

NORTH AND EAST PLANS PANEL

THURSDAY, 30TH JULY, 2015

PRESENT: Councillor N Walshaw in the Chair

Councillors R Grahame, G Wilkinson,
B Cleasby, B Selby, S McKenna,
A McKenna, P Wadsworth, C Gruen,
P Gruen and G Latty

26 Chair's opening remarks

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

27 Late Items

The Chair admitted one late item of business to the agenda (minute 39 refers). The report which related to application 14/03109/OT – Former Miami Building off Lotherton Way Garforth, which was considered at the previous meeting of North and East Plans and required urgent consideration to enable this longstanding application to be formally determined in accordance with the revised target date which had been agreed with the applicant and which was 31st July 2015. A copy of the report had been circulated to Panel in advance of the meeting and had been published on the Council's website

28 Declarations of Disclosable Pecuniary Interests

There were no declarations of disclosable pecuniary interest. However in respect of the late item – Application 14/03109/OT – Former Miami Building Lotherton Way Garforth – Councillor Andrea McKenna advised that as before when this matter had been considered, she would be leaving the room when the application was presented. It was noted that Councillor McKenna had previously commented on the application prior to being appointed to North and East Plans Panel in the current Municipal Year, and for the avoidance of doubt about whether she had or had not a closed mind in respect of the application had elected to withdraw from the meeting for this item (minute 39 refers)

29 Apologies for Absence

Apologies for absence had been received from Councillors Harland, Macniven and Procter, with Councillors P Gruen, C Gruen and G Latty substituting for their respective colleagues

30 Minutes

RESOLVED - That the minutes of the North and East Plans Panel meeting held on 25th June 2015 be approved

31 Application 15/03352/FU - Detached Maggie's Centre building - Land adjoining multi storey car park - Alma Street St James Hospital LS9

Further to minute 12 of the North and East Plans Panel meeting held on 28th May 2015, where Panel received a pre-application presentation on proposals for a Maggie's Centre building to provide support for people with cancer, the Panel considered a further report of the Chief Planning Officer setting out the formal application

Plans, photographs and graphics were displayed at the meeting. The Panel had visited the site prior to consideration of the pre-application proposals in May 2015

Officers presented the report, outlined the background to the proposals and highlighted the design of the scheme and the strong landscaping features of the development

A particular concern when the proposals had been presented to Panel had been the issue of parking. Members were informed that the three staff car parking spaces required for the Centre would be accommodated in the nearby multi-storey car park and it was anticipated that patients attending the Centre would also be visiting St James Hospital and if arriving by car, would have parked in the multi-storey car park. To facilitate additional patient parking, 70 staff parking spaces in the multi-storey car park had been allocated elsewhere

Members discussed the application and welcomed the development with discussion around the likely numbers using this facility and the impact of this on car parking in the local area

RESOLVED - That the application be granted subject to the conditions set out in the submitted report and that discussions take place between Ward Members (Gipton and Harehills and Burmantofts and Richmond Hill) and Highways Officers in relation to the access strategy and the car parking in the streets surrounding the site

32 Application 14/07446/FU -Change of use of film production set to accommodate ancillary visitor tour attraction (Emmerdale Village) - Land at Stub House Farm, Harewood Estate Harrogate Road

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

Officers presented a report which sought approval of a Change of Use of film production set to accommodate a visitor tour attraction. Members were informed that the purpose-built Emmerdale set was sited at Harewood House and that the application sought approval for week-end tours of the set,

by coach only, which would result in four vehicle movements per hour. The proposed coach route had been amended since the original submission and there were now no highway safety objections from Officers

The receipt of two further letters of representation was reported, one objecting to the application on highway grounds; the other supporting the proposals

Members were informed that the coaches would need to use bridleway 18, however this was a short section only and was felt to be acceptable in this case

Whilst the tours would generally be pre-booked, there was the facility for 'walk up' sales, which the applicant considered would account of around 10% of sales. If minded to approve the application a further condition could be included to require 'walk up' sales to use the coaches provided

