

Meeting

Area Planning Sub-Committee

Date

8 May 2014

Present

Councillors McIlveen (Chair), Gillies (Vice-Chair), Douglas, Semlyen, Fitzpatrick, Galvin, Cuthbertson, Hyman, Warters, Burton (Substitute for Councillor Looker) and Horton (Substitute for Councillor Watson)

Apologies

Councillors Looker and Watson

Site	Visited by	Reason for Visit
Laurel House, The Village, Stockton on the Forest, York. YO32 9UW	Councillors Cuthbertson, Fitzpatrick, Galvin, Gillies, McIlveen, Semlyen and Warters.	As the application had been called in by the Ward Member because of concerns over loss of amenity.
Land at rear 42 Oxford Street, York. YO24 4AW	Councillors Cuthbertson, Fitzpatrick, Galvin, Gillies, McIlveen and Semlyen.	As the application had been called in by a Member on the grounds of over development.

57. Declarations of Interest

At this point in the meeting, Members were asked to declare any personal, prejudicial or disclosable pecuniary interests they might have had in the business on the agenda. None were declared.

58. Public Participation

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

59. 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.

59a) Royal Masonic Benevolent Institute, Connaught Court, St Oswalds Road, York YO10 4QA (13/03481/FULM)

Members considered a full major application by RMBI and Shepherd Homes Ltd for the erection of 14 no. dwellings following the demolition of an existing bowling clubhouse and garage block.

In their update to Members Officers stated that;

- Condition 16 (in the report) which required the applicant to provide a minimum of 10% of energy demand from renewable sources could be deleted because it was covered by recent changes to the Building Regulations.
- They had received further comments from Fulford Parish Council and Fulford Friends in objection. In relation to one comment about the absence of 'streetscape' views of the Ings, Officers were satisfied that sufficient information had been supplied by the applicant to enable the impact of the development to be properly considered.
- The Parish Council had asked that three conditions be added or amended to planning permission. In response Officers felt that the suggested conditions were unnecessary and therefore contrary to national planning policy guidance.
- The proposed Section 106 unilateral undertaking for financial contributions was nearing completion.

Representations in objection were received from the Chair of Fulford Friends. She asked that Members deferred the application for the following reasons;

- That the scheme was at odds with the Fulford Conservation Area. In the Friends' view this meant that the presumption in favour of development was incorrect and should not be taken into consideration by Members.
- That the site should not be identified as brownfield land as it was currently open space land and the gardens should not be classified as such.
- A sequential test was required because parts of the site were in floodzones 2 and 3.

Following a Member's question, the Chair told the Committee that the Friends had contacted the developers to offer their help with the application but that this had been turned down.

Further representations in objection were received from a local resident. He told Members that;

- That he was disappointed with the design that had been submitted by the applicants, as it was virtually the same as the previous application and it was not in keeping with the adjacent Sir John Hunt homes.
- That the design of the buildings in Area B had been designed differently to Area A, which had been based on the Fulford Road Conservation Area not the Fulford Village Conservation Area.
- That residents from the Fulford Friends group had met with the applicants to suggest that the height of the houses be lowered.

Representations in support were received from the applicant's agent. He spoke about how;

- The building line in Area A of the development had been pulled further away from St Oswalds Road to reduce the impact that the development would have on the existing trees on the site.
- Comments from Yorkshire Water had been received and they had no objections to the development.
- Following Members' previous concerns about the design of the proposed houses the applicants' architects did look at other alternatives.

Members asked why the applicants had not asked for residents views. In response the agent replied that they felt that they had fulfilled what Members had requested. He added that Officers were happy with the arrangements regarding the frontage on to St Oswalds Road.

Representations were received from a representative of Fulford Parish Council. She told Members that;

- She felt that there had been material changes to the site since the application had been submitted. The site was now located in the Fulford Village Conservation Area, and the character of the village had not been sufficiently considered.
- No streetscape view had been provided so assessment of the view of the development from Fulford Ings could not be made.
- She questioned why 14 large houses had been proposed, and why were these not split down into smaller ones providing affordable housing.
- The only reason why the site had been added to the Fulford Village Conservation Area was because of Connaught Court's historic parkland rather than the buildings on it.

Representations were received from the Ward Member Councillor Aspden. He asked Members to refuse the application because;

- He was not convinced that the applicants had worked with the Parish Council or Fulford Friends, and their lack of willingness to consult was not favourable.
- That aspects of the application were in conflict with policy and design.

In response to questions from Members, Officers informed the Committee that they felt that the reasons given for deferral of the previous application had now been addressed by the resubmitted application. They reported that the Conservation Area was centred on Fulford Village and included all of the Care Home and grounds. The development was located on the extreme edge of the conservation area.

Some Members recalled a previous proposal for development on the site some years ago, which was mainly located around the part now occupied by the Residential Home. They felt that the applicants had covered concerns that Members had previously raised in past applications on the site.

Other Members felt that the proposed buildings did not compare with the local area and that the size of the proposed development was to only maximise profit for the developers.

Resolved: That the application be approved subject to a Section 106 agreement and the deletion of condition 16.

