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| MEETING | WEST & CITY CENTRE AREA PLANNING SUB-COMMITTEE |
| DATE | 27 APRIL 2011 |
| PRESENT | COUNCILLORS HORTON (CHAIR), REID (VICE- CHAIR), CRISP, STEVE GALLOWAY, GALVIN, GILLIES, B WATSON AND MORLEY |
| APOLOGIES | COUNCILLOR SUNDERLAND |

55. INSPECTION OF SITES

The following sites were inspected before the meeting.

| Site | Attended by | Reason for Visit |
|--|--|--|
| Bright Street Post Office, 37 Stamford Street East | Councillors Galvin, Gillies, Horton, Morley and Reid. | At the request of Councillor J Alexander |
| 2 Black Dykes Lane, Upper Poppleton | Councillors Galvin, Gillies, Horton, Morley and Reid.. | As objections had been received and the officer recommendation was for approval. |
| 106 Albion Avenue | Councillors Galvin, Gillies, Horton, Morley and Reid. | As objections had been received and the officer recommendation was for approval. |
| Morrisons, Front Street, Acomb | Councillors Galvin, Gillies, Horton and Reid. | As objections had been received and the officer recommendation was for approval. |
| The Purey Cust Nuffield Hospital, Precentors Court | Councillors Galvin, Gillies and Horton. | As objections had been received and the officer recommendation was for approval. |

56. DECLARATIONS OF INTEREST

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

Councillor Gillies declared a personal non prejudicial interest in plans item 4d (Morrisons, Front Street, Acomb) because as the former chair of Acomb Conservative Club he had been involved in complaints regarding anti social behaviour in the area in the past.

Councillor Horton declared a personal and prejudicial interest in plans item 4g (Bright Street Post Office, 37 Stamford Street East) as the architect for the application was a close neighbour of his. He left the room for

discussion of this item and took no part in the debate or vote on this application.

57. MINUTES

RESOLVED: That the minutes of the meetings of the West and City Centre Planning Sub-Committee held on 16 February and 17 March 2011 be approved and signed by the Chair as a correct record.

58. 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 7 (Enforcement Cases Update) (Minute 62 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.

59. PUBLIC PARTICIPATION

It was reported that there had been no registrations to speak under the Council's Public Participation Scheme on general issues within the remit of the Sub-Committee.

60. 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.

60a Luxury Ice Cream Company, 20 Back Swinegate, York, YO1 8AD (11/00383/FUL)

Members considered a full application from Mrs Dawn Argyle for the variation of condition 3 (hours of operation) and condition 5 (barriers around café area and umbrellas) of planning permission 10/00788/FUL for the use of the highway as an outside seating area.

Officers advised that since the report was written and following discussions with officers, the applicant has requested that the operating times for the pavement café be extended to 11.00 to 20.00 Monday to Friday and 10.00 to 20.00 Saturday and Sunday.

They reported that Highways Network Management had commented that because the cafe was towards the end of the street which is a no through road there were no immediate concerns from a Highways operations perspective for an 8pm finish and the earlier start time requested. However they advised that, because after the footstreet hours there will be additional traffic in the street, it was important that some form of barrier (not "A" boards) to highlight the extent of the cafe were put in place as soon as was practical.

Officers advised the Committee that they had amended their conclusion and recommendations in the report, a copy of which was circulated to Members. They agreed that the variation of Condition 3 (operating hours) was acceptable as it was considered that would not cause further or harmful obstruction to the highway. However they advised that the variation of Condition 5 (street furniture) would be unacceptable as the provision of two umbrellas would be detrimental to the character and appearance of the conservation area. In respect of the barriers, they advised that the condition does not require that the barriers are erected (this is required under the Highway Licence) merely that if they are erected they conform to the approved design. They explained that their recommendation was therefore now to part approve and part refuse the application. (A copy of the officer's update has been published online with the agenda papers for this meeting.)

Members questioned whether there was a policy regarding the use of umbrellas and officers confirmed that although there was not a policy their approach in past applications, which requested the use of tables and chairs outside, had been to resist the use of umbrellas.

Representations were received from the applicant in favour of the application. She explained that the ice cream parlour had now been operating for 12 months and was very popular with tourists and that the street café had been successfully operating for six months. She explained that having to limit the opening of the café to foot street hours was restricting for the business. She advised Members that the barriers were large and cumbersome and raised concerns that having to carry them across the premises posed a potential safety risk to customers. She explained that she would like to be able to deploy umbrellas on sunny days during foot street hours to make the experience of eating an ice cream more pleasurable for her customers.