In terms of the S106 Agreement, Councillor Rachael Procter's concerns, set out in paragraph 6.4 of the submitted report were outlined to Panel with Members being informed these issues could be taken forward, subject to any suggestions recommended by the Panel's Legal adviser. Notwithstanding the report's recommendation that if approved, the application should be referred to the Secretary of State as a departure from the Development Plan, Members were informed that consultation with colleagues in Legal Services would take place to clarify whether in this particular case, any approval required referral

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

- possible provision of laybys to cater for emergency vehicles and provision of adequate passing places. The Panel's Highways representative stated that the bridleway was of reasonable width; that there were some passing places on the private access road and although there was no physical reason why those passing places could not be extended, there was a much lower level of traffic at week-ends as filming did not occur. The Chair was of the view the passing places should be lengthened and be made more substantial in appearance. The possibility of directing some of the S106 monies towards local footpath improvements was also suggested
- the capacity of the local highway network to accommodate the coaches. Members were informed an assessment had been carried out and although it was tight in some areas, Officers were satisfied it was acceptable and that the local highway network was sufficient to deal with the additional traffic movements arising from the coaches
- concerns that over time the number of coaches operating tours could increase
- public perceptions in this case, in view of the site being located in the Green Belt and a Special Landscape Area
- the need for all appropriate health and safety and welfare facilities to be provided for visitors
- the S106 monies and how issues relating to how this funding would be dealt with. The Panel's Lead Officer advised that as part of the recommendation to defer and delegate, Officers

wished to review the mechanism relating to the spending of the S106 heritage spend monies, which would include the geographical spend. This would also take into account Councillor R Procter's concerns that this spend should be firstly in the Harewood Ward, then the Harewood Estate and finally citywide. Although this issue had been raised with the applicants, their view was that the impact of the proposals was local and that the benefits should be to a tight geographical area of the village. Officers were of the view that the presence of the Emmerdale village and the proposed tours in Leeds were of strategic importance for the City and the tourism generated would have a wider impact, with the starting point of Officer discussions being funding firstly for projects within the vicinity of the Harewood Estate, then the Harewood Ward and lastly citywide. Members were also informed that including the contribution for 2015, there was currently £352,000 in the S106 heritage fund

- the disbursement of the S106 funds and the possibility of stipulating that the Chair of the Stakeholder Funding Panel should be a Harewood Councillor. The Panel's Legal Adviser stated such an alteration would need to be included in the Deed of Variation. Discussion also took place on possible wording to future-proof this element of the Deed of Variation against possible boundary changes

The Panel considered how to proceed

RESOLVED – To defer and delegate approval to the Chief Planning

Officer subject to:

- a) the suggested conditions set out in the submitted report, additional conditions to specify that 'walk up' sales be restricted to the two coaches per hour and that improvements should be made to the passing places (plus any others which he might consider appropriate), and the variation of the Section 106 agreement to repeat the terms of the original agreement, but to allow for the operation of tours in the terms sought
- b) to review the terms of the Section 106 Agreement in respect of the mechanism for the allocation of and spending of monies generated and for this to be widened to include open space and recreational projects as well as heritage projects; that the spending of monies on these projects to be agreed with the Chair of the Plans Panel and Stakeholder Panel and for the Chair of the Stakeholder Panel to be a Local Councillor from the Ward in which the site is located and that monies be restricted to projects that have a public benefit and be allocated to such projects in the following sequence: within the vicinity of the Harewood Estate; then within the Harewood Ward and finally within the administrative boundary of Leeds City Council.
- c) if deemed necessary, referral of the application to the Secretary of State for the Department of Communities and Local Government under the Town and Country Planning (Consultation) (England) Direction 2009 as a departure from the Statutory Development Plan

In the circumstances where the Section 106 has not been completed within 3 months of any determination of the Secretary of State (if deemed necessary) not to intervene, the final determination of the application shall be delegated to the Chief Planning Officer. In the event the applicant does not agree to the terms of the S106, as amended by Members, that a further report be submitted to Panel

