

---

MEETING	WEST & CITY CENTRE AREA PLANNING SUB-COMMITTEE
DATE	17 MARCH 2011
PRESENT	COUNCILLORS HORTON (CHAIR), REID (VICE-CHAIR), CRISP, STEVE GALLOWAY, GALVIN, GILLIES, B WATSON, MORLEY AND MOORE (AS A SUBSTITUTE FOR CLLR SUNDERLAND)
APOLOGIES	COUNCILLOR SUNDERLAND
IN ATTENDANCE	COUNCILLOR GUNNELL

---

## 51. INSPECTION OF SITES

The following sites were inspected before the meeting.

Site	Attended by	Reason for Visit
The Secret Garden, 15 Bishopthorpe Road	Councillors Crisp, Galvin, Gillies, Horton and Reid.	As objections had been received and the officer recommendation was for approval.
Part OS Field 1722, Sim Balk Lane, Bishopthorpe	Councillors Crisp, Galvin, Gillies, Horton and Reid.	As objections had been received and the officer recommendation was for approval.
Public Open Space, Grange Lane	Councillors Crisp, Galvin, Gillies, Horton and Reid.	To familiarise Members with the site
Harewood Whin Landfill Site, Tinker Lane, Rufforth	Councillors Crisp, Galvin, Gillies and Horton.	As objections had been received and the officer recommendation was for approval.

## 52. DECLARATIONS OF INTEREST

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

Councillor Reid declared a personal and prejudicial interest in plans item 3d (Harewood Whin Landfill Site, Tinker Lane, Rufforth) as she is the Council's representative on Yorwaste. She left the room for discussion of this item and took no part in the debate or vote.

Councillor Horton declared a personal non prejudicial interest in plans item 3e (Askham Bryan College, Askham Fields Lane, Askham Bryan) as his stepson is a student at the college.

### **53. PUBLIC PARTICIPATION**

It was reported that there had been no registrations to speak under the Council's Public Participation Scheme on general issues within the remit of the Sub-Committee.

### **54. PLANS LIST**

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

#### **54a Part OS Field 1722, Sim Balk Lane, Bishopthorpe, York (10/02684/FUL)**

Members considered a full application from Mr Kevin Linfoot for the erection of an agricultural building for the keeping of livestock.

Officers informed the Committee that the site appeared to be for an agricultural use which is appropriate development in the greenbelt and that details of the applicant's landholding and stock had been provided. It was explained that the building required planning permission because it was within 400m of a protected building and was proposed to house livestock however in a different location it could be built under agricultural permitted development rights. They also advised that draft conditions 4 and 5 in the report duplicated each other and recommended that condition 4 be deleted.

Representations were received from a representative of Bishopthorpe Parish Council in objection to the application. He questioned the proposed use of the shed and hard standing stating that insufficient information had been provided by the applicant to confirm these details. He advised Members that due to lack of details there was not sufficient justification to confirm that this is appropriate development in the greenbelt and suggested that the application should be resubmitted with further clarification on the proposals.

Officers clarified that the purpose of the building was to house livestock. They explained that the design had been amended to increase the hard standing to allow a greater turning area so that a rigid HGV could turn round on the site, and so that the building was high enough for vehicles to be able to drive through it.

Members raised concerns that they had not been given sufficient information on the proposed use of the building and questioned whether there was sufficient space to house animals, store feed stuff and drive a vehicle through the building. Members also raised concerns that the increase in size of the hard standing could impact on the soakaways.

Councillor Galvin proposed and Councillor Gilles seconded a motion to refuse the application on the basis that it was inappropriate development in this location. On being put to the vote, the motion was lost.

Members acknowledged that in its present site, the building would be well screened and that if they turned down the application, the applicant could put the building in the middle of his land and as long as this was 400m away from any building not concerned with farm, it could be built under agricultural permitted development rights.

Officers advised that if members were concerned about the building being used for agricultural purposes, a condition could be added to the permission to state that if the building ceased to be used for agricultural purposes, the building must be removed from the land. Members agreed to this condition.

RESOLVED: That the application be approved subject to the conditions listed in the report, the deletion of existing condition 4 and the addition of the condition detailed below.

Additional Condition

Should the building cease to be used for agricultural purposes it shall be removed from the land within 6 months of the date of the ending of its agricultural use unless planning permission has been granted to retain the building for non-agricultural uses.

