed building. As such the proposal complies with Policy HE4 of the City of York Development Control Local Plan.

64e Stores/Warehouse, Galmanhoe Lane, York, YO30 7DZ (10/00066/FUL)

Members considered a full application from HHB Investments Ltd for four 3-storey dwellings following the demolition of existing buildings.

Officers informed Members comments had been received from 7 neighbours not 6 as stated in the report. Furthermore they advised that three letters had been received in response to the revised drawings raising concerns that the lane was too narrow and congested to allow vehicles to turn and park, that there was no facility for turning within the site and that the development would result in the loss of car parking spaces for the Coach House Hotel.

They also advised that a letter had been received from the Chief Executive of Visit York stating that if the Coach House was unable to offer parking to its generally elderly and disabled guests, the potential loss of business could result in some staff losing their jobs and suggesting that should the developers build 2-3 houses this would ensure that the parking remains adequate for the Coach House Hotel.

Officers recommended that Condition 15 be amended to state that the approved bollards and railings must be installed prior to the first occupation of the dwellings on site and retained as approved, and that an additional condition be added to require that an archaeological brief be carried out.

Representations were received from a representative of York Conservation Trust and HPH Accountants who stated that she supported the principle of development but expressed serious concerns regarding traffic on the lane, including increased use of the lane by people visiting the properties and the danger created by the need for vehicles to reverse out of the lane onto Marygate due to the lack of turning spaces on the lane.

Representations were also received from the owner of the Coach House Hotel in objection to the application. She explained that if the application

was approved, she would lose three parking spaces which had been used by the hotel for over twenty years and a large proportion of her guests are elderly who require on site parking.

Representations were also received from the applicant's agent. He stated that they had met with individuals and responded to concerns raised during the planning process. He made a commitment to maintain communication with neighbours during the development, to reduce the impact on them during construction and maintain access. In response to queries raised regarding turning in the lane, he advised the Committee that parking had been reduced to two of the buildings with garages and a turning area therefore there would be no need for vehicles to reverse out of the lane.

Members expressed concerns about the egress of traffic from the lane and use of lane by casual traffic such as delivery vehicles and Officers responded to specific queries in relation to these issues. In order to facilitate maneuvering of vehicles from the hotel car park it was suggested that the new boundary wall be set back and the cycle hoop and landscaping within the area that currently forms the chamfered corner of the stores building be removed.

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

Amended Condition

Full details of bollards or railings to enclose the paved area to the front of plots 3 and 4 in order to prevent parking shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of the development. The approved bollards or railings shall be installed prior to the first occupation of any of the dwellings on the site and shall be retained as approved.

Reason: To prevent the parking of vehicles which would be likely to result in reversing manoeuvres onto Marygate which would be harmful to road safety.

Additional Condition

No work shall commence on site until the applicant has secured the implementation of a programme of archaeological work (a watching brief on all ground works by an approved archaeological unit) in accordance with a specification supplied by the Local Planning Authority. This programme and the archaeological unit shall be approved in writing by the Local Planning Authority before development commences.

Reason: The site lies within an Area of Archaeological Importance and the development will affect important archaeological deposits which must be recorded during the construction programme.

Additional Condition

Prior to the commencement of the development an amended drawing shall be submitted to the local planning authority for written approval showing the new facing brick wall adjacent to the hotel car park at 18-22 Marygate cut back so that it is no further forward than the position of the existing

flank wall of the stores building (shown as a dashed line on the submitted drawing no. 1623-201) and deleting the landscaping and cycle hoop within the area that currently forms the chamfered corner of the stores building. The development shall be carried out in accordance with the approved amended drawing and thereafter nothing shall be erected, planted or placed on that area of the site such that it obstructs the manoeuvring of vehicles from the hotel car park.

Reason: The erection of the wall and the placing or erection of structures on that area of the site would be likely to reduce the capacity of the adjacent car park and result in vehicles within the adjacent car park being unable to exit Galmanhoe Lane in a forward gear thereby resulting in conditions likely to harm vehicle and pedestrian safety at its junction with Marygate.

REASON: The proposal, subject to the conditions listed in the report and the amended and additional conditions above, would not cause undue harm to interests of acknowledged importance, with particular reference to the principle of residential development, the residential amenity of the neighbours, the visual amenity of the conservation area, protected species, the provision of off-site open space and highway safety. As such, the proposal complies with policies H3c, HE2, HE3, HE5, GP1, GP9, GP10, T4, H4a and L1c of the City of York Local Plan Deposit Draft; and National Planning Guidance PPS1, PPS3 and PPS5.

65. 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.

As the Planning Enforcement Officers had not been able to attend the meeting, the Area Team Leader, Planning and Sustainable Development responded to Members queries where possible and agreed to report back on cases where further information was required.¹

RESOLVED: That the report be noted.

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

Action Required

1. Officers to update Members on specific queries raised in relation to ongoing enforcement cases. GA

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COMMITTEE REPORT

Committee: West/Centre Area **Ward:** Micklegate
Date: 13 May 2010 **Parish:** Micklegate Planning Panel

Reference: 10/00538/FUL
Application at: The Heads House 1 Love Lane York YO24 1FE
For: Erection of 1no. detached dwelling house (resubmission)
By: The Mount School
Application Type: Full Application
Target Date: 18 May 2010
Recommendation: Approve

1.0 PROPOSAL

1.1 The Head's House associated with the Mount School comprises a modest brick built structure on a steeply sloping site lying within substantial well landscaped grounds at the edge of the Historic Core Conservation Area off Tadcaster Road. The proposal envisages the erection of a four bedroom "eco-house" partially within the landscaped garden area of the property and partially across the site of a block of four disused garages within Love Lane to be demolished as part of the proposal. Residential development within St Aubyn's Place lies a short distance from the site at the foot of the slope. Planning permission for three residential properties within the gardens but on a slightly different site was refused in 2003 on the grounds of an adverse relationship with the properties in St Aubyn's Place. The current application represents a revised re-submission of an earlier proposal withdrawn after concerns were expressed in relation to the submitted drainage information.

1.2 Councillor Dave Merrett has requested that the application be called in to Committee for determination in view of serious concerns relating to the access to the development from Love Lane and the relationship of the proposal to residential properties in St Aubyn's Place.

2.0 POLICY CONTEXT

2.1 Development Plan Allocation:

Areas of Archaeological Interest GMS Constraints: City Centre Area 0006

City Boundary GMS Constraints: York City Boundary 0001

DC Area Teams GMS Constraints: Central Area 0002

2.2 Policies:

CYGP1
Design

CYGP3
Planning against crime

CYGP4A
Sustainability

CYGP9
Landscaping

CYGP10
Subdivision of gardens and infill devt

CGP15A
Development and Flood Risk

3.0 CONSULTATIONS

INTERNAL:-

3.1 Highway Network Management raise no objection to the proposal;

3.2 Lifelong, Learning and Leisure raise no objection to the proposal subject to the payment of a commuted sum in lieu of on-site open space provision;

3.3 Structures and Drainage Consultancy raise continuing concerns with regard to the capacity of the proposed surface water drainage scheme to cope with volumes of water likely to arise.

3.4 Design, Conservation and Sustainable Development raise no objection to the proposal subject to the foundations being designed in order to minimise impact upon the root system of adjoining mature trees.

EXTERNAL:-

3.5 Micklegate Planning Panel were consulted with regard to the proposal on 6th April 2010. Views will be reported orally at the meeting;

3.6 North Yorkshire Police Architectural Liaison Officer raises no objection in principle to the proposal but draws attention to the significant existing problem of anti-social behaviour in Love Lane and the need to design the development to minimise its impact;

3.7 Five letters of representation have been submitted in respect of the proposal. The following is a summary of their contents:

- * Impact upon the setting of the Historic Core Conservation Area;
- * Loss of privacy to neighbouring properties;
- * Impact upon mature trees and landscaping;
- * Impact upon locally occurring bird species;

- * Traffic congestion on Love Lane;
- * Overbearing and over-dominant impact upon properties in St Aubyn's Place;
- * Lack of need for the proposal;
- * Precedent for the loss of other areas of open-space in the vicinity to housing;
- * Loss of a landscaped area donated to Mount School by Joseph Rowntree.

4.0 APPRAISAL

KEY CONSIDERATIONS:-

4.1 Key Considerations include:

- * impact of the proposal upon the residential amenity of neighbouring properties;
- * suitability of the design in its context and in relation to the setting of the Conservation Area;
- * impact of the proposal on road users in Love Lane;
- * usage of sustainable materials and other features;
- * impact upon the level of anti-social behaviour taking place in Love Lane;
- * impact upon the existing mature landscaping within the site;
- * impact of the proposal upon the local pattern of surface water drainage.

IMPACT UPON RESIDENTIAL AMENITY:-

4.2 Policy GP1 of the York Development Control Local Plan sets a firm policy presumption in favour of new development proposals which respect or enhance the local environment, are of a layout, scale, mass and design that is compatible with neighbouring buildings, spaces and the character of the area and ensure that residents are not unduly affected by overlooking, overshadowing or dominated by overbearing structures. Planning application(ref:02/03711/FUL) has previously been refused for the construction of three town houses of conventional design, on the site on the grounds that their scale and massing would lead to an over-bearing impact upon properties in St Aubyn's Place. The massing and elevational treatment of the current proposal is substantially different with the roof form and elevational materials being utilised to blend in with the adjoining mature landscaping. A significant proportion of the mature landscaping is deciduous however the nature of the topography and the tree crown spread would continue to lessen impact upon nearby properties to a large degree.

4.3 In terms of loss of privacy and overlooking to adjoining properties the nearest property 20 St Aubyn's Place is some 33 metres distant. The principal living areas of the proposed property would be on the north eastern Love Lane frontage. Directly facing the properties in St Aubyn's Place would be the "solar room" which would be constructed in patent glazing. This forms an important sustainable feature of the scheme giving natural heat and light to the principal living rooms of the property. It is felt that this would not give rise to a significant issue of overlooking or loss of privacy to adjoining properties in St Aubyn's Place. Subject to the retention of the existing mature landscaping within the site and its suitable enhancement the terms of Policy GP1 would thus be complied with in relation to the development.

IMPACT UPON THE SETTING OF THE CONSERVATION AREA:-

4.4 Policy HE2 of the York Development Control Local Plan sets a firm policy requirement for new development proposals within the setting of Conservation Areas to have due regard to the appropriate scale, proportion and materials. The current proposal lies adjacent to the south western edge of the Historic Core Conservation Area. In this area the boundary is categorised by large gardens with mature landscaping associated with the properties developed in the 19th Century and since along Tadcaster Road. The proposal would be constructed along the existing ridge line followed by Love Lane. However the proposed steeply sloping gabled roof form together with the use of traditional materials and soft landscaping would minimise its impact upon the Conservation Area, creating an impression of recessing into the surrounding landscape. Impact upon the setting of the Conservation Area would thus be acceptable.

IMPACT OF THE PROPOSAL ON ROAD USERS IN LOVE LANE:-

4.5 Love Lane comprises a single tack road giving access to a section of the Mount School and a single house adjacent to the railway. It is also used as a public footpath giving access to Tadcaster Road and Holgate via a bridge over the railway. It is some 3 metres wide at its narrowest point. Concern has been expressed in respect of the implications for highway safety of constructing an additional house in place of one of the existing disused blocks of garages. In particular concern has been expressed in relation to the implications of the proposal at times of intensive use of the nearby access into the Mount School. However the impact of the proposal in terms of manoeuvrability of traffic and additional traffic generation is not felt to be so material as to amount to a viable reason to refuse the proposal.

