

COMMITTEE REPORT

Date: 21st August 2014 **Ward:** Westfield
Team: Major and **Parish:** No Parish
Commercial Team

Reference: 14/01037/FULM

Application at: Our Ladys R C Primary School, Windsor Garth, York, YO24 4QW.
For: To vary conditions 2 and 10 of planning permission 13/02892/FULM to adjust land levels and ridge heights of finished properties for drainage reasons

By: Mr Ben Lysiak

Application Type: Major Full Application (13 weeks)

Target Date: 11 September 2014

Recommendation: Approve subject to Section 106 Agreement

1.0 PROPOSAL

1.1 Our Lady's School Hob Moor comprises a low rise brick built complex dating from the 1950s occupying an island site within Hob Moor Stray, an urban common protected by Private Act of Parliament. The complex is currently in the process of being re-developed for the erection of 55 houses in accordance with planning permission ref:-13/02892/FULM with associated Section 106 Agreement. Planning permission is sought under Section 73 of the 1990 Town and Country Planning Act to vary Conditions 2 and 10 of the planning permission to vary the permitted ground level of the highways and surrounding areas as well as ridge heights of house type A in order to facilitate the safe and effective operation of the agreed drainage system.

1.2 As a consequence of the complicated nature of the site it attracts a requirement for the payment of a commuted sum of £38,024 in respect of highway work and the provision of off-site open space. This has been secured by means of a Section 106 Agreement which also incorporates a requirement for a landscaped strip surrounding the boundary of the site with Hob Moor. There has been no material change in circumstances in respect of these matters since the original permission was granted. However this would require a variation to the Section 106 Agreement in the event of an approval for the current proposal being given.

2.0 POLICY CONTEXT

2.1 Development Plan Allocation:

Air safeguarding GMS Constraints: Air Field safeguarding 0175

City Boundary GMS Constraints: York City Boundary 0001

Application Reference Number: 14/01037/FULM

Item No: 4a

DC Area Teams GMS Constraints: West Area 0004

Schools GMS Constraints: Our Lady's RC Primary 0213

2.2 Policies:

CYGP1 - Design

CGP15A - Development and Flood Risk

CYGP4A - Sustainability

CYH4A - Housing Windfalls

CYNE8 - Green corridors

CYNE6 - Species protected by law

CYL1C - Provision of New Open Space in Development

CYED4 - Developer contributions towards Educational facilities

3.0 CONSULTATIONS

INTERNAL:-

3.1 Highway Network Management raise no objection to the proposal.

3.2 Strategic Flood Risk Management raise no objection to the proposal.

EXTERNAL:-

3.3 English Heritage raise no objection to the proposal.

3.4 The Environment Agency raise no objection to the proposal.

3.5 Yorkshire Water Services Limited raise no objection to the proposal subject to all properties within the new development being drained at a maximum rate of 35 litres per second.

3.6 Natural England was consulted with regard to the proposal on 28th July 2014. No response has been forthcoming at the time of writing.

3.7 One letter of objection has been received in respect of the proposal. The following is a summary of its contents:-

- * Concern in respect of the level of information submitted with the application;
- * Concern in respect of the impact of the proposal upon the local pattern of surface water drainage.

4.0 APPRAISAL

KEY CONSIDERATIONS:-

4.1 KEY CONSIDERATIONS INCLUDE:-

- * Impact upon the setting of Hob Moor;
- * Impact upon the locally designated nature reserve;
- * Impact upon the local surface water drainage network;
- * Section 106 Issues;
- * Environmental Impact Assessment.

STATUS OF THE YORK DEVELOPMENT CONTROL LOCAL PLAN:-

4.2 The York Development Control Local Plan was approved for Development Control purposes in April 2005; its policies remain material considerations in arriving at Development Management decisions although it is considered that their weight is limited except where in accordance with the National Planning Policy Framework.

PLANNING POLICY CONTEXT:-

4.3 Central Government Planning Policy as outlined in paragraph 49 of the National Planning Policy Framework urges that Local Planning Authorities consider all applications for residential development in the context of the presumption in favour of sustainable development. Planning for new residential development as outlined in paragraph 50 of the National Planning Policy Framework should at the same time be based upon the size, type, tenure and range indicated by local needs. Paragraph 118 of the National Planning Policy Framework also cautions against approving developments that would result in the loss of important wildlife habitat.