Reason: In the interests of the openness of the green belt and the purposes of including land within the green belt given the existing limited agricultural use of the site and in accordance with policy GB1 of the Development Control Local Plan and policy contained within PPG2 "Green Belts."

REASON: The proposal, subject to the conditions listed in the report and the additional condition above, would not cause undue harm to interests of acknowledged importance, with particular reference to the principle of the development, design and siting, residential amenity, traffic and drainage. As such the proposal complies with Policy YH9 and Y1C of The Yorkshire and Humber Plan, policy GB1 of the City of York Development Control Local Plan and Government policy contained within Planning Policy Guidance note 2 'Green Belts'.

**54b Old Ebor PH, 99 Nunnery Lane, York, YO23 1AH (10/02844/FUL)**

Members considered a full application from Mr Philip Armitage for dormer windows to the front and rear and alterations to the shopfront (revised scheme)

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

REASON: The proposal, subject to the conditions listed in the report would not cause undue harm to interests of acknowledged importance, with particular reference to the appearance of the building and residential amenity. As such the proposal complies with Policies GP1 and H7 of the City of York Development Control Local Plan.

**54c The Secret Garden, 15 Bishopthorpe Road, York, YO23 1NA (10/02850/FUL)**

Members considered a full application from Mr H Kabir for the change of use from retail (use class A1) to restaurant (use class A3) as an extension to Lal Quila at 17 Bishopthorpe Road and the use of the first floor of no 17 as a manager's flat.

Officers advised Members that a 92 signature petition had been received from the applicant, signed by customers in support of the planning application to provide larger premises for Lal Quila stating that the restaurant had been a part of the Bishopthorpe Road community and provided a place where local people regularly meet each other. Officers drew Members attention to a revised drawing which showed changes to the internal arrangements including the take away area. Officers stated that the planning issue was the loss of the retail unit allied with the expansion of a non-daytime use adversely affecting the character and viability of the shopping area.

Representations were received from a local resident in objection to the application. She advised the committee that there was a strong feeling amongst the local population against the loss of a shop on Bishopthorpe Road. She explained that Bishopthorpe Road was a unique community of shops and in order for the shopping parade to survive, there needed to be a complete choice of shops. She pointed out that premises which change from a shop to restaurant normally remain as so and stressed the importance of premises being open during the day. She stated that when the property became vacant, more than two parties were interested in it and assured members it would not remain empty for long.

Representations were also received from the agent on behalf of the applicant. He advised Members that Lal Quila had been trading for 20 years and approximately 80 percent of the customers were local residents. He pointed out that although planning officers had recommended refusal, no other council departments had raised objections to the application. He

stated that the premises had been vacant since October 2010 and had previously been a florist. He noted that there were alternative florists businesses within walking distance and three shops within the parade offering flower sales. He explained that if approved, the proposals would enable the applicant to improve the facilities he is able to offer his customers including providing downstairs toilet facilities. He pointed out that this was a once in a life time opportunity to expand his business and the owner hoped to reopen for lunchtime trading and sell prepared Indian meals.

Members asked for clarification on the Micklegate Planning Panel's response to the consultation. Officers read out the statement received from the Micklegate Planning Panel which stated that they recognised the contribution made by the Lal Quila to the area but raised concerns over the loss of a retail unit on the street.

Councillor Gunnell explained that Bishopthorpe Road was a vibrant street where traders work well together and local community groups thrive. She pointed out that there was currently a good variety of shops and eating places on the street. With regard to the florists closing, she pointed out that two other florists had operated on the street in the past, both of which had closed. She explained that at the Residents' Association meeting the previous night, the application had been raised and there had been no objections from residents to the application and the Chair of the Micklegate Planning Panel had clearly stated that he had not submitted an objection.

Members welcomed the fact that the applicant had given thought to providing disabled toilets on the ground floor, which would also benefit elderly customers who may struggle with stairs. However they questioned whether the application should be refused in order that further marketing could take place with the hope that the premises could remain in operation as a shop.

Members acknowledged that lots of changes had taken place in the street during the years and this would continue but agreed that there was still a good cross section of shops in the street with cafes also open at lunchtime. They noted that approving this application would take the proportion on non-retail premises up to 25 percent which they commented was enough. They stated that they understood the applicant's reasons for wanting to expand and agreed it was an acceptable use of the property.