USAGE OF SUSTAINABLE MATERIALS AND OTHER FEATURES:-

4.6 Policy GP4a) of the York Development Control Local Plan sets a requirement for all new development to have regard to the principles of sustainable development. These include the provision of high quality design, with the aim of conserving and enhancing the local character and distinctiveness of the City, minimise the use of non-renewable resources and maximise the use of renewable energy resources including heat exchangers and photovoltaic cells. The Policy is elaborated by the recently adopted Interim Policy Statement on Sustainable Design and Construction. This requires a minimum of Code 3 compliance with the Code for Sustainable Homes in relation to new residential development . The current proposal aims for compliance at a code 6 level(Carbon Neutral). The scheme incorporates the use of a solar room to maximise heat gain within the building, a grey water system to supply the toilets and washing machine, photovoltaic panels on the roof of the south elevation, light wells to reduce the need for artificial lighting, wood burning stoves and the use of locally sourced sustainable materials notably timber. Furthermore the design of the proposal cut into the sloping site using natural materials and zinc rainwater goods would go a significant way towards blending in with the surrounding landscape. The terms of Policy GP4a) and the associated Interim Policy Statement would thus be complied with in relation to the proposal.

IMPACT OF THE PROPOSAL ON THE LEVEL OF ANTI-SOCIAL BEHAVIOUR TAKING PLACE IN LOVE LANE:-

4.7 Policy GP3 of the York Development Control Local Plan sets a requirement in appropriate cases for the inclusion of crime prevention measures including natural surveillance of public spaces in new development. Love Lane includes a public right of way giving access for pedestrian traffic to the Holgate area via a bridge across the East Coast Main Line from the north western end of the street. This has formed the focus of a number of incidents of anti-social behaviour including graffiti and other vandalism. The current proposal would result in the removal of a bank of four disused garages where the anti-social behaviour has been concentrated and result in the construction of an additional dwelling giving an extra degree of natural surveillance of comings and goings on Love Lane.

IMPACT UPON EXISTING MATURE LANDSCAPING WITHIN THE SITE:-

4.8 Policy GP9 of the York Development Control Local Plan sets a clear policy requirement that where appropriate new development should incorporate detailed landscaping proposals which reflect the character of the locality and surrounding development and include an appropriate range of indigenous species. On a related issue Policy GP10 sets a firm policy presumption against the sub-division or infilling of existing garden areas other than where it would not be detrimental to the character or amenity of the local environment. The principal characteristic of the application site is the dense belt of mature landscaping running directly below ridge level. The application details suggest that this would be largely retained and reinforced in order to soften the impact of the proposal on the surrounding area. However the applicant has not supplied details of how the proposal would be constructed without damaging the existing mature landscaping and the method of construction would therefore need tight control in the event of an approval in order to prevent damage or loss of the existing mature landscaping of substantial townscape quality. Furthermore precise detail of the proposed landscaping has as yet not been forthcoming. There is a mixture of deciduous and non-deciduous planting in the surrounding area and the precise location of new and retained planting is of substantial importance in safeguarding the character of the site and securing the residential amenity of nearby properties. Detailed approval of these matters is therefore required in advance of any work being commenced on site.

IMPACT UPON THE LOCAL PATTERN OF SURFACE WATER DRAINAGE:-

4.9 Policy GP15a) of the York Development Control Local Plan sets a firm requirement for developers to satisfy the Local Planning Authority that any flood risk will be successfully managed with the minimum environmental effect and ensure that the site can be properly developed serviced and occupied. Details have been submitted with the proposal indicating that surface water arising from the site will be attenuated by means of a rainwater harvesting system connected to a cellular in-line attenuation tank which would control surface water run off to the agricultural rate up to and including a 1 in 100 year storm event with a 20% allowance for the impact of climate change. Concern continues to be expressed in relation to the capacity of the scheme to successfully attenuate the expected volumes of surface water. However with a modest amount of redesign this will be feasible. Subject to the precise detail of the scheme being approved by condition then the terms of Policy GP15a) would be complied with in relation to the development.

4.10 The need for the proposal, the status of the site as "gifted land" and a possible precedent in relation to other sites are not material considerations in relation to consideration of the proposal.

5.0 CONCLUSION

5.1 The proposal seeks to construct a four bedroom "eco" house within the garden area associated with the Head's House to the Mount School. Planning permission for a scheme to construct three town houses of conventional design has previously been refused on the site due to an overbearing and over dominant impact upon the properties in the adjacent St Aubyn's Place. The current proposal envisages a more subtle low key development incorporating a range of sustainable materials and technologies to achieve a rating of 6(carbon neutral) on the Code for Sustainable Homes. The scale and massing of the proposal utilising the existing site topography would have some impact upon nearby properties in St Aubyn's Place but are not thought to be such as to justify refusal of the proposal on those grounds. Concern has also been expressed in relation to the impact of the proposal on highway conditions in Love Lane . However any impact is not felt to be so material as to justify refusal as the level and distribution of traffic would not be any different from the current situation. In respect of the re-submitted scheme, detailed drainage principles have been established involving a rainwater harvesting system and a network of in-line attenuation tanks. This would secure the usual requirement to attenuate the rate of surface water run off at the agricultural rate in the event of up to a 1 in 100 year storm with a suitable allowance for climate change. Subject to appropriate conditions to safeguard the residential amenity of neighbouring properties the scheme is therefore appropriate and approval is therefore recommended.

COMMITTEE TO VISIT

6.0 RECOMMENDATION: Approve

1 TIME2 Development start within three years

2 The development hereby permitted shall be carried out in accordance with the following plans:-

Drawing No s: 1212.01; 1212.03 ; 1212.04 ; 1212.05 ; R-N2492_301 ; DO J-DO392 163 RO ; DO J-DO392 149 R1 ; DO J-D0392 122 RO. Date Stamped 22nd March 2010.

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

3 VISQ8 Samples of exterior materials to be app

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), development of the type described in Classes A , B, C, E and F; of Schedule 2 Part 1 of that Order shall not be erected or constructed.

Reason: In the interests of the amenities of the adjoining residents 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 1995.

5 Details of all means of enclosure to the site boundaries shall be submitted to and approved in writing by the Local Planning Authority before the development commences and shall be provided before the development is occupied.

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

6 Before the commencement of the development hereby authorised a detailed scheme to secure the protection of the mature landscaping on site for the duration of the construction work including details of fencing and location of site huts, service runs and storage compounds shall be submitted to and approved in writing by the Local Planning Authority. The development shall thenceforth be undertaken in strict accordance with the details thereby approved.

Reason: The existing planting is considered to make a significant contribution to the amenities of this area.

7 No trenches, pipe runs for services or drains shall be sited within a 3 metre radius from the trunks of the trees on the site without the prior approval in writing of the Local Planning Authority.

Reason: To safeguard existing trees on the site.

8 No development shall take place until there has been submitted and approved in writing by the Local Planning Authority a detailed landscaping scheme which shall illustrate the number, species, height and position of trees and shrubs and other landscape planting. This scheme shall be implemented within a period of six months of the completion of the development. Any trees or plants which within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of a similar size and species, unless alternatives are agreed in writing by the Local Planning Authority.

Reason: So that the Local Planning Authority may be satisfied with the variety, suitability and disposition of species within the site.

9 HWAY19 Car and cycle parking laid out

10 The development hereby authorised shall be undertaken in strict accordance with the submitted foul and surface water drainage scheme as outlined in drawing refs: DO J-D0392 163 Rev R0 and DO J-D0392 149 Rev R1 Date Stamped 22nd

March 2010, which shall be retained in use thereafter.

Reason: So that the Local Planning Authority may be satisfied with these details for the proper drainage of the site.

11 Prior to the commencement of development a report demonstrating that the dwelling would comply with the Code for Sustainable Homes Level 3 assessment for the development shall be submitted to and approved in writing by the Local Planning Authority. The development shall then be carried out in strict accordance with the approved report.

Reason: To ensure that the proposal complies with the principles of sustainable development and the Council's adopted Interim Planning Statement on Sustainable Design and Construction.

12 Prior to the commencement of development, full details of a renewable energy strategy shall be submitted to and approved in writing by the Local Planning Authority. The strategy shall include i) the dwelling's proposed renewable energy generation, which shall be at least 5% of total energy generation ii) measures to reduce energy demand iii) measures to reduce CO2 emissions to a level lower than required under Building Regulations Part L. The development shall then be carried out in accordance with the approved assessment.

Reason: To ensure that the proposal complies with the principles of sustainable development and the Council's adopted Interim Planning Statement on Sustainable Design and Construction

7.0 INFORMATIVES: Notes to Applicant

1. REASON FOR APPROVAL

In the opinion of the Local Planning Authority the proposal, subject to the conditions listed above, would not cause undue harm to interests of acknowledged importance, with particular reference to impact upon the residential amenity of neighbouring properties, suitability of the design in context in relation to the setting of the Conservation Area, impact on the safety and convenience of highway users in Love Lane, usage of sustainable construction materials and other features, impact upon the level of anti-social behaviour taking place in Love Lane, impact upon the existing mature landscaping within the site and impact of the proposal on the local pattern of surface water drainage. As such the proposal complies with Policies GP1 , GP3 , GP4a) , GP9 , GP10 and GP15a) of the City of York Development Control Local Plan.

2. DEMOLITION AND CONSTRUCTION:

i) All demolition and construction works and ancillary operations, including deliveries to and despatch from the site shall be confined to the following hours:

Monday to Friday 08.00 to 18.00

Saturday 09.00 to 13.00
Not at all on Sundays and Bank Holidays.

ii) The work shall be carried out in such a manner so as to comply with the general recommendations of British Standards BS 5228:Part 1:1997, a code of practice for "Noise and Vibration Control on Construction and Open Sites" and in particular Section 10 of Part 1 of the code entitled "Control of Noise and Vibration".

iii) All plant and machinery to be operated, sited and maintained in order to minimise disturbance. All items of machinery powered by internal combustion engines must be properly silenced and/or fitted with effective and well maintained mufflers in accordance with manufacturers instructions.

iv) The best practicable means, as defined by Section 72 of the Control of Pollution Act 1974, shall be employed at all times in order to minimise noise emissions.

v) All reasonable measures shall be employed in order to control and minimise dust emissions, including sheeting of vehicles and use of water for dust suppression.

vi) There shall be no bonfires on the site.

