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MEETING	PLANNING COMMITTEE
DATE	15 DECEMBER 2011
PRESENT	COUNCILLORS CUNNINGHAM-CROSS (CHAIR), GALVIN (VICE-CHAIR), AYRE, BOYCE, D'AGORNE, DOUGHTY, FIRTH, FUNNELL, MCILVEEN, MERRETT, REID, SIMPSON-LAING, WATSON, WATT, WILLIAMS AND BURTON (SUB FOR CLLR KING)
APOLOGIES	COUNCILLOR KING

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#### 24. INSPECTION OF SITES

Site	Reason for Visit	Members Attended
Site adjacent to Frog Hall Public House, Layerthorpe, York (11/02210/FULM)	To enable Members to view the site with respect to contamination, flooding, landscaping and the link road.	Cllrs Cunningham – Cross, Boyce, Doughty, Funnell, Galvin, Reid, Watson and Williams

#### 25. DECLARATIONS OF INTEREST

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

Councillor Watt declared a personal non prejudicial interest in relation to Plans item 4c) (Grain Stores, Water Lane, York) as his election leaflet had included his photograph in front of the grain stores when he had criticised the authorities affordable housing policy.

Councillor Funnell declared a personal prejudicial interest in respect of Plans item 4a (Allerton Waste Recovery Park, Tinker Lane, Rufforth, York) as she was involved in waste contract for waste removal and she left the room and took no part in the discussion or voting thereon.

Councillor Reid declared a personal non prejudicial interest in respect of Plans item 4a (Allerton Waste Recovery Park, Tinker

Lane, Rufforth, York) as a former CYC Executive Member for Neighbourhoods.

Councillor D'Agorne declared a personal prejudicial interest in respect of Plans item 4a (Allerton Waste Recovery Park, Tinker Lane, Rufforth, York) as one of four members who had previously voted against these proposals and he left the room and took no part in the discussion or voting thereon.

Councillor Merrett declared a personal prejudicial interest in relation to Plans item 4a (Allerton Waste Recovery Park, Tinker Lane, Rufforth, York) as he was employed by Amey Consulting a parallel partner organisation *in* to the joint venture with the applicants Amey Cespa and he left the room and took no part in the discussion or voting thereon.

Councillors Boyce and Funnell declared personal non prejudicial interests in respect of Plans item 4b (Site adjacent to Frog Hall Public House, Layerthorpe, York) as two of the ward members who had met the developer prior to submission of the application.

*[As amended by the Planning Committee at their meeting held on 19 January 2012 ]*

## **26. MINUTES**

RESOLVED: That the minutes of the last meeting of the Committee held on 24 November 2011 be approved and signed by the Chair as a correct record.

## **27. PUBLIC PARTICIPATION**

It was reported that there had been no registrations to speak at the meeting under the Council's Public Participation Scheme.

## **28. PLANS LIST**

Members considered the report of the Assistant Director (Planning and Sustainable Development) relating to the following planning applications, which outlined the proposals and relevant planning considerations and set out the views of the consultees and officers.

**28a Allerton Waste Recovery Park, Outside Boundary Tinker Lane, Rufforth, York (11/02998/ADJ)**

The Committee considered an adjoining authority consultation application, received from North Yorkshire County Council, in respect of a Waste Recovery Park at Allerton Park Quarry, Knaresborough.

Officers updated that Design, Conservation and Sustainable Development had confirmed that there would be no material impact upon the setting of York Minster arising from the proposal.

Representations in objection to the proposal were received from Christian Vassie. He submitted evidence to members, received from the applicants, that confirmed the plant could provide heating for thousands of homes however the rural location did not make this possible. He urged the Committee to defer the application to allow time to identify a location where a properly regulated incinerator could provide district heating to half the households in York.

A representative of North Yorkshire Waste Action Group pointed out that a number of issues had still not been addressed in respect of this application. He referred to a number of policies to which the application was contrary and pointed out that the scheme would do nothing to assist the authorities waste minimisation target. He went on to outline in further detail the Groups main objections of harm, need and mitigation.

Representations were received from a representative of Marton cum Grafton Parish Council as a parish which adjoined the site. Their representative confirmed that although they did not object to some waste treatment on site they did object to the size, technology and cost of this proposal. As clarification was still required on a number of issues they also requested members to defer the application pending receipt of this information.

The Council's legal representative, confirmed that the City of York Council were themselves only consultees as an adjoining Planning Authority. The Committee's views were sought on the planning impact of the application on the planning authority's area.

