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Meeting	Planning Committee
Date	9 July 2020
Present	Councillors Cullwick (Chair), Pavlovic (Vice-Chair), D'Agorne, Daubeney, Douglas, Fenton, Fisher, Fitzpatrick, Hollyer, Kilbane, Lomas, Rowley (Substitute), Cuthbertson (Substitute) and Widdowson (Substitute)
Apologies	Councillors Ayre, Barker, Doughty, Wartors

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#### **54. 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 Daubeney declared a prejudicial interest in relation to agenda item 4a Spark York Piccadilly York 20/00561/FUL.

Cllr Kilbane wished to place on record that he had lodged his support for the approval of the original Spark application as a member of the public, having sought advice from legal he confirmed that this was not a prejudicial or pecuniary interest.

#### **55. Minutes**

Resolved: That the minutes of the last meeting held on 12 March 2020 be approved and then signed by the chair as a correct record.

#### **56. Public Participation**

It was reported that there had been no registrations to speak at the meeting under the Council's Public Participation Scheme on general matters within the remit of the Planning Committee.

#### **57. 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.

**58. Spark York, Piccadilly, York [20/00561/FUL]**

[Cllr Daubeney exited the meeting for the consideration of Spark York, Piccadilly, York [20/00561/FUL] at 10:34.]

Members considered a full application to by Mr Samuel Leach to vary condition 2 of the original permission, that would allow Spark to remain onsite until 31.3.2022.

Officers gave a presentation based upon the slide at pages 146-152 and provided an update, reporting:

- the receipt of a letter signed by 4 local residents requesting the Committee apply more stringent measures for the applicant to adhere to.

In response to questions from Members, Officers confirmed that:

- the Mitigation Plan would be enforced through appropriate conditions;
- the amended conditions placed conditions regarding seating only areas after a specific time and the use of a sound limitation device;
- the expected outcome of legislation not yet passed by Government would extend the lifetime of the existing permission into next year. Ensuring that Spark's existing consent and conditions could run until 1 April 2021.

Members then debated the proposals after which Cllr Kilbane moved, and Cllr Douglas seconded, that the application be approved, subject to the conditions listed in the report. In accordance with the revised Standing Orders, a named vote was taken. Cllrs Cuthbertson, D'Agorne, Douglas, Fenton, Fisher, Fitzpatrick, Hollyer, Kilbane, Lomas, Pavlovic, Rowley, Widdowson, and Cullwick all voted in favour of this proposal, and it was;

Resolved: That the application be approved, subject to:

- i. Conditions 1-11 as set out in the report.

Reason: for the avoidance of doubt and to ensure that the development is carried out only as approved by the Local Planning Authority and to ensure use of vacant land prior to its expected longer term regeneration, in the interests of vitality and viability of the city centre.

[At 11:30, the meeting was adjourned to enable the registered public speakers for the next item to be brought in. It was re-convened at 12:00]

**59. Axcel Group Limited, 36 - 44 Piccadilly, York YO1 9NX  
[19/02293/FULM]**

[12:00 Cllr Daubeney re-joined the meeting and Cllr Rowley gave his apologies and left the meeting]

Members considered a major full application by Axcel Group Limited for Partial demolition of existing building and construction of 3 to 5 storey hotel with ancillary restaurant/bar, landscaping and retention of the Banana Warehouse façade.

Officers gave a presentation based upon the slides at pages 153-173 of the agenda and provided an update, reporting:

- the information submitted indicated that the building would achieve a rating 67.8% BREEAM (Very Good) score, this falls short of the 70% required to achieve the 'Excellent' rating. The building was designed to reach 'Very Good' and would be inhibited in trying to reach 'Excellent' due to the retention of the Banana Warehouse façade, the operational use proposed as a hotel, and that some credits would have to have been achieved prior to this current stage;
- the scheme would however, achieve the minimum standards required for the 'Excellent' rating in the following categories: management, energy, water, materials, and waste;
- that officers could review the decision to recommend against photovoltaics on the grounds of visual impact on the skyline;

- a detailed design was being worked on for 'greening' Piccadilly Street by the Council;
- amendments to the report were noted as:  
Amendment to paragraph 1.4 of the report: The hotel would provide 70 jobs: 40 full time and 30 part time positions.

that a revision be made to Condition 36 as on balance it is considered that the non-compliance with Policy CC2, does not significantly and demonstrably outweigh the benefits of the proposed development (as set out in the committee report). It is considered that the above recently submitted information would not alter the recommendation made by officers. The revised wording was proposed as follows: The hotel building shall be constructed to a BREEAM standard of 'Very Good'. 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 within 12 months of first use of the building (unless otherwise agreed).