Contact details:

Author: Erik Matthews Development Control Officer

Tel No: 01904 551416

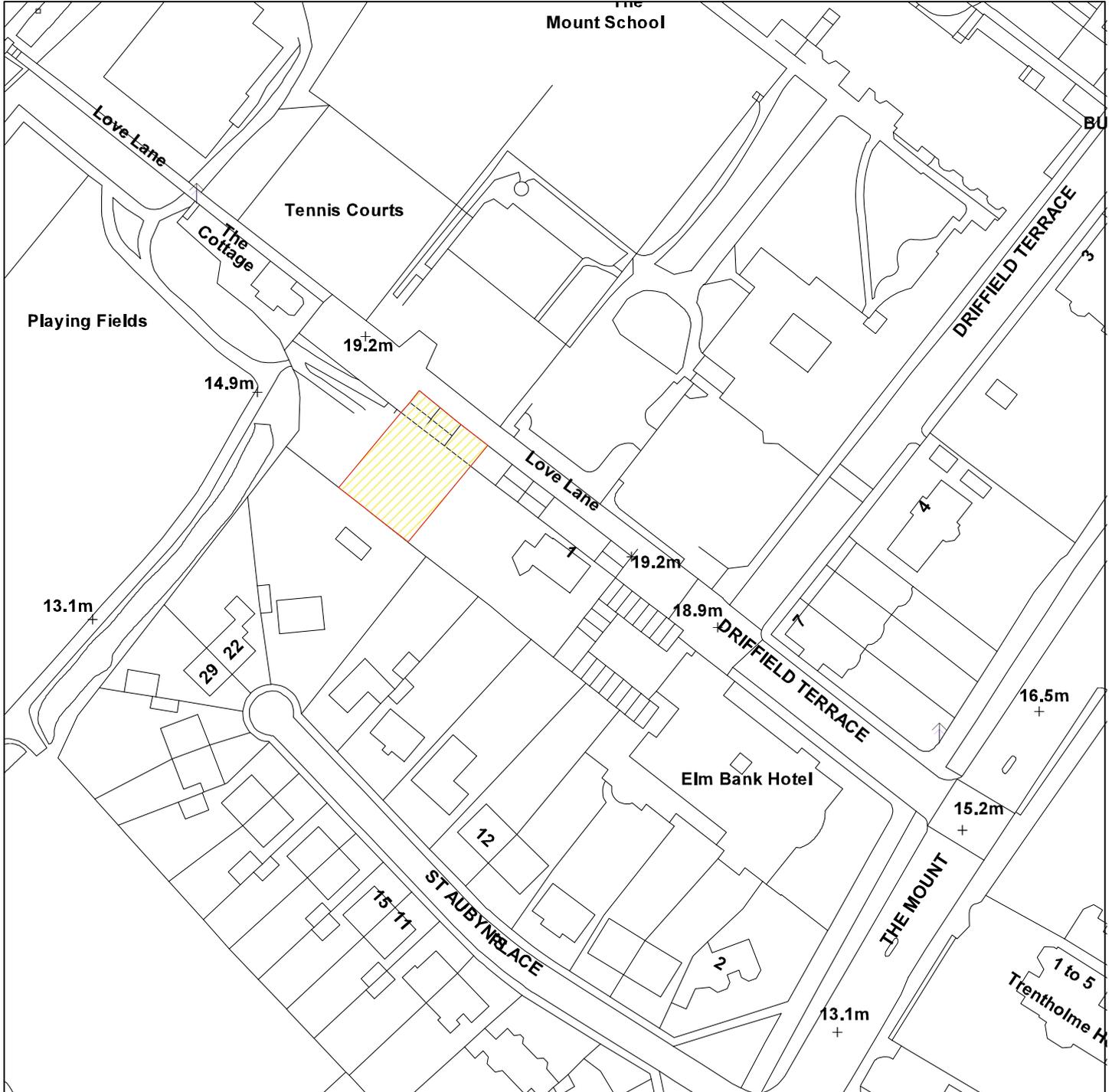
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1 Love Lane, YO24 1FE

10/00538/FUL



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Organisation	City of York Council
Department	Planning & Sustainable Development
Comments	Application site
Date	30 April 2010
SLA Number	Not set

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DELEGATED REPORT

Committee: West/Centre Area **Ward:** Guildhall
Date: 13 May 2010 **Parish:** Guildhall Planning Panel

Reference: 10/00322/FUL
Application at: The Lowther 8 Cumberland Street York YO1 9SW
For: Retention of external seating area on Kings Staith - Variation of condition 5 of temporary planning permission 08/02093/FUL to extend the times of operation of the outside seating area until 22.00 hrs
By: Mr Malcolm Goodwin
Application Type: Full Application
Target Date: 3 May 2010

1.0 PROPOSAL

1.1 This application seeks planning permission for an extension of operating hours of an existing pavement cafe on Kings Staith that is operated by the Lowther and Plonkers Public Houses. The use was first approved in September 2008 when a temporary consent was granted for a year (Ref. 07/01756/ FUL). The use was extended to a 5 year operational period that expires on 14.11.2013 (Ref. 08/02093/FUL). The applicants seek permission for an additional hour in the evening to allow service within the area until 21:00, with customers vacating the area by 21:30 and tables cleared away by 22:00 hours.

1.2 The temporary pavement cafe has operated and been managed according to the following detail, and it is not intended that this would alter-

- 20 No. tables; 10 for each operator with 2 No. free-standing umbrellas for each operator and a smaller shared umbrella for staff
- The area to be cleared of tables and chairs by half an hour after the approved closing time
- Tables and chairs to be stored off-site in an area approved in LPA Ref. 08/0293/FUL
- The area to be cordoned off by fixing chains between existing bollards
- CCTV coverage of the area is provided as required by a condition of the premises licence
- The area is constantly supervised, staffed at all times, with waiters/ waitresses using an intra red wireless remote control to order and bar staff bringing the orders to the area
- There is no buying of drinks within the bars and then moving outside to occupy seats within the pavement cafe.
- Only plastic containers to be used

1.3 The application site lies in the Central Historic Core Conservation Area in close proximity to Listed Buildings, including Cumberland House, a Grade I Listed Building.

2.0 POLICY CONTEXT

2.1 Development Plan Allocation:

Areas of Archaeological Interest GMS Constraints: City Centre Area 0006

Conservation Area GMS Constraints: Central Historic Core CONF

2.2 Policies:

CYHE2 Development in historic locations

CYS6 Control of food and drink (A3) uses

CYHE4 Listed Buildings

CYGP1 Design

3.0 CONSULTATIONS

INTERNAL CONSULTATIONS

3.1 Highway Network Management- No objections but advise that a variation in the highway licence would be required.

3.2 Environmental Protection Unit - Concerns about potential loss of amenity through noise.

3.3 Design, Conservation and Sustainable Development- No objections on conservation grounds.

EXTERNAL CONSULTATIONS/ REPRESENTATIONS

3.4 Guildhall Planning Panel- No comments at the time of writing

3.5 The application has been advertised by site notice and abutting neighbours have been notified. The consultation period for representations expired on 13 April 2010. One objection has been received following the consultation exercise raising the following issues-

- Longer hours would have a detrimental impact on amenity of local residents
- Attract a noisier type of client
- Current pavement cafe breaches planning conditions relating to operating hours, exceeding approved table numbers, incorrect storage of furniture, breaching drinking conditions on licence.
- More clarification needed.

4.0 APPRAISAL

4.1 KEY ISSUES

- Amenity of surrounding occupants
- Character and function of the area
- Security, crime and disorder
- Highway safety and management

POLICY CONTEXT

4.2 Planning Policy Statement 4: Planning for Sustainable Economic Growth (2009) contains current government guidance on a range of development in town centres. In Policy EC4, Local Authorities are encouraged to develop policies, which encourage a range of complimentary evening, and night-time economy uses which appeal to a wide range of age and social groups. Key issues are the cumulative impact on the character and function of the centre, anti-social behaviour, crime and the amenities of nearby residents. Local Planning Authorities should adopt an integrated approach so that planning policies and proposals complement their Statement of Licensing Policy and the promotion of licensing objectives under the Licensing Act 2003.

4.3 Planning Policy Statement 5 " Planning and the Historic Environment " seeks to ensure that the special characteristics of listed buildings and conservation areas are not adversely affected by inappropriate developments.

4.4 Circular 11/95 states that where an application is made for a use that may be potentially detrimental to existing uses nearby, but there is insufficient evidence to enable the authority to be sure of its character or effect, it might be appropriate to grant a temporary permission in order to give the development a trial run, provided that such a permission would be reasonable having regard to the capital expenditure necessary to carry out the development.

4.5 POLICY S6 of the City of York Development Control Local Plan relates to the control of food and drink uses. The policy permits the extension, of premises within York City Centre subject to there being no adverse impact on amenity of surrounding occupiers. Policy S6 recommends that the opening hours are restricted, where necessary, to protect the amenity of surrounding occupiers. The Fourth Set of Changes to the Local Plan requires security issues to be addressed where the consumption of alcohol is involved.

4.6 POLICY HE2 states that within conservation areas, proposals will only be permitted where there is no adverse effect on the character or appearance of the area.

ASSESSMENT

Amenity of surrounding occupants

4.7 Policy S6 states that planning permission for the extension, alteration or development of premises for food and drink uses will only be granted in York City Centre provided there is no unacceptable impact on the amenities of surrounding occupiers as a result of traffic, noise, smell or litter. The proposal has the benefit of being in operation for two years and it is considered that the management of the

operation has generally been successful despite being remote from the parent public houses. Existing management measures would be continued as part of the premises and highway licences. The breaches notified by the neighbour that relate to drinking issues have been passed to the Licensing Section.

4.8 The potential additional noise could arise from two sources - the later use of the pavement cafe and the later storage of furniture in the area that was approved under Ref. 08/02093/FUL. The Environmental Protection Unit advises that it has concerns about the impact of the extended hours on the amenity of nearby properties from late night noise when background noise levels would be lower and any noise generated would be more noticeable. It is noted that the Environmental Protection Unit has received no complaints about the operation of the pavement cafe. It is therefore considered that it would be reasonable to recommend a temporary 1 year permission for the additional hour in order to assess the impact of additional evening hours from the cafe and the later storage of furniture in the storage area close to residential properties on King's Staith. The pavement cafe area is a reasonable distance from residential property and the additional hour would not take the use into the late evening when ambient noise levels are significantly reduced. The main concern related to the noise and disturbance arising from the later use of the furniture storage area that has been formed on land at the rear of 15 King's Staith. On balance, it is considered that it would be unreasonable to refuse temporary permission for the later use of the storage area by an hour in the evening.

4.9 On balance, it is therefore concluded that the proposed additional operational hour in the evening would not conflict with policy S6 of the Local Plan and national guidance contained in PPG24 Noise.

Character and function of the area

4.10 The proposed extension of an hour would have a neutral effect on the character and appearance of the conservation area. No additional physical alterations are proposed and the appearance of the outside seating area would be controlled by attaching a condition that requires all furniture to be agreed by the Planning Authority prior to its use. It is also considered that an extra hour's trading would not harm the vitality and viability of the city centre or affect its function.

Security, crime and disorder

4.11 The Police Architectural liaison Officer has no objection to the extension of hours. It is considered that the issues of crime and disorder can be dealt with through the Licensing Act, which can be revoked if necessary. There is no evidence to suggest that the premises affects crime and disorder in the area.

Highway safety and management

4.12 The area of the outdoor seating area would be as per the previous approvals and Highway Network Management have no objection to this on the grounds of highway safety. The additional hour opening required would have a neutral effect on highway safety. A variation to the pavement café licence would also be required before the use can commence.

Temporary Permission

4.13 A temporary permission for a year was granted in September 2007 to allow the impact of the proposal to be assessed. Advice for local planning authorities on granting temporary permission is contained in Circular 11/95. It states that a trial period should be set that is sufficiently long for it to be clear by the end of the first permission whether permanent permission or a refusal is the correct outcome. This advice is reflected in Policy GP23 of the Local Plan. At the end of the original trial period for the pavement cafe, a time-limited permission for a 5 year period was granted for the continued use of the pavement cafe in this location. It is recommended that the existing planning permission is varied to allow the extended operating hours for a period of 1 year after which time the hours would revert to those previously approved unless a further planning permission has been granted.

