

Meeting	Planning Committee A
Date	5 December 2024
Present	Councillors Crawshaw (Chair), Fisher (Vice-Chair), Ayre, Clarke, Cullwick, Melly, Moroney, B Burton (Substitute for Cllr Whitcroft), Merrett (Substitute for Cllr J Burton), Rowley (Substitute for Cllr Steward) and Fenton (Substitute for Cllr Wann)
In Attendance	Sandra Branigan – Senior Lawyer Becky Eades – Head of Planning and Development Services Natalie Scholey – Senior Planning Officer
Apologies	Councillors J Burton, Steward, Wann and Whitcroft

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### **135. Apologies for Absence (4.38pm)**

Apologies for absence were received and noted for Cllrs J Burton, Steward, Wann and Whitcroft.

### **136. Declarations of Interest (4.38pm)**

Members were asked to declare at this point in the meeting any disclosable pecuniary interest or other registerable interest they might have in respect of business on the agenda, if they had not already done so in advance on the Register of Interests. Cllr Clarke noted that his employer had submitted an objection in relation to agenda item 5a (Land Lying to the North West of Murton Way, York) and he would withdraw from the meeting for that application.

### **137. Minutes (4.39pm)**

Resolved:

1. That the minutes of the meeting held on 24 October 2024 be approved as a correct record subject to the fourth bullet point of Max Reeve's public participation changing to: 'Waterloo Place was named as it was because it was the name of a previous route that went to the river from Coney Street.'

2. That the approval of the minutes of the meeting held on 11 November 2024 be deferred until the detail of the bullet point on the S106 agreement was clarified.

### **138. Public Participation (4.41pm)**

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 A.

### **139. Plans List (4.41pm)**

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

### **140. Land Lying to the North West of Murton Way, York [23/02030/FULM] (4.41pm)**

Members considered a Major Full Application from Net Zero Fourteen Limited for the Erection of a Battery Energy Storage System with associated infrastructure, site levelling works, access, landscaping and ancillary works.

The Head of Planning and Development outlined the application and gave a presentation on it, advising that Members needed to base their decision on the elevation plans. She was asked and explained that there was no detail in the planning site in relation to the proposed extension of the Travellers site.

The Senior Planning Officer gave an update noting that an updated cover letter from the Agent, noting that the discharge rate had been corrected in the document to 1.93 l/s. Additional representations had also been received, taking the letters of support to 13. A petition had also been received from a Shared Voices email and as the Local Planning Authority was unable to verify the submissions, they could not be considered individually. There had also been a letter in support of refusal from Cllr Warters, which was included in the update.

#### Public Speakers

John Cossam spoke in support of the application. He noted that he lived on Hull Road, which was 5 minutes from the site and that he tried to live ecofriendly. He explained that there was a number of reasons stopping people from going green and that the battery farm addressed the

technological need. He added that the battery farm was an excellent way of storing energy and would allow the absorption of low energy in a climate emergency.

Steven Gough (NetZero Fourteen Ltd) spoke in support of the application on behalf of the applicant. He noted that there were 100 representations in support of the application. He addressed the four recommended reasons for refusal in relation to the Green Belt, very special circumstances and battery storage. He noted that the visual impacts were localised and the on site boundary was well screen. Regarding fire safety he noted that the North Yorkshire fire authority had not objected and that they (the applicant) had commissioned an independent fire expert. He added that the best and most versatile land was grade 2 and 3 and that the proposal could be found acceptable on its own merits.

Members asked Stephen Cough a number of questions to which he explained that:

- The NFCC guidance regarding the distance of 6m between units was guidance, not policy. There was two points of access into the battery compound and the safety expert commissioned concluded that the application was in line with NFCC guidance.
- The author of the report was not a qualified safety engineer and was an expert in safety. He added that North Yorkshire Fire and Rescue Service had raised no objection to the application.
- How the electricity was sent to the storage units.
- There would be no disruption to the infrastructure.
- York needed battery storage and Osbaldwick was the only location for the battery storage.
- Regarding the exploration of other sites, they needed to understand the capacity on the network and then looks at sites, working with the owners of the sites identified. He noted that the only outstanding point with the scheme was planning permission.
- All the sites they were dealing with were of similar spacing. The NFCC guidance, which was not yet updated, reduced the space between battery storage. He added that the spacing satisfied the manufacturers guidance.
- There was pressure on getting battery storage to the grid and they were trying to improve battery storage.
- The appeals for other applications were all Green Belt sites.
- The Energy Act 2023 changed to make energy storage its own component. The value of energy storage systems like the application one would come into their own in time.

- As the grid transitioned from fossil to renewable, there was a need to be able to store energy, and the battery storage supported the grid in the transition.
- An explanation was given on how battery storage compared to air compression and pump systems.
- Regarding the weight put on NFCC guidance, there was guidance regarding safety but it was guidance. The assessor had looked at the manufacturers guidance and concluded the scheme was safe.
- The safety expert was chosen by reputation, qualifications and experience and was an independent assessor.

