

## **NORTH AND EAST PLANS PANEL**

**THURSDAY, 27TH AUGUST, 2015**

**PRESENT:** Councillor N Walshaw in the Chair

Councillors M Harland, C Macniven,  
J Procter, G Wilkinson, B Selby,  
S McKenna, A McKenna, P Wadsworth and  
J Bentley

### **46 Chair's opening remarks**

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

### **47 Late Items**

The Chair admitted one late item of business to the agenda for the meeting (minute 53 refers). The report was not available at the time the agenda was despatched and required urgent consideration because the Panel resolution from the previous meeting required an urgent update to Members. The Chair advised that this report would be considered ahead of the other reports on the agenda

### **48 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 for 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 53 under Schedule 12A (3) Local Government Act 1972 and the terms of Access to Information Procedure Rule 10.4(5) and on the grounds that it contains information in respect of which a claim to legal professional privilege could be maintained in legal proceedings. It is considered that if this information was in the public domain there would be potential legal implications in respect of the information contained within the appendix

### **49 Declarations of Disclosable Pecuniary Interests**

There were no declarations of disclosable pecuniary interest. However, in respect of application 15/03918/FU – Conkers, The Ridge, Linton, Councillor J Procter brought to the Panel's attention that he knew the applicant through his children attending the same school as the applicant's children (minute 56 refers)

## **50 Apologies for Absence**

Apologies for absence were received from Councillor Cleasby, with Councillor J Bentley attending in his place

## **51 Applications 15/02634/FU and 15/02635/FU - Marks and Spencer store Horsfair Wetherby LS22**

The Panel was informed that a request for a site visit had been made by Councillor J Procter on the grounds it would be beneficial to fully appreciate the potential implications the two applications would have on local residents and the delivery arrangements at the site. Members were in agreement to this and therefore consideration of the applications would be deferred to the next meeting

## **52 Minutes**

**RESOLVED** - That the minutes of the North and East Plans Panel meeting held on 30<sup>th</sup> July 2015 be approved

## **53 LATE ITEM - Application 14/0057/FU 56 The Drive LS15 - Update report**

Further to minute 38 of the North and East Plans Panel meeting held on 30<sup>th</sup> July 2015, where Panel considered an update report on works at 56 The Drive Crossgates, Members considered a further report. Appended to the report was a copy of the approved Building Inspector's final certificate (in Part) which was described as 'Continuation by Alterations of New Dwelling (as per Planning), 56 The Drive Crossgates Leeds LS15 85P (Shell only); a copy of the insurance of the Building Inspector's company and a certificate issued by the Construction Industry Council that the company was an approved Inspector in accordance with the relevant legislation. An exempt appendix was also appended to the report which contained legal advice from Counsel Plans, photographs and drawings were displayed at the meeting

The Panel's Lead Officer outlined the current position in respect of this matter which related to the implementation of the 2014 application and the undertaking around the timescales for the completion of the work, which, in line with that undertaking, should now be in the demolition phase

At the meeting on 30<sup>th</sup> July 2015, Panel had noted there was some uncertainty about how the position of the lift would impact on the roof, with the applicant suggesting that the 2014 permission could not be implemented as approved and at the last meeting Panel resolved to enforce the terms of the undertaking, this being that after the expiry of the two month notice period, the Council would seek to enforce demolition. The Panel had also resolved to progress legal proceedings against the applicant in respect of his failure to comply with the terms of the separate undertaking given to the High Court and for Officers to investigate what could be done to address the overhanging tree issue for the neighbour

Members were informed that following that meeting, in correspondence, the applicant's solicitor had confirmed for the first time that the intention of his client was to implement the 2014 permission and that the

anticipated practical completion of the external shell was to be done by 24<sup>th</sup> August 2015. A practical completion certificate was also to be provided by the approved Building Inspector to confirm the above, again by the 24<sup>th</sup> August 2015. In view of this it was put to the Council on behalf of the applicant that it would be unreasonable to proceed to demolition and appropriate steps would be taken to resist this should this course of action be pursued

Officers confirmed that in the light of the above, further legal advice was sought and arrangements for a site survey to be undertaken on 25<sup>th</sup> August 2015 were made to check compliance with the 2014 application. Receipt of the completion certificate from the approved Building Inspector (in Part) dated 24<sup>th</sup> August 2015 was also acknowledged. The key measurements from the survey were set out in the submitted report, not all of which fully complied with what had been approved. Officers were nevertheless of the view that the discrepancies did not have any particular detrimental impacts either visually or on residential amenity so were not necessarily seeking further amendments as the critical measurements relating to the ridge height was slightly below that approved

