

## **NORTH AND EAST PLANS PANEL**

**THURSDAY, 27TH NOVEMBER, 2014**

**PRESENT:** Councillor R Charlwood in the Chair

Councillors R Grahame, M Harland,  
C Macniven, J Procter, G Wilkinson,  
M Lyons, B Selby and S McKenna

### **84 Chair's opening remarks**

The Chair welcomed everyone to the meeting and asked Members and Officers to introduce themselves

### **85 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 appendix to the main report referred to in minute 98 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 affairs 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 affairs of the applicant. 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

### **86 Late Items**

There were no late items

### **87 Declarations of Disclosable Pecuniary Interests**

There were no declarations of disclosable pecuniary interests, however in respect of Application 14/01404/FU, Paddock Cottage 7 The Moorlands Boston Spa, Councillor Procter brought to the Panel's attention that he knew the land owner who resided in the same village and also the developer who lived in the same village as Councillor Procter did (minute 92 refers)

In respect of Application 12/05434/FU – Aberford Village Hall and land to rear Main Street Aberford – Councillor Procter brought to the Panel’s attention that he knew the applicant (minute 98 refers)

Councillor Macniven brought to the Panel’s attention in respect of Application 14/05152/FU – Retrospective Application at 6 Roper Avenue – that she was a Ward Member and whilst having a predisposition, she had not predetermined the application; had an open mind on the matter and would reach a decision on the application having considered all the information presented to Panel (minute 96 refers)

The Panel’s Lead Officer, Mr Newbury, brought to the Panel’s attention in respect of Application 14/02832/FU – 1 East Park Parade LS9 – that he knew the applicant; that he had taken no part in dealing with the application and that he would withdraw from the meeting for this item (minute 101 refers)

It was noted that in respect of Application 14/04602/FU – 6 Sandhill Oval, LS17, that the applicant was known to Members, being a fellow Elected Member (minute 103 refers)

## **88 Apologies for Absence**

Apologies for absence were received from Councillor Cohen and Councillor Cleasby

## **89 Minutes**

**RESOLVED** - That the minutes of the North and East Plans Panel be approved subject to at minute 71 – ‘Declarations of Disclosable Pecuniary Interests’ – clarification of an ‘other’ interest declared by Councillor J Procter to read ‘ Councillor J Procter brought to the Panel’s attention in respect of application 14/01404/FU Paddock Cottage 7 Moorlands Boston Spa, attention that he knew the land owner who resided in the same village and also the developer who lived in the same village as Councillor Procter did (minute 78 refers)

## **90 Matters arising from the minutes**

In relation to the minutes of the North and East Plans Panel meeting held on 23<sup>rd</sup> October 2014, the following issues were reported:

Minute 74 – Application 14/04228/FU – Alterations at 6A Primley Park Avenue LS17 which was deferred for enforcement checks - the Panel’s Lead Officer stated that investigations had revealed the ridge height to be 50cm higher than approved. This measurement was being contested by the applicant, with enforcement action likely to proceed, with a further report being brought to Panel in due course

Minute 80 – Application 14/01568/FU – 20 Carr Manor Avenue LS17 – refused by Panel – Members were informed that the applicant had now agreed to demolish the garage and amend the roofline of the extensions to a hipped roof. As these were the alterations which had been sought by Panel,

Officers requested to determine the revised application under delegated powers and stated that Ward Members had been informed about the revisions. The Panel agreed to the determination of the application being delegated to Officers

**91 Comments from the Panel's Lead Officer**

The Chair invited the Panel's Lead Officer, Mr Newbury, to provide general comments on a common theme of several of the applications being considered at the meeting

It was stated that several of the applications before Panel related to unauthorised building works, which some people viewed as an abuse of the planning process. Such applications posed difficult situations for the decision makers and that carrying out development without planning permission was only unlawful if the Local Planning Authority took a dim view of the works and served an Enforcement Notice

A Plans Panel determining such applications was required to consider the application on the basis of the planning information which was presented to it and had to consider the environmental effects of the proposal and that on occasions, residents' expectations went beyond what Panels could consider

**92 Application 14/01404/FU - Demolition of existing house and erection of 4 detached houses - Paddock Cottage 7 The Moorlands Boston Spa Wetherby LS23**

