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| Meeting | Planning Committee |
| Date | 12 September 2019 |
| Present | Councillors Cullwick (Chair), Pavlovic (Vice-Chair), Ayre, Barker, D'Agorne, Daubeney, Doughty, Douglas, Fenton, Fitzpatrick, Hollyer, Kilbane, Perrett, Warters and Widdowson |

17. 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. No further interests were declared.

18. Minutes

Resolved: That the minutes of the meetings held on 13 June 2019 and 2 July 2019 be approved and then signed by the chair as a correct record.

19. Public Participation

It was reported that there had been 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 number of outstanding planning applications he had. He expressed concern regarding a decision to refuse solar panels as going against the council position on the climate change emergency. He questioned why so many of his applications had been refused and why.

Matthew Laverack spoke on the requirements regarding housing extensions. He displayed an example to Members and explained that the costs for housing extensions had increased and increased and would require the use of additional energy and resources.

20. 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.

20a Clifton Ings Flood Alleviation Barrier to the South of Shipton Road, Rawcliffe, York YO30 5RY [19/00007/FULM]

Members considered a major full application from the Environment Agency (EA) for the construction of new and improved flood defence works, compensatory habitat creation and other associated works (Clifton Ings Barrier Bank Project) at Clifton Ings Flood Alleviation Barrier to the south of Shipton Road, Rawcliffe, York.

The Development Management Officer outlined the scheme, explaining the existing embankment at Clifton Ings Site of Special Scientific Interest (SSSI) and access to the site. He demonstrated how the embankment would be extended and the location of the pumping station.

The Development Management Officer then provided an officer update in which Members were advised of:
The relocation of the sustrans route.

- Clarification of amounts of SSI compensation (from the SSSI mitigation strategy).
- A change to Condition 11 requiring the approval of the construction management details requiring measures to prevent dust affecting use of the Clifton Alliance Cricket Ground.
- The Secretary of State request to remain informed of the Council's determination of the application and may decide to call-in the application should members be minded to approve the scheme.
- The receipt of further representations, to which an update was given.

- The additional information had been assessed and the planning balance and the recommendation remained unchanged from the published report.

In response to questions from the Committee, officers explained that:

- There were multiple reasons why the EA had chosen the option in the application and there would be damage to the SSI if the dry side had been chosen.
- Taking into account climate change allowance to 2039, the modelling indicates that Clifton Ings would permanently increase the risk of flooding to the car park on Frederic Street and residential properties on Marygate.
- The future mitigation works on Marygate had not been approved but the scheme was in development along with a number of other schemes.
- The EA had matrices of information they took into account when looking at options for flood alleviation.
- Sheet piling had been used elsewhere in Yorkshire.
- Mitigation for the SSSI was complicated. In respect of whether there were examples of this elsewhere, this had been done but there was a mixed picture and no scientific research.
- The Friends of Rawcliffe Meadow had been working on the meadow for 25 years.
- Rawcliffe Meadow was nationally important. An explanation of the habitat loss was given.
- The SSSI mitigation work would require a specialist and detailed botanical monitoring would be needed.
- The council had requested conditions for the SSSI mitigations work and there would be long term input in terms of monitoring. The council would need to work with the EA in terms of resourcing the monitoring the SSSI mitigation work.
- With reference to the objections from Tremendous York, the EA had proposed a good level of mitigation for the loss of trees. The

hedgerows along Clifton Park Hospital would be retained where possible but there was some uncertainty about this.

Dr Mick Phythian (York Natural Environment Trust CIO) spoke in objection to the application. He explained that the Friends of Rawcliffe Meadow (FORM) had been involved with the meadow since 1990 and had received minimal support from the EA. He noted that there had been a lack of information from the EA on the option appraisal, particularly in terms of the dry side of the river. He added that FORM had not been consulted and he raised and listed a number of questions why Members should defer both applications.

Dr Mick Phythian was asked and explained that:

- FORM had never been consulted by the EA on the option appraisal. Their relationship with the EA had not been good.
- FORM had spent many years planting trees and hedgerows.
- There was an eco-system at the site which would be missed and the type of grassland on Rawcliffe Meadow was sequestrarian for carbon reduction.
- The funding that form received from Natural England (NE) would end when the EA started work on the site. The full grant that FORM received for the work on the site was £6-7,000.
- The SSSI mitigation measures would only be a success through intensive work. An explanation of what this would be involved was given.
- Regarding the mitigation strategy, NE still required information that had not been submitted for example, information on the tansy beetle and NG4 grassland. There were a range of documents that needed to be seen before the application could be considered.