Members agreed that they were happy with the proposed extension of opening hours and suggested that umbrellas be allowed for a temporary period over the summer season. They also recommended that City of York Council looks at creating a policy on the use of umbrellas.

Officers advised that the variation of condition 5 could be conditioned to allow umbrellas for a temporary period, with the design to be agreed but

advised against giving permanent permission for the use of umbrellas as there was currently no policy in place regarding this.

RESOLVED:

a) That the application be part approved subject to the conditions listed below:

1 The development hereby permitted shall be carried out in accordance with the following plans:- Revised drawing received 14.06.10

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

2 The tables and chairs shall not be placed on the highway except between the hours of:
Mondays to Fridays 11.00 to 20:00
Saturdays and Sundays 10:00 to 20:00
Outside of these hours, all equipment associated with the use shall be removed from the public highway.

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

3 The tables and chairs associated with the use hereby approved shall be stored within No. 20 Back Swinegate when not in use.

Reason: In the interests of the safety and rights of way of users of the public footway, and in the interests of visual amenity of the conservation area.

4 There shall be no change or addition to the furniture used in association with the outdoor seating area from that shown in the details submitted on 7 May 2010 (tables, chairs, barrier posts and ropes) without the prior written approval of the Local Planning Authority.

Two no. umbrellas, to a design and specification to be first submitted to and approved in writing by the local planning authority (but for the avoidance of doubt to be of plain appearance and not to contain any advertising), may be used in association with the tables and chairs for a temporary period until 30 September 2011 after which date they shall cease to be used.

Reason: In the interests of the character and appearance of this part of the Central Historic Core Conservation Area.

REASON FOR PART APPROVAL:

In the opinion of the Local Planning Authority the proposal to vary condition no.3 (hours of operation) and to temporarily vary condition 5 in respect of 2no. umbrellas would not cause undue harm to interests of acknowledged importance, with particular reference to the character and appearance of the conservation area and highway safety. As such the proposal complies with Policies GP1, HE3 and S6 of the City of York Development Control Local Plan.

- b) That officers be requested to devise a policy for pavement cafes in the city centre

Reason: To provide guidance to Members when considering future applications which request the use of umbrellas.

60b 2 Black Dykes Lane Upper Poppleton York YO26 6PT (11/00315/FUL)

Members considered a full application from Mr P Landais-Stamp for a single storey rear extension with rooms in the roof and a porch to the rear.

Representations were received from a neighbour in objection to the application. He explained that the development would overshadow his rear windows and lead to a loss of light in his house. He stated that the proposed extension would be too large and would create a two storey house which would be out of proportion to the other half of the semi.

Representations were also received from the applicant in support of the application. He advised the Committee that he had considered his neighbour's amenity and had met with them to discuss two possible designs prior to submitting the application. He stressed his hope to maintain a good relationship with his neighbours. He expressed the view that the proposal provided a design which was more sympathetic to the property than a single storey extension would be which he pointed out could have been built under permitted development rights. He explained that his options for extending his property had been limited due to the fact that the neighbouring property had already been extended right up to the boundary with his property with clear glazing on three sides and he stated that he did not think this should compromise his own rights to extend.

Members noted the next door neighbour's concerns but agreed that the proposed extension, with a hipped roof, would extend outwards very little beyond the extension of the other half of the semi. They noted that there would be a small loss of light from the neighbouring property but did not believe that the objections raised by the other neighbour were founded due to the distance from the application site and separation by an access road.

RESOLVED:

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

REASON:
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 residential amenity of neighbours or the impact upon the streetscene. As such the proposal complies with Policies H7, HE3 and GP1 of the City of York Development Control Local Plan; City of York Supplementary Planning Guidance to Householders (Approved March 2001); Planning Policy Statement 5: Planning and the Historic Environment and Poppleton Village Design Statement.

60c Land Adjacent 106 Albion Avenue York (11/00481/FUL)

Members considered a full application from Mr J M Armitage for alterations, an extension and part demolition of the existing building to create a single storey dwelling.

Officers updated the Committee on the planning history of the site and what developments had taken place to date.