Further to minute 78 of the North and East Plans Panel meeting held on 23<sup>rd</sup> October 2014, where Panel resolved not to accept the Officer's recommendation to refuse permission for the demolition of 7 The Moorlands and erect 4 detached houses, Members considered a further report of the Chief Planning Officer setting out possible conditions to be attached to an approval

**RESOLVED** - That the application be granted subject to the conditions set out in the submitted report

**93 Application 14/04813/FU - Change of use of council offices to retail unit at ground floor with six flats above, new single storey rear extension, incorporating roof terrace over; internal and external alterations including new shop front and dormer windows to front and rear - 1-5 Main Street Garforth LS25**

Plans, photographs and drawings were displayed at the meeting

Officers presented the report which sought approval of a change of use of former Council offices at Main Street Garforth, to a residential development, including retail store at ground floor level. Six car parking spaces were proposed at the rear of the property, together with space for refuse bin storage

A late response received from Yorkshire Water on the proposals was read out to the Panel

The Panel heard representations from a Ward Member who attended the meeting and raised concerns about the proposals, which included:

- the level of car parking being provided, which was considered to be inadequate and the impact on existing on-street car parking
- flooding issues; recent flooding problems in the area; that insufficient information was available to accurately map the flow of water and the impact of adding further foul water drainage to the system

An Officer from the Flood Risk Management Team was in attendance and provided information on water run off rates and was of the view that the proposal would lead to betterment of the current situation regarding drainage

The Panel's Highways representative advised that as the site was in a highly sustainable location, the absence of visitor parking was not a reason for refusal of the application

Members discussed the proposals and commented on the following matters:

- the scale of the development and that a smaller residential scheme would be more appropriate in terms of car parking provision
- the viability of the retail unit

**RESOLVED** - That the application be granted subject to the conditions set out in the submitted report

**94 Application 14/03535/FU - Detached dwelling at 19 Dunrobin Avenue Garforth LS25**

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

Officers presented the report which sought approval for a detached dwelling in the side garden of 19 Dunrobin Avenue LS25. Members were informed of the presence of a mine shaft on the site although this had been capped and that the design of the proposals accounted for the mine shaft

The receipt of three additional representations was reported, with concerns being raised about the mine shaft; land stability and whether the site had been properly considered. Members were informed that the Coal Authority had indicated it was content with the information which had been received from the applicant. If minded to approve the application, Officers proposed a modification to condition no 11 to require the submission of further details, with the Coal Authority being contacted on receipt of this information to see if they remained content with the proposals

Members were informed that a representative of the Coal Authority had been invited to the meeting but nobody had attended

The Panel heard representations from a Ward Member who objected to the proposals and set out his concerns, which included:

- local concerns about the stability of the ground if the proposal went ahead

- the extent of the detailed investigations which were stated as having been carried out and whether these were sufficiently diligent to state that the proposed development would be acceptable
- the extent of the shaft cap
- that no construction methodology had been provided
- the lack of on-site investigations by the Coal Authority
- the need for a more extensive piece of work to be carried out on the land stability and the impact of the proposals

The Panel then heard from the applicant's agent who provided information on the application, which included:

- that specialist consultants had been engaged; a risk assessment had been carried out and trial bore holes had been made to 3m
- that the cap was solid limestone
- that the foundations would go down the side of the cap
- that drainage from the proposals would be dealt with effectively and there would be no greater discharge than was currently experienced

Members considered the application and discussed the issues raised, particularly where liability rested in the event the application was granted and a problem occurred in the future. The Panel's legal adviser stated he could not see that the grant of planning permission itself would make the Council liable

The Panel considered how to proceed, with the Head of Planning Services proposing an additional condition which would require approval of the siting of the development in relation to the survey of the mine shaft

**RESOLVED** - That the application be granted subject to the conditions set out in the submitted report, the amendment of condition 11 to require the submission of further details and for the LPA to re-consult the Coal Authority on the proposals and an additional condition to specify that prior to construction, the exact siting of the development in relation to the survey of the mine shaft to be submitted and agreed

## **95 Application 14/05348/FU - Retrospective application for porch to front/side - 47 School Lane Chapel Allerton LS7**

Plans and photographs were displayed at the meeting

Officers presented the report which sought approval to a retrospective application for a porch to the front/side of 47 School Lane Chapel Allerton, which was sited in the Conservation Area