Reason: The application would provide much needed dwellings in a highly sustainable and accessible location. The proposals respect the character of the two affected conservation areas, in particular the parkland setting of the site and its mature protected trees.

**59b) Blue Bridge Hotel, 39 Fishergate, York. YO10 4AP
(14/00169/FULM)**

Members considered a full major application by Charles Assam Developments Ltd for a conversion of a hotel to 11no. flats and 1no. dwelling with part single/part two storey extension to rear.

Questions from Members to Officers related to the number of parking spaces, who the flats were being advertised to and the use of UPVC windows in a Conservation Area.

Officers informed Members that five parking spaces would be provided, which was fewer than first proposed. They did not know who the flats would be marketed to, but the flats would be on the open market and there was no requirement for affordable housing on this site. In relation to the windows, Officers ideally wanted them to all be timber but felt that the Conservation Area would not be harmed if some UPVC windows were used. It was reported that Officers had negotiated with the applicants who had changed the application from having all windows made of UPVC and that on balance the character and appearance of the conservation area would be improved.

Resolved: That the application be approved subject to a Section 106 agreement.

Reason: As the application would provide needed housing in a sustainable location, would not harm the appearance of the Conservation Area and because previous highways issues had been addressed.

**59c) Land at rear of 42 Oxford Street, York. YO24 4AW
(14/00416/FUL)**

Members considered a full application by Mr Mike Nicholas for a first floor extension to a detached garage.

Officers circulated a sunlight assessment for the application to the Committee. This was subsequently scanned and put online with the agenda after the meeting.

Representations in objection were received from a next door neighbour. He told the Committee that he did not want the eaves of the roof of the extension to rise above the height of his property's walls. He added that he had asked the applicant to reduce the scale of the proposed extension in order to allow sunshine into their garden and adjacent sitting room. He asked Members that if they were minded to approve the application that the use of the garage be restricted for Mr Nicholas' private and domestic use.

Representations in support were received from the applicant. He informed Members that he had met with the objectors and as a result had considered a further 250mm reduction in height of the boundary wall between their two properties. He had reduced the height of the internal eaves to 750mm and told Members that if reduced any further that the roof would not be suitable to be used for storage. He felt that the current proposals for the application were a good compromise between what he had originally requested and the concerns voiced by the next door neighbours.

In response to a Member's question, the applicant stated that the extension would be used for personal use and there would be no daily transport movements to the property. If the applicant were to demolish the property he confirmed that he would keep the existing walls on site. He added that if approved he was happy to accept the neighbours' condition about restricting the use of the garage.

Some Members felt that although the extension would restrict some sunlight on to the neighbour's garden that they felt that the proposed application would not be so harmful that it should be refused.

Resolved: That the application be approved.

Reason: As the proposed structure would not harm the character and appearance of the conservation area, being of appropriate scale, shape and materials for its setting. The revised plans show that the extension would be no more than 500mm higher than the boundary wall. Considering the extent which the neighbour's garden is already enclosed the additional structure would not be unduly overbearing and would not have an undue impact on outlook. There would not be a material change in levels of light or direct sunlight in the back garden and overall there would be no undue impact on residential amenity.

**59d) Laurel House, The Village, Stockton on the Forest, York.
YO32 9UW (14/00434/FUL)**

Members considered a full application by Mr and Mrs B Robson for the erection of a detached dwelling.

Officers gave an update to Members which included the following;

- Revised plans had been received which deleted the dormer window above the garage and which amended the boundary treatment from walling to hedging. If the approved, a plans condition be amended to included reference to these revised plans.
- Comments from the Drainage Engineer had been received which requested that a soakaways assessment be carried out to prove that the ground had sufficient capacity to accept surface water discharge, and to prevent flooding of the surrounding land and the site itself.
- A detailed letter of objection had been received from the owners of Stockton Grange which stated that;

Heritage Asset- There are a small number of dwellings in York designed by the renowned architect Walter H Brierley; the significance of this heritage asset should not be underestimated.

Planning History- The Council has been positively, and until now, consistently resistant to more than one dwelling on this plot.

Current Application- The Council's fundamental reasons for refusing the previous application have not been overcome, in fact the proposed development will cause even more harm to the significance of the heritage asset due to the following reasons;

- Siting- the consent for the Methodist Chapel has necessitated siting the proposed development away from the boundary with the Methodist Chapel, closer to Stockton Grange and its outbuildings.
- Design- it cannot be said that it would preserve elements of the setting that make a positive contribution to, or better reveal Stockton Grange.
- Scale- the benefit of reduced height is negated by its new position closer to Stockton Grange.
- Mass- by comparison the proposed development is considerably larger than the previous one, the footprint reveals an increase of 25% causing a greater cumulative change to the setting of Stockton Grange.
- Loss of open character- greater with this proposal which is larger and closer to the heritage asset.
- Case Law- attention is drawn to several landmark decisions including Barnwell Manor (2014) and Pond Farm (2014), in which the Court of Appeal upheld High Court Decisions to refuse permission, on the grounds that the decision maker failed in his statutory duty to give sufficient consideration, importance and weight to the desirability of preserving the setting of listed buildings.