33 Application 11/03908/FU - Variation of condition 6 of approval 09/04265/FU to amend opening hours - 12 Church Lane Swillington LS26

Plans and photographs were displayed at the meeting

Officers presented the report which sought to vary the existing opening hours imposed by Panel when it considered a previous application in February 2010

At that time, in supporting the application Members had regard to the level of local opposition to the application and Panel had added a direction to the decision notice that any future applications to extend the opening hours were unlikely to be viewed sympathetically

Members were informed that one representation had been received which had not raised specific concerns relating to the proposed opening hours being sought which was one additional hour at the start and end of trading. Members' attention was drawn to the current hours of opening as set out in paragraph 2.2 of the submitted report, with Officers advising that the premises already operated above the authorised hours but that in this case, Officers were comfortable with this. Furthermore colleagues in Environmental Health had confirmed that no complaints about the premises had been received

Concerns were raised about the flue to the premises. Members were informed this was subject to a separate Enforcement process; that planning permission had been granted for a new first floor flat which would necessitate the removal of the flue and that revised details for a more visually sympathetic flue had been agreed

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

34 Application 14/05876/FU - Installation of ground mounted photovoltaic panels and associated infrastructure - Two Hoots Farm Harewood Avenue LS17

Further to minute 24 of the North and East Plans Panel meeting held on 25th June 2015, where Panel deferred determination of an application at Two Hoots Farm, Harewood, for the installation of a 150kW ground mounted photovoltaic (pv) array consisting of 654 pv panels on a site located within the Green Belt and a Special Landscape Area, for additional information, Members considered a further report of the Chief Planning Officer

Plans, photographs and drawings were displayed at the meeting

The Panel's Lead Officer presented the report and referred to the additional information which had been provided in the report before Panel. He advised Members that there was nothing in the planning history to

prejudice this development from taking place, nor was there anything in the proposed development which prejudiced the existing land uses

The concerns raised that there was a planning condition attached to a previous planning permission that required slurry generated from the use of the permitted pig shed be spread on the site. The planning history had been checked and the actual condition required slurry to be taken off site

The view of the Council's Agricultural Surveyor had been sought who was of the view that the proposals would not prejudice the farming of the land

Although detailed at the last Panel, the policy context of the proposals was highlighted for Members' information

The extent of the existing screening and proposed additional planting was also outlined

In respect of the enforcement history, Members were informed that as part of a previous application for a pig shed, a condition had been attached that required details of a landscaping scheme, including a bund, to be submitted for approval. However, the bund had been put up without any formal approval, although an application had now been received for the discharge of that condition. Concerning the planning application for an agricultural worker's house on site, discrepancies had come to light between what had been built and what had been granted approval for with a revised application being submitted, although this had not yet been validated as further information was being sought from the applicant

Members discussed the proposals, with issues raised relating to:

- the appearance of the panels; their colour; whether any light reflecting on them could impact on passing aircraft and that an artist's impression of the panels would have assisted Members in considering the application. Members were informed that the panels were described as non-reflective and were similar to those panels found on newer houses where they had been purpose-built into the roof
- Government subsidies for the pv technology and when this would be paid. The Chair advised that Officers would provide Councillor R Grahame with this information
- the visual impact of the proposals in view of the open nature of the site and whether views of the panels would be seen by pedestrians. Members were informed that glimpses across the site from Harrogate Road would be possible through any gaps which occurred in the screening
- the other considerations referred to in the report to outweigh the harm to the Green Belt and the nature of these. The Panel's Lead Officer advised that it was the view of Officers that the application should be recommended to Panel for approval, having given significant weight to the benefits arising from renewable energy, this being backed up by Central Government's view, set out in the NPPF, however it was for the Panel to reach its own view on the application

The Panel considered how to proceed

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

35 Application 15/03475/FU - Proposed 74 bed residential care facility with associated landscaping, car parking and access - Land adjacent to Seacroft Grange Care Village - The Green Seacroft - Position Statement