Members were informed that representations supporting and objecting to the proposals had been received

The receipt of an additional representation was reported which raised the issue of a restrictive covenant relating to alterations to the external appearance of the property. Members were informed this was not a material planning matter

The Panel heard from two objectors who attended the meeting and outlined their concerns, which included:

- that the development was unauthorised
- the impact of the extension on amenity and the Conservation Area
- the view that misleading information had been submitted to the Council
- land ownership issues
- highways concerns
- impact of the extension on the adjacent TPO tree
- removal of cobbles
- concern that a precedent would be set if the application was approved

The Panel then heard representations from the applicant who provided information which included:

- the reasons for building the porch which included energy efficiency and security
- that the structure was 18mm too high
- that to remedy the situation a planning application had been submitted
- that cobbles had been removed; that their protected status (from a previous planning condition) was not known at the time and that they had been replaced within the courtyard
- the proposals had not affected vehicular access

Members discussed the application, with the key issues relating to:

- planning conditions and the length of time these were valid for. The Head of Planning Services stated that planning conditions would remain valid for the lifetime of a development unless planning approval was granted in the meantime which overrode this
- concern that a planning condition relating to the cobbles was considered necessary in 1984 but was now being set aside
- the position relating to land ownership in planning matters. The Panel's Legal Services representative confirmed that an applicant could submit a planning application without owning the site of the application and that this was not a matter the decision maker could consider when determining a planning application
- highways; that concerns had been raised by the objectors about the ability to manoeuvre due to the development
- the appearance of the porch; its colour and design and that this was not a positive addition in the Conservation Area

The Panel considered how to proceed. Following an equality of votes in support of the Officer's recommendation to grant planning permission and against the recommendation, the Chair cast her vote

**RESOLVED** - That the application be granted subject to the conditions set out in the submitted report

**96 Application 14/05152/FU - Retrospective application for amendments to 13/00563/FU (approval for single storey front, side and rear extension); increase in eaves height; changes to internal layout including new attic**

**rooms; alterations to doors and windows; new solid roof to form front porch canopy; new outbuilding to rear and changes to replacement boundary treatment to front - 6 Roper Avenue LS8**

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

Officers presented the report which sought retrospective approval for amendments to a previously approved scheme for extensions at 6 Roper Avenue LS8

Members were informed that the applicant had built the extension to the approved footprint but had made alterations to the design and height of the structure, had changed the position of windows and doors; had provided accommodation in the roof, roof lights and had increased the height of the roof. It was stated that the applicant had contrary views about the height. The report before Panel outlined the proposed amendments in respect of the boundary treatments; gates; garden and driveway. In terms of impact on residential amenity and highways, the proposals were considered by Officers to be acceptable

If minded to approve the application, two additional conditions were recommended to Panel, in respect of the side boundary treatment and the provision of a dropped kerb

The Panel heard representations from a Ward Member who outlined local concerns which included:

- the poor quality of the building works
- that local residents had not received sufficient notification of the submission of revised plans
- the impact of the proposals on the resident at 8 Roper Avenue
- the non-compliance with the planning process and that works were continuing

The Panel then heard representations from the applicant who provided information, which included:

- the particular needs of the applicant's daughter due to her suffering from an uncommon medical problem; the need for storage for specialist medical equipment and for space for family members and visitors
- that he had worked closely with Officers to provide what was required
- that he was ready to undertake any works necessary

Members discussed the application, with the main areas of discussion relating to:

- the state of the public footpath due to the works being undertaken
- the size of the living accommodation proposed, currently and as in the approved scheme
- the problems when applicants do not adhere to the approved plans

The Panel considered how to proceed. The Officer's recommendation

to approve the application was moved and seconded but did not receive majority support. A further recommendation to defer determination of the application to enable negotiations to take place between the applicant and Officers was also moved and seconded but did not receive majority support. A recommendation to refuse the application was moved, seconded and voted upon

**RESOLVED** - That the Officer's recommendation to approve the application subject to conditions be not supported and that the Chief Planning Officer be asked to submit a further report to the next meeting setting out possible reasons for refusal of the application based upon the design of the dwelling, especially the porch height