Members questioned a number of aspects of the application including:

- Details of the impact upon the setting of the historic parkland and Allerton Castle.
- Basis of consultation with the authority.

Members confirmed that they understood the concerns and strength of feeling of local residents and Parish Councils. However, they did not believe that the proposals would have an impact on the City of York Council's area relating to planning matters and it was only on this aspect of the application that they could provide a consultation response.

Following further discussion it was

**RESOLVED:** That no objections be raised to the consultation by North Yorkshire County Council as determining authority.

**REASON:** To offer a response to North Yorkshire Council in respect of the adjoining authority consultation.

**28b Site Adjacent To Frog Hall Public House, Layerthorpe, York (11/02210/FULM)**

The Committee considered a major full application, submitted by Tiger Developments, for the erection of a 5 storey building comprising hotel with ground floor pub/restaurant, retail and drive-through restaurant uses with associated parking, landscaping and extension to James Street/Heworth Green Link Road.

Officers updated on a number of amendments and additions to the report including (full details of which are attached as an annex to the agenda for the meeting):

- Paragraphs 3.3 and 4.21- amended distances.
- Paragraph 3.8 – Plant equipment should be below rather than above background noise levels. Scheme required as a condition of approval.
- Paragraph 3.17 – noted that the walkway would be enclosed at each end and that the existing boundary treatments would remain.
- The council would contribute £290k towards delivery of the James Street link road.

- Amendments to Conditions 1, 8, 9, 10, 22, 23, 25 and 27 of the report.

Representations were then received from the applicant's agent who confirmed that this was an important development which would rejuvenate a dilapidated site. Development would involve removal of the contaminants from the former gas works and enable the construction of the final phase of the James Street Link Road.

A representative of BJH Consultants spoke in relation to flooding and drainage issues on site. He confirmed his involvement with the site since 2003 when the flood risk assessment had been prepared and to extensive consultations undertaken with the Environment Agency and CYC Engineers. He explained in detail the remediation works to be undertaken prior to construction and works to ensure that the development would be safe from flooding.

Members questioned a number of aspects of the development, including:

- Clarification regarding the 1.8m high fencing recommended by the Police Architectural Liaison Officer.
- Traffic flow issues in drive through area.
- Need for inclusion of additional height condition HT1 relating to the height of the approved development.
- Increase in development start date in Condition 1 to five rather than three years.
- Decommissioning of the gasholder.
- Implications of change in land allocation of the site.
- Need for bins and litter collection in connection with proposed take away.
- Need to tie in existing and proposed footpaths.
- Landscape maintenance.

In answer to members questions the applicant's representative from MWH Global explained the work required to remove the contaminants on site.

Officers also confirmed that landscape maintenance and provision of litter bins and litter collection would be included in the Section 106 Agreement.

Following further discussion it was

RESOLVED: That the application be approved subject to a Section 106 Agreement, the conditions listed in the report and the imposition of the following amended and additional conditions:

**Amended Condition 1:** The development shall be begun not later than the expiration of five years from the date of this permission.

**Amended Condition 8:** There shall be no more than 713 square metres of floorspace within the development hereby approved used as either A1, A3, A4 or A5 uses. Any A1 use shall be for the sales of convenience goods only (as defined in PPS4).

**Amended Condition 9:** Any A3 (restaurant/cafe), A4 (drinking establishment) or A5 (hot food takeaway) uses on the site (independent from the hotel hereby approved) shall only operate within the hours of 08:00 and 24:00 each day of the week.

**Amended Condition 10:** The development shall be constructed to a BRE Environmental Assessment Method (BREEAM) standard of 'very good'.

A BREEAM Design Stage assessment shall be carried out and a BREEAM Design Stage Certificate shall be submitted to the Local Planning Authority within 6 months of commencement of the development. Within 3 months after first occupation of the building a Post Construction stage assessment shall be carried out and a Post Construction stage certificate shall be submitted to the Local Planning Authority.

Should the development fail to achieve a BREEAM standard of 'very good' a report shall be submitted for the written approval of the Local Planning Authority demonstrating what remedial measures should be undertaken to achieve a standard of 'very good'. The approved remedial measures shall then be undertaken within a timescale to be approved in writing by the Local Planning Authority.

**Condition 22 being split into two separate conditions:**

**Condition 22:** A verification report demonstrating completion of the works set out in the approved remediation strategy and the effectiveness of the remediation shall be approved, in writing, by

the local planning authority prior to commencement of the development.

