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Meeting	Planning Committee
Date	13 June 2019
Present	Councillors Cullwick (Chair), Pavlovic (Vice-Chair), Ayre, Barker, D'Agorne, Daubeney, Doughty, Douglas, Fenton, Fitzpatrick, Hollyer, Kilbane, Warters, Fisher (Substitute) and Webb (Substitute)
Apologies	Councillors Perrett and Widdowson

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### Site Visits

Application	Reason	In attendance
Vale Engineering (York) Limited, Rufforth Approach Farm, Wetherby Road, Rufforth, YO23 3QF	To allow Members to familiarise themselves with the site	Councillors Cullwick, Daubeney, Douglas, Fenton, Hollyer, Kilbane
Tower House, Askham Fields Lane, Askham Bryan YO23 3NU	To allow Members to familiarise themselves with the site	Councillors Cullwick, Daubeney, Douglas, Fenton, Hollyer, Kilbane
Land Lying To The South Of Elvington Airfield Network, Elvington, York, YO41 4AU	To allow Members to familiarise themselves with the site	Councillors Cullwick, Daubeney, Douglas, Fenton, Fisher Hollyer, Kilbane

### 1. Declarations of Interest

Members were asked to declare, at this point in the meeting, any personal interests, not included on the Register of Interests, or any prejudicial or disclosable pecuniary interests they may have in respect of business on the agenda.

Cllr Ayre declared a personal non prejudicial interest in agenda item 4b [Pilcher Homes Tower House, Askham Fields Lane, Askham Bryan, York [19/00454/FUL] through his employment with Healthwatch York. Cllr Douglas also declared a personal non prejudicial interest in agenda item 4b as a Chair of and the use of Community First Yorkshire as a service provider.

No further interests were declared.

## **2. Minutes**

Resolved: That the minutes of the last meeting held on 25 March 2019 and 18 April 2019 be approved and then signed by the chair as a correct record.

## **3. Public Participation**

It was reported that there were two registrations to speak at the meeting under the Council's Public Participation Scheme on general matters within the remit of the Planning Committee.

Michael Hammill spoke on the planning system in York, noting a number of concerns regarding consultation deadlines and the delegated decision process.

Matthew Laverack spoke on planning in York and George Orwell. He made a number of points concerning the planning system in York and its treatment of applicants.

Following the two speakers, the Chair advised Members of the Agents Forum in York.

## **4. Plans List**

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

**5. Vale Engineering (York) Limited, Rufforth Approach Farm, Wetherby Road, Rufforth, York [19/00482/FUL]**

Members considered a full application from Geoffrey Wilson for the Erection of a light industrial building (use class B1) at Vale Engineering (York) Limited Rufforth, Approach Farm, Wetherby Road, Rufforth, York. Members were provided with an overview of the application from Officers.

Mark Newby, agent for the applicant, spoke in support of the application. He stated that the applicant was an existing local employer and he explained the benefits of the development whilst outlining the case for very special circumstances. He was asked and confirmed that the boundary hedge was in the ownership of the applicant.

**Resolved:** That the application be approved subject to the conditions listed in the report and the additional condition that the boundary hedge was to be retained for the lifetime of the development.

**Reasons:**

- i. The site lies within the general extent of the Green Belt as identified in the RSS to which S38 of the 1990 Act applies. Having regard to the purpose of the RSS policies it is considered appropriate and justified that the proposal is therefore assessed against the restrictive policies in the NPPF relating to protecting the Green Belt. The development plan for the site is the Rufforth with Knapton Neighbourhood Plan and the proposal must be assessed against this and policies in the NPPF relating to the Green Belt.
- ii. The NPPF indicates that very special circumstances necessary to justify inappropriate development in the Green Belt cannot exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations. The NPPF also states that in the planning balance substantial weight should be given to any harm to the Green Belt. In this case, harm has been identified by way of inappropriateness of the proposed development. The presumption against inappropriate

development in the Green Belt means that this harm alone attracts substantial weight. Additionally, the proposed development would reduce the openness of the Green Belt as a result of its scale and position when the most important attributes of Green Belts are their openness and permanence. The building would also undermine one of the purposes of including land within the Green Belt by failing to safeguard the countryside from encroachment. Some limited harm has also been identified to visual amenity as the result of the scale of the building and its position close to the boundary of the site.

- iii. The applicant has put forward a number of factors to demonstrate very special circumstances to clearly outweigh these harms. Substantial weight has been given to the harm to the Green Belt through inappropriateness and additional harm though harm to openness, visual amenity and one of the purposes of including land within the Green Belt. It is considered however that the very special circumstances put forward by the applicant are sufficient to outweigh this harm and are unique and individual to the applicant.

**6. Pilcher Homes Tower House, Askham Fields Lane, Askham Bryan, York [19/00454/FUL]**

Members considered a full application from Swain and Pilcher for the erection of a building to form additional office space (Use Class B1) at Pilcher Homes Tower House Askham Fields Lane Askham Bryan York.

