
MEETING	PLANNING COMMITTEE
DATE	17 DECEMBER 2009
PRESENT	COUNCILLORS R WATSON (CHAIR), D'AGORNE, FIRTH, HORTON, HUDSON, HYMAN, MOORE, MORLEY, PIERCE, POTTER (VICE-CHAIR IN THE CHAIR FOR PLANS ITEM 4A), REID, SIMPSON-LAING, B WATSON, WISEMAN AND LOOKER (SUB FOR CLLR FUNNELL)
APOLOGIES	COUNCILLORS FUNNELL AND JAMIESON-BALL

24. DECLARATIONS OF INTEREST

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

Councillor Pierce declared a personal prejudicial interest in relation to Plans item 4a (Land to the west of Metcalfe Lane, Osbaldwick, York) as he had previously supported development of this site for housing both as a member and officer of a local authority, and he left the room and took no part in the discussion or voting thereon.

Councillor Morley declared a personal prejudicial interest as the Council's Executive Member for Housing and Adult Social Services in relation to Plans item 4a (Land to the west of Metcalfe Lane, Osbaldwick, York) and he stepped down from the Committee and took no part in the discussion or voting thereon.

Councillor Potter declared a personal non-prejudicial interest in relation to Plans item 4a (Land to the west of Metcalfe Lane, Osbaldwick, York) as she chaired the Derwenthorpe Sub-Committee on facilities.

Councillor R Watson declared a personal prejudicial interest in relation to Plans item 4a (Land to the west of Metcalfe Lane, Osbaldwick, York) as he had been involved in legal work in respect of this site in the past and he stepped down as Chair and left the room and took no part in the discussion or voting thereon.

25. MINUTES

Arising out of consideration of the minutes, Cllr Pierce questioned whether the constitutional delegation to Officers to approve applications for reserved matters was permissive or mandatory. Officers confirmed that they would email a response to Cllr Pierce.¹

RESOLVED: That the minutes of the last meeting of the Committee held on 29 October 2009, be approved and signed by the Chair as a correct record.

Action Required

1. Email response as requested.

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26. PUBLIC PARTICIPATION

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

27. PLANS LIST

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

27a Land to the West of Metcalfe Lane, Osbaldwick, York (09/01768/FULM)

Consideration was given to a major full planning application, submitted by Mr Mark Warters, for the change of use of agricultural land into a nature conservation area with public access.

Officers updated and circulated the following additional information:

- The first paragraph of the reason for refusal should be amended to read 'The site is identified as site H1.6 under Policy H1 of the City of York Draft Local Plan to accommodate approximately 520 dwellings. As such the proposed use would:'
- Letter supporting the application from Barry Potter of the York Natural Environment Trust (YNET).

Representations in support of the application were received from the applicant. He pointed out that there was no mention in the Planning Officers report under relevant planning history of the approved application for 2 dwellings on part of this site and he went onto refer to the ongoing discussions with the European Union regarding other issues. He stated that it appeared Officers had cherry picked particular policies for inclusion in the reason for refusal and that these had been used to suit these particular circumstances. He went on to point out the reference, in paragraph 4.13 of the report, to the shortfall in natural and semi-natural open space in the eastern part of the City's urban area with there being no policy to rectify the situation. He requested Members to support retention of the Green Belt and support the change of use.

Representations were also received from a representative of the Meadlands Residents Association (MARA), who confirmed that local residents fully supported the proposed conservation of the area. Reference was made to YNET's support, as an independent body, to the application. He pointed out that the Police Architectural Liaison Officer had raised no objections to the application but he felt that unfounded security issues had been raised by Officers. He stated that there were no material objections and plenty of public support and that the application had the best interests of the city in mind.

A representative of Osbaldwick Parish Council confirmed their full support for the change of use. He referred to the variety of wildlife at present on site and to the lack of publicly accessible open space in the area. He stated that roads in the vicinity were unsuitable for any additional traffic that would be generated by housing development.