Bob Taylor (Trustee of Clifton Alliance Cricket Club) spoke about the impact of the scheme on the cricket club. He noted the background and membership of the club. He expressed concern that the site boundary extended into the playing area of the club and noted that the issues regarding dust and disturbance could affect the status of the level of cricket played at the club.

In answer to Member questions, officers explained that the Condition 11 contains the required construction management details to be approved and requires measures to prevent dust affecting use of the Clifton Alliance Cricket Ground.

If members consider it necessary we can add to this; to specifically include the requirement for protective fencing (to control dust) and for measures to be agreed to ensure construction work does not occur in the local area after 12 (noon) on Saturdays during the cricket season.

Mr Taylor was asked and confirmed that it would not be possible for Clifton Alliance Cricket Club to share facilities with York Sports Club.

Richard Lever (Environment Agency) spoke in support to the application. He noted that 600 homes in York flooded following the 2015 floods. He explained that the proposed scheme would protect 134 properties and a route into York. He advised that if the scheme was not progressed, under the Reservoirs Act 1975 the EA would be able to undertake the work. He noted that there were unavoidable impacts to the SSSI, adding that NE had not objected to the scheme and that the scheme would protect properties.

Mr Lever was asked and explained:

- The project was one of nineteen in York.
- There was a flood alleviation scheme for the Museum Gardens, although planning permission for this had not been granted yet.
- Consultation with residents was carried out and an explanation of this was given.
- The constraints of the site and rationale for using wet and dry sides.
- The EA had its own specialists and consultants to oversee the mitigation measures. Supporting the environment was part of the core work of the EA.
- The mitigation plans would be put into the capital scheme.
- There were vehicles of payment to FORM through a business tenancy agreement.
- The work of FORM was acknowledged. It was hoped that the EA would find ways of working with FORM.

- The reasons for not selecting sheet piling was explained as being part of the scoring process for options which were considered under EA regulations.
- There would be compression across the access routes on the site.
- The meadow would be lifted and moved. It would be returned after the works had finished.
- If the scheme was not given approval it was highly likely that the remedial work would go ahead.
- EA compliance with the conditions would be monitored through the EAs own internal metrics and reporting systems.

Warwick Dale (Jacobs) spoke in support to the application. He read out a statement from the Reservoir Supervising Engineer, who was unable to attend the meeting. In the statement it was explained why the construction work was required. It was confirmed that should the remedial work not be carried out, the Reservoir Supervising Engineer would call a Section 10 inspection which is likely to impose a measure in the interests of safety under the Reservoirs Act 1975 on the EA to remediate the barrier bank. It was added that an action raised as a measure of safety under a Section 10 inspection was legally enforceable.

Mr Dale was asked and confirmed that it was not for the supervising engineer to dictate the method by which the construction is undertaken, only that the improvements are made. Sheet piling may be an option for those materials.

In response to points raised during debate, the Flood Risk Manager clarified the scheme was part of a scheme for the whole of York. He added that the reservoir was inspected annually by an inspector and measures could be put in place and works carried out as necessary. As part of this, the EA would still need to liaise with NE on the works. These works would be carried out under capital maintenance to the current standard of protection and not the new level of protection.

It was suggested that the application be deferred and the Senior Solicitor clarified on what grounds a deferral could be made. It was proposed and seconded that the application be deferred on the grounds that further information was required from the EA on the mitigation strategy and the management strategy for the SSSI. On

being put to the vote this motion fell.

It was then proposed and seconded that the application be refused. On being put to the vote this motion fell.

It was then proposed and seconded that the application be approved with an additional condition to delegate to officers the working of the S106 funding, to include liaison between the stakeholders (including FORM) on the mitigation of the scheme. On being put to the vote it was:

Resolved: That the application be approved subject to the conditions listed in the report and the following amended Condition 11 and additional condition:

Condition 11

The requirement for protective fencing (to control dust), for measures to be agreed to ensure construction work does not occur in the local area after 12 (noon) on Saturdays during the cricket season.

Additional condition

To delegate to officers the working of the S106 funding, to include liaison between the stakeholders (including FORM) on the mitigation of the scheme.