**97 Application 14/02769/FU - Retrospective application for amendments to workshop - 24 Wetherby Road Roundhay LS8**

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

Officers presented the report which sought retrospective approval for unauthorised works at 24 Wetherby Road LS8

The planning history of the site was briefly outlined in respect of decisions taken in relation to the unauthorised works

Members were informed of the proposed amendments which included a reduction in the ridge height and a more shallow roof being put on. While accepting that the situation was not ideal and did have an impact on the adjoining neighbour, what was now being proposed represented a compromise between what had been constructed and what had been approved

The Panel heard representations from an objector who outlined his concerns, which included:

- that the 2012 approved plans should be enforced
- the impact on the Conservation Area
- the quality of the work which had been carried out
- the impact of the proposals on the neighbouring property

Members discussed the application with concerns being raised about the roof height and the impact of the proposals in the Conservation Area

A proposal to defer determination of the application for further negotiations was moved and seconded but did not receive majority support

The Panel considered how to proceed

**RESOLVED** - That the Officer's recommendation to approve the application subject to conditions be not accepted and that the Chief Planning Officer be asked to submit a further report to the next meeting setting out suggested reasons for refusal of the application based upon the Panel's concerns about the impact of the proposals on residential amenity and on the character and appearance of the Conservation Area

**98 Application 12/05434/FU - Alterations and extension to village hall to form mixed use development (use classes A1, A3, B1 and D2) and erect**



## **5 detached houses with associated car parking and landscaping - Aberford Village Hall and land to the rear - Main Street Aberford LS25**

Plans and photographs were displayed at the meeting

The Panel considered a report setting out details of an application for the alterations and extensions to Aberford Village Hall, supported by enabling development of 5 detached houses with parking and landscaping on part brownfield, part greenfield site, which was sited in the Green Belt. Appended to the report was financial information which was classed as exempt under Schedule 12A Local Government Act 1972 and Access to Information Procedure Rule 10.4(3)

Officers presented the report and stated that the current proposals were a reduction on a previously refused scheme for 14 dwellings and that now, 5 substantial dwellings were proposed as enabling development to help fund works on the Village Hall

Members were informed that following negotiations with the applicant to secure works to the Village Hall, these as a stand-alone application would be acceptable apart from the car parking proposals and being sited in the Green Belt. However, the remainder of the scheme was inappropriate development causing harm to the Green Belt and although the scheme had attracted objections and support, Officers considered that no very special circumstances – the test for inappropriate development in the Green Belt – had been demonstrated to outweigh the harm to the Green Belt. It was also felt that the proposals were premature

The Panel heard a representative of the applicant who provided information on the application, which included:

- the need for Aberford Village Hall to be extended and refurbished to support the life of the village
- that some level of funding had been obtained to carry out the scheme and that the enabling development would regenerate an unused area of land
- guidance contained in the NPPF regarding the retention of local facilities
- that very special circumstances did exist
- the length of time the scheme was taking to progress

The Panel then heard from two objectors who were speaking on behalf of Aberford Parish Council and who raised concerns about the proposal, which included:

- flooding issues
- the design of the development would detract from the linear form of the Green Belt
- the housing types being proposed which were not considered to be suitable, particularly as properties for first time buyers were needed in this area
- the need for affordable housing
- the viability of the proposed uses for the village hall had not been tested
- that Aberford Parish Council would be willing to work with the applicant to achieve improvements to the village hall

At this point, having previously resolved to exclude the public, the Panel went into private session to consider the financial information contained in the exempt papers

The Panel discussed the information and the approach of the District Valuer in respect of the information which had been provided in this case

Following this, the public were readmitted to the room

The Panel discussed the application and whilst there was sympathy for those wishing to improve the village hall facilities, it was felt that very special circumstances had not been demonstrated in the application before Panel

As a way forward, it was suggested that the Neighbourhood Planning Process could be the route to pursue the proposals

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

The Local Planning Authority considers that the development in the Green Belt of 5 dwellings, associated engineering operations and car park, would constitute inappropriate development which would by definition be harmful. The proposed development would also be contrary to the fundamental aim of Green Belt policy to keep land permanently open and the purposes of Green Belt policy and particularly to assist in safeguarding the countryside from further encroachment. Substantial weight should be given to this harm and, notwithstanding the recognised benefits of the financial contribution the development would make to improvements to the village hall and improved highway safety, these considerations are not considered to outweigh this harm. The necessary very special circumstances have therefore not been demonstrated and the application is therefore contrary to guidance contained within Section 9 Protecting Green Belt land of the NPPF and Saved Policies GP5 and N33 of the Council's Unitary Development Plan (Review 2006)