Cllr Morley, as Local Member, expressed support for the use of land for nature conservation but referred to the need for affordable housing in the City. He stated that it was vital that this site was developed for housing to prevent the use of additional Green Belt land elsewhere.

Members questioned whether it would be possible to have multiple permissions for one site and the procedure if the planned housing development did not proceed. Officers confirmed that a report to Members would have to be made in which the balance of issues would be detailed including the need for open space in the area although they confirmed that the site was designated for housing in the Local Development Framework (LDF).

Members also questioned the evidence in relation to visitor numbers to the site which the applicant confirmed as personal evidence of use which he felt would have been more if the site had been maintained. Concern was expressed in relation to the lack of proposed parking and security issues and reference was made to the need for family housing in the city.

Members stated that such a change of use needed to go through the correct LDF process which would require a change in land allocation. Following further discussion it was

RESOLVED: That the application be refused.

REASON: The site is identified as site H1.6 under Policy H1 of the City of York Draft Local Plan to accommodate approximately 520 dwellings. As such the proposed use would:

- i) have an adverse effect on York's future housing supply;
- ii) undermine the government's objective of providing sufficient quantity of housing to meet needs and demands; and
- iii) affect the government's objective of providing a mix of housing, both market and affordable, particularly in terms of tenure and price to support a wide variety of households in all areas.

As such the proposal is contrary to policy H1 of Regional Spatial Strategy Yorkshire and Humber 2008, policies H1 (Housing Allocation) and SP9 (Action Areas) of the City of York Draft Local Plan, the findings of the Strategic Housing Land Availability Assessment, and the Government's objectives set out

in paragraphs 10 and 69 of Planning Policy Statement 3 (Housing).

**27b MFI Furniture Centre Ltd, Foss Islands Road, York YO31 7UL
(09/02071/LEGAL)**

The Committee considered a legal agreement application, submitted by CB Richard Ellis Limited, for the discharge of a legal agreement to allow food retail to be traded from the premises.

Officers circulated the following updates:

- Revised Conclusion: Part 5 “Conclusion” on page 25 of the report is recommended to include new obligations requiring:
 - i) Any new boiler and refrigeration plant installed on site will meet the highest possible environmental standard in terms of emissions and
 - ii) include, as part of the Travel Plan requirements:
 - a) incentives for smaller/low emission vehicles to park at the site;
 - b) A policing/monitoring arrangement to prevent long stay parking on site; and
 - c) Delivery vehicles using the site should be low emission.

In addition, it is anticipated that the applicant will agree to enter into Section 106 the following matters:

1. Cycle parking provision in line with the requirements set out by Highway Network Management; and
 2. Car parking layout to be agreed prior to the first occupation.
- A Legal Briefing note to confirm that this is NOT a planning application,
 - That it is an application under s106A of the Town and Country Planning Act 1990 to discharge a planning obligation (under a s52 agreement) to allow for the sale of food.
 - Ancillary to the application to discharge the planning obligation, the applicant has agreed to enter into a new s106 agreement on the following basis:
 1. 15% restriction on ancillary non-food goods by net floorspace;
 2. £90.5k towards the Foss Basin Masterplan;
 3. Travel Plan, to include:
 - i) Staff travel plans, including incentives for staff to walk or cycle or use public transport or other sustainable means;
 - ii) Policing/monitoring arrangements to prevent long stay parking on the site;
 - iii) Delivery vehicles using the site should be low emission;
 - iv) £5k towards Traffic Regulation Orders;
 - v) Any new boiler/refrigeration plant installed on site to meet highest possible environmental standards in terms of emissions.
 - In determining the application to discharge the original planning obligation, the powers of the Local Planning Authority are tied to the

requirement that if it considers the obligation no longer serves a useful purpose, it must be discharged.

