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Meeting	Area Planning Sub-Committee
Date	9 January 2014
Present	Councillors McIlveen (Chair), Gillies (Vice-Chair), Douglas, Watson, Semlyen, Looker, Galvin, Cuthbertson, Hyman and Warters
Apologies	Councillor Fitzpatrick

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Site Visit	Attended by	Reason for Visit
The Ruins, 32a Dale Street, York. YO23 1AE	Cuthbertson, Galvin, Gillies, Looker and McIlveen	As the recommendation was for approval and objections had been received.
Shepherd Group Social Club, 131 Holgate Road. YO24 4AZ	Cuthbertson, Galvin, Gillies, Looker and McIlveen	To inspect the site.

### **36. Declarations of Interest**

At this point in the meeting, Members were asked to declare any personal, prejudicial or disclosable pecuniary interests not included on the Register of Interests that they might have had in the business on the agenda.

No interests were declared.

### **37. Exclusion of Press and Public**

Resolved: That the press and public be excluded from the meeting during the consideration of annexes to Agenda Item 6 (Enforcement Cases Update) on the grounds that they were classed as exempt under Paragraphs 1,2 and 6 of Schedule 12A to Section 100A of the Local Government Act 1972, as

amended by the Local Government (Access to Information) (Variation) Order 2006).

### **38. Minutes**

Resolved: That the minutes of the Area Planning Sub Committee held on Thursday 5 December 2013 be approved as a correct record.

### **39. Public Participation**

Gwen Swinburn spoke under this item on issues of procedure in regards to Agenda Item 4b) (Rear of the Lindens). She made reference to the Officer update given at the meeting. (This was attached to the agenda and uploaded online following the meeting).

She questioned why the Officer's published report did not make reference to the Green Belt, whereas their circulated update was wholly about the impact that the application would have on the open character and designation of the Green Belt. She was concerned that the public had not had access to the most up to date agenda, and that the Members of the Committee had information that the public did not possess. She stated that she did not think this was democratic.

### **40. Plans List**

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

#### **40a) The Ruins, 32a Dale Street, York YO23 1AE (13/03275/FUL)**

Members considered a full application by Ms Isobel Rhodes Bernays for the erection of a two storey building comprising of a new dwelling and an extension to 34 Dale Street, and change of use of 32a Dale Street to residential accommodation-

Variation/removal of conditions of permission 10/027972/FUL under Section 73 of the Town and Country Planning Act 1990.

In their update to Members, Officers informed the Committee of an error in the report. Condition 2 (The development shall begin no later than 14 March 2013) should be amended to *14 March 2014*.

It was questioned if the standard rooflights in 34 Dale Street were installed prior to Dale Street being included in the Central Historic Core Conservation Area in 2011, and if approving the application with the rooflights could set a precedent for other buildings to use standard rooflights in the Conservation Area.

Officers answered that the issue was what was appropriate in its context. Other properties in the terrace had non conservation style rooflights and in the circumstances Officers considered it to be reasonable that the new property had similar style rooflights.

Representations in support of the application were received from the applicant, Isobel Rhodes-Bernays. She explained to Members that she had used velux rooflights rather than conservation rooflights as they were not visible and were in keeping with the rest of the windows in the building.

In response to questions about why renewable energy sources could not be used on the site. Members were informed that renewable energy sources such as ground and air source heat pumps were not suitable on the site because of a lack of outside space. The roof space that was available was also too narrow for solar panels. The applicant also confirmed that cost considerations also halted the use of renewable energy sources on the site.

During discussion some Members felt that it was strange that the building was sited in the Conservation Area as some of the surrounding buildings had velux windows and dormers, which would not normally be a feature of such an area.

In response to a question from a Member about whether the windows of the proposed side elevation were originally as timber framed, it was reported that timber windows were referenced in original drawings but that it was not a requirement but that it was not a requirement of the planning authority.

Officers also highlighted that the proposed location for the UPVC windows was in the less visible side elevation which was opposite to Council owned flats which all had UPVC windows.

Some Members felt that by approving the application this would change the Conservation Area, and that it might set a precedent in similar cases located in this area. Others felt that the application fitted in with other buildings in the area.

Resolved: That the application be approved.

Reason: For the reasons listed in the Officer's report it is reasonable for Conditions 5 (Code for Sustainable Homes), 6 (Renewable Energy) and 8 (Drainage Details) to be removed and conditions 1 (approved plans), 7 (obscure glazing) and 10 (large scale details) to be varied.