**99 Application 14/03383/FU - Part two storey part single storey rear extension - 16 Valley Terrace LS17**

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

Officers presented the report which sought approval of an application for a rear extension at 16 Valley Terrace LS17

Members were informed that the key considerations in this case were design, impact on the streetscene; amenity of neighbours and parking. It was the recommendation of Officers, on balance, that the application be approved

Receipt of a further letter of representation was reported, from a previous objector, with no new issues being raised

The Panel heard representations from an objector who attended the meeting and raised concerns which included:

- impact on the amenity of the neighbouring property
- overshadowing from the extension
- the scale of the proposals

The Panel then heard from the applicant's agent who provided information to the Panel, which included:

- rebuttal of the argument regarding overshadowing, particularly in view of a wooden screen which had been erected by the neighbour
- the topography of the site

Members discussed the application, with the main issues relating to:

- the scale of the proposals
- overshadowing

The Panel considered how to proceed and while there was some support in principle for an extension it was felt that the scale of the proposals could not be supported

**RESOLVED** - That the Officer's recommendation to approve the application subject to conditions be not accepted and that the Chief Planning Officer be asked to submit a further report to the next meeting setting out possible reasons for refusal based upon the concerns raised in respect of massing, dominance, overshadowing and impact on residential amenity

#### **100 Application 14/02147/FU - Detached house to garden site - land adjacent to 143 Selby Road Halton LS15**

Plans, photographs and drawings were displayed at the meeting

Officers presented a report which related to an application for the erection of a single dwelling house with shared driveway arrangements at 143 Selby Road LS15

Members were informed that Highway Officers had raised concerns about the proposals and there were also issues relating to scale, siting and impact on the amenity of neighbours

As the Officer's recommendation before Panel was to refuse the application, Members heard firstly from the applicant who provided information to the Panel, which included:

- that the proposals had been amended in line with advice from Officers in respect of the proposed materials
- there was adequate car parking provision
- there was a lack of recorded accidents/incidents within 100m of the property going back 10 years
- the siting of the proposed dwelling which had been amended since a previous application on the site was refused

The Panel then heard representations from an objector who raised concerns which included:

- highways issues
- drainage issues
- the lack of amenity space
- impact on living conditions

The Panel considered how to proceed

**RESOLVED** That the application be refused for the following reasons:

1 In the opinion of the local planning authority, it is considered that the proposed development would by reason of its siting, house type and scale, when viewed in context with the existing dwellings on Selby Road, appear as

an incongruous development adversely conflicting with the established residential character of the area thereby resulting in harm to the visual amenity of the site and wider street scene. As such the development is contrary to Policies P10 of the adopted Core Strategy (2014), saved Policy GP5 of the Unitary Development Plan Review (2006) and the City Council's Supplementary Design Guide 'Neighbourhoods for Living' and the guidance contained in the NPPF 2012

2 In the opinion of the local planning authority, it is considered that the proposed dwelling would by reason of its scale, siting, overall height and orientation when viewed in context with its proximity to surrounding properties result in a loss of privacy and overshadowing. Specifically a loss of privacy for the future occupants of the development from being overlooked; and overshadowing of Nos 1 and 3 Willow Well Road thereby adversely affecting their living conditions and standard of residential amenity. As such, the development conflicts with Policies P10 of the adopted Core Strategy (2014), saved Policy GP5 of the Unitary Development Plan Review (2006) and guidance contained in Leeds City Council's Supplementary Design Guide 'Neighbourhoods for Living'

3 In the opinion of the local planning authority, it is considered that the siting of the vehicle access point in relation to the position of a road traffic sign on the adjacent public footpath, would result in impaired visibility for drivers of vehicles exiting the site on to Selby Road. In addition, the proposed off-street parking provision is substandard in terms of its dimensions and its ability to achieve satisfactory turning manoeuvres within the site. As such, the development may lead to vehicle conflict on a congested dual carriageway, Selby Road. As such the proposed development would prejudice the interests of highway safety for pedestrians and other road users alike. The proposed development is therefore contrary to Policy T2 of the adopted Core Strategy (2014), saved Policy GP5 of the Unitary Development Plan Review (2006) and the guidance contained in the City Council's SPD the Street Design Guide