Leah Swain, joint applicant (Community First Yorkshire) spoke in support of the application. She explained that Community First Yorkshire is a rural charity providing health support. The charity had been at the offices at Askham Bryan for nine years and at the moment was in period of growth resulting in a need for more meeting room space at the offices. She highlighted that the charity could relocate elsewhere in North Yorkshire where premises were cheaper, but they wished to remain in York. In response to questions from the Committee, she confirmed that:

- At the moment there was no space for one to one meetings or working group meetings.
- There would be three additional car parking spaces in the car park in addition to the existing eight spaces should the application be approved.
- Links with the nearby Askham Bryan College were not substantial although there were links with volunteers from the College.

The Head of Development Services was asked and confirmed that with reference to flood risk and drainage, there had been no objections raised from Yorkshire Water or the Ainsty Drainage Board, however concerns raised by the Flood Risk Management Team regarding surface water run-off being drained into a soak-away would be dealt with by conditions.

Resolved: That the application be approved.

Reason:

- i. The application site is located within the general extent of the York Green Belt and serves a number of Green Belt purposes. As such it falls to be considered under paragraph 143 of the NPPF which states that inappropriate development, is by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Very special circumstances will not exist unless the potential harm to the Green Belt by reason of inappropriateness and any other harm are clearly outweighed by other considerations. National planning policy dictates that substantial weight should be given to any harm to the Green Belt.
- ii. National planning policy (para. 145) states that the construction of new building in the Green Belt should be regarded as inappropriate unless it falls within one of the exceptions to this outlined in paragraph 145 b of the NPPF. The proposal does not fall within one of the exception categories and it fails to preserve the openness of the Green Belt and conflicts with the purposes of including land within the Green Belt, namely parts C of policy 134 of the NPPF (assisting in safeguarding the countryside

from encroachment), contrary to paragraph 145b of the NPPF.

- iii. The proposal is considered to be acceptable on other relevant matters, such as design, impact upon highways, neighbouring residential amenity and drainage and floodrisk. Moderate weight is applied to these matters. Weighing up the planning balance, it is considered that the considerations set out in paragraphs 4.29-4.30, 4.32-4.35 and 4.36 would collectively clearly outweigh the harm to the Green Belt. No other harm has been identified and that the very special circumstances necessary to justify the proposed development exist.

## **7. Land lying to the South of Elvington Airfield Network, Elvington, York [18/02839/FULM]**

Members considered a major full application from Sheppee International Ltd for the Erection of two storey industrial building (mixed use class B1, B2, B8) with access and associated parking at land lying to the south of Elvington Airfield Network, Elvington, York.

Officers updated Members of amended wording to condition 12 and additional conditions 17, 18, 19, 20 and 21. In response to Member questions, the Head of Development Services clarified:

- That under condition 12 there was one electric charging point for vehicles. This condition could be amended to include a scheme for vehicle electric charging points and to include wording on the use of new technology.
- Why the building would be dark grey not dark green.
- Tree loss and landscaping.

Amendments to condition 15 for the landscaping to be for the lifetime of the development and condition 12 for there to be a scheme for vehicle electric charging points

Catherine Jukes, agent for the applicant, spoke in support of the application. She explained that Sheppee had been based in York for 100 years and was a high skill business which provides job opportunities. She explained how very special circumstances had been demonstrated. In response to Member questions she explained:

- That with regard to the building colour this was a large scale industrial building which included screening and trees.
- The hedgerows would need to be removed for building. There was a detailed landscape plan to show how ecology and plant species would work together. The Head of Development Services added that 27 new trees were proposed.

The Head of Development Services was then asked and explained why the application needed to be referred to the Secretary of State.

Resolved: That the application be approved subject to referral to the Secretary of State, the conditions listed on the report and the following amended wording to conditions 12 and 15 and additional conditions 17, 18, 19, 20 and 21.

Amended Condition 12

Before the occupation of the development a scheme for Electric Vehicle Recharging Point(s) shall be provided in a position and to a specification to be first agreed in writing by the Council. Within 3 months of the first occupation of the development, the owner will submit to the Council for approval in writing (such approval not be unreasonably withheld or delayed) an Electric Vehicle Recharging Point Maintenance Plan that will detail the maintenance, servicing and networking arrangements for each Electric Vehicle Recharging Point for a period of 10 years.

Reason: To promote and facilitate the uptake of electric vehicles on the site in line with the Council's Low Emission Strategy (LES) and the National Planning Policy Framework (NPPF).

Amended Condition 15

The approved detailed landscape proposals, in accordance with drawing no. 50084-DR-LAN-102 rev D shall be implemented within a period of six months of the completion of the development and shall be for the lifetime of the development. Any trees or plants which within a period of five years

from the substantial completion of the planting and 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 the Local Planning Authority agrees alternatives in writing.

Reason: The landscape proposals are integral to the amenity of the development and the provision of visual mitigation.

Additional Condition 17: Invasive non-native species control

Prior to the commencement of development, an invasive non-native species protocol shall be submitted to and approved by the local planning authority, detailing the containment, control and removal of Himalayan balsam on site. The measures shall be carried out strictly in accordance with the approved scheme.

Reason: To ensure that an adequate means of eradicating or containing the spread of an invasive non-native species is considered and thereafter implemented to prevent further spread of the plant which would have a negative impact on biodiversity.