Plans, photographs, graphics and artist's impressions were displayed at the meeting. A Members site visit had taken place earlier in the day

The Panel considered a report of the Chief Planning Officer setting out the current position in relation to proposals for a new residential care facility at Seacroft Grange on the site of the former probation centre

Officers presented the report and informed Members that a Ward Member meeting had taken place and that on balance, Ward Members were supportive of the scheme and considered that opportunities for replacement planting nearby should be pursued, with this being conditioned as part of any approval

Members were also informed that the applicant's representative had addressed the Seacroft Residents' Association on the scheme with the proposals being well received

The proposals followed the success of the existing residential accommodation adjacent, which was fully occupied. A particular concern in relation to this scheme was the need for a significant proportion of existing trees to be removed

Details were provided in relation to design, proposed materials, access and car parking

Although only a position statement, Members were asked to consider whether determination of the application could be deferred and delegated to the Chief Planning Officer

The Panel considered the report and the proposals as outlined and commented on the following matters:

- the extent of the tree loss and that several of the trees proposed for removal were mature species
- concerns that commercial considerations were being put before the natural environment, through the extensive loss of trees
- that mitigation planting had to be conditioned; that it should be mature planting and should be agreed with Ward Members
- the suitability of the site for further residential development, particularly in view of the range of facilities which were located close by
- the design of the scheme and the need for the proposed render to be maintained, with the possibility of this being conditioned
- that consideration should be given to the inclusion of pv technology on the roof of the building
- the possibility of reusing the timber from the felled trees within the build or for outdoor furniture, subject to the suitability of the timber for this use
- the need for good communication with the local community to explain the works to the trees, including how and why this was being undertaken

The Panel considered how to proceed with the majority of Members being satisfied that the application could be deferred and delegated to

the Chief Planning Officer for determination. The conflicting views associated with the loss of so many trees were noted as was the inability of the site to be effectively utilised without affecting the trees.

The Panel considered how to proceed.

Councillor R Grahame continued to voice his opposition to the loss of trees.

RESOLVED – i) That Panel supported the principle of development and the design of the proposed building.

ii) That the application be deferred and delegated to the Chief Planning Officer for determination, in consultation with Ward Members.

iii) That replacement tree planting should be agreed with Ward Members; that mature, native specimens should be provided and that appropriate Officers from Parks and Countryside should be included in discussions on the replacement tree planting.

iv) That consideration should be given to including renewable energy technology in the design of the building.

v) That the timber from the removal of the mature trees should be used in appropriate ways on site.

vi) That communication with the local community be undertaken prior to the commencement of works, to explain the basis of the decision to allow the removal of the trees and how this would be carried out.

Under Council Procedure Rule 16.5, Councillor R Grahame required it to be recorded that he voted against this matter.

36 Application 15/02667/FU -Removal of conditions 1 and 2 of approval 101867 (appeal decision to ENF/11/00755/UCU2) to allow permanent use at The Stables Ninevah Lane Allerton Bywater WF10

Plans and photographs were displayed at the meeting.

Officers presented the report which sought approval for a further temporary, personal permission to the applicant for the stationing of caravans for human habitation on land at The Stables Ninevah Lane Allerton Bywater, which was sited in the Green Belt.

The Panel was informed of the planning history associated with this site and that temporary planning permission for 3 years had been granted by the Planning Inspectorate. The three year period had now lapsed and a further application had been submitted.

Members were informed that within the Site Allocations Plan (SAP), Gypsy and Traveller sites were safeguarded. As the SAP process was underway and the circumstances had not changed since the application was approved, Officers were recommending that a further temporary planning permission be granted.

RESOLVED – That the application be granted subject to the conditions set out in the submitted report.