Officers advised Members that Acomb Planning Panel had responded to the consultation and had no objections to the application. They also advised that an additional letter of objection had been received from the residents of 240 Beckfield Lane on behalf of residents of 236, 238 and 242 Beckfield Lane, 243 Boroughbridge Road, 1 Portal Road and 104 and 108 Albion Avenue as well as themselves. This letter raised concerns over the loss of amenity of neighbours due to overshadowing, loss of open space, loss of skyline, the size of the extension and mass of the building. It also suggested that the proposed extension should be removed from the plans leaving a two bedroom bungalow which would be more in keeping with the area and would maintain some of the openness of the site. (A copy of the officer's update has been published online with the agenda papers for this meeting.)

Representations were heard from a resident of Beckfield Lane in objection to the application. She stated that the extension was too large for the site, that it would be overbearing and would compromise the amenity of neighbours, spanning several gardens. She asked that the roof be hipped on all elevations and the roof height reduced. She raised concerns that dormer windows could be added at a later date by the applicant and requested that the application be conditioned to prevent this from happening. She expressed concerns about the work which had taken place on the site previously and requested that the site be carefully monitored by enforcement officers from now on.

In response, Officers responded that condition 3 removed permitted development rights in respect of any future extensions and that condition 4 limited the height of the development to 5.2m from the existing ground level.

Representations were also received from the agent in support of the application. She reiterated the fact that Acomb Planning Panel did not object to the application. She advised Members that she had re-measured the site and she confirmed the distances between the development and adjacent properties. She stated that further discussions had taken place between the applicant and the owner of 106 Albion Avenue. She advised that her client would demolish the shell of the building which was already on site and revert to the previously approved scheme if required but advised that he would not be prepared to redesign the proposed house with a hipped roof.

Members acknowledged that the principle of building on the site had been established by the approval of the original application and some Members agreed that the new proposals went a long way to addressing residents concerns by creating a single storey building with a condition to remove future extensions under permitted development rights. They voiced the opinion that in many ways it fitted the site better than what has previously been approved and was therefore acceptable. Councillor Galvin moved and Councillor Reid seconded a motion to approve the application. On being put to the vote the motion fell.

Some Members raised concerns that the development was still too large for the site. They also expressed concerns with the shape of the roof and suggested it would be less overbearing if it was hipped and the slope of the roof was flatter. Councillor Horton moved and Councillor B Watson seconded a motion to refuse the application on the grounds of overdevelopment and the design of the roof. On being put to the vote, the motion was carried.

RESOLVED:

That the application be refused.

REASON:

The proposed dwelling by reason of the design, pitch and height of the roof and its site coverage, in particular the front projection towards no.106 Albion Avenue, would result in a development that is too big for the site and that would be overbearing and dominate the outlook from adjoining residential properties. The dwelling would therefore harm the living conditions of the adjoining dwellings which is contrary to the following policies of the Development Control Local Plan:

Policy GP1 which states that development proposals will be expected to be of a layout, scale, mass and design that is compatible with neighbouring buildings and ensure that residents living nearby are not unduly dominated by overbearing structures;

Policy GP10 which states that planning permission will only be granted for the sub-division of existing garden areas where this would not be detrimental to the amenity of the local environment, and;

Policy H4a which states that proposals for residential development will be granted where it is of an appropriate scale to surrounding development.

The proposal is also considered to be contrary to National planning policies contained within PPS1 "Delivering Sustainable Development" and PPS3 "Housing".

60d Morrisons, Front Street, Acomb, York YO24 3BZ (09/02304/FUL)

Members considered a full application by Mr Gareth Wilkinson of WM Morrison Supermarkets PLC for the provision of 21 additional car parking spaces on land to the rear of 7 and 9 Green Lane with associated lighting, fence and trolley shelter.

Officers drew Members attention to an error in paragraph 1.1 of the report which should have read "land to the rear of 7 and 9 *Green Lane*" and not "..... Front Street..." as stated. They also advised Members that a letter of objection had been received from a local resident and had been circulated to Members at the meeting. This raised issues regarding the use of the Morrisons car park and advised that a parking use survey be carried out, to assess the extent of non-Morrison parking, and a travel plan for staff agreed and implemented before this application for further parking is determined.

Officers recommended that conditions 6 (illumination of car park), 8 (times of closure of security gate), 10 (details of staff parking) and 12 (provision of CCTC) be amended. (a copy of the officer's update has been published online with the agenda papers for this meeting)

Representations were received from a local resident of Green Lane in objection to the application. He raised concerns about the potential level of noise from the proposed car park stating that the current car park is used by youths as a meeting place, and although a lockable security gate would prevent vehicles accessing the proposed car park when not in use, it would not prevent people from gaining access. He also expressed concerns that some mature trees had already been felled and more mature trees would require felling. He reminded Members that Morrisons had originally stated that additional parking would not be required and this proposal was in direct opposition to the Council's policy on promoting green transport. He concluded by stating that Morrisons needed to reduce their parking requirements and undertake to properly manage their existing car park.