IMPACT UPON THE SETTING OF HOB MOOR:-

4.4 Policy H4a) of the York Development Control Local Plan advocates a presumption in favour of new residential which is within the urban area and is currently derelict, vacant, or under-used, the development is of an appropriate scale and density to surrounding development and it would not have a detrimental impact on existing landscape features. The application site comprises a former primary school that was constructed in the 1950s on a site largely surrounded by Hob Moor. Hob Moor comprises an urban common protected by Private Act of Parliament incorporating a locally designated Nature Reserve seeking to protect ground nesting

birds. The site is presently being re-developed for the construction of 55 houses in line with planning permission 13/02892/FULM. The current permission is sought to vary conditions 2 and 10 of the original permission to allow for the raising of levels to the highways and surrounding areas along with the ridge heights to house type A to take them to 8.45 metres high. The proposed increase would be a maximum of 0.15 metres and would involve the end properties of the approved short terrace blocks within the central section of the site at some distance from the site boundary. The overall height of the existing development would still not exceed that of the former school complex and the pattern of scale and massing would continue to reflect the pattern of development to the north and north west. The proposal incorporates a detailed landscape scheme for the site boundary with Hob Moor with provisions to ensure its maintenance secured by Section 106 Agreement. It is felt that this would still be sufficient to mitigate the modest (1.8%) increase in height. It is felt that the proposed amendments would not impact upon the setting of Hob Moor to any materially greater extent than the previously approved scheme.

IMPACT UPON THE LOCALLY DESIGNATED NATURE RESERVE:-

4.5 Policy NE5a) of the York Development Control Local Plan advocates a presumption that development that would have an adverse effect upon a Local Nature Reserve will only be permitted where the reasons for development clearly outweigh the substantive nature conservation value of the site. Hob Moor contains an area of habitat for ground nesting birds and comprises a damp grassland managed by periodic seasonal grazing of cattle. The proposal as amended incorporates an increase in levels for the highways and surrounding areas in order to provide the requisite level of fall to allow for the surface water drainage system to operate effectively. Concern has been expressed in relation to sources of fill material and possible impact upon the adjacent nature reserve. The applicant has confirmed that the majority of fill material would be generated on site and that any fill material brought in would be obtained from reputable sources. Providing any permission is conditioned to require prior approval of the details of imported fill material it is felt that the proposal would be acceptable.

IMPACT UPON THE LOCAL SURFACE WATER DRAINAGE PATTERN:-

4.6 Policy GP15a) of the York Development Control Local Plan advocates that developers must satisfy the Local Planning Authority that any flood risk will be successfully managed with the minimum environmental effect whilst ensuring that the site can be developed, serviced and occupied safely. The site lies within Flood Zone 1 and is therefore deemed to be at the lowest risk of flooding however, the habitat of the adjacent Hob Moor is in large measure dependent upon the existing surface water drainage conditions being maintained. The proposal is based upon a scheme of attenuation of surface water flows to a maximum of 35 litres per second in order to satisfy the requirements of Yorkshire Water. Drainage would be via the pre-existing connection to the public foul and surface water sewers with a modest

degree of enhancement to enable it to cope with the differing pattern of flows arising from the residential development. Concern has been expressed in respect of the relationship of plots 1 and 2 to the proposed drainage system as they lie beyond the trunk sewer easement safeguarded at the north western edge of the site. This is however felt to be satisfactory providing that if this application is approved; the resultant varied permission is conditioned to ensure attenuation of flows at the same rate as the remainder of the scheme. In that event there would not then be a material impact upon the adjacent Nature Reserve as the level of discharge would remain at the exiting rate.

SECTION 106 ISSUES:-

4.7 The initial planning permission ref:- 13/02892/FULM was subject to a Section 106 Agreement covering matters such as provision of off-site open space, affordable housing and the maintenance of the landscape buffer strip surrounding the site. There have been no material changes in circumstances since that earlier approval, and the variations proposed do not alter the terms of the obligations that are required to make the application acceptable. It is recommended therefore that the Section 106 Agreement be varied to include any new varied permission for the amended scheme.

ENVIRONMENTAL IMPACT ASSESSMENT:-

4.8 The application site is over 0.5 hectares in area and as such falls within the criteria to be assessed within Schedule 2 of the 2011 Town and Country Planning (Environmental Impact Assessment) Regulations for Screening as to whether or not a formal Environmental Impact Assessment is required within the criteria for urban development. A formal Screening Process has taken place and it is felt that as in the case of the previously approved application formal Environmental Impact Assessment would not be required.