Reason: In the interests of achieving a sustainable development in accordance with the requirements of the NPPF.

Condition 2 (Approved Plans) Replace plan reference BW-CDA-01-SW-DR-A-PL-0002 Rev P2 with BW-CDA-01-SW-DR-A-PL-0002 Rev P1.

Condition 26 (Flood Risk) The development shall be constructed and occupied in accordance with the Flood Risk Assessment Re: 42344/4001 Revision A dated October 2019 by Peter Brett Associates (Including the Flood Warning and Evacuation Plan) and the subsequent Technical Note - Re: 42344 TN001 dated March 2020 by Stantec and the following mitigation measures it details:

- (i) Finished floor levels shall be set no lower than 11.00 metres above Ordnance Datum (AOD),
- (ii) Compensatory storage shall be provided in accordance with the details submitted within the Technical Note - Re: 42344 TN001 dated March 2020 and the Flood Storage

Analysis Plan - Re: 42344/4001/002 Revision H dated 18th March 2020, and  
(iii) Provision of a floodable void as shown on the Flood Flow Routes Plan - Re: 42344/4001/004 dated 18th March 2020

These mitigation measures shall be fully implemented prior to occupation and subsequently in accordance with the scheme's timing/ phasing arrangements. The measures detailed above shall be retained and maintained thereafter throughout the lifetime of the development.

Reason: To reduce the risk of flooding to the proposed development and future occupants and to prevent flooding elsewhere by ensuring that compensatory storage of flood water is provided.

Condition 27 (Details of floodable void) Alterations to part (ii) of the condition as follows:

(ii) Details of the proposed low level river bank wall which according to the Technical Note (Re: 42344 TN001 dated March 2020 by Stantec) will have gaps/slots in it to ensure the free access and egress of flood water.

In response to questions from Members, Officers confirmed that:

- It would be unreasonable to condition a specific percentage for the BREEAM rating instead of one of its categories 'Very Good' or 'Excellent';
- The proposal does not break the skyline of the city from the top of Clifford's Tower and therefore in relation to other developments does not harm views of the skyline.

### Applicant

Angela Schembri the agent of the applicant addressed the Committee, and responded to Members' questions along with the 4 additional experts and the applicant in attendance at the meeting. It was confirmed that:

- The hotel would provide 70 jobs in the city alongside 200 jobs in the during the construction process;
- The proposal would retain the historic Banana Warehouse frontage;

- The application had targeted a 'Very Good' BREEAM rating as this was the requirement to be achieved when the scheme began. Achieving an 'Excellent' rating would be challenging due being unable to obtain certain credits at this stage of the project and the operational challenges presented to a hotel at achieving certain credits;
- The applicant was still open to considering installing a heat pump;
- Subject to architectural approval the applicant was open to installing charging points for electric bikes.

Members then debated the proposals, after which Cllr Fenton moved, and Cllr Pavlovic seconded, that the application be approved, subject to the conditions listed in the report, with the amendments to conditions identified in the officer update and the additional conditions discussed at the meeting. In accordance with the revised Standing Orders, a named vote was taken. Cllrs Cuthbertson, Daubeney, Douglas, Fenton, Fisher, Fitzpatrick, Hollyer, Kilbane, Lomas, Pavlovic, Widdowson, and Cullwick all voted in favour of this proposal, and it was

Resolved: That the application be approved, subject to:

- i. Conditions 1-36 as set out in the report/updated by officers in the meeting.
- ii. Additional conditions:
  - (i) That a scheme be submitted for approval in relation to photovoltaics or equivalent;
  - (ii) That local jobs and apprenticeships be secured for the construction of the scheme.

The final wording of the conditions to be delegated to officers along with Chair and Vice Chair of the meeting.

Reason: to promote the creation of jobs in the city, as well as, the removal of derelict buildings while retaining the historic frontage of the Banana Warehouse.

[At 13:20, the meeting was adjourned to enable the registered public speakers for the next item to be brought in. It was re-convened at 13:44]

**60. North Selby Mine, New Road, Deighton, York YO19 6EZ  
[19/00078/OUTM]**

[13:44 Cllrs Cllr D'Agorne and Widdowson both gave their apologies and left the meeting]

Members considered a Major Outline Application by Harworth Estates Investments Limited for the redevelopment of the former North Selby Mine site to a leisure development comprising of a range of touring caravan and static caravans with associated facilities.