**101 Application 14/02832/FU - Change of use of doctors surgery to 8 bedroom house in multiple occupation - 1 East Park Parade Burmantofts LS9**

Having brought to the Panel's attention that he knew the applicant, the Panel's Lead Officer withdrew from the meeting

Plans and photographs were displayed at the meeting

The Deputy Area Planning Manager – East Area – presented the report which sought approval for the change of use of a former GP surgery to a house in multiple occupation (HMO)

The Panel was informed that the proposals had initially been for 10 HMO-type rooms, with this being reduced to 8 such rooms. Each room would include a shower and kitchenette, although toilet facilities would be communal. There would also be a large shared kitchen and dining area

The receipt of an additional representation from a local resident was reported who had raised concerns about the people who would occupy such accommodation. An e-mail from Councillor Khan, Ward Member, objecting to the proposals was read out for Members' information

On the change of use of the property to residential, Officers considered that its initial use would have been residential and then changed over time, so it would be reverting to its original use, if the proposals were agreed

The Panel discussed the application with concerns being raised about the provision of shared toilets in the proposals; local concerns about the impact of HMOs in the area and that there was not a demand for this type of tenure in this location. Concerns were also expressed that at 8 rooms, this was overdevelopment, especially as private toilet facilities were not being provided and that fewer, self-contained flats might be considered to be more appropriate

**RESOLVED** - That determination of the application be deferred for further negotiations with the strong desire to provide self-contained flats and that a further report be brought to Panel in due course

Following consideration of this matter, the Panel's Lead Officer resumed his seat in the meeting

**102 Application 14/03167/FU -Change of use of vacant ground floor shop (use class A1) to take away hot food shop (use class A5), Former Newsagents Main Street Collingham Wetherby LS22**

Plans and photographs were displayed at the meeting

Officers presented the report which sought approval for a change of use of a vacant ground floor shop to a hot food take away on Main Street Collingham

While the application was acceptable in principle and Highways were satisfied with the proposals, there was an issue about the proposed opening hours, with concerns about the impact on residential amenity and nuisance in respect of odour and litter

Members were informed that the applicant had been asked to consider closing at 21.30 but stated there were viability issues associated with this and had indicated he would appeal such a condition

The location of residential accommodation in the area, beyond that of the upstairs flat was highlighted

Regarding traffic movements, the vehicular access arrangements were outlined as were the parking restrictions. The Panel's Highways Officer stated that the existing parking demand, i.e. from the previous use of the premises as a newsagents had to be considered and that although it was accepted that a hot food take away would generate more trips, these were likely to be of shorter duration. It was also accepted that turning would be difficult but that this could not substantiate a reason for refusal of the application

The Panel considered the application and commented on the following matters:

- the existence of another hot food take away in the area which closed at 21.00 and seemed to be a viable concern
- the need for robust conditions on opening hours in the interests of protecting residential amenity
- parking problems on Main Street

In discussing the issue of opening hours, as the Panel appeared to be minded to refuse the application, the applicant's agent who was in attendance was invited to address Members, with the following points being made to the Panel

- that the scheme represented a significant investment in the area to provide a good facility
- that only one additional hour towards the end of week was being sought and that the applicant would accept 21.00 or 21.30 hours on the other days but that the additional trading time was needed to ensure the viability of the business and without this additional time, the development might not proceed
- that the applicant was a local resident and would employ local people

For clarity the Chair sought to establish the hours being sought, with the Panel being informed that Monday – Tuesday, 21.30 closing and 22.30 closing all other days. Members were informed that the premises would not open before 16.00

The Panel discussed the application, with the main issues being raised relating to:

- hours of opening
- highways issues

Members considered how to proceed. An amendment to alter the hours to 21.30 Monday – Tuesday and 22.30 all other days was made and seconded; the recommendation as set out in the submitted report was also made and seconded. It was noted that local residents and the Parish Council had not been afforded an opportunity to address the Panel

In view of the different views expressed by Panel, further discussion on the most appropriate way forward took place