5.0 CONCLUSION

5.1 The proposals would allow for a modest increase in land levels surrounding the approved highways within the site, and raising in height of House Type A primarily within the centre of the site to allow for the efficient operation of the proposed surface water drainage system. It is felt that the proposed amendments would not lead to a materially greater impact upon the setting of Hob Moor than the previously approved scheme and that providing surface water discharges can be attenuated to a maximum of 35 litres per second in respect of all the approved dwellings then there would be no harm generated to the surrounding area in terms of surface water drainage. The proposal is therefore felt to be acceptable in planning terms and approval is recommended.

6.0 RECOMMENDATION:

(i) Defer decision pending Variation of the Section 106 Agreement relating to commuted payments and the maintenance of an off-site landscape buffer strip, to refer to this application.

(ii) Grant Delegated Authority to officers to approve and issue the decision once the variation of the Section 106 Agreement is completed.

Conditions:-

1 The development shall be begun not later than 18th March 2017

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 development hereby permitted shall be carried out in accordance with the following plans:-

Drawing Refs:- 118/43(03)206, 118/43(09)002B, 187/37(02)001, N14015-200 REV P2, 187-37-02-003E, 187-37-02-005, 187-37-02-101, 187-37-02-102, 187-37-02-103, 187-37-02-104, 187-37-02-201, 187-37-02-202, 187-37-02-203, 187-37-02-210A, 187-37-02-211 and ASS 1382.

Reason: For the avoidance of doubt and to ensure that the development is carried out only as approved by the Local Planning Authority.

3 VISQ8 Samples of exterior materials to be app -

4 VISQ7 Sample panel ext materials to be approv -

5 VISQ4 Boundary details to be supplied -

6 Notwithstanding the provisions of Article 3 of the Town and Country Planning (General Permitted Development) Order 1995 (or any Order revoking or re-enacting that Order), development of the type described in Classes A, B,C, E and F of Schedule 2 Part 1 of that Order shall not be erected or constructed.

Reason: In the interests of safeguarding the setting of Hob Moor and the Local Planning Authority considers that it should exercise control over any future extensions or alterations which, without this condition, may have been carried out as "permitted development" under the above classes of the Town and Country Planning (General Permitted Development) Order 1995.

7. No development shall take place until there has been submitted and approved in writing by the Local Planning Authority a detailed landscaping scheme which shall illustrate the number, species, height and position of trees , shrubs and other planting. This scheme shall be implemented within a period of six months of the completion of the development. Any trees or plants which within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of a similar size and species, unless alternatives are agreed in writing by the Local Planning Authority.

Reason: So that the Local Planning Authority may be satisfied with the variety, suitability and disposition of species within the site.

8. Trees shown as being retained on the approved plans shall be protected in accordance with BS: 5837 Trees in relation to construction.

Before the commencement of development, including demolition, building operations, or the importing of materials and any excavations, a method statement regarding protection measures for the existing trees shown to be retained on the approved drawings shall be submitted to and approved in writing by the Local Planning Authority. This statement shall include details and locations of protective fencing; phasing of works; site access for demolition/construction and methodology; type of construction machinery/vehicles to be used (including delivery and collection lorries and arrangements for loading/off-loading); parking arrangements for site vehicles; locations for storage of materials; locations of utilities. Details of existing and proposed levels and surfaces shall also be included.

The protective fencing line shall be adhered to at all times during development to create exclusion zones. None of the following activities shall take place within the exclusion zones: excavation, raising of levels, storage of any materials or top soil, lighting of fires, mechanical cultivation or deep-digging, parking or manoeuvring of vehicles; there shall be no site huts, no mixing of cement, no disposing of washings, no stored fuel, no new trenches, or pipe runs for services or drains. The fencing shall remain secured in position throughout the construction process including the implementation of landscape works. A notice stating 'tree protection zone - do not remove' shall be attached to each section of fencing.

Reason: To ensure protection of existing trees before, during and after development which are covered by a Tree Preservation Order and/or make a significant contribution to the amenity of the area.

9. Development shall not begin until details of foul and surface water drainage works have been submitted to and approved in writing by the Local Planning Authority, and carried out in accordance with these approved details.