Officers gave a presentation based upon the slides at pages 174-178 of the agenda and provided an update, reporting:

- a response from a landowner on New Road was not included in the officers report section 4.1. They raised that the road should be done to an adoptable standard and that a path, suitable signage, and speed bumps should be added to New Road;
- the receipt of 1 additional objection;
- an amendment to Condition 2 to read as: Fully detailed drawings illustrating all of the following details shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of the change of the use of land, as well as, building/engineering works, and the development shall be carried out in accordance with such details:

These details shall include: appearance, landscaping of site, layout and scale of the proposed development to be carried out, including a schedule of all external materials to be used.

Reason: In order that the Local Planning Authority may be satisfied as to the details of the development and to comply with the Town and Country Planning (General Development Procedure) (Amendment) (England) Order 2006;

- amendment to Condition 4 to read as: The static and mobile caravans and tents shall be occupied for holiday purposes only and not as a person's sole or main place of residence. The site owners/operators shall maintain an up-to-date register of the names of all owners/occupiers of individual caravans on the site, and of their main home addresses, and shall make this information available at all reasonable times to the Local Planning Authority. The

Council's definition of holiday letting is that the same person, group of persons, or family are not to exceed 28 nights per calendar year and also that no motorhome, caravan, or tent to stay more than 28 nights per calendar year.

Reason: This condition is imposed to ensure that approved holiday accommodation is not used for unauthorised permanent residential occupation;

In response to questions from Members, Officers confirmed that:

- the junction would not be considered for an upgrade as it was already 'over designed' for the level of traffic that would use the junction even with the proposed development;
- New Road was a privately owned road but that the council would wish to see at the reserved matters stage proposals for how different users of the road could pass each other safely;
- that there currently no horticultural green houses or anaerobic digestion facilities on the site due to the operator pulling out of that scheme;
- that there had been no objections raised subject to conditions, in relation to the protection of Willow Tit habitat this would need to be submitted as part of the management plan for the sink which is outlined in the conditions;
- officers could raise on behalf of the committee to the highway authority in regards to a potential speed limit change in the area.

### Public speakers

Anthony Dixon, local resident spoke in **objection** to the application, raising issues in relation to the speed limit, the lack of proposed dedicated path, and the potential over use of the road as it was proposed making it unsafe for walkers, cyclists, and horse riders.

### Escrick Parish Council

Cllr Lilian Coulson raised concerns but was not speaking in objection to the application. She raised concerns about the extra use of New Road due to the proposal and that cycle and

pedestrian paths should be added to improve safety for users of the road.

### Applicant

Liam Toland the agent of the applicant addressed the Committee, and responded to Members' questions, it was confirmed that:

- mitigations had been agreed with planning officers that would allow for the proposal to be carried out in an environmentally acceptable way;
- the applicant had explored a number of proposed uses for the site and that the proposal was in their opinion the most feasible at present;
- the proposal should have a financial benefit to York's economy;
- the applicant was willing to upgrade the surface of New Road, add passing bays, and introduce speed limiting measures;
- the applicant would be happy to look at a proposal for an additional path and further electric charging points for vehicles at a reserved matters stage of the application;
- there had been no further discussions with the University of York since they removed interest in the site in 2011.

Members then debated the proposals, after which Cllr Fenton moved, and Cllr Daubeney seconded, that the application be approved, subject to the conditions listed in the report, with the amendments to conditions identified in the officer update and the additional conditions discussed at the meeting. In accordance with the revised Standing Orders, a named vote was taken. Cllrs Cuthbertson, Daubeney, Fenton, Fisher, Hollyer, Widdowson, and Cullwick voted in favour of this proposal and Cllrs Douglas, Fitzpatrick, Kilbane, Lomas, and Pavlovic voted against the proposal, and it was

Resolved: That the application be approved, subject to:

- i. Conditions 1-2 and 4-32 as set out in the report updated by officers in the meeting;
- ii. The removal of Condition 3 unless otherwise agreed in writing;
- iii. Officers raising with the highway authority the Committee's request to consider the altering of the

speed limit to the section of the A19 near the site to reflect the same speed limit in the wider area.

Reason: Due to the maintenance of the site, the limited other viable options available for the sites current usage, and as the proposal will mainly be constructed on a brownfield site.

Cllr C Cullwick, Chair

[The meeting started at 10.30 am and finished at 2.50 pm].