Officers advised that if Members were minded to approve the application, the following conditions were recommended:

- The premises shall not operate independently to the restaurant at no 17
- Waste shall be stored within the curtilage of the application site
- Secure cycle parking will be provided for staff
- Managers flat – contribution to open space required
- Opening hours – 9am to midnight.

RESOLVED: That the application be approved subject to the conditions listed below.

1. The development shall be begun not later than the expiration of three years from the date of this permission.

Reason: To ensure compliance with Sections 91 to 93 and Section 56 of the Town and Country Planning Act 1990 as amended by section 51 of the Compulsory Purchase Act 2004.

- 2 The premises shall be operated as a restaurant in association with the restaurant at 17 Bishopthorpe Road and shall not be operated independently.

Reason: In the interests of the amenity of surrounding occupants.

- 3 Waste shall be stored within the curtilage of the application site at all times.

Reason: In the interests of the appearance of the area.

- 4 At least two secure cycle parking spaces shall be provided within the curtilage of the application site and retained for such use at all times.

Reason: To promote sustainable modes of transport in accordance with PPG13:Transport and policy T4 of the Local Plan.

- 5 The restaurant shall only be open to customers between the hours of 09:00 and midnight each day of the week.

Reason: In the interests of the amenity of surrounding occupants.

- 6 The first floor flat shall not be occupied until details of provision for public open space facilities or alternative arrangements have been submitted to and approved in writing by the Local Planning Authority. The Open space shall thereafter be provided in accordance with the approved scheme or the alternatives arrangements agreed in writing by the Local Planning Authority and thereafter implemented, prior to first occupation of the development.

Reason: In order to comply with the provisions of Policy L1c of the Development Control Local Plan

which requires that all new housing sites make provision for the open space needs of future occupiers.

**REASON:** The proposal would be acceptable as there would remain a reasonable range of retail and non-retail uses within the shopping parade to satisfy the day to day needs of the local population and there would not be an undue impact on the vitality and viability of the shopping parade. As such the proposal complies with Policy S9 of the City of York Development Control Local Plan.

**54d Harewood Whin Landfill Site, Tinker Lane, Rufforth, York, YO23 3RR (10/02699/FULM)**

Members considered a major full application (13 weeks) from Mr Mark Hall for the extension of a material recovery building, the provision of hard standing and variation of condition 3 of Planning Permission 07/02440/FUL to allow use of building between 06.00 – 22.00, 7 days a week.

Officers circulated a written update to Members, as follows, and read through these for the benefit of those at the meeting.

- That condition 2 be amended to delete the first plan ref HAR-PLOO-YO811-OOA as it does not reflect the current situation to date.
- The application has asked that it be pointed out that should the application be approved the facility would be open for the receipt of materials between 06.00 hours and 07.00 hours in the morning and that no processing would take place at that time.
- In terms of vehicle movements, the extended hours would not lead to an increase in the total volume of vehicle movements into and out of the site but a spreading of the existing traffic volume more evenly through the day.
- For the avoidance of doubt, the existing operating hours for the Materials Recycling Building are 07.30 to 17.30 each day.

Representations were received from a gentleman who read a statement from Rufforth with Knapton Parish Council in objection to the application. He stated that this was the fourteenth application since the original permission was granted, none of which had been rejected by the Committee. He drew Members' and officers' attention to some errors within the report. He stated that the Parish Council raised strong objections to the increase in operating hours which equated to an increase of 66 percent in the time when the site would be open as this showed no regard to public amenity. He asked the Committee to consider requiring a S106 application to facilitate public access for walking and cycling across the site if the application was approved. In response to a query from Members he advised the Committee that he was not personally aware of industrial noise but the main concern was the noise created by trucks reversing on the site.

Representations were also received from the agent on behalf of Yorwaste in support of the application. He stated this was a modest extension which would not give rise to additional waste. He informed Members that there was no large anticipated rise in vehicle movements, with only an additional 3 vehicles (6 movements) expected each day, but instead a redistribution of vehicle movements over a longer time period. He explained that their intention was for waste to be received on site between 6am and 10pm and for waste to be processed on site between 7am and 5.30pm. He advised the Committee that Yorwaste had responded to concerns raised by Rufforth with Knapton Parish Council and any possible errors in the report. In response to a query from Members he advised that following tests on noise levels, Yorwaste had undertaken not to operate a piece of plant machinery between 6am and 7am, which had been identified as creating a noise impact, but advised that the receipt of materials did not give rise to noise levels.