Details to include:

- Peak surface water run-off from the proposed development must be restricted to a maximum 35.0 lit/sec.
- Site specific details of the flow control device manhole limiting the surface water to the 35.0 lit/sec.
- Storage volume calculations, using computer modelling must be provided, and must accommodate a 1:30 year storm with no surface flooding, along with no internal flooding of buildings or surface run-off from the site in a 1:100 year storm. Proposed areas within the model must also include an additional 20% allowance for climate change. The modelling must use a range of storm durations, with both summer and winter profiles, to find the worst-case volume required. The full range of modeling should be provided.
- Site specific details of the storage facility to accommodate the 1:30 year storm and details of how and where the volume above the 1:30 year storm and up to the 1:100 year storm will be stored.
- Proposed ground and finished floor levels to Ordnance Datum shall be shown on plans. The development should not be raised above the level of the adjacent land, to prevent runoff from the site affecting nearby properties.
- Position of Public surface water sewer crossing north west to south west of site should be accurately surveyed and plots 1, 2 3 and 4 positioned according to public sewer easement requirements.

Reason: So that the Local Planning Authority may be satisfied with these details for the proper drainage of the site.

10. Notwithstanding the information contained on the approved plans, the height of the approved development shall not exceed 8.45 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 on site to mark 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 at all times during the construction period.

Reason: to establish existing ground level and therefore to avoid confusion in measuring the height of the approved development, and to ensure that the approved development does not have an adverse impact on the character of the surrounding area.

11. No building work shall take place until details have been submitted to and approved in writing by the Local Planning Authority, to demonstrate how the applicant will provide, from renewable sources, 10% of the development's total energy demand on land within the control of the applicant. The development shall not be occupied until these works have been carried out in accordance with the submitted details unless otherwise agreed in writing by the Local Planning Authority

Reason: -In the interests of sustainable development

12. Prior to the commencement of any works on the site, a detailed method of works statement identifying the programming and management of site clearance/preparatory and construction works shall be submitted to and approved in writing by the LPA. Such a statement shall include at least the following information;

- the routeing that will be promoted by the contractors to use main arterial routes and avoid the peak network hours
- where contractors will park
- where materials will be stored within the site
- measures employed to ensure no mud/detritus is dragged out over the adjacent highway.

The development shall thenceforth be undertaken in strict accordance with the details thereby approved.

Reason: To ensure that the development can be carried out in a manner that will not be to the detriment of amenity of local residents, free flow of traffic or safety of highway users.

13. Fully detailed drawings illustrating the design and materials of roads, footpaths and other adoptable open spaces shall be submitted to and approved in writing by the Local Planning Authority prior to the start of construction on site.

Reason: In the interests of highway safety.

14. No dwelling to which this planning permission relates shall be occupied unless or until the carriageway base course and kerb foundation to the new estate road and footpath to which it fronts, is adjacent to or gains access from, has been constructed. Road and footway wearing courses and street lighting shall be provided within three months of the date of commencement on the construction of the penultimate dwelling of the development.

Reason: To ensure appropriate access and egress to the properties, in the interests of highway safety and the convenience of prospective residents.

15. Prior to the development commencing details of the cycle parking areas, including means of enclosure, shall be submitted to and approved in writing by the Local Planning Authority. The building shall not be occupied until the cycle parking areas and means of enclosure have been provided within the site in accordance with such approved details, and these areas shall not be used for any purpose other than the parking of cycles.

Reason: To promote use of cycles thereby reducing congestion on the adjacent roads and in the interests of the amenity of neighbours.

16. The building shall not be occupied until the areas shown on the approved plans for parking and manoeuvring of vehicles (and cycles, if shown) have been constructed and laid out in accordance with the approved plans, and thereafter such areas shall be retained solely for such purposes.

Reason: In the interests of highway safety.

17. Prior to works starting on site a dilapidation survey of the highways adjoining the site shall be jointly undertaken with the Council and the results of which shall be agreed in writing with the LPA.

Reason: In the interests of the safety and good management of the public highway.

18. The development hereby permitted shall not come into use until the following highway works: provision of a traffic calming scheme on Windsor Garth incorporating managed on-street parking facilities and provision of a raised plateau crossing point together with associated signing and lining at the interface between Windsor Garth, the internal site access road and the Hob Moor cycle route (which definition shall include works associated with any Traffic Regulation Order required as a result of the development) have been carried out in accordance with details which shall have been previously submitted to and approved in writing by the Local Planning Authority, or arrangements entered into which ensure the same.

Reason: In the interests of the safe and free passage of highway users.