5.0 CONCLUSION

5.1 The pavement cafe has operated for a two year period without causing significant harm to surrounding land uses, neighbouring amenity, highway safety, and the visual amenity and character of the area. Under the terms of Circular 11/95, it is considered reasonable for the Local Planning Authority to restrict the applicants to a limited temporary planning permission for the extended operating hours if minded to approve the extended use.

5.2 It is therefore concluded that the proposal would not conflict with Policies HE2, GP1 and S6 of the City of York Local Plan Development Control Local Plan (2005); and national planning guidance contained in Planning Policy Statement 4: Planning for Sustainable Economic Growth (2009), Planning Policy Statement 5: Planning and the Historic Environment and it is recommended that planning permission is granted for the extended pavement cafe hours for a year, and thereafter the operational hours shall revert to the approved hours under planning permission 08/02093/FUL that expires on 14 November 2013.

6.0 RECOMMENDATION: Approve

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.

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

Drawing No. 1.32 Rev. B, Received 29.10.2008

Drawing No. 1.33 Received 3 October 2008

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

3 No additional furniture (e.g. external lights or heaters) other than that approved shall be used for the seating area hereby approved .

Reason: To avoid the visual clutter of paraphernalia that would detract form the visual amenity, character and historic interests of the nearby listed buildings and the conservation area

4 There shall be no amplified music within the external seating area hereby approved.

Reason: In the interests of protecting neighbouring residential amenity and the character of the area.

5 Until 14 May 2011 the hours of operation of the use hereby permitted shall only be between 10.00 and 21.30 hours. Customers shall be clear of the area approved by 21.30 with tables and chairs cleared from the site by 22.00.

Thereafter the hours of operation shall revert to between 10.00 and 20.30 hours only. Customers shall be clear of the area approved by 20.30 with tables and chairs cleared from the site by 21.00.

Setting up shall not commence before 09:30 daily.

Reason: In the interests of amenity of the occupiers of neighbouring properties, free flow of the highway outside the approved hours, highway safety and in the interests of the amenity of the conservation area.

6 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

7.0 INFORMATIVES: Notes to Applicant

1. REASON FOR APPROVAL

In the opinion of the Local Planning Authority the proposal, subject to the 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 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.

2. HIGHWAY LICENCE INFORMATIVE:

You are advised that a revised Pavement Cafe Licence is required for the proposed operation under the Highways Act 1980 (unless alternatively specified under the legislation or Regulations listed below). This must then be renewed annually. For further information please contact the officer named:

Cafe Licence - Section 115 - Miss Anne Marie Howarth- 01904 551337

Contact details:

Author: Fiona Mackay Development Control Officer (Tues - Fri)
Tel No: 01904 552407

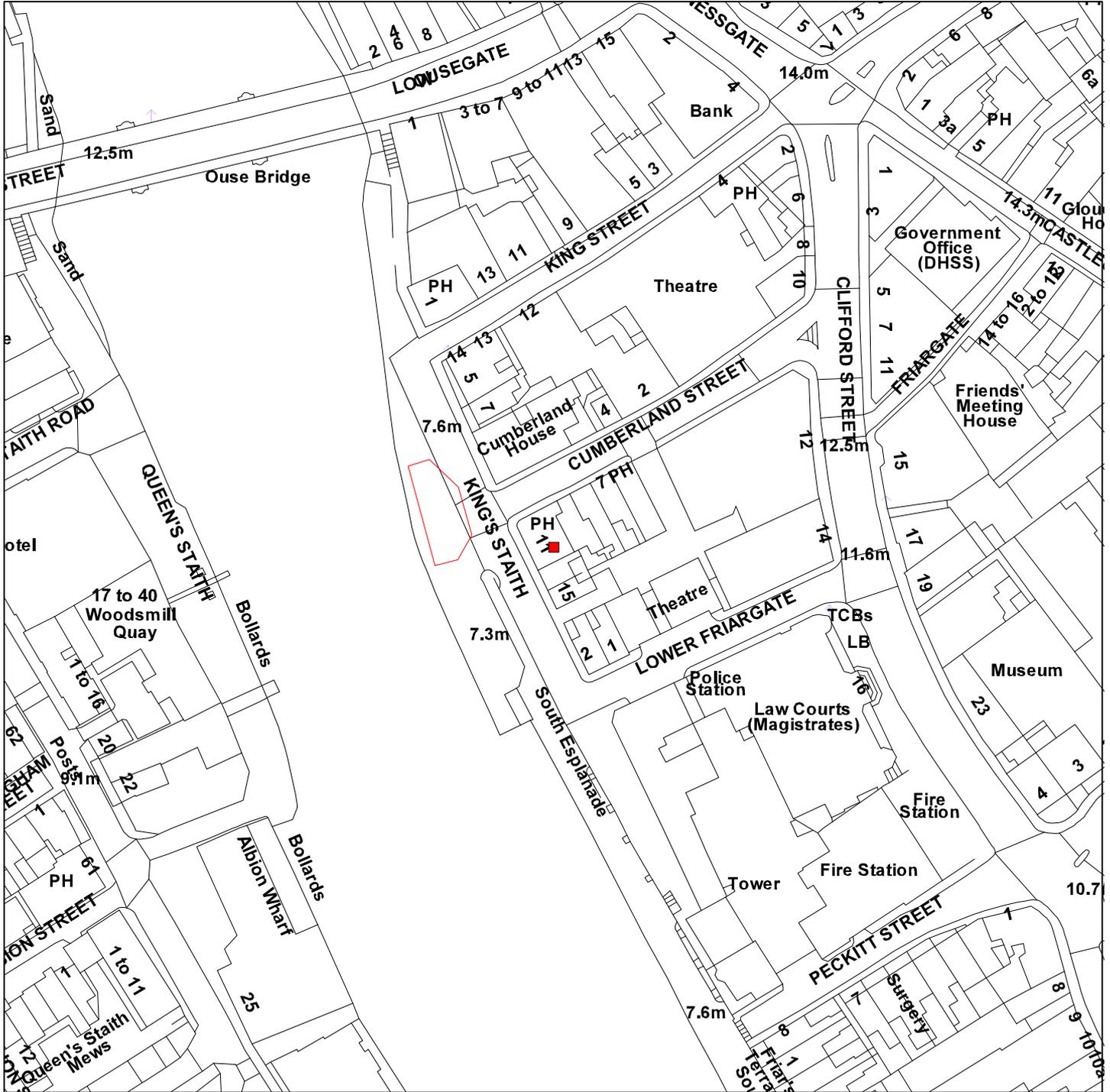
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The Lowther, 8 Cumberland Street

10/00322/FUL



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Organisation	City of York Council
Department	Planning and Sustainable Development
Comments	Application Site
Date	04 May 2010
SLA Number	Not Set

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COMMITTEE REPORT**Committee:** West/Centre Area**Ward:** Micklegate**Date:** 13 May 2010**Parish:** Micklegate Planning Panel**Reference:** 10/00376/FUL**Application at:** Hotel Du Vin 89 The Mount York YO24 1BL**For:** Permanent retention of smoking shelter to rear**By:** Stephen Rodwell**Application Type:** Full Application**Target Date:** 13 May 2010**Recommendation:** Approve**1.0 PROPOSAL**

1.1 Planning permission is sought for the permanent retention of a smoking shelter which has been erected to the rear of the property (Hotel Du Vin). The smoking shelter is constructed using natural wood. The wooden frame is clad with tongue & grooved panels to the rear and is left open to the front elevation. The roof is clad in cedar shingles. The rainwater guttering has been manufactured from copper. The smoking shelter is built on top of a concrete slab. The floor and is finished with slate effect tiles. Planning permission was granted in 2008 (07/02616/FUL) for the temporary retention of the smoking shelter for 1 year.

1.2 The site is within a designated conservation area (Central Historic Core) the main building is Grade II listed.

COUNCILLOR REQUEST

1.3 The application is being presented to sub-committee at the request of Councillor Merrett, due to the number of objections received from adjacent neighbours.

2.0 POLICY CONTEXT

2.1 Development Plan Allocation:

Areas of Archaeological Interest City Centre Area 0006

Conservation Area Central Historic Core 0038

City Boundary York City Boundary 0001

Listed Buildings Grade 2; 89 The Mount, York

2.2 Policies:

CYGP1
Design

CYHE2
Development in historic locations

CYHE4
Listed Buildings

3.0 CONSULTATIONS

INTERNAL

Conservation Architect

3.1 The Council's Conservation Architect commented that the shelter has a neutral impact upon the Conservation Area and the Listed Building.

Environmental Protection

3.2 No comments received, an update will be given to members at committee.

EXTERNAL

Micklegate Planning Panel

3.3 No comments received, an update will be given to members at committee.

Neighbours

3.4 4 separate objections have been received from adjacent neighbours. These relate to: -

- The erection of the smoking shelter is a deliberate flouting of planning law;
- If neighbours had been consulted prior to the shelter being erected, it could have positioned further away from residents;
- Neighbours have complained to the Council's Environmental Protection Department about various late night disturbances emanating from the shelter;
- Neighbours have complained to the HDV about various late night disturbances emanating from the shelter, which means residents end up monitoring it instead of staff;
- The introduction of an external drinking area will be used for drinking as thus creating a nuisance;
- The shelter should have been removed when the temporary permission expired;
- The developers are being allowed to get away with it;
- Government is moving towards restricting smoking further;
- Outdoor heaters allow the shelter to be used throughout the year;
- Any level of disturbance is unacceptable;
- The smoking shelter should be relocated to the front;
- If the shelter is approved then a strict curfew should be imposed;
- There has been a lack of consultation between the planning department and

- the Licensing department; and
- Due to the building not being wholly enclosed, noise carries from occupants/patrons and causes noise intrusion and nuisance to neighbours.

4.0 APPRAISAL

4.1 KEY ISSUES

- Effect on character and appearance of the existing listed building and character and appearance of the conservation area; and
- Impact upon neighbours and temporary planning permission.

POLICIES

4.2 Planning Policy Statement 5 'Planning For The Historic Environment' (PPS5). Central Government advice in relation to listed building control contained within this document states Local planning authorities should take into account the desirability of new development making a positive contribution to the character and local distinctiveness of the historic environment. The consideration of design should include scale, height, massing, alignment, materials and use.

4.3 Draft Local Plan policy HE2 states that within or adjoining conservation areas, and in locations which affect the setting of listed buildings, scheduled monuments or nationally important archaeological remains (whether scheduled or not), development proposals must respect adjacent buildings, open spaces, landmarks and settings and have regard to local scale, proportion, detail and materials. GP1 states that development proposals will be expected to ensure that residents living nearby are not unduly affected by noise and disturbance.

IMPACT ON CHARACTER AND APPEARANCE OF THE LISTED BUILDING

4.4 The hotel occupies a prominent site within The Mount. The alterations to the hotel were approved in 2006.

4.5 The smoking shelter is of a small diameter, has a low eaves height and the roof is covered in natural materials. The location and relatively small size of the building together with its general design and materials means that it has a neutral impact upon the Conservation Area and Listed Building. As a consequence it is considered that the shelter is acceptable and would not have a detrimental impact upon the Conservation Area or Listed Building. The shelter therefore satisfies policies HE2 of the Local Plan and the advice contained within PPS5.

IMPACT UPON NEIGHBOURS

4.6 Four separate objections have been received from adjacent neighbours regarding noise and smoke intrusion from the shelter. The residents object to the close proximity of the shelter, in relation to their dwellings and rear private gardens. A number of instances have been raised by the residents with regard to late night noise intrusion being created from patrons of the hotel using the shelter.