**RESOLVED** - That determination of the application be deferred to the next meeting and that the Chief Planning Officer be asked to submit a further report which addressed the applicant's preferred opening hours. It was noted that the Officer recommendation might change in light of later opening hours

### **103 Application 14/04602/FU - Retrospective application for air conditioning system to rear elevation - 6 Sandhill Oval Alwoodley LS17**

Plans, drawings and photographs were displayed at the meeting

Officers presented the report which sought retrospective approval for 8 air conditioning units sited on the rear of 6 Sandhill Oval LS17

Members were informed that four of the units were to be relocated from elsewhere on the property, with four new units also being provided. The intention was for these to be screened by a timber acoustic screen

The main issues in respect of the application were outlined as visual appearance of the units and possible noise nuisance. Members were

informed that the units were not visible in the street scene, although glimpsed views from the adjacent property were possible. In terms of noise, a noise survey had been carried out and the Council's Environmental Protection Team had indicated it was unlikely that all of the units would be operating simultaneously as they related to different rooms. Having considered all the information, Officers were recommending approval of the application

The Panel heard representations from two objectors who attended the meeting and outlined their concerns, which included:

- that a precedent would be set by granting planning permission
- the proposed location for the units and the impact of the units on neighbouring amenity
- that the air conditioning units could be sited elsewhere
- the lack of clarity about the proposals and concerns about the glazing finish on an element of a previous application
- that neighbour notification letters on a related application on the site were not received, so preventing local residents from making representations about the proposals
- that work had not been halted pending determination of the application

The Panel then heard representations on behalf of the applicant, who provided information, which included:

- that incorrect advice from the applicant's architect had resulted in a retrospective application being required
- that issues relating to an earlier approved application were being sought to be raised on the application before Panel
- the limited impact of the proposals on visual amenity and noise, with the applicant having sought to address these matters
- the lack of complaints over an eight year period in respect of the original air conditioning units

The Panel discussed the application. Councillor Wilkinson sought advice on whether he could comment in view of the applicant being a fellow Councillor and a member of the Plans Panel, with it being confirmed that it was acceptable

The main areas discussed related to:

- the visual appearance of the units; the timber screening and the colour of this, with Members being informed that the LPA would have control over the colour of the screening
- the decibel readings taken for the noise survey
- the length of time such units were likely run for

**RESOLVED** - That the application be granted subject to the conditions set out in the submitted report

**104 Application 14/05078/FU - Demolition of existing cottage and erection of new dwelling with detached garage - The Old Forge Cottage Forge Lane Wike LS17**

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

Officers presented the report which sought approval in principle to the demolition of an existing cottage and the erection of a replacement dwelling with garage at The Old Forge Cottage, Wike, which was situated in the Green Belt

A plan which showed what could be built under Permitted Development was displayed to assist in the consideration and discussion of the application

The need to consider whether very special circumstances applied in this case to outweigh the harm caused by inappropriate development in the Green Belt was highlighted. Officers were of the view that the works were mainly what would be allowed under PD and that a better design would be provided, albeit resulting in a larger building at 80% increase on the existing dwelling. Members were also informed that the applicant was willing to enter into a S106 Agreement to curtail further outbuildings

Members discussed the application with the main areas of comment relating to:

- the volume calculations of the existing and proposed dwelling
- the Council's policy on extensions in the Green Belt
- the importance of adopting a consistent approach to such applications

The Panel's Lead Officer informed Members that this application and the one next on the agenda (minute 105 refers) highlighted a difficulty. The Council's policy on extensions in the Green Belt was to permit up to 30% increase. However, it was likely that PD rights over time had changed and that developments were coming forward for larger buildings in the Green Belt. The Green Belt Policy would need to be looked at and it would not be done lightly, but it did represent a change of approach

The Panel continued to discuss how to proceed and as Members were minded to refuse the application, the applicant's agent who was in attendance, was invited to address the Panel, with the following points being made:

- that engagement with Officers had been made prior to the application being submitted
- that the applicant would be living in the neighbouring dwelling and wished to restrict any further development whilst providing a suitably sized dwelling for sale to a private owner
- that a S106 agreement was being offered to legally tie down any further development

In response to a question from the Panel, the applicant stated that if Officers had stipulated that extent of the increase was required to be 30%; this would have been accepted