37 Application 15/01059/FU - Removal of condition 21 (delivery hours) of planning approval 32/48/05/FU - to remove delivery time restrictions - Lidl - Selby Road LS15

Plans 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 for the removal of a condition which restricted delivery hours at the Lidl store on Selby Road LS15

Members were informed that the issue relating to the application was the impact of the proposals on residential amenity. It was noted there were a number of residential dwellings in close proximity to the site

An acoustic screen had been erected on site and discussions had taken place with colleagues in the Environmental Protection Team who were satisfied with the Service Yard Management Plan which had been supplied by the applicant and proposed a range of measures to minimise possible noise nuisance, including the use of a banks man for night time deliveries, rather than an audible reversing warning system

A temporary, one year permission was proposed to enable the situation to be monitored and reviewed

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

- the impact of the proposals on local residents
- the extent to which local residents had been consulted on the proposals. Members were informed that the application had been advertised in the normal way, which included site notices
- the possibility that unrestricted delivery hours would prevent lorries from arriving too early and then having to wait, often with their engines running
- concern at deliveries taking place in the early hours of the morning and that audible reversing warning system should be prohibited between 10.00pm and 7.00am, in the interests of residential amenity
- that measures should be taken to reduce noise from the operation of the metal bridge from the rear of the vehicles to the service area

RESOLVED - That the application be granted subject to the conditions set out in the submitted report; an additional condition to require the submission of a scheme of measures to reduce noise associated with the operation of the metal bridge - within the service area, and the amendment of the Service Yard Management Plan to require the vehicle reversing audible warning systems to be switched off between the hours of 10.00pm and 7.00am on any day

38 Application 14/0057/FU - 56 The Drive Cross Gates LS15 - Update report

Further to minute 20 of the North and East Plans Panel meeting held on 25th June 2015, where Panel received a verbal update on the current position in respect of works at 56 The Drive Crossgates, the Panel considered

a report of the Chief Planning Officer setting out the current position. A Members site visit had taken place earlier in the day

Members were reminded that the applicant's 7 month timescale for the completion of the works, which formed part of the Unilateral Undertaking offered by the applicant, had expired. In line with the terms set out in the Unilateral Undertaking, as the works had not been completed within the agreed timescales the Council had written to the applicant's representative formally requesting that he demolish the property within 2 months of the written request. The time period for this lapsing being 25th August 2015

As had been seen on the site visit, construction works were continuing. Discrepancies relating to windows were outlined to Panel, however the major issue which was still outstanding and raised significant uncertainty was the issue of the lift shaft. Members were informed that the applicant wished to retain this feature in its current position however the applicant's approved plans which formed part of the planning permission had failed to address this and the provision of the lift to the top floor of the dwelling would require modifications to the roof. Applications had been submitted to accommodate the feature however it was felt that nothing which had been submitted could be recommended to Panel for acceptance. A further revised submission had been received earlier in the week, however Officers continued to have concerns about what had been proposed

Given the long and complex planning and legal history of this matter, the issue was whether the Panel considered Officers should proceed to enforcing the terms of the Unilateral Undertaking or be given scope to explore the possibility of working further with the applicant to achieve the approved form of development. Members were reminded that a fallback position did exist

The Head of Service, Strategy and Resources, Legal Services was in attendance for this matter and in response to a question from a substitute Member, outlined in brief the enforcement action taken and the subsequent legal proceedings, including proceedings in the High Court, which had occurred

Members discussed the matter, with the following issues being raised:

- concerns about the level of costs incurred by the Council during the length of time this matter had been ongoing. An audit of recent costs was requested, with Members being informed this would form part of the overall costs assessment
- the impact of the proposals on local residents; the length of time residents had endured the impact of an overdominant, unauthorised structure in their neighbourhood and the considerable difficulties there had been in holding the applicant to account
- the ongoing uncertainty as to the completion and form of the build given the failure of the applicant to undertake the development in compliance with the approved plans and his representations seeking further modifications to the roof which was a sensitive part of the development
- the possibility of taking further legal action directly affecting the applicant

- that Planning Officers and Plans Panel had been reasonable throughout this process but that eight years for this to remain unresolved was not acceptable