Members then asked officers questions to which they responded:

- North Yorkshire Fire and Rescue Service had said that they won't object or support the application and they referred to the guidance.
- Significant weight was placed on national guidance.
- Officers did not consider the Principal Consultant at a Risk Consultancy Firm to constitute a fire risk engineer.
- There was one access point to the site according to the guidance.
- There were three cases granted at appeal and officers had considered information from other relevant cases. Regarding the appeals, each case was considered on their own merits and were under a different set of circumstances.
- The NPPF did not specify types of energy storage and just stated energy storage.
- In the NPPF the scheme would be considered inappropriate development.
- Officers had given substantial weight to the energy storage and had concluded that it could not be guaranteed that it was renewable.
- Members needed to be confident that fire safety would not cause an issue and there was legislation that covered certain aspects and policy needed to be taken into consideration. Fire and Rescue had advised what guidance needed to be followed.
- If the application was approved, the application could not come back regarding access as the single access would already have been granted.
- The comments of the landscape officer were noted and Members were advised that the landscape officer was a landscape architect with necessary qualifications.

Following debate, Cllr Ayre proposed the officer to refuse the application. This was seconded by Cllr Cullwick. The Senior Lawyer reminded Members of the test for very special circumstances to exist when there is harm to the Green Belt. Following a vote with six voting in favour, two against and two abstentions, it was.

Resolved: That the application be refused.

Reasons:

1. The proposed battery energy storage system would be inappropriate development in the Green Belt. The development would be significantly harmful to the openness of the Green Belt and conflict would arise with purposes a, b and c of paragraph 143 of the NPPF of including land within the Green Belt. Substantial weight is attached to the harm to the Green Belt. The benefits associated with the proposal, would be insufficient to clearly outweigh the harms identified. Consequently, the very special circumstances necessary to justify the inappropriate development do not exist. The proposal is therefore contrary to paragraphs 152-155 of the NPPF (2023) and policy GB1 of Draft Local Plan (2018, as amended 2023).
2. The proposed development would have a considerably adverse impact on the landscape character of the site, due to the addition of built forms of an industrial appearance that would be detrimental to the landscape character. The proposal would extend the sense of industry associated with Osbaldwick industrial estate and Osbaldwick substation, into what is currently an arable field that is contiguous with the open countryside surrounding the city of York. The proposed development would be a prominent encroachment into the open countryside and would be viewed as an incongruous feature in the landscape, in particular in dormant seasons. It would not be sympathetic to local landscape character and is a considerable distance from the existing energy infrastructure to the south. The proposal is therefore contrary to paragraph 135 of the NPPF (2023) and policies CC1, D1 and D2 of the Draft Local Plan (2018, as amended).
3. The detailed layout of battery containers, turning points, passing places and number of access points would contravene the expert national guidance and has not been demonstrated to be safe. The Planning Practise Guidance and the North Yorkshire Fire Service are clear that the Grid Scale Battery Energy Storage System Planning BESS Design Guidance should be taken into account when determining applications. In this instance it has not been demonstrated that the development will be made safe from fire hazards in conflict with policy CC1 and ENV2 of the Draft Local Plan (2018, as amended), the Grid Scale Battery Energy Storage System

Planning BESS Design Guidance and paragraph 032 of the Planning Practise Guidance.

4. The application site is undeveloped Grade 3 agricultural land and the proposal would see the temporary loss of 3.4 hectares of good to moderate agricultural land. The proposal is in conflict with policy CC1 of the Draft Local Plan (2018) and paragraph 180 (b) of the NPPF (2023).

[The meeting adjourned from 5.53pm until 6.03pm. Cllr Clarke rejoined the meeting at 6.03pm].

**141. OS Field Lying to the South of and adjacent to No 1 Tadcaster Road Copmanthorpe York [23/02256/REMM and 24/00003/LEGAL] (6.03pm)**

Members considered a major reserved matters application from Robert Carter for the scale, layout, appearance and landscape for the erection of 133 dwellings, 7 self-build dwellings and associated infrastructure pursuant to outline application 18/00680/OUTM and variation of Legal Agreement (affordable housing tenure mix and reallocation of Highways Sim Balk Contribution to provide bus stops) made under Section 106 of the Town and Country Planning Act 1990 (as amended) dated 27th April 2023 (in relation to 18/00680/OUTM).

Referring to paragraph 1.3 of the published report, the Chair reminded the committee of what could and could not be considered. The Head of Planning and Development Services noted that the application and legal agreement were being considered. She outlined the application and gave a presentation on it. She was asked and showed where York Field Lane and the self-build plots were located on the plans.