Reason:

- i. The works are required due to issues with the stability of the existing bank and as part of a wider programme to improve flood defences throughout the city. The existing barrier bank requires repair and such works cannot be undertaken without an adverse effect on the SSSI. The flood defence no longer protects the area from the 1 in 100 year flood / AEP 1% event.
- ii. The works to the existing barrier bank would have an adverse effect on a SSSI that, according to the NPPF, should not normally be permitted. Also as the site is in the Green Belt very special circumstances are necessary which clearly outweigh the identified harm to the Green Belt, as a consequence of the new pumping station and larger barrier bank, which have an adverse effect on openness and the other identified harm.

- iii. The re-profiling of the barrier bank will affect a further 0.9ha of the 25.1ha of grassland within the SSSI. There are adequate grounds as to why this development can't take place outside of the SSSI and this scheme delivers benefit by improving the level of protection for the area; to the extent that it is defended during the 1 in 100 year flood and, compared to the existing defence, reduces the area, and number of properties that would be at risk, during the AEP 0.1% event / 1 in 1000 year flood.
- iv. The proposals involve mitigation on site where possible and otherwise compensated for at Rawcliffe Ings. The recommended conditions are as robust as possible in terms of securing compensatory grassland and rehabilitation of areas affected by the proposals. The conditions will require long-term management of the site and ongoing monitoring to ensure delivery of the mitigation and compensatory habitat. Furthermore the conditions will secure adequate mitigation for the impact on ecology outside of the SSSI and ensure any loss of trees and hedgerows is compensated for; at a rate of at least 1:1, and aiming for 1:3 provided this is consistent with other environmental objectives for the site and site constraints.
- v. Approval is recommended because the proposed works will bring significant community benefit, by reducing flood risk to a considerable area. Combined with the proposed mitigation there is deemed to be adequate justification for the adverse effect on the SSSI, which may only be permitted in exceptional circumstances, as set out in NPPF paragraph 175.
- vi. The extension of the barrier bank and the pumping station would only have a low adverse impact on the Green Belt; reducing openness. Even when giving substantial weight to harm to the Green Belt, as required by NPPF paragraph 144, the benefits of the scheme; managing and reducing flood risk are deemed to be very special circumstances which clearly outweigh the harm to the Green Belt and other identified harm and make the proposals acceptable in application of Green Belt policy.

Members considered a full application from the Environment Agency for the construction of a temporary access junction and track off the A19 in association with flood alleviation works at Clifton Ings Flood Alleviation Barrier to the South of Shipton Road, Rawcliffe, York.

It was proposed and seconded that the application be approved. On being put to the vote it was:

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

Reason:

- i. The proposed access to allow works at Clifton Ings will have an adverse impact on the Green Belt, open space and biodiversity. The intention is for site restoration following the works and therefore the harm would not be permanent. The role of the Friends of Rawcliffe in managing the area will be in jeopardy and their funding will be lost; however this cannot be avoided through the planning process (we cannot specify that a certain 3rd party be required to manage the site). Officers are content that planning conditions can secure a reasonable level of mitigation over time; the responsibility of which will lie with the applicants/developer; the EA. Conditions are proposed to manage and minimise the effect on biodiversity during the works and for comprehensive long term management. The site will be restored to its previous appearance.
- ii. Other options for the access route have legitimately been ruled out due to the scale and type of construction vehicles involved with the flood defence works.
- iii. With regards the impact on the Green Belt the NPPF states that 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. With regards the natural environment the NPPF advises planning decisions should minimise impacts on, and providing net gains for, biodiversity.
- iv. The current barrier bank has issues with stability which significantly impacts on the operation and effectiveness of

the flood defence, particularly for any consecutive flood events. The existing standard of protection of the barrier bank is 2% AEP (2 in 100 year flood events). The scheme would ensure that up to 2039 (taking into account climate change) the barrier would protect during the 1 in 100 year flood event / 1% AEP. The proposals will reduce flood risk for 134 properties, and the local area, which will subsequently be defended against the 1 in 100 year flood (plus climate change).

- v. To facilitate the flood defence works and secure adequate mitigation through conditions are deemed to constitute very special circumstances outweigh the identified harm; the temporary harm to habitats, the openness of the Green Belt and landscape character of the area, and its role as open space which would occur during the period of works.

Cllr C Cullwick, Chair

[The meeting started at 4.30 pm and finished at 7.20 pm].