Additional Condition 18: nesting birds

No removal of hedgerows, trees or shrubs shall take place between 1st March and 31st August inclusive, unless a competent ecologist has undertaken a careful, detailed check of vegetation for active birds' nests immediately before the vegetation is cleared and provided written confirmation that no birds will be harmed and/or that there are appropriate measures in place to protect nesting bird interest on site. Any such written confirmation should be submitted to the local planning authority.

Reason: To ensure that breeding birds are protected from harm during construction. All British birds, their nests and eggs

(with certain limited exceptions) are protected by Section 1 of the Wildlife and Countryside Act 1981, as amended.

Additional Condition 19: protection of badgers during construction

No works which include the creation of trenches or culverts or the presence of pipes shall commence until measures to protect badgers from being trapped in open excavations and/or pipe and culverts are submitted to and approved in writing by the local planning authority. The measures may include:

- a) creation of sloping escape ramps for badgers, which may be achieved by edge profiling of trenches/excavations or by using planks placed into them at the end of each working day; and
- b) open pipework greater than 150 mm outside diameter being blanked off at the end of each working day.

Reason: To ensure that badgers are not trapped and harmed on site and also to ensure that badgers do not cause problems for future site operation, e.g. blockage of pipes.

Additional Condition 20: European protected species licence (Great Crested Newts)

Any vegetation or ground clearance or activity likely to cause harm to Great Crested Newts shall not in any circumstances commence unless the local planning authority has been provided with either:

- a) a licence issued by Natural England pursuant to Regulation 53 of The Conservation of Habitats and Species Regulations 2017 (as amended) authorizing the specified activity/development to go ahead; or
- b) Confirmation that the site has been registered on a Low Level Impact Class licence; or
- c) a statement in writing from the relevant licensing body or suitably qualified ecologist to the effect that it does not consider that the specified activity/development will require a licence.

Reason: To ensure that a European Protected Species Licence is applied for and to avoid the risk of a criminal offence and prosecution in relation to this.

Additional Condition 21: Drainage details –  
measures to protect amphibians

Any drainage structures such as gully pots and kerbing associated with the development shall be constructed so as to be amphibian-friendly. Details will be submitted to and approved in writing by the local planning authority prior to their construction.

Reason: In order to comply with legislation relating to European protected species and with Paragraph 175 of the National Planning Policy Framework.

Reason:

- i. It is accepted that the proposed development constitutes inappropriate development within the general extent of the York Green Belt as defined by the saved policies of the revoked Yorkshire and Humber RSS. The applicant has put forward a strong economic argument as to why special circumstances exist for granting planning permission in the Green Belt in advance of the adopted of the Local Plan. Paragraph 144 of the NPPF states that substantial weight is given to any harm to the Green Belt. 'Very special circumstances' will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations.
- ii. As previously identified the very special circumstances are considered to outweigh the Green Belt harm. Furthermore, the proposed development is considered to be acceptable in terms of the impact on the character of the area due to its location and the proposed landscape mitigation. The proposal is considered to be acceptable subject to

appropriate conditions with regard to matters relating to ecology, drainage, amenity and highways.

- iii. While it is recognised that the proposed development does not meet the 'BREEAM excellent' required by 2018 Draft Plan policy CC2, only moderate weight can be applied to this policy and the difficulty of achieving this standard given the type of development is acknowledged. It is not considered that failure to meet this policy requirement carries sufficient weight to tip the planning balance against the granting of planning permission. It is also noted that there will be the loss of some best and most versatile agricultural land as a result of the proposed development, however detailed mapping of the York district in terms of agricultural land classification is not available and therefore it should be considered that the proposed development does not accord with paragraph 170 of the NPPF. However, these matters, even when combined with the identified harm to the Green Belt, are not considered to outweigh the positives of the proposed development.
- iv. The Town and Country Planning (Consultation) (England) Direction 2009 states in paragraph 4 that inappropriate development in the Green Belt on land allocated as Green Belt in a development plan document and which consists of or includes the provision of a building or buildings where the floor space to be created by the development is 1,000 square metres or more must be referred to the Secretary of State for consultation prior to the issuing of the decision notice. This application meets the aforementioned criteria and therefore the recommendation is one of conditional approval subject to referral to the Secretary of State.

## **8. Appeals Performance and Decision Summaries**

Members considered a report which informed them of the Council's performance in relation to appeals determined by the Planning Inspectorate between 1 January and 31 March 2019, and provided a summary of the salient points from appeals

determined in that period. A list of outstanding appeals at date of writing was also included.

In response to Member questions, the Head of Development Services noted that the results were comparable to other authorities. She went on to explain that Agents Forum met three times per year to encourage open and constructive engagement with agents. She was also asked and noted that there was approximately 500-600 applications per quarter and that there had been no costs awarded for appeals. The Chair reminded Members that planning applications could be called in.

Resolved: That Members note the content of the report.

Reason: To inform Members of the current position in relation to planning appeals against the Council's decisions as determined by the Planning Inspectorate.

Cllr C Cullwick, Chair

[The meeting started at 5.00 pm and finished at 6.15 pm].