4.7 The residents also comment that this is during the winter months when less people are likely to use the shelter due to the inclement weather. The residents are concerned that further and increased noise intrusion will occur due to patrons of the hotel using the smoking shelter during the warmer summer months.

4.8 The applicant erected the shelter without planning permission. A temporary retrospective planning permission was granted for a period of 1 year as a trial run. It was noted at the time that there had been instances where neighbours had complained about excessive noise.

4.9 It appears that local residents believed that the Council had granted permanent planning permission for the smoking shelter. The objection letters which have been received so far, mention that neighbours have had to monitor the site themselves, and have complained on numerous occasions to the Hotel about noise intrusion from the shelter. Unfortunately, local residents have not always forwarded their complaints to the Council's Environmental Protection Unit. As a consequence, whilst a number of objections have been submitted concerning noise nuisance from the smoking shelter, the Council does not have documentary evidence to support these objections.

4.10 Circular 11/95 advises that a temporary permission may be appropriate where a trial run is necessary to see whether in practice a use which is potentially detrimental, turns out so to be.

4.11 Circular 11/95 also advises that a second temporary permission should not normally be granted and states that a trial period should be set sufficiently long for it to be clear by the end of the first permission, whether a permanent permission or refusal is the right answer. However, it is conceded that a second permission may be justified in some instances.

4.12 Because of the confusion over the original permission and neighbours comments relating to noise nuisance from the smoking shelter, and the fact that it is still not clear whether the shelter is having a detrimental effect upon neighbours amenity, it is considered prudent to grant a further temporary permission for 1 year.

5.0 CONCLUSION

5.1 Whilst temporary planning permissions are usually granted for temporary structures or development which can be easily removed with minimal cost, in this instance it is considered that temporary permission should be granted so as to gauge the impact of the shelter upon neighbouring residents properly throughout this period. A temporary consent of a year should allow the Council adequate time to assess the impact of the smoking shelter upon residents and give residents the opportunity to object should the use of the shelter create a nuisance and impact upon their amenity.

COMMITTEE TO VISIT

6.0 RECOMMENDATION: Approved

1 The development or works hereby permitted shall be discontinued and the land reinstated to its former condition on or before 14/05/2011; unless an extension of the period shall first have been approved in writing by the Local Planning Authority.

Reason: So that the Local Planning Authority may assess the impact of this upon the surrounding area.

2 There shall be no external speakers mounted outside the premises.

Reason: In the interests of amenity.

**7.0 INFORMATIVES:
Notes to Applicant**

1. REASON FOR APPROVAL

In the opinion of the Local Planning Authority the proposal, subject to the conditions listed above, would not cause undue harm to interests of acknowledged importance, with particular reference to impact upon the listed part of the hotel which is Grade II Listed. As such the proposal complies with policies GP1 and HE2 of the Development Control Local Plan and National Planning Guidance PPS1 and PPS5.

Contact details:

Author: Richard Beal Development Control Officer

Tel No: 01904 551610

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Hotel Du Vin, 89 The Mount

10/00376/FUL



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Organisation	City of York Council
Department	Planning & Sustainable Development
Comments	Application site
Date	30 April 2010
SLA Number	Not set

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COMMITTEE REPORT

Committee: West/Centre Area **Ward:** Acomb
Date: 13 May 2010 **Parish:** Acomb Planning Panel

Reference: 10/00422/FUL
Application at: 106 Albion Avenue York YO26 5QY
For: Erection of dormer bungalow and garage (retrospective)
By: Mr JM Armitage
Application Type: Full Application
Target Date: 7 May 2010
Recommendation: Approve

1.0 PROPOSAL

1.1 Sub-committee may recall that reserved matters approval was granted for the erection of a detached dormer bungalow to the rear of 106 Albion Avenue on 17 July 2009 (09/00722/REM). Prior to the approval of reserved matters, outline planning permission was granted at appeal by the Planning Inspectorate. The Council had originally refused this scheme due to impact upon neighbours amenity.

1.2 The dwelling has been erected in the wrong position within the site and is therefore unauthorised. This application seeks to regularise the situation.

1.3 The applicants seek approval for a detached dormer bungalow, which is approximately 9.80 m in length x 8.60 m in width x 2.60 m to eaves level and 7.00 m to ridge level. As originally submitted it was proposed to form 1 no. dormer window to the front elevation of the property and 2 dormers to the rear. The scheme has been amended. The rear dormer which was to serve the main bedroom has been removed has been substituted with 2 high level rooflights. The other rear dormer window will now be obscurely glazed. This is because the bathroom (which was to be at the front) has now been swapped with the rear bedroom which the dormer served.

1.4 The proposal also includes the erection of a single attached garage, a drive and turning arrangements for the proposed dwelling.

1.5 The applicant states that the error in siting the new dwelling occurred, when the applicant set out the rear boundary to subdivide his property from the newly approved development. The original survey of the site did not show the single storey rear extension to 106 (which is approximately 4.7 m in length). As a consequence, all following site measurements were taken from the rear extension, which didn't take into account the rear extension, thus adding the additional 4.7 m onto the separation distance between the new dormer bungalow and 106 Albion Avenue.

1.6 The approved plot area was 0.0714 hectares in size, the size of the plot now is 0.0683 ha. The plot is irregular in shape and measures approximately 35m in

length x 20m in width. However it tapers in width as it extends towards Boroughbridge Road from Albion Avenue, to approximately 3m in width.

COUNCILLOR REQUEST

1.7 The application is being presented to sub-committee at the request of Councillor Healey, due to the number of objections received from adjacent neighbours from the incorrect siting of the building.

2.0 POLICY CONTEXT

2.1 Development Plan Allocation:

Air safeguarding GMS Constraints: Air Field safeguarding 0175

DC Area Teams GMS Constraints: West Area 0004

2.2 Policies:

CYGP1
Design

CYGP10
Subdivision of gardens and infill devt

CYH4A
Housing Windfalls

CYL1C
Provision of New Open Space in Development

3.0 CONSULTATIONS

INTERNAL

Highway Network Management (HNM)

3.1 The HNM officer commented that the access and layout has already been agreed at appeal and therefore did not object.

EXTERNAL

Acomb Planning Panel

3.2 The Panel did not object to this scheme.

Neighbours

3.3 Five objections were received from the occupants of a neighbouring properties, at the time of writing this report. The objections related to;

- Residents always opposed this development;
- The scheme was approved at appeal and the developer has not built it in accordance with the appeal decision;
- The appeal decision would have been different if the Inspector had assessed this scheme;
- Residents should have been informed of the error in setting out the building;
- A stop notice should be issued on the site;
- The property is now closer to some residents houses and invades their privacy, prevents outdoor activity, causes additional shading ;
- Someone should check to make sure the building is being built in the correct position;
- The applicants Design & Access in statement is factually incorrect;
- Property values will be affected,
- The height of the building should be reduced;
- The building is very large and can be seen from the A59;
- Noise will be more noticeable as it is closer;
- The agent described the area as 'close knit', it is only like this because of this development;
- The scheme will just be rubber stamped as its mostly built;
- The building is now to large for the site;
- The design of the building bears no resemblance to existing buildings in the area;
- The application should be referred back to the Planning Inspectorate; and
- Trees that were protected by TPO's have been removed;
- Precedent.

3.4 All relevant parties were given further opportunity to comment upon the revised scheme. To date 2 letters have been received objecting on the following grounds:

- The deletion of one dormer and obscurely glazing the remaining dormer do not tackle the main issues of position, footprint size, height, roof appearance and windows of this development.

4.0 APPRAISAL

POLICY

4.1 PPS1 'Planning for Sustainable Development' aims to protect the quality of the natural and historic environment. 'The Planning System: General Principles', the companion document to PPS1, advises of the importance of amenity as an issue.

4.2 Planning Policy Statement 3 'Housing' (PPS3) sets out Government policy on housing development and encourages more sustainable patterns of development through the reuse of previously developed land, more efficient use of land, reducing dependency on the private car and provision of affordable housing. PPS3 also advises that car parking standards that require more than 1.5 spaces per dwelling are unlikely to secure sustainable development

4.3 Policy GP1 'Design' of the City of York Local Plan Deposit Draft includes the expectation that development proposals will, inter alia; respect or enhance the local environment; be of a density, layout, scale, mass and design that is compatible with neighbouring buildings and spaces, ensure residents living nearby are not unduly affected by noise, disturbance overlooking, overshadowing or dominated by overbearing structures, use materials appropriate to the area; avoid the loss of open spaces or other features that contribute to the landscape; incorporate appropriate landscaping and retain, enhance or create urban spaces, public views, skyline, landmarks and other features that make a significant contribution to the character of the area.

4.4 Policy H4a 'Housing Windfalls' which suggests that a proposals for residential development on land within the urban area would be a acceptable, where "the site is within the urban area and is vacant, derelict or underused or it involves infilling, redevelopment or conversion of existing buildings." However, any development must be of an appropriate design and must be sustainable e.g. good links to jobs, shops and services.

4.5 Policy GP10 'Subdivision of Gardens and Infill Development' encourages the protection of wildlife and setting, suggesting that existing landscape features are incorporated into the scheme or compensated for elsewhere should their removal be required.

4.6 Policy L1c 'Provision of New Open Space in Development' requires proposals for less than 10 dwellings to contribute towards the provision of open space (including sport, amenity and children's play provision) by way of a commuted sum.

PRINCIPLE OF DEVELOPMENT

4.7 The principle of the development of the site has been established by virtue of the previous appeal decision relating to the site and subsequent approval of reserved matters. In allowing new housing development on the basis of infilling, Policy H4a of the Draft local Plan states that development should be of an appropriate scale and density to surrounding development, and should not have a detrimental impact on existing landscape features. Policy GP10 states that planning permission for sub-division of existing garden areas, or infilling, to provide new development will only be granted where this would not be detrimental to the character and amenity of the local environment. Policy GP1 relates to design and states that development proposals will be expected to respect or enhance the local environment and be of a density, layout, scale, mass and design that is compatible with neighbouring buildings, spaces and the character of the area, using appropriate building materials. The importance of design is referred to in Central Government

advice contained within Planning Policy Statement 1: "Delivering Sustainable development".

IMPACT ON NEIGHBOURING DWELLINGS

4.8 The proposed dwelling is a dormer bungalow, incorporating three bedrooms within the roof space. Originally the main bedroom and bedroom 3, were to be served by dormer windows and a window within the front gable end. However the applicant has recently amended the design of the dwelling. Due to its incorrect siting, the applicant was advised to amend the design of the rear of the building to protect adjacent neighbours privacy. The rear of the roof slope has now been amended to ameliorate this impact upon adjacent neighbours.

4.9 The bathroom has been swapped with bedroom 3 (rear of dormer bungalow, within roof). As a consequence, this dormer will now be obscurely glazed. A condition is also proposed that it should be either permanently fixed shut, or that the window design is amended to create a top light only, i.e. only the top part of the window could be opened, so as to protect neighbours privacy.

4.10 The applicant has also agreed to remove the other rear dormer window and replace it with 2 higher level rooflights. The applicant proposes to increase the size of the bedroom window, within the front gable end (facing the rear of 106 Albion Avenue) to compensate for this.

4.11 It is recognised that occupants of existing dwellings have a high expectation of the level of privacy, especially where proposed rooms may face towards rooms to the rear of their property, or rear garden. Adjacent residents have commented that they are concerned that the dormer bungalow will affect their privacy due to overlooking. As the rear roof of the bungalow has been amended, there will be no windows directly overlooking them at first floor level. Consequently it is not considered that the amended dormer bungalow will have a detrimental impact upon adjacent neighbours amenity.