The Panel considered how to proceed

**RESOLVED** - That determination of the application be deferred and the Chief Planning Officer be asked to submit a further report on a reduced scale of development, which was policy compliant at a volume increase of up to 30%



**105 Application 14/00927/UHD3 - Unauthorised alterations to dwelling at Reighton House Moor Lane East Keswick LS17**

The Panel's Lead Officer introduced a report which related to unauthorised works to a dwelling at Reighton House Moor Lane East Keswick, which was sited in the Green Belt and was the a subject of a Members site visit earlier in the day

Plans, drawings and photographs were displayed at the meeting

The purpose of the report was to obtain a steer from Panel as Officers were of the view that works which had been carried out to the property were in breach of the Certificate of Lawful Development. The applicant had removed the roof of the dwelling which Officers considered should have been retained

The recommendation before Panel was to monitor the works on the site and in the event that the resultant dwelling was of the same design and form as that shown on the plans approved under application 13/04348/CLP, that no enforcement action be taken. If Members did not accept this recommendation, the Panel's Lead Officer suggested that the matter be deferred to enable Counsel's opinion to be obtained due to the complexity of the case and the issues around enforcement matters, with a further report being brought to Panel setting out Counsel's opinion

However, in view of the next scheduled panel meeting being in January 2015 and the developer indicating the works were to be progressed, the Panel's Lead Officer suggested delegating the course of action to Officers in consultation with the Chair and a small number of Panel Members to consider Counsel's advice

Members were informed that the Certificate of Lawful Development had been issued by the Council and that the key area of dispute between Officers and the developer was in respect of the removal of the roof. The applicant had been contacted in August and substantial demolition works had ceased, however the works had gone beyond those on the Certificate, with Officers being of the view that the works on the Certificate could not be implemented as there were no PD rights to reinstate the roof. The applicant had been asked to submit a planning application for the works but had declined as it was felt that the works could still be implemented as in the Certificate

A representation which had been received from Councillor R Procter on behalf of all three Ward Members was read out to Panel

Members discussed the report and information presented by the Panel's Lead Officer, with the main issues being raised relating to:

- the issuing of Certificates of Lawful Development; that Elected Members were no longer being notified of these and that where a request was made for the matter to be considered at Panel, this should be agreed
- the difficulty of presenting volume calculations in this case in view of the total removal of the roof of the dwelling
- that whilst the area was accustomed to large, substantial dwellings, the main concerns were in respect of the process
- the photographs displayed at the meeting; that these did not show the extent of the footings which had been dug and that work had not stopped

- the need for a planning application to be submitted and the visual impact of the works on site
- that if the works were a breach, then enforcement action should be taken
- the importance of clearly briefing Counsel on the Panel's steer

The Head of Planning Services informed Members that the issue was around the Certificate which was not a planning application and that it was a determination whether what was proposed could be carried out as PD. Under such applications, the planning merits did not fall to be considered; it was simply dealt with on its facts and whether or not it constituted permitted development. Large extensions could be constructed as permitted development and sometimes these were larger than the Council's planning policies in the Green Belt would allow

There was a history of long discussion with the applicant and that it was unlikely for any planning permission to be judged against the 30% policy in respect of permitted extensions in the Green Belt. Officers had concluded that the works had not been implemented as set out in the Certificate, but this had not been accepted by the applicant. Members were advised that a difficult situation could develop

The Panel continued to discuss the report with concerns being raised about the effectiveness of Certificates of Lawful Development; the need for Ward Members to be informed about their submission and the opportunity given to Councillors to make representations on them. Concerns were also raised about the approach taken by Officers in this case

Discussion on the suggestion made by the Panel's Lead Officer on taking urgent enforcement action, if required, in consultation with the Chair and a number of the Panel took place, with concerns being raised that this was not an appropriate way to consider the matter. The possibility of convening a Special Meeting of North and East Plans Panel to consider Counsel's opinion was suggested

**RESOLVED** - That Counsel's opinion be sought on whether a breach has occurred and what enforcement action could be taken and if not, when a breach would occur and what action could be taken, with a further report setting out these details to be presented to Panel and to note that the Panel wished to see the submission of a planning application in this case

## **106 Date and Time of Next Meeting**

Thursday 8<sup>th</sup> January 2015 at 1.30pm in the Civic Hall, Leeds