19. All demolition and construction works and ancillary operations which are audible beyond site boundary or at the nearest noise sensitive dwelling, including deliveries to and dispatch from the site shall be confined to the following hours:

Monday to Friday 08:00 to 18:00

Saturday 09:00 to 13:00

Not at all on Sundays and Bank Holidays.

Reason: To protect the amenities of adjacent residents

20. All machinery and vehicles employed on the site shall be fitted with effective silencers of a type appropriate to their specification and at all times the noise emitted by vehicles, plant, machinery or otherwise arising from on-site activities, shall be minimised in accordance with the guidance provided in British Standard 5228 (2009) Code of Practice; 'Noise Control on Construction and Open Sites'.

Reason: To protect the amenities of adjacent residents

21. LC1 Land contamination - Site investigation -

22. LC2 Land contamination - remediation scheme -

23. LC3 Land contamination - remedial works -

24. LC4 Land contamination - unexpected contam -

25. Prior to the commencement of the development hereby authorised full details of any fill material to be imported onto the site including sources, levels deposit locations and contents shall be submitted to and approved in writing by the Local Planning Authority. The development shall thenceforth be undertaken in strict accordance with the details thereby approved.

Reason:- To safeguard the character of the Hob Moor Nature Reserve.

26. Prior to commencement of the development, a Construction Environmental Management Plan (CEMP) for minimising the creation of noise, vibration, dust and lighting during the demolition, site preparation and construction phases of the development shall be submitted to and approved in writing by the Local Planning Authority. All works on site shall be undertaken in accordance with the approved scheme, unless otherwise agreed in writing by the Local Planning Authority.

Reason:- To safeguard the residential amenity of Neighbouring Properties and to Secure Compliance with Policy GP1 of the York Development Control Local Pan.

27. A three pin 13amp external electrical socket shall be provided at each of the dwellings hereby authorised which shall be located on an external wall adjacent to the drive way of each property. The socket shall comply with the requirements of BS1363 or an equivalent standard and shall incorporate an appropriate locking and weather proof cover.

Reason:- To promote sustainable transport by the provision of re-charge points for electrical vehicles.

7.0 INFORMATIVES: Notes to Applicant

1. CONTROL OF POLLUTION ACT 1974:-

The developer's attention is drawn to the various requirements for the control of noise on construction sites laid down in the Control of Pollution Act 1974. In order to ensure that residents are not adversely affected by air pollution and noise, the following guidance should be adhered to, failure to do so could result in formal action being taken under the Control of Pollution Act 1974:

(a) All demolition and construction works and ancillary operations, including deliveries to and despatch from the site shall be confined to the following hours:

Monday to Friday 08.00 to 18.00

Saturday 09.00 to 13.00

Not at all on Sundays and Bank Holidays.

(b) The work shall be carried out in such a manner so as to comply with the general recommendations of British Standards BS 5228: Part 1: 1997, a code of practice for "Noise and Vibration Control on Construction and Open Sites" and in particular Section 10 of Part 1 of the code entitled "Control of noise and vibration".

(c) All plant and machinery to be operated, sited and maintained in order to minimise disturbance. All items of machinery powered by internal combustion engines must be properly silenced and/or fitted with effective and well-maintained mufflers in accordance with manufacturers instructions.

(d) The best practicable means, as defined by Section 72 of the Control of Pollution Act 1974, shall be employed at all times, in order to minimise noise emissions.

(e) All reasonable measures shall be employed in order to control and minimise dust emissions, including sheeting of vehicles and use of water for dust suppression.

(f) There shall be no bonfires on the site

2. HIGHWAY WORKS:-

You are advised that prior to starting on site consent will be required from the Highway Authority for the works being proposed, under the Highways Act 1980 (unless alternatively specified under the legislation or Regulations listed below). For further information please contact the officer named:

Works in the highway - Section 171/Vehicle Crossing - Section 184 - Stuart Partington (01904) 551361

3. UTILITIES:-

You are advised that this proposal may have an affect on Statutory Undertakers equipment. You must contact all the utilities to ascertain the location of the equipment and any requirements they might have prior to works commencing.

4. STATEMENT OF THE COUNCIL`S POSITIVE AND PROACTIVE APPROACH

In considering the application, the Local Planning Authority has implemented the requirements set out within the National Planning Policy Framework (paragraphs 186 and 187) in seeking solutions to problems identified during the processing of the application. The Local Planning Authority took the following steps in order to achieve a positive outcome:

Clarification in respect of imported fill material.

Contact details:

Author: Erik Matthews Development Management Officer

Tel No: 01904 551416