Members raised concerns about anti social behaviour and pointed out that the majority of this takes place when the store is open not closed. They queried whether the proposed additional car park could be closed at a specific time in the evening when there is sufficient space in the main car park. Officers suggested that it should be fairly easy to monitor and enforce this arrangement but pointed out that it would only keep cars out and not people..

The Environmental Protection Officer advised that an acoustic report had been submitted and analysed. The acoustic barrier would significantly

remove the potential for noise from car movements and although there would be a small increase in noise, it should not affect residential amenity.

Members expressed the view that Morrisons needed to look into some issues with regard to the car park, including the actual need for parking spaces, and to establish a policy to encourage staff not to drive to work. They suggested that they also need to consider, in liaison with officers, the entrance of the car park onto Front Street and the safety of pedestrians crossing this entrance, which had been identified by an access group as an issue. Members also raised concerns about the increased potential for anti social behaviour in the area and stated that this needed to be considered further.

Members agreed that the application should be deferred in order that the applicant could:

- i. finalise a travel plan especially in relation to staff travel;
- ii. explore options with officers for improving the entrance of the car park onto Front Street; in order to alleviate safety concerns.
- iii. consider what hours the car park could be locked; and
- iv. examine ways of reducing the potential for anti social behaviour in the car park.

RESOLVED:

That the application be deferred for the above reasons.

REASON:

In order that the above information is available to Members and Officers when the application is determined.

60e The Purey Cust, Nuffield Hospital, Precentors Court, York, YO1 7EJ (11/00242/FULM)

Members considered a major full application (13 weeks) by York YO1 Property LLP for the conversion of the former Nuffield Hospital and self contained flat to form three apartments and nine houses.

Officers stated that Fire and Rescue service advised that, as submitted, the proposals would not comply with Building Regulations, as a fire tender could not access the site. To mitigate such they have advised the applicants to consider additional fire safety measures to compensate. They added that Building Control Officers advised they would accept fire detection systems, a misting system within the building and two fire hydrants within the site (each side of the stone wall).

Officers advised Members that Condition 8 should be amended to include the requirement for additional planting to screen the parking areas from "The Lodge". (A copy of the officer's update has been published online with the agenda papers for this meeting)

Representations were received from a neighbour with regard to the application. He advised Members that a lot of his original concerns regarding views of the car parking area had been resolved at the site visit and he confirmed that, as long as the landscaping between the car parking area and the Lodge was sensitive, he was now happy with the proposals.

Representations were received from the applicant in support of the application. He advised that he had consulted with residents and local businesses regarding the planning application and had held an open evening in March 2011 and he had gained the full support of the Dean and Chapter, York Civic Trust and English Heritage. He advised that following discussions with officers, he had reduced the hard standing by 50 percent, included additional landscaping, recognised concerns about the potential for anti social behaviour and had added security by way of an electronically operated wrought iron gate. He stressed that the development would bring new life into an old building and, as well as the long term benefits, short term benefits would include new jobs and training contracts.

One Member raised concerns that paragraph 3.1 of the report appeared to suggested that commuted sums in place of on site open space should in part be used to improve sites such as the Museum Gardens or Clarence Gardens. He stated that the York Museums Trust already received money from City of York Council for the Museum Gardens and stated that this money should instead be used for community use within the ward. Another Member reminded the Committee that a recent scrutiny review into play facilities had identified a lack of play facilities in the Guildhall Ward, which had missed out on Playbuilder funding and suggested it be used for this type of scheme.

Officers advised that comments contained in paragraph 3.1 were a consultation response and had no relevance to the decision notice or 106 agreement. They explained that monies collected under the scheme would normally be used to enhance nearby open spaces but would not be earmarked and would be used at the discretion of relevant officers, based on where the need was at that time.

Members agreed that this was an excellent scheme and was an imaginative use of a prominent building in the city centre.

RESOLVED:

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

Amended Condition 8

Prior to development commencing a plan showing trees to be retained (to include trees T8 and T9), removed and replacement trees shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall be implemented in accordance with the approved plan thereafter.