The report shall include results of sampling and monitoring carried out in accordance with the approved verification plan to demonstrate that the site remediation criteria have been met. It shall also include a "long-term monitoring and maintenance plan" for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action, as identified in the verification plan, and for the reporting of this to the local planning authority.

INFOMATIVE: The monitoring programme may continue during and following development provided these are not below building footprints.

**Condition 23:** The long-term monitoring and maintenance plan shall be implemented as approved. Reports on monitoring, maintenance and any contingency action carried out in accordance with a long-term monitoring and maintenance plan shall be submitted to the local planning authority as set out in that plan, this shall include a plan for the protection and where necessary reinstatement of monitoring points during and on completion of the construction phase. On completion of the monitoring programme a final report demonstrating that all long-term site remediation criteria have been met and documenting the decision to cease monitoring shall be submitted to and approved in writing by the local planning authority.

**Amended Condition 25:** The following details of foul and surface water drainage works shall be approved in writing by the Local Planning Authority prior to development commencing and the development shall be carried out in accordance with the approved details;

- a) Details that demonstrate surface water run-off from the application site will not have an adverse affect on adjacent land. To include a topographical survey showing existing and proposed ground and finished floor levels to Ordnance Datum.
- b) Details of the future maintenance/management of the proposed drainage systems.

**Amended Condition 27:** The development shall be carried out in incorporating the following flood risk mitigation measures:

- a. Surface water run off shall be restricted to 2.0l/sec/ha. There shall be sufficient storage to accommodate at least a 1 in 30 year storm. The design shall ensure that storm water resulting from a 1 in 100 year event and surcharging the drainage system can be stored on the site without risk to people or property and without overflowing into the watercourse.
- b. The provision of a 3m easement from the top of the bank of the River Foss (as per the Bailey Johnson Hayes Flood Risk Assessment June 2011 rev A).
- c. Finished floor levels shall be set no lower than 11.150m above Ordnance Datum (AOD). An access and ingress route from the building shall be provided which is set no lower than 10.98AOD.
- d. There shall be no raising of ground levels that are currently below 10.04m AOD.
- e. Site operators shall sign up to the Environment Agency Flood warning service.

**Additional Condition:** The height of the approved development shall not exceed 17 metres, as measured from 11.15AOD.

**REASON:** 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 vitality and viability of the city centre, visual impact, amenity, highway network management, flood risk, the provision of a Foss walkway, and sustainable design and construction requirements. As such the proposal complies with Policies GP1, GP4, GP6, GP15, NE7, NE8, T2, T4, E1A, and V4 of the City of York Development Control Local Plan.

**28c Grain Stores, Water Lane, York (11/02454/OUTM)**

Members considered a major outline application, submitted by Water Lane Ltd, for an extension of the time period for implementation in respect of 07/01992/OUTM (allowed on appeal dated 01/09/08) in respect of redevelopment of the site for uses including offices (B1c), hotel (C1), residential institutions (C2), dwelling houses (C3) and non-residential



institutions (D1) including parking and new access arrangements.

Officers reported an amendment to paragraph 5.1 of their report to read “The applicant has failed to justify this position and it is therefore recommended that permission be refused.”

Representations were made by the applicants agent in respect of the provision of affordable housing on the site. He confirmed that, at the present time, this was not a viable option however his client would commit to providing affordable housing when the economic climate improved and he requested members to defer the application pending further negotiations.

The legal officer confirmed that, although this application was a duplicate of an earlier application subject of an appeal to be heard in January 2012, members should consider this application on its merits. Deferral of the application pending the appeal on the basis only that this was a duplicate application, was not recommended.

The majority of Members confirmed that to provide no affordable housing on this site was not acceptable and following further discussion it was

**RESOLVED:** That the application be refused.

**REASON:** The application fails to demonstrate that the 25% target allocation of affordable housing outlined in the Adopted Housing Viability Study for urban brownfield land can not be reasonably achieved on the site. It is therefore contrary to the terms of Policies H2a) and H3c) of the York Development Control Local Plan together with Central Government Guidance in respect of planning and affordable housing outlined in PPS3 (as amended).

**28d OS Field 3022, Metcalfe Lane, Osbaldwick, York  
(11/02305/FULM)**

Members were advised that the major full application, for the erection of 58 polytunnels in association with the use of land as allotments with associated facilities including reception building, toilet block, parking area and alterations to Metcalfe Lane, had

been withdrawn by the applicant, Mr James Metcalf, prior to the meeting.

CLLR L CUNNINGHAM-CROSS, Chair  
[The meeting started at 4.30 pm and finished at 5.55 pm].