

## **Plans Panel (East)**

**Thursday, 17th May, 2012**

**PRESENT:** Councillor D Congreve in the Chair

Councillors J Akhtar, Campbell, R Finnigan,  
R Grahame, P Gruen, G Latty, M Lyons,  
C Macniven and J Procter

### **206 Chair's opening remarks**

The Chair announced that this would be Councillor Lyons' and Councillor Gruen's last Plans East meeting as they were stepping down from the Panel after 32 years and 6 years respectively. He thanked them for all their hard work on Panel and acknowledged the experience they had brought, which would be missed

The Chair also announced there would be a Special meeting of Plans Panel East on Thursday 31<sup>st</sup> May to hear a pre-application presentation on proposals for the East Leeds extension

There was some discussion on the timing of this, with Councillor Gruen, who was the Chair of the East Leeds Regeneration Board expressing surprise that a pre-application presentation was proposed when the Board was still in discussions about strategic issues. The need for urgent work to be completed arising from these discussions was stated and that the Panel should be made aware of the Board's views on these strategic matters

The Chair welcomed Councillor Akhtar and Councillor Campbell who had been appointed to the Panel to fill two of the vacancies which had occurred and then asked Members and Officers to introduce themselves for the benefit of the public who were attending the meeting

### **207 Exempt Information - Possible Exclusion of the Press and Public**

**RESOLVED** - That the public be excluded from the meeting during consideration of the following part of the agenda designated exempt on the grounds that it is likely, in view of the business to be transacted or the nature of the proceedings, that if members of the public were present there would be disclosure to them of exempt information as designated as follows:

The report referred to in minute 217 under Schedule 12A Local Government Act 1972 and the terms of Access to Information Procedure Rule 10.4(3) and on the grounds it contains information relating to the financial or business of any particular person (including the authority holding that information). It is considered that if this information was in the public domain it would be likely to prejudice the applicant's current negotiations. Whilst there may be a public interest in disclosure, in all the circumstances of the case maintaining the exemption is considered to outweigh the public interest in disclosing this information at this time

### **208 Late Items**

There were no formal late items, however Panel Members were in receipt of the following additional information to be considered at the meeting, copies of which had been circulated before the day of the meeting:

Application 11/01713/RM – Land south of Queen Street Woodend Allerton Bywater WF10 – report containing exempt information in respect of financial viability (minute 217 refers)

## **209 Declarations of Interest**

The following Members declared personal/prejudicial interests for the purposes of Section 81(3) of the Local Government Act 2000 and paragraphs 8 to 12 of the Members Code of Conduct:

Application 12/01422/FU – Unit 12 Temple Point Austhorpe Lane LS15 - Councillor Grahame declared a personal interest having commented on a previous, similar scheme (minute 215 refers)

Application 11/01713/RM – Land south of Queen Street Woodend Allerton Bywater WF10 – Councillor Lyons declared a personal interest as a member of West Yorkshire Integrated Transport Authority which had commented on the proposals (minute 217 refers)

With reference to Application 12/00450/FU – The Coach House Carr Lane Thorner LS14 – Councillor Procter stated that although he had declared a personal interest on this application at the meeting on 19<sup>th</sup> April 2012 through knowing nearby residents, he was satisfied that the application did not affect the residents in any way so would not be declaring an interest on this occasion

## **210 Minutes**

With reference to minute 201 – Application 10/05670/FU – 56 The Drive Cross Gates LS15, which was refused by Panel at the meeting on 19<sup>th</sup> April 2012, the Panel's Lead Officer stated that an appeal against this refusal had been lodged with a request that the matter be determined by Public Inquiry. Officers would be discussing this with Ward Members before giving a view on this to the Inspector

**RESOLVED** - That the minutes of the Plans Panel East meeting held on 19<sup>th</sup> April 2012 be approved

## **211 Application 12/00450/FU - Detached garage with first floor office over - The Coach House Carr Lane Thorner LS14**

Further to minute 203 of the Plans Panel East meeting held on 19<sup>th</sup> April 2012 where Panel resolved not to accept the Officer's recommendation to refuse an application for a detached garage with first floor office which was sited in the Green Belt, Members considered a further report. Appended to the report was the previous report considered by Panel

Officers presented the report which outlined Green Belt Policy and recent decisions made by the Inspector and Panel on applications within the Green Belt, for Members' consideration. If minded to approve the application, a list of suggested conditions to be attached to an approval were also included

Members were informed that the recent revised local Green Belt Policy allowed for increases up to 30%; national planning policy whilst not giving an exact figure, referred to disproportionate additions amounting to inappropriate development. If approved, the application being considered when taking into account previous additions would result in a 133% increase in the footprint of the original building