In response to queries from Members, he stated that the type of mobile plant machinery used in the building was large scale and space inside the building was currently tight and the extension would allow for better movement of plant around the building.

He explained that his clients had applied to extend the hours of operation in order to reflect a changing waste management industry and to meet customers needs in terms of waste collection arrangements. He advised that waste processed on site was a combination of municipal and commercial waste and they wanted to be able to provide their customers with more flexibility with regard to when they could deliver waste to site.

In response to Members concerns about potential noise from reversing vehicles, he advised that the company had carried out detailed noise monitoring which considered any potential cause of noise against background noise levels. He stated that based on assumed traffic flow and background noise levels, the increase in noise level would be 1.3 decibels which was seen as not likely to have a significant effect on residential amenity.

Members agreed to deal with the application in two parts: firstly the extension of the material recovery building and provision of hard standing; and secondly the variation of condition 3 of Planning Permission 07/02440/FUL to allow use of the building between 06.00 – 22.00, seven days a week.

Members agreed that the application to extend the material recovery building, including the provision of hard standing, should be approved. However, with regard to operating hours, they raised concerns that residents who were already affected, especially at weekends, by the noise of reversing vehicles on site would be affected to a greater extent if operating hours were increased as requested. Members recognised the need to encourage recycling and ensure as much waste as possible could be recycled and to meet market demand in terms of waste collection/delivery arrangements. However they noted that residential amenity should be considered carefully and suggested that a compromise

be reached regarding operating hours and suggested 7am to 9pm daily instead of the 6am to 10pm which had been requested.

RESOLVED:

That the application be approved, following referral to the Secretary of State, subject to the conditions listed in the report and the amended condition below.

Condition 5

The materials recycling building and associated plant hereby approved shall only operate between the hours of 07.00 and 21.00 daily.

Reason: To safeguard the residential amenity of nearby properties and to secure compliance with Policy GP1 of the York Development Control Local Plan.

REASON:

The proposal, subject to the conditions listed in the report and the amended condition above, would not cause undue harm to interests of acknowledged importance, with particular reference to impact upon the open character and purposes of designation of the Green Belt, impact upon the residential amenity of neighbouring properties, impact upon the local surface water drainage network, impact upon the ability of the City to meet nationally derived targets to minimise waste production and the temporary nature of the whole operation. As such the proposal complies with Policy YH9 and Y1C of The Yorkshire and Humber Plan, policies GP1,GP15a), GB1, GB11,MW5 of the City of York Development Control Local Plan and Government policy contained within Planning Policy Guidance note 2 'Green Belts'.

**54e Askham Bryan College, Askham Fields Lane, Askham Bryan, York (10/02602/FULM)**

Members considered a major full application (13 weeks) from Mr John Mawson for the construction of steel framed agricultural building (Beef Unit) to be rear of Westfield Cottages.

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

REASON: The proposal, subject to the conditions listed in the report, would not cause undue harm to interests of acknowledged importance, with particular reference to openness and visual amenity of the greenbelt. As such the proposal complies with Policies GP1 and GB1 of the City of York Council Development Control Local Plan (2005) and national planning policy contained within Planning Policy Guidance 2 'Green Belts' and Planning Policy Statement 7 'Sustainable Development in Rural Areas'.

**54f Public Open Space, Grange Lane, York (11/00156/FUL)**

Members considered a full application from Miss Beth Cooper for the construction of a children's play area on public open space.

RESOLVED: That delegated authority be given to officers to approve the application once the neighbour notification period has expired, subject to the conditions in the report.

REASON: The proposal, subject to the conditions listed in the report, would not cause undue harm to interests of acknowledged importance, with particular reference to the impact on the visual amenity of the surrounding area, loss of neighbour amenity and protection of the Local Nature Reserve. As such the proposal complies with Policies GP1, GP7 and NE5a of the City of York Draft local plan (4th set of changes) approved for Development Control purposes April 2005.

Councillor D Horton, Chair

[The meeting started at 3.00 pm and finished at 5.00 pm].