- Planning Officers' position is that the planning obligation no longer serves a useful purpose and can therefore be discharged, since the reason for its imposition i.e. the policy need to restrict or prevent food retailing floorspace at the site here no longer exists.
- Legal Officers consider that the proposed new s106 agreement is entirely proper;
- In terms of any other matters or measures the Council may wish to introduce to the legal agreement beyond which applicant has agreed to (as per the list above) they would not pass the test in the relevant legislation. The test is that the planning obligation no longer serves a useful purpose.
- Therefore there would be no justification for the LPA to refuse or defer the discharge application for other matters to be included, as it is considered the application meets the legal test for discharge and the mitigation measures are the basis of an agreement between the parties.

The following points were raised and questions answered:

- Data showed an increase in traffic levels with the change from a non-food to food retail store;
- Any increase in traffic would affect air quality close to Lawrence Street where problems already existed;
- Effect of the proposal on the authorities Air Quality Action Plan;
- The practicality of the financial contribution in relation to additional vehicular trips as requested by Highway Network Management;
- Confirmed that landscaping was included as part of the car parking layout;
- Details of the traffic mitigation measures;
- Concerns re impact on city centre;
- Clarification from Officers that separate proposals for a new signalised junction had been received for the junction adjacent to the site.

The Chair congratulated Officers on their negotiation of a new Section 106 agreement, which would hopefully mitigate any additional impact on the area.

RESOLVED: That the discharge of the legal agreement be approved subject to the applicants entering into a new Section 106 agreement.

REASON: In the opinion of the Local Planning Authority the proposal, subject to the new Section 106 Agreement requirements listed, would not cause undue harm to interests of acknowledged importance, with particular reference to the vitality and viability of York's city and district centres, highway considerations and air quality. As such the proposal complies with national and local planning policy, in particular with most relevant

28. PLANNING PERFORMANCE AGREEMENTS - CHARTER

Consideration was given to a report which requested Members to formally adopt a Charter for use in the formulation and implementation of Planning Performance Agreements (PPA's).

A draft charter for PPA's had been presented to the Committee earlier in the year for comments prior to public consultation. The Agreements had been introduced with the objective of improving the quality of major or complex planning applications and the decision making process involved.

Members had approved the draft Charter subject to some minor alterations and a 6 week consultation period. The results of the consultation process had been set out in Annex 1 of the report. It was reported that the comments received were generally supportive of the Charter and therefore no significant changes were proposed. The main responsibilities of the City of York Council and of the developer were listed in paragraphs 12 and 14 for clarity.

The following options were then considered:

- Option A. Do not approve and adopt the PPA Charter. This option is not recommended.
- Option B. Approve the PPA Charter as set out in Annex 2. This option is recommended
- Option C. Approve the PPA Charter with modifications. This option is not recommended.

RESOLVED: That Members agree Option B to approve the Charter for use in the preparation of Planning Performance Agreements. ¹.

REASON: To provide a project management framework for handling large scale or complex major planning applications which will provide certainty for all development partners.

Action Required

1. Commence the use of Charter in the formulation of PPA's. MM

29. APPEALS PERFORMANCE AND DECISIONS SUMMARY

Consideration was given to a report which informed Members of the Council's performance in relation to appeals determined by the Planning Inspectorate in the 3 month period up to 31 October 2009. Details of the salient points from the appeals determined in that period had been provided at Annex A of the report.

Officers confirmed that this was the second report to Members in the previously agreed format. Members queried a number of issues and

congratulated Officers on the performance. They suggested that it would also be useful to receive details of all appeals outstanding at the date of the next report.

RESOLVED: That the Committee note the content of the report and request the addition of details of all outstanding appeals at the end of each 3 month period in future reports.¹

REASON: So that Members can continue to be updated on appeal decisions within the CYC area and informed of the planning issues surrounding each case for future reference in determining planning applications.

Action Required

1. Include details of outstanding appeals to date in future reports.

MM

R WATSON, Chair

[The meeting started at 4.30 pm and finished at 5.55 pm].

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