As a way forward, Members could consider whether the proposal was a disproportionate addition and if it was concluded that it was inappropriate development, whether any very special circumstances applied in this case to outweigh the harm to the Green Belt. Officers could also be asked to discuss the proposals further with the applicant to see if a form of development could be agreed which would not have such a significant effect on the Green Belt

The Panel considered how to proceed and commented on the following matters:

- that whilst understanding the points made by Officers, the application had been discussed fully at the last meeting and it was decided not to accept the Officer's recommendation to refuse the application
- that the Green Belt policy which had been considered by all three Plans Panels should be adhered to; that a dangerous precedent could be set if the application was granted against policy and the difficulty in defending that policy in the future
- that by opting for further negotiations with the applicant, Panel was agreeing that the principle of development was acceptable, with concerns about this
- that the consequences of inappropriate development in the Green Belt could be seen in parts of the city and there was a need to uphold Green Belt policy
- the difficult situation which had arisen and that all points of view could be understood

In terms of whether allowing the application would set a precedent, the Panel's legal adviser was asked to comment and stated that where precedent was relied on a mere fear or generalised concern of a precedent being set was not enough; that the planning consequences of the decision had to be identified and that this applied where a departure from policy was involved. The consequences in this case could be that if planning permission was granted, whilst each application would be considered on its merits it could well be more difficult to resist further applications of this nature coming forward. The legal adviser also confirmed that it was right for Panel to approach the application in the way outlined in the officer presentation, by first of all considering whether the proposal constituted inappropriate development and if so whether there were any very special circumstances justifying inappropriate development.

Proposals to both grant and refuse planning permission were made and seconded

**RESOLVED** - That the application be refused for the following reason:

The Local Planning Authority consider that the proposed detached outbuilding by virtue of its overall height, size, scale and siting, coupled with the existing extensions to the dwelling, represents a disproportionate addition to the dwelling which would also harm the openness and character of the Green Belt and which is therefore considered to be inappropriate development. Inappropriate development is, by definition, harmful to the Green Belt and as no very special circumstances have been demonstrated, the proposal is considered contrary to the aims and intentions of policy N33 of the Unitary Development Plan Review (2006), policy HDG3 of the Draft Householder Design Guide as well as guidance contained within the National Planning Policy Framework

**212 Application 12/00501/FU - Variation of condition 2 (approved plans) of approval 09/03138/FU for minor material amendment relating to three 4 bedroom detached houses with integral garage to rear garden and replacement detached double garage to existing dwelling - 10 Elmete Avenue Scholes LS15**

Plans, photographs and drawings were displayed at the meeting. A site visit had been undertaken earlier in the day which some Members had attended

Officers presented the report which sought approval to a variation of a condition relating to the approved plans of approval 09/03138/FU for a residential development to the rear of 10 Elmete Avenue Scholes LS15; a scheme which had been allowed by the Inspector following an appeal against non-determination

Members were informed that the dwelling on plot 3 of the scheme had not been built in accordance with the approved plans and that amendments had now been submitted which related to changes to the roof form; reduced height of the dwelling and replanting of a hedge, with Officers, on balance, being satisfied on these amendments. A change to the recommendation was requested from approval to defer and delegate to Officers in discussion with Ward Members and neighbours regarding the revised boundary treatment with Panel being informed that the applicant was willing to negotiate and move the retaining wall back from the neighbour's property to reduce the impact and to provide additional soft landscaping

Officers reported receipt of 10 further letters of objection to the revised plans together with an objection form Barwick in Elmet & Scholes Parish Council

The Panel heard from the applicant's agent and an objector who attended the meeting

Members discussed the following matters:

- the unauthorised development and when this had first been noticed, with Officers stating that an enforcement case had been raised when the foundations for the property were put in, - October – November 2011
- that the original drainage scheme was inadequate leading to a need to raise the land levels and therefore the height of the property to accommodate drainage
- the fact that construction had continued despite there being an enforcement issue
- the height and massing of the property with concerns about this
- the boundary treatment proposals with concerns about these
- drainage and flooding issues; with the view that the Environment Agency should have been involved in this case
- that the applicant had appeared to have deliberately flouted planning guidelines

The Panel's legal adviser was asked whether if the application was refused, it could be substantiated at appeal, with Members being informed that it was a finely balanced case and whilst there were some subjective issues there were also some substantive impacts which could be defended at appeal

In view of the applicant's willingness to negotiate further, a concern was raised at the possible refusal of the application at this time