4.12 In addition the separation distance between the dormer bungalow and windows to existing rear dwellings exceeds 21m. This distance is considered acceptable, when compared to the existing built form of the area and general standards applied for separation distances between dwellings.

4.13 The height of the dormer bungalow will remain as 7m. This was previously approved by sub-committee (09/00722/REM). The applicant proposes no other amendments to the scheme, nor have any others been made.

4.14 Adjacent neighbours also object to the new position of the dwelling. They feel it will overshadow more of their rear gardens. Whilst the dwelling would be closer to 238, 240, 242 and 243 Beckfield Lane, it is not considered that this would shade their rear gardens to such a degree as to warrant the refusal of planning permission. The rear of the dormer bungalow faces north east in direction and is positioned at an offset angle to neighbouring dwellings in Beckfield Lane. Consequently, whilst the building will shade parts of these gardens, due to its offset position and axis of the

sun, in all probability, it will not be significantly worse than the previously approved scheme.

DESIGN OF THE DORMER BUNGALOW

4.15 In allowing the appeal, the Inspector treated the appearance of the building as indicative. However he raised no objections to its appearance or style. Bearing in mind these comments and his general support for the scheme, it is considered difficult for the Council to object to the detailed appearance of the dwelling. The detailed design indicates a three bedroom dwelling of modern design. However, the site is not within a conservation area and it is considered that the design would be appropriate and would not appear out of keeping with its surroundings.

OTHER MATTERS

4.16 Other matters such as drainage, sustainability, etc. have been approved previously. These are still considered acceptable.

4.17 Effect of the development upon house prices cannot be considered as a material planning consideration.

4.18 The landscaping scheme is still considered acceptable. No trees within the site were protected by Tree Preservation Orders.

4.19 The appeal inspector did not require the payment of a contribution towards off-site open space as part of the original outline application approval. While this current application is for full permission it is not considered reasonable to impose a condition requiring a contribution in this case.

5.0 CONCLUSION

5.1 Despite the fact that the dwelling as constructed is unauthorised, the current planning application has to be determined on its own merits. For the local planning authority to reasonably refuse an application it would need to demonstrate material harm would be caused. In this case it is considered that no undue harm would be caused in respect of privacy, overshadowing or over-dominance and that the design of the dwelling would be appropriate to the area.

5.2 This dwelling is therefore recommended for approval, as the scheme satisfies policies GP1, GP4a, GP10, and H4a of the Local Plan.

COMMITTEE TO VISIT

6.0 RECOMMENDATION: Approve

1 PLANS2 Apprvd plans and other submitted details

2 HT1 IN Height - 7.00

3 The hours of construction, loading or unloading on the site shall be confined to 8:00 to 18:00 Monday to Friday, 9:00 to 13:00 Saturday and no working on Sundays or public holidays.

Reason: To protect the amenities of adjacent residents.

7.0 INFORMATIVES:

REASON FOR APPROVAL

In the opinion of the Local Planning Authority the proposal, subject to the 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 locality, highway safety. As such, the proposal complies with policies GP1, GP4a, GP10, H4a of the Local Plan; national planning guidance contained in Planning Policy Statement 1 'Delivering Sustainable Development' and Planning Policy Statement 3 'Housing'.

Contact details:

Author: Richard Beal Development Control Officer

Tel No: 01904 551610

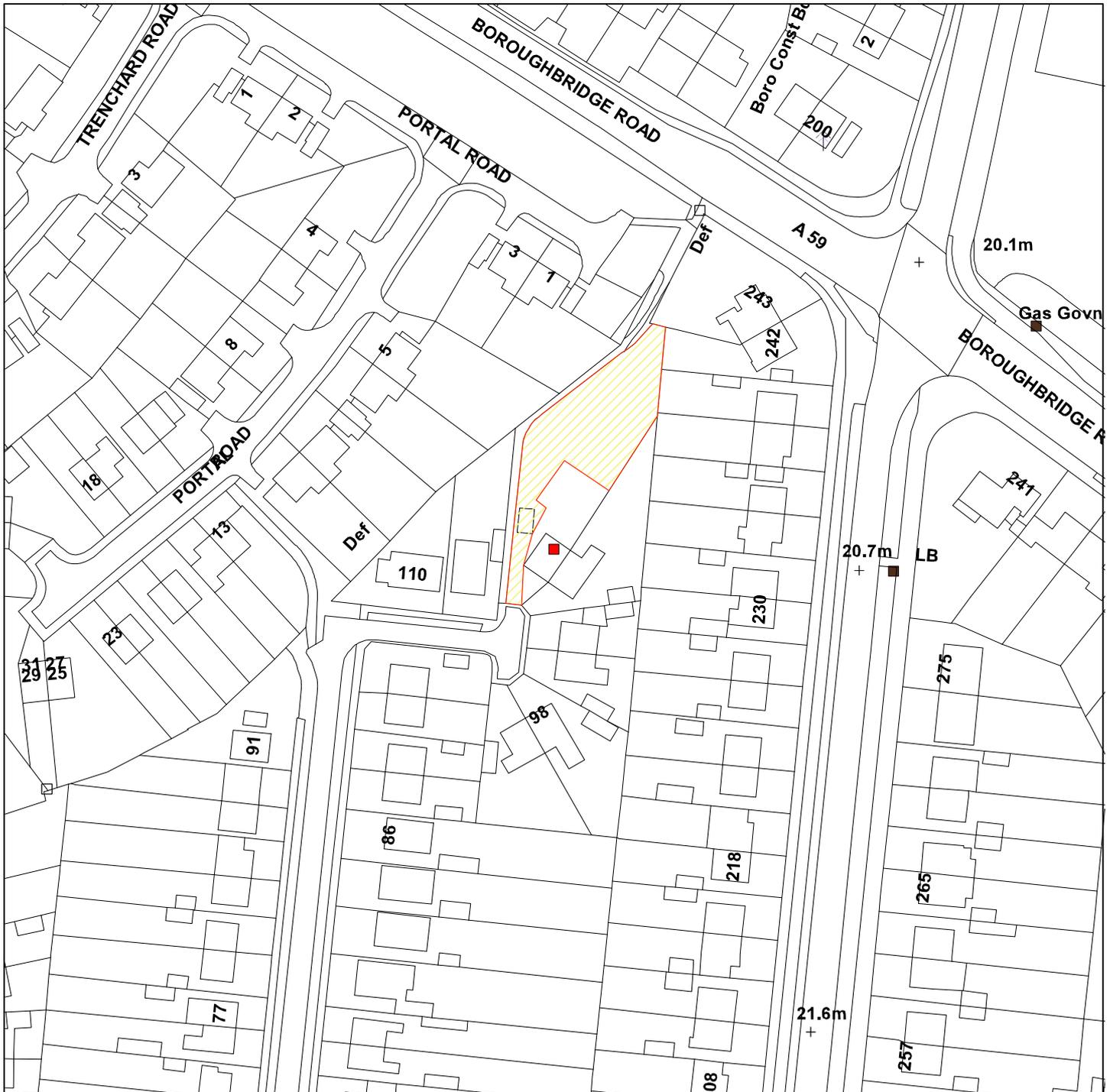
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106 Albion Avenue, YO26 5QY

10/00422/FUL



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**West and City Centre Area Planning
Sub Committee**

13 May 2010

Appeals Performance and Decision Summaries

Summary

- 1 This report (presented to both Sub Committees and Main Planning Committee) informs Members of the Council's performance in relation to appeals determined by the Planning Inspectorate in the 4-month period up to 31st March 2010, and provides a summary of the salient points from appeals determined in that period. A list of outstanding appeals as at 31st March 2010 is also included.

Background

- 2 Appeal statistics are collated by the Planning Inspectorate on a quarterly basis. Whilst the percentage of appeals allowed against the Council's decision is no longer a Best Value Performance Indicator, it has been used to abate the amount of Housing and Planning Delivery Grant (HPDG) received by an Authority performing badly against the average appeals performance. To date, there has been no abatement of this Council's level of HPDG as a result of appeals performance, as performance has been close to the national average for a number of years.
- 3 Whilst the Inspectorate breaks down the appeals by type in reporting performance, the table below includes all types of appeals such as those against refusal of planning permission, against conditions of approval, enforcement notices, listed building applications and lawful development certificates. Figure 1 gives a breakdown of appeals decided by the Inspectorate, both by CYC area and decision type for the 4 months and also the combined area (CYC)12 month performance.

**Fig 1 : Appeals Decided by the Planning Inspectorate
For 4 months to 31st March 2010**

	East 4 months	West & CC 4 months	CYC 4 months	CYC 12 months
Allowed	2	3	5	11
Part Allowed	0	1	1	4
Dismissed	4	5	9	30
Total Decided	6	9	15	45
% Allowed	33.33%	33.33%	33.33%	24.44%
% Part Allowed	0%	11.11%	6.67%	8.89%
Withdrawn	0	2	2	5

Analysis

- 4 The table shows that for the 4 months to 31st March 2010, a total of 15 appeals relating to CYC decisions were determined by the Inspectorate. Of those, 5 were allowed. At 33.33%, the rate of appeals allowed is the national average but significantly higher than the 9% reported as allowed in the preceding 3-month period.
- 5 However for the 12 months up to 31st March 2010, CYC performance was 24.44% allowed, a slightly lower rate than the previously reported 12 month period of 26.32%.
- 6 The summaries of appeals determined in the last 4 months to 31st March 2010 are included at Annex A. Details as to whether the application was dealt with under delegated powers or Committee (and in those cases the original officer recommendation) are included with each summary. In the period covered, 4 of the appeals determined related to applications refused by Committee:-
 - 09/00622/FUL: 68 Clarence Street - allowed. Officer rec. approve
 - 09/00646/FUL:18 Brentwood Crescent - dismissed . Officer rec. approve
 - 09/01271/FUL:York Caravan Park, Stockton Lane - allowed. Officer rec. refuse
 - 09/01125/FUL: The Homestead, Murton – allowed. Officer rec. approve
- 7 One site at 11 Farmlands Road accounted for 3 appeals (dealt with under delegated authority); one against refusal of planning permission for retention of a 1.8m fence and two against enforcement notices served on each of the owners of the property, requiring lowering of the fence. All of the appeals were dismissed.
- 8 The list of current appeals is attached at Annex B. There are 17 appeals lodged with the Planning Inspectorate, 9 in the East Sub Committee area and 8 in West and City Centre Sub Committee area.

Consultation

- 9 This is essentially an information report for Members and therefore no consultation has taken place regarding its content.

Corporate Objectives

- 10 The report is relevant to the furthering of the Council's objectives of making York a sustainable City, maintaining its special qualities, making it a safer city, and providing an effective organisation with high standards.

Implications

- 11 Financial – There are no financial implications directly arising from the report
- 12 Human Resources – There are no Human Resources implications directly involved within this report and the recommendations within it other than the need to allocate officer time towards the provision of the information
- 13 Legal – There are no known legal implications associated with this report or the recommendations within it.
- 14 There are no known Equalities, Property, Crime & Disorder or other implications associated with the recommendations within this report.

Risk Management

- 15 In compliance with the Council's risk management strategy, there are no known risks associated with the recommendations of this report.

Recommendation

- 16 That Members note the content of this report.

Reason: So that Members can continue to be updated on appeal decisions within the CYC area and informed of the planning issues surrounding each case for future reference in determining planning applications.