Prior to first occupation of the development hereby approved, a detailed hard and soft landscaping scheme, including the number, species, height and position of trees and shrubs to be planted, including planting to screen parking areas from 'The Lodge' (considering the retention of existing planting), and the type and height of all boundary treatment shall be submitted and approved in writing by the Local Planning Authority.

The approved 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: In the interests of the setting of listed buildings and the character and appearance of the conservation area.

REASON:

The proposal, subject to the conditions listed in the report and the amended condition above, would not cause undue harm to interests of acknowledged importance, with particular reference to impact on heritage assets, amenity, provision of open space and education facilities, species protected by law and highway safety. As such the proposal complies with Policies GP1, HE2, HE3, HE4, H4, L1c, ED4, C3, NE6 and NE7 of the City of York Development Control Local Plan.

Note: Councillor B Watson asked that it be recorded in the minutes that he voted against the application due to uncertainty over the use of monies collected in respect of open space.

**60f The Purey Cust Nuffield Hospital Precentors Court York YO1 7EJ
(11/00342/LBC)**

Members considered an application for Listed Building Consent from York YO1 Property LLP for the conversion of former Nuffield Hospital including part demolition to form three apartments and 9 houses.

Officers stated that Fire and Rescue Service advised that, as submitted, the proposals would not comply with Building Regulations, as a fire tender could not access the site. To mitigate such they have advised the applicants to consider additional fire safety measures to compensate. They added that Building Control Officers advised they would accept fire detection systems, a misting system within the building and two fire hydrants within the site (each side of the stone wall). Conservation Officers have confirmed that the misting and fire detection systems could be accommodated within the listed building without undue harm to the fabric. Officers therefore suggested a condition be added to the listed building consent application to cover this. They also stated that English Heritage had advised that hydrant outside would require scheduled ancient monument consent but did not object to the principle.

Representations were heard from a local resident and the applicant with regard to this application, details of which have been included under minute number 60e (Purey Cust – Full Application)

RESOLVED:

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

Amended Condition 3a

Large scale details of the items listed below shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of the development and the works shall be carried out in accordance with the approved details.

a - All boundary walls, gates, fences and other boundary treatments. Where amendments to existing boundaries are proposed large scale details, accompanied by a method statement and specifications shall be provided. Walls shall be recorded to an agreed specification prior to works commencing. *Notwithstanding drawing 202B there shall be a means of enclosure provided around the entrance to the apartments.*

Reason: In the interests of the appearance of the listed building.

Additional Condition

Details of fire safety measures to be installed shall be submitted to an approved in writing by the Local Planning Authority prior to first occupation of the development hereby approved and the development shall occur accordingly.

Reason: In the interests of the appearance of the listed building.

REASON:

The proposal, subject to the conditions listed in the report and the amended and additional condition above, would not cause undue harm to interests of acknowledged importance, with particular reference to the historic and architectural interest of the listed buildings. As such the proposal complies with Policy HE4 of the City of York Development Control Local Plan.

60g Bright Street Post Office, 37 Stamford Street East, York, YO26 4YE (11/00515/FUL)

Members considered a full application from Mr Chris Cook for the conversion and alterations of the existing post office and dwelling to create two flats (revised scheme from 10/02360/FUL).

Members commented that it was a more acceptable proposal with better space in the bedrooms than the previous proposal although one member

noted that it would still have been preferable for it to become a family size home instead of two flats.

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: Principle of Development; Design; Residential Amenity; Sustainability; and Flood Risk. As such the proposal complies with Policies GP1, GP4a, GP15a, H8, L1c and S9 of the City of York Development Control Local Plan.

61. APPEALS PERFORMANCE AND DECISION SUMMARIES

Consideration was given to a report, which was also being presented to the main Planning Committee and East Area Planning Sub-Committee informing Members of the Council's performance in relation to appeals determined by the Planning Inspectorate in the 3 month period up to 31 March 2011. The report also provided a summary of the salient points from the appeals determined in that period together with a list of outstanding appeals as at 31 March 2011.

RESOLVED:

That the report be noted.

REASON:

To update Members on appeal decisions within the City of York Council area and inform them of the planning issues surrounding each case for future reference in determining planning applications.

62. ENFORCEMENT CASES UPDATE

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

RESOLVED:

That the report be noted.

REASON:

To update Members on the number of outstanding enforcement cases within the Sub Committee's area.

Councillor D Horton, Chair

[The meeting started at 3.00 pm and finished at 5.25 pm].