In respect of the need for the lift, Members were informed that representations had been received from the applicant to indicate there were disability issues within the family. Although normally the personal circumstances of the applicant or family members were not usually considered as material planning considerations, these could be considered in exceptional circumstances

Having considered all the information before it, including the officer presentation and the updated information in relation to the applicant's request for further proposed revisions to the roof (which had been a critical aspect of the current permission) and the ongoing uncertainty, the Panel reached the view that further action was required in this case

RESOLVED – i) To delegate to the Chief Planning Officer the appropriate actions to carry out the demolition of the house pursuant to the terms of the Unilateral Undertaking

ii) That legal proceedings be progressed against the applicant in respect of his failure to comply with the terms of his undertaking to the High Court which reflected the terms of the Unilateral Undertaking

iii) That consideration be given to the tree at the front of 56 The Drive, to see if any potential overhanging issues to neighbours could be addressed

39 Late Item - Application 14/03109/OT - Outline application for the demolition of the existing building and erection of a foodstore, petrol filling station, car parking, means of access and associated works - Former Miami Building off Lotherton Way Garforth

Prior to consideration of this matter, Councillor Andrea McKenna withdrew from the meeting

Further to minute 22 of the North and East Plans Panel meeting held on 25th June 2015, where Panel in deferring and delegating an application for a new foodstore, petrol filling station, parking and access following the demolition of the former Miami building off Lotherton Way Garforth, requested a further report on the content of the proposed Section 106 Agreement relating to employment and training initiatives, Members considered a further report of the Chief Planning Officer on this matter

RESOLVED - To note the report

Following consideration of this matter, Councillor Andrea McKenna resumed her seat in the meeting

40 Appeal decisions update

The Panel's Lead Officer referred to the remaining items on the agenda which were summaries of appeal decisions. In all but one of the cases,

Panel had resolved not to accept the recommendations of Officers that the applications should be granted

In reaching decisions on the appeals, the Inspector was satisfied that the Council, though the Panel's refusals of the applications had not acted unreasonably in reaching a different view to its Officers and noted that the reasons for refusal were sufficiently detailed to enable a clear understanding as to why a different view had been reached by Panel. Reference was also made to the fact that in several of the cases, Members had undertaken a site visit prior to determining the applications

The Panel's Lead Officer stated that the Inspector's comments could be considered to be supportive of robust decision making and accepted that in finely balanced cases, a difference of views between Members and Officers was not surprising

The Panel then considered the appeal decisions

41 Application 14/02769/FU - 24 Wetherby Road Roundhay LS8 - Appeal decision summary

The Chief Planning Officer's report detailed the Inspector's decision in respect of an appeal against refusal of planning permission for amendments to an outbuilding granted planning permission in 2002

It was the decision of the Inspector to allow the appeal, however the application for costs against the Council was refused

RESOLVED - To note the report

42 Applications 14/03111/FU and 14/04107/FU - Sandbeck Lane Wetherby LS22 - Appeal decisions

The Chief Planning Officer's report detailed the Inspector's decision in respect of appeals against the refusal of planning applications for detached grain store and detached storage building

It was the decision of the Inspector to allow both appeals and grant planning permission for the grain store and detached storage building, subject to conditions

The application for an award of costs against the Council was refused

RESOLVED - To note the report

43 Application 14/03383/FU - 16 Valley Terrace LS17 - Appeal decision

The Chief Planning Officer's report detailed the Inspector's decision in respect of an appeal against refusal of planning permission for a part two storey, part single storey rear extension

It was the decision of the Inspector to dismiss the appeal. The application for an award of costs against the Council was refused

RESOLVED - To note the report

44 Application 14/06110/FU - 9 Fieldhead Drive Barwick in Elmet LS15 - Appeal Decision

The Chief Planning Officer's report detailed the Inspector's decision in respect of an appeal against the refusal of planning permission for a two storey side/rear extension

It was the decision of the Inspector to dismiss the appeal

RESOLVED - To note the report

45 Date and Time of Next Meeting

Thursday 27th August 2015 at 1.30pm in the Civic Hall, Leeds