**RESOLVED** - To defer and delegate refusal of the application to the Chief Planning Officer on the grounds of the height and massing of the proposals and the boundary treatments

**213 Application 12/00153/FU - Retrospective application for variation of conditions 7 and 9 of planning permission 33/88/02/FU - Butts Garth Farm Littlemoor Lane Thorner LS14**

Prior to consideration of this matter Councillor Gruen left the meeting and Councillor Procter and Councillor Finnigan withdrew from the meeting

Plans and photographs were displayed at the meeting

Officers presented the report which sought through the variation of two planning conditions, to resolve a complex planning and legal situation which had arisen in respect of a landscaped buffer zone between the properties at Butts Garth Littlemoor Lane Thorner LS14 and the adjacent Green Belt

Members were informed that when the three detached houses off Butts Garth Farm were constructed, a landscaped buffer area approximately 10 metres wide was planted as part of the approved scheme. Unfortunately two residents had removed this planting; an Enforcement Notice had been served but this had been dismissed on appeal, with Officers being of the view that this was a flawed decision

To remedy this and ensure a buffer zone was retained, a landscaping scheme providing diverse planting of trees and shrubs was proposed through the incorporation of this strip of land into the curtilage of the existing properties. If minded to approve the application a further condition was suggested preventing structures, garden furniture or play equipment being placed on the land contained within the landscaped area

The Panel heard representations from an objector, the applicant and his agent

At the request of the Chair the Panel's legal representative explained the difficulties which had occurred in this case, with Members being informed that the buffer zone which formed part of the approval of the residential development was dealt with as part of a S106 Agreement and that it was difficult to enforce when residents had removed the planting. The use of planning conditions provided greater protection in that the Council can be clear on the scheme to be provided and retained; and the enforcement of such conditions would be more straightforward.

**RESOLVED** – That the application be granted subject to the conditions set out in the submitted report and a further condition stating no buildings, sheds, children's play equipment, garden furniture or other structures to be erected or placed on the land contained within the landscaped area shown on the approved plan

**214 Application 12/01372/FU - Change of use and alterations to house to form 2 flats - 4 Belvedere Mount Beeston LS11**

Plans, drawings and photographs were displayed at the meeting. A site visit had taken place earlier in the day which some Members had attended

The Panel's Lead Officer presented the report which related to a change of use and alterations of an inner terrace house at 4 Belvedere Mount Beeston LS11, to form 2 flats. As part of the presentation, Members were shown a map of the wider area with permissions and refusals for flat conversions within the last 30 years being highlighted as well as houses in multiple occupation

An objection received from Councillor Nash was reported to Panel

Members discussed the application and commented on the following matters:

- the lack of available amenity space
- inadequate bin storage particularly for residents of the upstairs flat

- that similar conversions had been approved within the city

**RESOLVED** - That refusal of the application be deferred to the Chief Planning Officer on the basis of overintensive use of the property and not providing appropriate levels of amenity for residents of the property

During consideration of this item, Councillor Procter rejoined the meeting

**215 Application 12/01422/FU - Erection of 86 houses at Unit 12 Temple Point Austhorpe LS15**

Further to minute 98 of the Plans Panel East meeting held on 6<sup>th</sup> October 2011 where Panel considered a position statement on proposals for 120 houses, to consider a report of the Chief Planning Officer on a revised application for 114 houses on land south of Queen Street Woodend Allerton Bywater WF10

Plans of the proposals were displayed at the meeting

At this point, following exclusion of the press and public, the Panel considered the supplementary report which provided financial information in respect of the viability of the scheme

Members were informed that the outline permission for the scheme required affordable housing to be provided at a level of 30%, this being the required level at the time. The applicant had offered 15% affordable housing, had increased this to 21% and was now offering 25% with the supporting financial information setting out the situation in this case. Members were reminded that a fallback position did exist which could result in 15% affordable housing being provided

In response to a question from the Panel, Officers reassured Members that the increased affordable housing contribution was not at the expense of other contributions and that an additional £30,000 was being provided towards drainage

Having noted the information and the comments now made, the press and public resumed their seats in the meeting

Members were informed of an error in the report title which should refer to 114 houses and not 120 houses

**RESOLVED** - To defer and delegate approval of the application to the Chief Planning Officer subject to the conditions set out in the submitted report and following completion of a deed of variation Section 106 Agreement to cover the following matters:

- the payment of a contribution amounting to £30,000 for the construction and future maintenance of an off-site piped outfall from the site
- local employment and training initiatives
- offer of 28 affordable unit (17 sub-market and 11 social rent). This equates to circa 25%
- start to be made on development within a specified period within 2012 and to give certainty over early delivery of houses