Contact Details

Author:

Jonathan Carr,
Head of Development Control
Directorate of City Strategy

Chief Officer Responsible for the report:

Mike Slater
Assistant Director Planning & Sustainable
Development, Directorate of City Strategy

01904 551303

Report Approved Date 1st April 2010

Specialist Implications Officer(s) None.

Wards Affected:

All Y

For further information please contact the author of the report

Annexes

Annex A – Summaries of Appeals Determined between 1st December 2009 to 31st March 2010

Annex B – Outstanding Appeals to 31st March 2010

Appeal Summaries for Cases Determined from 01/12/2009 to 31/03/2010

Application No: 08/02089/FUL
Appeal by: Mr Andrew Shewan
Proposal: Retention of 1.8m high timber fence
Site: 11 Farmlands Road
York YO24 2UA
Decision Level: DEL
Outcome: DISMIS

This application was for the retention of 1.8m high timber fence to the front and side boundary. The officer recommendation was refuse. The property is situated in a residential street on a prominent corner of Farmlands Road and Wains Road. The majority of properties are characterised by low lying walls/hedges to the front boundary. Reasons for refusal were its height, appearance and close proximity to the front boundary, which resulted in the fence having an overdominant and overbearing impact upon the streetscene. The inspector agreed that the height, length and position of the fence so close to the adjacent footpath is a visually dominant and intrusive feature which has an adverse impact on the visual character of the neighbourhood. The appeals were therefore dismissed and the enforcement notice upheld.

Application No: 09/00548/FUL
Appeal by: Mr Daniel Russell
Proposal: Change of Use from Agriculture to Equestrian Use.
Erection of a Six Bay Stable Block and Layout of an
Equestrian Surface.
Site: The Garth
Yew Tree Close
Rufforth
York YO23 3RG
Decision Level: DEL
Outcome: ALLOW

The appeal relates to a site in the Green Belt at the north western edge of Rufforth village. The applicant applied for planning permission for a maneage together with two timber built stable blocks on an area to the north west of his property which was principally accessed via a residential cul-de-sac at the north western edge of Rufforth village. Permission was given subject to a series of conditions including one making the development subject to a personal permission as the access to the site was substantially unsuitable for use by a commercial equestrian operation. The appellant challenged this on the basis that it would prevent for example, family friends or other bona fide visitors from using the maneage. The Inspector agreed with this line of reasoning and upheld the appeal substituting his own condition which would preclude commercial/business use of the equestrian facilities.

Application No: 09/00622/FUL

Appeal by: Mr Chris Georgiou

Proposal: Part single/part two storey pitched roof rear extension resulting in 3-bed flat above ground floor shop and detached building at rear to provide 2-bed dwellinghouse.

Site: 68 Clarence Street

York YO31 7EW

Decision Level: COMM

Outcome: ALLOW

Officer Recommendation was to Approve. The appeal proposal was for a single storey 2-bed dwelling in the back garden of a terraced unit. The main building accommodated a shop and residential above. The dwelling would rely on access through a narrow alleyway, which already served the back yards of terraced houses. The reconfiguration of the existing building also meant that the upper floors would only have access from the alley. The backyard was reasonably deep and the proposed building had a separation of 2m from the back wall, and 8m to the main building. The proposed house was 37.5 sq m. Officers had recommended approval but planning permission was refused at committee on the grounds that the proposed dwelling would offer inadequate levels of amenity, mainly due to its size, and that the access was unsuitable. The inspector allowed the appeal ruling that the 'compact' house would be suitable for some, it would have reasonable outlook, amenity space and storage. It was deemed the access was adequate, although difficult for those with cycles/pushchairs etc. However it could serve the proposed development and already did serve some dwellings (although not the main entrance). There was no objection to the upstairs flat being re-configured so it relied on the rear access also. The inspector did not support the suggested condition which required a contribution toward open space, due to the lack of evidence provided. Although refererence was made to the open space Interim Policy Statement , there was no text supplied which demonstrated need specific to this development, i.e. that there was either a shortfall in the amount or quality of open space in the locality.

Application No: 09/00646/FUL

Appeal by: Mr Jawed Kadhim

Proposal: Two storey side and single storey rear extensions after demolition of existing garage (resubmission)

Site: 18 Brentwood Crescent

York YO10 5HU

Decision Level: COMM

Outcome: DISMIS

Officer Recommendation was to Approve. The application property is a modern semi-detached house at the head of a cul-de-sac. The appeal related to the refusal of a planning application for a two-storey side extension and single storey rear extension. Officers recommended the application for approval, however, the decision was overturned at committee because of concerns in respect to overdevelopment, harm to the living conditions of the adjoining property and highway safety. The Inspector dismissed the appeal. He did not feel that the proposal would harm neighbours living conditions, he felt however, that in the local context, two-off street car parking spaces were insufficient for the resultant four-bedroom dwelling. In addition, despite the proposed two-metre set back at first floor level he felt that the development as a whole amounted to overdevelopment of the site and would detract from the spacing that existed between properties.

Application No: 09/00694/FUL

Appeal by: Mr Tony Lumb

Proposal: Removal of conditions 1, 2 and 3 (requiring amendments to fence, planting of a hedge and erection of domestic paraphenalia) of planning application 08/01177/FUL for the replacement of 3no. moorings

Site: The Orchard

Tyn Garth

Acaster Malbis

York YO23 2LX

Decision Level: DEL

Outcome: PAD

The appeal relates to a site with a complicated Enforcement History. An Outline Planning Permission followed by a Reserved Matters Consent had been given for erection of a four bed roomed detached house on an adjacent site. This had stipulated the erection of an open post and rail fence separating the domestic curtilage from the adjacent river side and river side footpath. Whilst implementing the planning permission for erection of the house the appellant refurbished three river side moorings without consent including erection of a 1.8 metre high close boarded fence and subsequently was given retrospective planning permission for the work. The appeal relates to the conditions applied to that permission. Permission was given subject to three conditions: that the fence be redesigned to be a post and rail design as originally intended, that a hedge be planted along the riverside walk and that Permitted Development Rights be withdrawn in respect of domestic paraphenalia within the fenced area surrounding the moorings. The appellant contended that this was highly unreasonable and didn't comply with the six statutory tests of planning conditions outlined in Circular 11/95. A costs application under the new "fair playing field rules" was also submitted. The Inspector endorsed the Local Planning Authority's view that the fence should be redesigned as a post and rail structure and upheld the condition, he similarly upheld the Local Planning Authority's intention in respect of the third condition restricting the erection of domestic paraphenalia within the fenced area but re-worded the condition. The Inspector however rejected the reasoning behind the condition requiring the planting of a hedge and furthermore made a partial award of costs against the Local Planning Authority in respect of the imposition of this condition.

Application No: 09/01125/FUL

Appeal by: Mr Peter James

Proposal: Change of use of land to a private gypsy site for a single gypsy family and the retention of existing hard standing (retrospective)

Site: The Homestead

Murton Lane

Murton York

Decision Level: COMM

Outcome: ALLOW

Officer Recommendation was to Approve. Retrospective planning permission was sought for the change of use of land to a private gypsy site for a single gypsy family of 2 adults and 4 children. Reason for refusal was conflict with green belt policy. The authorised use of the site is agriculture but it has been surfaced in gravel for many years. The site is largely screened from public view by a 2m-high wall along the highway frontage and by a fence and trees along the side boundaries. The inspector attached significant weight to the harm to the green belt due to inappropriateness. He acknowledged a small amount of additional harm to the openness of the green belt and to the purposes of including land in it. Against these factors he acknowledged that there were a number of weighty considerations in favour of the proposal namely the significant need for additional gypsy sites in the York area; that the shortage was unlikely to be addressed until the end of 2011; that some of the sites to be allocated as part of the LDF process would be in the green belt; the family's need for gypsy accommodation; the absence of any identified available site to which they could move; and the hardship they could face by being made homeless. The inspector was of the view that these factors clearly outweighed the harm (mainly due to inappropriateness) caused by the proposal. He concluded that the circumstances of the case were very special and justified the development, subject to conditions. They included that planning permission be limited to the appellants and their dependants only and that only two caravans shall be stationed on the site at any one time. In consideration of human rights the inspector felt that dismissing the appeal or granting consent for a temporary period would be a disproportionate response to the degree of harm that the development causes and the considerable interference that either option would cause to the family's home, private and family life.

Application No: 09/01156/FUL
Appeal by: Moorside Developments Ltd
Proposal: Erection of 4no. dwellinghouses to rear of 5 and 6
Northfields (amended scheme)
Site: 5 Northfields
Strensall
York YO32 5XN
Decision Level: DEL
Outcome: DISMIS

Planning permission was refused for four houses on the basis that the density of the development would result in a very hard street frontage relative to the rest of the street contrary to policies H4a,GP1, GP10, PPS3 and PPS1 . The inspector dismissed the appeal on the basis that the scheme failed to take the opportunity to improve the character and quality of the area and was inappropriate to the character and form of the area.

Application No: 09/01271/FULM
Appeal by: Mr Andrew Wilson
Proposal: Use of land for the stationing of 20 additional touring
caravans and camping pitches (resubmission)
Site: York Caravan Park
Stockton Lane
York YO32 9UA
Decision Level: COMM
Outcome: ALLOW

Officer Recommendation was to Refuse. The appeal was against refusal of planning permission for the extension of an existing caravan site to provide an additional 20 pitches. The site is located within the green belt and within the green wedge identified in the green belt appraisal for York. The Inspector concluded that the development would have limited effect on the openness of the green belt and the purposes of including land in it. The Inspector also concluded that the restriction on maximum sizes for a caravan site in Policy V5 has no support outside the CYDLP and therefore afforded little weight to the policy purpose. The Inspector accepted evidence put forward by the applicant that there is significant unmet demand for additional pitches for people wishing to visit the York area and considered the location on Stockton Lane to be well related (in terms of access options) to the city centre. He also took the sequential test to show that there were few other sites available to accommodate caravan sites.

Application No: 09/01311/ADV

Appeal by: Individual Restaurant Company

Proposal: Display of 3no halo illuminated fascia signs, 1no illuminated hanging sign and 1no internally illuminated menu box (retrospective)

Site: 18 Bridge Street

York YO1 6DA

Decision Level: DEL

Outcome: ALLOW

The application was for 3 no. halo lit illuminated fascia signs (one along the river elevation and two along the Bridge Street elevation), 1 no. illuminated hanging sign, and 1 no. internally illuminated menu box. The application was retrospective. The building was a grade II Listed Building and within the Central Historic Core Conservation Area. The application was refused on two grounds. Firstly the lettering of the fascia signs by virtue of standing forward of the detailing of the listed building and its depth together with its illumination would be visually intrusive and harm the special architectural importance, appearance and visual amenity of the listed building, and also the character and appearance of the Conservation Area. Also the proposed internally illuminated menu box by virtue of its siting (to a rusticated pilaster), scale and illumination was considered to be visually intrusive in views of the building and causes undue harm to the special architectural importance, appearance and visual amenity of the listed building, and also the character and appearance of the Central Historic Core Conservation Area. The Inspector considered that the proposed fascia lettering on the Bridge Street frontage would be located on existing fascia areas and, in terms of size and colour would be discreet and proportionate and the method of illumination subtle. The lettering on the riverside elevation, which is of the same scale and proportions, relative to the fascia area, requires a backing panel to accommodate cabling etc. As a result, it is set forward of the brick surrounds to the windows. The inspector did not consider the projection of the lettering to be an issue. He had noted there was similar in the area (although without advert consent). In regards of the illuminated menu box the inspector did not consider that it would be an unduly intrusive element in the street scene, nor detract from the architectural composition or detailing of the building.