**40b) Rear of The Lindens, Sandy Lane, Stockton on the Forest, York (13/03256/FULM)**

Members considered a full major application by Mr J Jackson for the erection of workshop and storage building for steel coils.

An Officer update had been circulated to Members of the Committee prior to the meeting which included additional paragraphs relating to the Green Belt, and additional condition relating to the height of the development and an amendment to the wording of the recommendation. This update was attached to the agenda following the meeting. The agenda was subsequently republished online to include this update.

Discussion between Members took place on the issues raised under Public Participation by Gwen Swinburn.

Some Members felt that a decision on the application should be deferred until proper consultation had taken place, following the updated information circulated by Officers. They felt that there was a definite change to the report, and asked why the additional paragraphs were not included in the original report.

Officers reported that the error had occurred because the site was proposed to be removed from the Green Belt in the Preferred Options Document for the new Local Plan.

They added that they would not normally have further public consultation as the application had not changed as a result of its location it was the report to Sub-Committee which had changed. They felt that the consultation would not make a difference to the recommendation given.

The Chair stated that although Officers had made an error in not including the updated paragraphs within their original report, that he felt that the recommendation should not change.

Members also requested that legal advice be sought from Democratic Services as to whether the Officer's update should have been published alongside the original report, and if procedures had been followed correctly.

The Assistant Director for Governance and ICT advised Members of the wording of Section 100B (Access to agenda and connected reports) of the Local Government Act 1972. He confirmed that agendas and connected reports should ordinarily be open to inspection five clear days in advance of the meeting. However, the legislation also makes it clear that it does not require copies of any agenda or report to be open to inspection by the public until copies are available to Members of the Council.

Some Members opposed deferring the application to be considered at a later date as they felt that the report talked in terms of the Draft Local Plan, others highlighted the industrial nature of the site.

Resolved: That the application be approved after referral to the Secretary of State and with the following additional condition;

5. Notwithstanding the information contained on the approved plans, the height of the approved development shall not exceed 7.8 metres, as measured from existing ground level. Before any works commence on the site a means of identifying the existing ground level on the site shall be agreed in writing and any works required to make that ground level accurately during the construction works shall be implemented prior to any disturbance of the existing ground level. Any such physical works or marker shall be retained on site for the duration of the construction works.

Reason: To safeguard the character of the site and to secure open character of the Green Belt.

**40c) Shepherd Group Social Club, 131 Holgate Road YO24 4AZ (13/02712/FULM)**

Members considered a full major application by Mr T Allison for the conversion of a social club and four storey side extension to create 12 no. one bedroom flats.

Officers circulated an update to their report to Members. This update was then attached to the agenda, which was subsequently republished online after the meeting. The following details were noted;

- That a financial contribution of £4080 for the provision of open space had been received in full (thereby removing the need for a unilateral undertaking to that effect). The applicant had also been made aware that the contribution would be returned if planning permission was not granted.
- That minor revisions to condition 2 were needed as a result of continuing negotiation.
- That the applicant had now agreed for replacement windows and external doors to be made of timber, and that a condition be added to approval to reflect this.
- That if approved, a proposed safety fence between the front garden and two bay parking area (which is at a lower level) can be made a condition of approval.

Resolved: That the application be approved subject to the following amended and additional conditions;

Condition 2: The development hereby permitted shall not be carried otherwise than in complete accordance with the approved plans numbered BS3132-09/B, BS3132-10/A, BS3132-11/A, BS3132-12/A, BS2132-13/C, BS3132-14/B, BS3132-15/B, BS3132-16/B and BS3132-18/B.

Condition 4: All new replacement windows and external doors shall be made of timber with a microporous paint finish. The development shall not commence until details of windows and external doors have been submitted to the Local Planning Authority and approved in

writing. The works shall be carried out in accordance with the approved details unless otherwise agreed in writing with the Local Planning Authority.

Additional Condition 14: The development shall not commence until details of the proposed safety fence between the front garden and two-bay parking area have been submitted to the Local Planning Authority and approved in writing. The works shall be carried out in accordance with the approved details unless agreed in writing by the Local Planning Authority.

Reason: In the interests of the character and appearance of the Conservation Area.

#### **41. Enforcement Cases Update**

Members received a report which provided them with a continuing quarterly update on the number of enforcement cases currently outstanding for the area covered by the Sub-Committee.

Resolved: That the report be noted.

Reason: To update Members on the number of outstanding enforcement cases within the Sub Committee's areas.

Councillor N McIveen, Chair  
[The meeting started at 2.00 pm and finished at 3.55 pm].