Additional/Revised Conditions

To amend Condition 4(ii) to delete the following wording;
“Barge” boards should finish straight i.e. omit the boxing. The tile/brick corbelling or kneeler detail should be revealed in the gable ends.

A drainage condition is recommended to require full details of surface water drainage works. If soakaways prove to be unsuitable, the condition would require that in accordance with City of York Council's Strategic Flood Risk Assessment, peak run-off must be attenuated to that of the existing rate (based on a Greenfield run off rate of 1.40l/sec/ha).

In response to a Member's question, Officers reported that there had not been any comments in the Officer's report for the application for the current Laurel House relating to the acceptability or otherwise of a further house in the garden only that if such an application were to be submitted it would be assessed against the setting of the listed building and the character and appearance of the conservation area. In relation to the history of applications on the site, it was reported that the most recent application for a house in the garden of Laurel House had been refused. This was because the design was seen as inappropriate within the setting of the listed building; the application under consideration was lower in height than both Stockton Grange and Laurel House and corresponded with the linear pattern of the site.

Representations in objection were received from a neighbour. She told Members that she lived in Stockton Grange. She felt that the proposed dwelling was closer to and bigger in scale than Stockton Grange. As Stockton Grange was a Heritage Asset, the development had not taken into consideration the public benefit that this gave members of the public. She also felt that considerable weight had not been attached to legal precedent by the applicants.

In response to questions from Members, the neighbour elaborated that the development would not only harm views from Stockton Grange but also towards it.

Some Members asked Officers how much weight they would attach to Case Law in determining the application.

Officers responded that they felt the significance of the cases was not about the type of development that they related to but about what they said about the assessment of the application in respect of heritage assets.

The decisions were quashed because the decision maker had not shown that they had applied the requirements of the Planning Acts when determining the applications. They added that the setting of the Heritage Asset, the surroundings in which it is experienced, was not classified as an Asset in itself but consideration must be given to the harm that development within the setting could cause on the Heritage Asset (i.e. Stockton Grange).

Representations in support of the application were received from the applicant's agent. He informed Members how several changes had been made to the application following its refusal in 2012. This included the scale and the siting. The scale of the dwelling was now subservient to Stockton Grange and he felt that the dwelling's setting would not impact on the prominence of Stockton Grange.

In response to Members' questions Officers replied that drawings did not indicate that ground levels would be increased but a condition could be added to planning permission to prevent this if Members were minded to approve the application. Officers suggested that a condition to protect trees on the North East boundary be added to permission.

Discussion between Members took place. Some Members felt that the extent to which the development would affect the setting of Stockton Grange was subjective. Others pointed out that the main view of Stockton Grange was from the public footpath not from the north. Others felt that as the public footpath was not on a direct route that the view of the church would be obscured by the dwelling. Some felt that the application should be refused as it was unacceptable to subdivide the land. Councillor Warters moved refusal on the grounds of harm to the setting of the Grade 2 listed building. Councillor Cuthbertson seconded this motion. Others felt that the reason given for refusal was not strong enough.

On being put to the vote this motion fell.

Resolved: That the application be approved subject to a Section 106 Agreement and the following amended conditions;

Reason: As the proposed dwelling is located in a sustainable location and would contribute to meeting the housing needs of the City. The location of the proposed dwelling and its massing would have a neutral effect on the character and appearance of the Conservation Area and the revised scale, massing and design of the dwelling is considered to overcome the previous reason for refusal in terms of the impact on the setting of the listed Stockton Grange. It is not considered that the proposed dwelling would give rise to a significant loss of amenity to residents of neighbouring properties in terms of overlooking, a sense of overbearing or loss of light.

59e) 3 Heslington Lane, York. YO10 4HN (14/00729/FUL)

Members considered a full application by Mrs Carolyn Howarth for a single storey rear extension.

In their update to Members, Officers pointed out that the reference to Heslington Parish Council should have been changed to Fulford Parish Council.

Resolved: That the application be approved.

Reason: As the proposal would comply with national planning policy in relation to design and heritage assets contained within the National Planning Policy Framework and policies HE3 and H7 of the Development Control Local Plan (April 2005). There would be no harmful impact on the character and appearance of the conservation area or the amenities of neighbouring properties.

60. Appeals Performance and Decision Summaries

Members considered a report which informed them of the Council's performance in relation to appeals determined by the Planning Inspectorate from 1 January to 31 March 2014.

In response to a Member's question Officers answered that whilst a recent appeal for a House in Multiple Occupation (HMO) had been allowed in a mixed use area when the threshold of percentages of HMO's in that area had been exceeded, this was because the Inspector considered that there would be no harm on residential amenity. It did not automatically follow that an application within a wholly residential area could be refused on amenity grounds where the thresholds had not been exceeded. Each case had to be determined on its individual merits.

Resolved: That the report be noted.

Reason: To inform Members of the current position in relation to planning appeals against the Council's decisions as determined by the Planning Inspectorate.

Councillor N McIlveen, Chair

[The meeting started at 2.00 pm and finished at 4.30 pm].