Application No: 09/01406/CLU
Appeal by: Mr Ben Baldwin
Proposal: Certificate of lawful use for the proposed siting of a mobile home
Site: Manor Farm
Towthorpe Road
Haxby
York YO32 9SP
Decision Level: DEL
Outcome: DISMIS

A certificate of lawfulness was sought for the proposed erection of a mobile home up to the maximum size permissible for a caravan (as defined by legislation). It would be located within the grounds of a farmhouse occupied by the appellant. The caravan would be primarily used for the provision of residential accommodation for elderly relatives. The appellant argued that the caravan was permitted development because :- (a) it would be located within the curtilage of the dwellinghouse . Council officers had in the past agreed in writing that the site of the proposed caravan was within the curtilage of the farmhouse - but had added the usual caveat that this advice was officer opinion only. By the time of the CLU application officers had reviewed the history of the site and felt that the earlier advice may not have been correct. Officers imparted this to the appeal inspector. He concluded that on a balance of probability the residential curtilage did not include the application site. Therefore the use of the land for the siting of a caravan in any residential use would not be lawful. and (b) it would be used for purposes incidental to the use of the dwellinghouse The inspector found that the caravan would represent an additional self-contained unit of occupation that could exist entirely separately from the dwellinghouse and not reliant on it for anything. Therefore the siting of such a caravan on the land would be unlawful.

Application No: 09/01421/LBC
Appeal by: Mr A Chaudhry
Proposal: Fascia and hanging signs and two internal neon signs.
Site: 19 Micklegate
York YO1 6JH
Decision Level: DEL
Outcome: DISMIS

Proposed signs were: acrylic built up signage to fascia with LED light below and internal neon signs in windows. Both deemed to harm the character and design of the listed building and conservation area setting. The shop is in a listed building with detailed timber shopfront of Georgian style. The Inspector concluded the signage would be unduly strident, contrary to the style of the building. Of note being the size of the lettering, the materials and illumination.

Application No: 09/01752/FUL

Appeal by: Mr And Mrs Paul Temple

Proposal: 2 storey dwelling attached to side of existing dwelling after demolition of lean-to bathroom extension (resubmission)

Site: 229 Fifth Avenue

York YO31 0PL

Decision Level: DEL

Outcome: DISMIS

Planning permission was sought for the erection of a 2-storey dwellinghouse on the side of a semi-detached house. The existing house occupied a constrained, tapered site at the corner of two residential streets. The council refused consent, mainly due to (a) impact on the street scene and (b) impact on the living conditions occupiers of the existing house and proposed house. In terms of impact on street scene the inspector found that the windows, materials and roof form would reflect the host property and surrounding dwellings. Nevertheless, due to its scale, bulk and siting, the house would be a discordant addition that would visually compete with the existing dwelling and compromise the symmetry of the pair of existing semi-detached houses. With regards to impact on living conditions of occupiers. The inspector found that the living conditions of the occupiers of both houses would be adequate. This is despite: the small amount of living space in the new house; the small amount of amenity space available to the new and existing occupiers; car parking right up to the front window of the existing house; and access to the rear garden of one house being taken across the rear garden of the other. The council felt that the cumulative impact was sufficient to include as a reason for refusal. The appeal was dismissed but only due to impact on the street scene.

Application No: 09/01899/FUL
Appeal by: Mrs Ruth Hildreth
Proposal: Single storey pitched roof rear extension
Site: The Stables
Woodside Farm
Moorlands Farm And Hospital
Wigginton
York YO32 2RF
Decision Level: DEL
Outcome: DISMIS

Planning permission was sought for the erection of a single storey extension to a converted stable block located at the edge of, but detached from, a group of former farm buildings in the York Green Belt. The dwelling had previously been extended to add a study and large garage. The council refused consent as the extension, taking into account the previous extension, represented a disproportionate addition constituting inappropriate development that would be harmful to the openness of the Green Belt and would further harm the open character of the Green Belt due to the extension being built away from the cluster of former farm buildings. No very special circumstances existed to outweigh the harm by reason of inappropriateness or additional identified harm. The inspector agreed with the Council that the extension would, in conjunction with the previous extension, be disproportionate to the size of the original building and consequently was inappropriate development that would reduce the sense of openness and 'undermine the Green Belt purpose of safeguarding the countryside from encroachment', contrary to national and local planning policy. Whilst he felt that the extension would not be unduly prominent nor materially harmful to visual amenity and that the design was acceptable, he considered that these did not constitute very special circumstances to clearly outweigh the harm to the Green Belt.

Application No: 09/00037/EN
Appeal by: Nicola Claire Harrison
Description: Appeal against
Site: 11 Farmlands Road
York YO24 2UA
Outcome: DISMIS

This appeal was against an enforcement notice requiring removal of a 1.8m high timber fence to the front and side boundary of the property. The property is situated in a residential street on a prominent corner of Farmlands Road and Wains Road. The majority of properties are characterised by low lying walls/hedges to the front boundary. Planning permission was applied for retrospectively but refused. Reasons for refusal were its height, appearance and close proximity to the front boundary, which resulted in the fence having an overdominant and overbearing impact upon the streetscene. The inspector dealing with the appeals against the Notice and refusal of permission agreed that the height, length and position of the fence so close to the adjacent footpath is a visually dominant and intrusive feature which has an adverse impact on the visual character of the neighbourhood. The appeals were therefore dismissed and the enforcement notice upheld.

Application No: 09/00037/EN
Appeal by: Mr A Shewan
Description: Appeal against
Site: 11 Farmlands Road
York YO24 2UA
Outcome: DISMIS

This appeal was against an enforcement notice requiring removal of a 1.8m hightimber fence to the front and side boundary of the property . The property is situated in a residential street on a prominent corner of Farmlands Road and Wains Road. The majority of properties are characterised by low lying walls/hedges to the front boundary. Planning permission was applied for retrospectively but refused. Reasons for refusal were its height, appearance and close proximity to the front boundary, which resulted in the fence having an overdominant and overbearing impact upon the streetscene. The inspector dealing with the appeals against the Notice and refusal of permission agreed that the height, length and position of the fence so close to the adjacent footpath is a visually dominant and intrusive feature which has an adverse impact on the visual character of the neighbourhood. The appeals were therefore dismissed and the enforcement notice upheld.

Decision Level:

DEL = Delegated Decision
COMM = Sub-Committee Decison
COMP = Main Committee

Outcome:

ALLOW = Appeal Allowed
DISMIS = Appeal Dismissed
PAD = Appeal part dismissed/part
allowed

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Outstanding appeals

Officer: Billy Wong						Total number of appeals: 2
Received on:	Ref No:	Appeal Ref No:	Site:	Description:		
25/02/2010	10/00009/REF	APP/C2741/A/10/2122459/WF	9 Keith Avenue Huntington York YO32 9QH	Erection of 1no. dwelling with dormers to front and rear and associated access off Garth road (resubmission)		
25/02/2010	10/00010/REF	APP/C2741/A/10/2122462/WF	11 Keith Avenue Huntington York YO32 9QH	Erection of 1No dwelling with dormers to front and rear and associated access off Garth Road (resubmission)		
Officer: Erik Matthews						Total number of appeals: 1
Received on:	Ref No:	Appeal Ref No:	Site:	Description:		
04/03/2010	10/00015/REF	APP/C2741/A/10/2124163/NWF	Wellgarth House Wetherby Road Rufforth York YO23 3QB	Outline application for construction of 4no two-storey dwellings after demolition of existing dwelling		
Officer: Fiona Mackay						Total number of appeals: 1
Received on:	Ref No:	Appeal Ref No:	Site:	Description:		
19/03/2010	10/00016/EN	APP/C2741/F/10/2124960	Railway Station Road York	Unauthorised Replacement Retail Unit (Enforcement Notice)		
Officer: Hannah Blackburn						Total number of appeals: 2
Received on:	Ref No:	Appeal Ref No:	Site:	Description:		
23/02/2010	10/00012/FUL	APP/C2741/A/10/2122171/NWF	Zero House Greenclyffe Drive York YO30 6LL	Conversion of basement to form self contained flat (retrospective application)		
01/03/2010	10/00008/FUL	APP/C2741/D/10/2123440	2 Station Cottages Naburn Lane Naburn York YO19 4RW	Single storey side extension, conservatory to rear and renovation works for swimming pool		
Officer: Jonathan Kenyon						Total number of appeals: 3
Received on:	Ref No:	Appeal Ref No:	Site:	Description:		
09/03/2010	10/00011/REF	APP/C2741/D/10/2123661	81 Lower Priory Street York YO1 6HD	Part first floor part two storey side extension and alteration to roof of existing single storey part. (resubmission)		

03/02/2010	10/00007/REF	APP/C2741/A/10/2121944/NWF	The Lowther 8 Cumberland Street York YO1 9SW	External alterations and balcony to front
15/03/2010	10/00014/REF	APP/C2741/D/10/2124693	29 Albemarle Road York YO23 1EW	First floor flat roof side extension with balcony to front. Alterations to front boundary including new gates (1.8m high).
Officer: Kevin O'Connell				
Received on:	Ref No:	Appeal Ref No:	Site:	Description:
13/11/2009	09/00046/REF	APP/C2741/A/09/2116625/WF	57 York Road Haxby York YO32 3EE	Erection of 1no. four-bedroom detached house to rear of 57 York Road
06/01/2010	10/00001/REF	APP/C2741/A/10/2119795	Manor Farm Towthorpe Road Haxby York YO32 9SP	Erection of 1 no. detached dwelling
18/03/2010	10/00017/REF	APP/C2741/A/10/2125131/NWF	5 Northfields Strensall York YO32 5XN	Erection of 3no. dwellinghouses to rear of 5 and 6 Northfields (amended scheme) (resubmission)
Officer: Michael Jones				
Received on:	Ref No:	Appeal Ref No:	Site:	Description:
15/01/2010	10/00003/REF	APP/C2741/A/10/2120303	Westholme 29 Church Street Dunnington York YO19 5PP	Detached two storey dwelling and detached single garage (resubmission)
Officer: Matthew Parkinson				
Received on:	Ref No:	Appeal Ref No:	Site:	Description:
22/01/2010	10/00006/FUL	APP/C2741/A/10/2119841/WF	Viewlands 227 Malton Road Huntington York YO32 9TD	Outline application for the erection of a dwelling
Officer: Victoria Bell				
Received on:	Ref No:	Appeal Ref No:	Site:	Description:
22/06/2009	09/00024/REF	APP/C2741/H/09/2107171	The Old School Front Street York	Retention of 1no. externally illuminated lettering sign to Green Lane elevation (re-submission)
22/06/2009	09/00025/REF	APP/C2741/E/09/2107208/NWF	The Old School Front Street York	Retention of 1No.externally illuminated sign to Green Lane elevation
Total number of appeals: 3				
Total number of appeals: 1				
Total number of appeals: 1				
Total number of appeals: 3				

04/03/2010 10/00013/REF APP/C2741/H/10/2124043 Display of 7no. internally illuminated fascia signs, 1no. internally illuminated totem sign, 13no. non illuminated freestanding signs, 4no. non illuminated fascia signs, 4no. floodlights and 1no. flagpole

Holiday Inn Tadcaster Road
Dringhouses York YO24 1HF

Total number of appeals: 17

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