**216 Applications 11/03697/FU and 11/03713/LI - Rebuilding of fire damaged church and change of use to form 18 flats, 2 pairs of semi-detached houses, associated landscaping and car parking and associated Listed Building application - St Mary's Congregational Church Commercial Street Morley LS27**

Plans, photographs, including images showing the extent of the fire damage to the church, drawings and graphics were displayed at the meeting

The Panel's Lead Officer presented the report which sought permission and Listed Building consent for the change of use and development of St Mary's Congregational Church to form 18 flats and two pairs of semi-detached dwellings

The proposals would see the reinstatement and conversion of the church with some modern additions, with the semi-detached properties generating the money to facilitate the works to the church. Officers were satisfied that the scheme would not be viable without the enabling development, although it was felt that the estimated costs of the refurbishment works were high and the sale prices for the completed units, generous, although it was accepted that a relatively low profit level was being achieved on the site

A mix of flat sizes would be provided along with 20 car parking spaces which would be located at the rear of the site and accessed from Troy Road. The siting of the parking spaces in this area, whilst not ideal as it was partly divorced from the development, had been done to avoid the graves within the site

The original proportions of the church had been respected within the scheme. A modern insert of a glazed area opening out onto a balcony was proposed. In terms of the design of the pair of semi-detached properties, these would be of traditional design in stone with slate roofs

Although some of the existing stone wall would need to be lowered and other parts demolished, the Council's Conservation Officer and English Heritage had been closely involved in the proposals which were being put forward for approval

If minded to approve the scheme, additional conditions were proposed with Members discussing the proposed condition relating to the commencement of the semi-detached properties, with concerns that the works to the church should be undertaken first. The Panel's Lead Officer whilst noting these concerns stated that the proposed condition was the standard one used in such cases and that to require the renovation works to the church first could raise issues of viability and unreasonableness

The possibility of unearthing human remains/unmarked graves during the construction work was discussed and the process for properly dealing with these was outlined, with Members being satisfied on this matter

**RESOLVED** - That the applications be granted subject to the conditions set out in the submitted report and additional conditions relating to:

- the semi-detached dwellings shall not be commenced until the contract has been let for the conversions and construction works to the church
- highways – appropriate visibility splay; parking unallocated for lifetime of development
- details of drainage scheme to be submitted and approved
- archaeological recording
- architectural details to be submitted and approved (rainwater goods/clock face/cleaning of masonry etc

Councillor Finnigan resumed his seat in the meeting

## **217 Application 11/01713/RM - 114 houses - Land south of Queen Street Woodend Allerton Bywater WF10**

Further to minute 177 of the Plans Panel East meeting held on 23<sup>rd</sup> February 2012 where Panel resolved to defer and delegate refusal of a residential development at Unit 12 Temple Point Austhorpe LS15 on the grounds that the proposed planning contributions did not meet policy requirements, Members considered a further application

Officers presented the report and informed Members that the only alteration from the previous scheme was the level of S106 contributions with the full 15% affordable housing requirement being provided as well as the full education contribution. Whilst previously 43% of the required amount was being offered, this application provided 85%, with Officers of the view this could be supported

An objection from Leeds Civic Trust was reported for Members' consideration

Whilst welcoming the increased funding, it was requested that any future applications of this nature should be accompanied by a financial report, to be exempt from the public if necessary, to enable Members to clearly see the figures involved

A request for more detailed information on the number of jobs and apprenticeships being created through developments was requested

**RESOLVED** - To approve the application in principle and to defer and delegate final approval to the Chief Planning Officer subject to the conditions set out in the submitted report and the completion of a legal agreement which will include the following obligations

- contribution of £1,482,700 in total to provide full 15% affordable housing contribution (5 social rented and 8 sub market houses on site), full primary and secondary education commuted sums (totalling £409,700), the toucan crossing on Stile Hill Way (£40,000 contribution) and travel plan monitoring fee of £2,500 (sums to be index linked)
- local employment and training initiatives during construction
- long-term management plan for on-site open space
- start to be made on development on site in 2012 to give certainly over early delivery of houses

In the circumstances where the Section 106 has not been completed within 3 months of the resolution to grant planning permission, the final determination of the application shall be delegated to the Chief Planning Officer

## **218 Date and time of next meeting**

Thursday 31<sup>st</sup> May 2012 at 1.30pm in the Civic Hall, Leeds – Special meeting of Plans Panel East

Thursday 7<sup>th</sup> June 2012 at 1.30pm in the Civic Hall, Leeds