At this point, Cllr Merrett declared a non-pecuniary interest as a member of York Bus Forum. He asked and was shown where the bus stops were in relation to the crossing and the Head of Highway Access and Development noted that it was an uncontrolled crossing with the speed limit on the road being 30mph.

Members were provided with an update giving clarification on the points raised by waste services. The Head of Environment Services stated that: *'The statement from waste services recognises in future that collections will not happen from unadopted road such as farm tracks, however for new residential estates such as the one in this applications waste collections will take place where the CYC waste and recycling crews can safely access the*

*site and there is a road surface (temporary or completed) by which it can safely support all waste collections.'*

A Member asked how this related to paragraph 5.21 of the published report and the Head of Highway Access and Development clarified that waste services would not drink on a private drive and some people on the site would have to take their waste to waste collection points. She was asked and noted that the majority if waste collection points were within 30m.

### Public Speaker

Vikki Sykes (Agent for Applicant) spoke in support of the applications. She explained that the applicant had worked with consultees on the development to provide a wide range of 1 to 5 bedroom homes (predominantly 2 and 3 bedrooms) and to provide housing for older residents. She explained that a key component of the scheme was landscaping and she outlined the outdoor space, noting that it provided for a variety of ages. She added that the applicant had worked closely with the community and had made amendments to the scheme. She noted that Miller Homes committed nationally to the homes for nature scheme and she noted that there had also undertaken consultation with Network Rail.

Vikki Sykes was joined Ian Thomson (Miller Homes) and Andrew Naylor (Miller Homes) to answer Member questions. They were asked and explained that:

- A residents management company would look after the green space and playground.
- Joseph Rowntree Trust preferred intermediate rent provision for the 4 bedroom properties and the bungalows.
- Planning for the phasing for the self builds was through engagement with the self-build officer and there was a condition to have delivered the road to allow access to the self-build site.
- There was a tenure plan for private and social housing spread out through the route of the site. This was included in the S106 of the outline application.
- Regarding the type of play equipment for different age groups they would look at products used, for example steel and wood.

Members then asked officers further points of clarification. Officers explained that:

- The bus shelters were likely to be standing bus shelters with seating.
- Any extension of the 30mph zone near the A64 would be through a Traffic Regulation Order (TRO) process. The Senior Lawyer advised that the TRO contribution was secured by the S106 agreement for the outline planning permission. The Head of Highway Access and Development

noted that the Highways Authority could look at the extension of the 30mph zone when looking at the TRO for the 20mph zone on the site.

- Regarding the number of 4 bedroom homes being high, this was an amendment made on the comments of the Forward Plan officer.
- A Member noted that it would be useful for Members to have information on the affordable homes split. Officers undertook to look into this for future meetings.
- On the planning balance, the tree provision was acceptable.

Following debate, Cllr Fisher moved the officer recommendation to approve the reserved matters application for the scale, layout, appearance and landscape for the erection of 133 dwellings, 7 self-build dwellings and associated infrastructure pursuant to outline application 18/00680/OUTM and the variation of Legal Agreement (affordable housing tenure mix and reallocation of Highways Sim Balk Contribution to provide bus stops) made under Section 106 of the Town and Country Planning Act 1990 (as amended) dated 27th April 2023 (in relation to 18/00680/OUTM). This was seconded by Cllr Merrett. Separate votes were taken for each and both were unanimously approved. Therefore it was;

Resolved: That the application be approved with conditions, subject to variation to Section 106 Agreement to secure:

- £40,000 towards bus stops on Tadcaster Road (instead of towards signal controller upgrade works at the 1036/Sim Balk Lane corridor)
- Affordable housing mix of 71% social rent and 29% intermediate rent dwellings.

Reasons:

1. The proposed layout, appearance, scale, access and landscaping of the development for 140no. dwellings and open space at land off Tadcaster Road is considered acceptable and adheres to the parameters plans approved at outline planning stage. The development provides a range of house types and tenures, including bungalows, in accordance with local need. Affordable housing and self build plots are provided in accordance with outline permission conditions and the s106 legal agreement for the site. The layout provides an attractive, verdant development promoting active travel through provision of the infrastructure for walking and cycling. Amenity is protected for existing neighbours and proposed residents. The scheme accords with NPPF advice and the National Design Guide, in particular in respect of place-making and the promotion of sustainable and active travel. The scheme is also

consistent with relevant policies in the Draft Local Plan (2018, as amended in 2023).

2. A condition is deemed necessary in respect of the listing of the approved plans. A condition requiring parking to be in place prior to occupation (and retained as such) is also deemed necessary. Other matters are already dealt with via the conditions on the outline permission. Approval is therefore recommended subject to conditions and subject to varying the s106 legal agreement with regard to the affordable housing change to intermediate rent dwellings and the inclusion of the contribution towards bus stops on Tadcaster Road.

Cllr J Crawshaw, Chair

[The meeting started at 4.30pm and finished at 6.37pm].

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