The property now presented as a genuinely two storey dwelling, with rooms in the roof and was felt to have a better relationship to Nos. 56 and 50, relative to the fallback created by the 2005 application. In terms of the eaves height, there remained some uncertainty as this part of the roof had yet to be fully completed, however any difference was likely to be a few centimetres only from the survey measurements taken

Members were informed that Officers did not necessarily share the Building Inspector's view as to what constituted a complete shell and that Officers would expect this to be wind and watertight, however there had been significant progress made on site in recent weeks and in particular the previous uncertainty regarding the roof and how the lift shaft might impact on it no longer existed which was positive

At this point, having resolved to consider the exempt appendix in private, the public withdrew from the meeting

The Head of Service, Strategy and Resources, Legal Services, presented the exempt appendix and outlined the advice obtained from Counsel

Reference was also made to the receipt of the Building Certificate, with Members being informed that the Council would not have issued a certificate for a shell only. Details were also provided on the cost of demolition of the building and the timescale for demolition for Members' information. An indication of the costs already incurred by the Council in this long-running planning matter was provided verbally

The significant level of interest in this planning application by the local community was noted with concerns being raised about whether sufficient progress had now been made to satisfy local concerns

At this point, the Chair invited Councillor P Gruen, a Ward Member, to address Members on this issue

The length of time this matter had taken; the range of views locally about the most appropriate outcome; concerns about future development and suggested timescales were outlined to Panel by Councillor Gruen

The Panel discussed the report and commented on the following matters:

- the extent of the work which remained to be completed to comply with the definition of completion which the applicant had been happy to agree in the Unilateral Undertaking
- concerns about whether the remaining works could or would be completed within a reasonable period of time, determined by Panel
- the most appropriate course of action going forward

The public were then readmitted to the meeting

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

- the importance of applicants adhering to approved plans
- that insufficient progress had been made on site to remove the threat of demolition
- the need for the property to be completed before 1<sup>st</sup> October 2015, this meaning from the outside it would appear as a completed dwelling

For clarity, before Panel reached a decision on this matter, the Head of Planning Services summarised the situation and informed Members that a Building Certificate from an approved Inspector had been received on the shell of the building; that in line with the Unilateral Undertaking, by two months ago, a practical completion of the building should have been reached. Although this had not occurred, further work had been undertaken and that Members wished to see this continue and that all work to be finished by the end of September 2015; that the threat of demolition, as resolved by Panel on 30<sup>th</sup> July 2015 remained and that the works would be monitored and updates provided to Ward Members, with a further report back to Panel on 1<sup>st</sup> October 2015 with a site visit

**RESOLVED** - To note the report and the information provided and that having regard to the further works undertaken in implementing planning permission 14/00575/FU and the information provided in the exempt appendix, that a practical completion of the building, as defined in the signed Unilateral Undertaking should take place by the end of September 2015; that the works be monitored and Ward Members be kept updated by Officers on the progress of the works; that Panel's resolution of 30<sup>th</sup> July 2015 regarding the demolition of the property remained if these works were not completed to the satisfaction of the Council by the end of September 2015 and that a further report be submitted to Panel at its meeting on 1<sup>st</sup> October

**54 Application 14/07389/FU - Change of use from public house (Class A4) to community education and training centre (Class D1) at The Kiln Brignall Garth LS9**

Plans, photographs and drawings were displayed at the meeting

Officers presented a report which sought approval of an application for a change of use of a former public house to a community education and training centre at The Kiln, Brignall Garth LS9

Members were informed that the site was in a predominantly residential area; that the former public house had closed in 2011 and that the proposals were for a training and education centre for people primarily from the Afghan community but would be open to anyone

Some internal alterations had already taken place but no external alterations to the building were proposed

To limit the impact of the application on residential amenity, Officers proposed conditions which would restrict the use of the premises to a training and education use within Class D1 and controlling numbers attending classes to 15 and up to 3 staff at any one time. The proposed hours of operation would be 10.00 – 20.00 Monday – Sunday

Members were informed of the Council's obligations under Section 149 of the Equality Act 2010, as set out in paragraph 10.4 of the submitted report

The Panel then heard from two local residents who attended the meeting and outlined their concerns about the proposals, which related to:

- highways, particularly the possibility of on-street parking which was already a problem in the area
- speeding vehicles
- that the proposals would not be of benefit to the local community
- that those attending the centre would be from outside the area

The Chair expressed his concern that a representative of the applicant had not attended the meeting

Members discussed the application, with the following main issues being noted:

- the extent of consultation by the applicant with the local community. It was noted that a leaflet had been delivered to local homes on behalf of the applicant, with some residents having concerns about the accuracy of the information it contained
- the current situation on site; the length of time the application had taken to come forward for determination and whether the application contained sufficient information for it to be validated
- the numbers likely to be attending throughout the day, whether these would be children or adults and the proposed hours of use, with concerns that operating 7 days a week could have an impact on the amenity of local residents. Members were informed that the centre would cater predominantly for adults. In terms of opening hours, Members were advised that the previous use as a public house allowed for longer opening hours than what was being proposed in this application
- the lack of details about car parking provision and public transport, particularly if most users of the centre would be from outside of the immediate area
- the lack of details about boundary treatments, landscaping and security lighting

- the possibility of the premises being used at week-ends for more social, rather than educational uses
- site security/caretaking arrangements. Officers advised there was ancillary accommodation in the premises which would be occupied by the caretaker
- that the public house use had ceased some time ago; that the premises had been vacant since 2011 and the issue of the extent of the previous opening hours should be set aside

The Panel considered how to proceed, with a suggestion being made that the application be deferred to enable the applicant or a representative to attend the meeting. However, in view of the number of concerns raised about the application a proposal to refuse the application was moved and seconded

**RESOLVED** - That the Officer's recommendation to grant permission subject to conditions be not approved and that the Chief Planning Officer be asked to submit a further report to the next meeting setting out detailed reasons for refusal of the application based upon the lack of detail in the submitted application and the concerns raised by Members in respect of car parking arrangements, operating times, nature of use of the premises, boundary treatments, lighting and security

**55 Application 15/02915/FU - Single storey side and rear extension including raised decking area with steps and balustrading - 19 Chelwood Avenue Moor Allerton LS8**

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

Officers presented a report seeking approval of an application for a single storey side and rear extension together with a raised decking area and balustrading at 19 Chelwood Avenue LS8

The difference in the land levels was highlighted and the scale and massing of the extension was outlined to Members with Panel being informed that in terms of the impact on the neighbouring property, the scheme complied with the Householder Design Guide

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

- the lack of consultation by the applicant
- an unwillingness to amend the design of the extension to lessen its impact on the adjacent property, i.e through the use of a hipped roof
- the possibility of a precedent being set if the application was agreed as proposed and the impact of this on the streetscene
- loss of sunlight and privacy
- drainage issues

Although not proposing to address the Panel, the applicant's representative was in attendance and in response to questions from Members advised that for aesthetic reasons, to create a less obvious extension, a hipped roof had not been proposed but confirmed that opting for a hipped roof would not affect the aesthetics of the streetscene greatly

Members discussed the application, with the main issues being:

- the extent of the gap between the proposed extension and the adjacent property
- the impact of the proposals on the streetscene, particularly in view of the difference in levels across the site
- the extent of what could be built under Permitted Development
- the lack of consultation with local residents and the comments of the applicant's representative about its design

The Panel considered how to proceed

**RESOLVED** - To defer and delegate the application to the Chief Planning Officer to seek amendments to the roof design to secure a hipped roof, in consultation with neighbours and in the event that amendments could not be achieved, that a further report be presented to Panel for determination of the application

**56 Application 15/03918/FU - Variation of condition 2 (approved plans) of planning permission 13/03241/FU to allow minor material amendments to east, south, west and north elevations - Conkers - The Ridge Linton Wetherby**

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

Members considered a report of the Chief Planning Officer seeking approval to make small changes to the design of a house which was granted planning permission in early 2014

The proposed changes were outlined to Panel and it was stated that a reassessment of the whole scheme from first principles was not being sought, but consideration of a number of minor material amendments and whether the proposed changes impacted on the residential amenity of neighbouring properties or its overall visual acceptability

In terms of landscaping, agreements had not been reached on this issue and this matter could be brought back to Panel if it was felt to be appropriate

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

- the impact of the proposals on her privacy
- landscaping issues and concerns about the removal of trees and the less dense replacement border planting being proposed
- issues of overlooking
- what works were proposed to the existing boundary wall and finished garden levels as it was unclear

The Panel then heard from the applicant's architect who provided information which included:

- the planning history of the site
- the nature of the minor alterations being sought
- an appreciation of the concerns about privacy and that the amendments provided for this
- that a full landscape scheme had been submitted with the application

The applicant was in attendance and responded to questions from the Panel relating to the level of local consultation which she and her husband had undertaken prior to submission of the application; that a request to remove the high conifers had been made by the objector; that a reasonably high wall, i.e. higher than currently existed, between the site and the objector's property could be agreed to and that the applicants also valued their privacy and required adequate boundary screening

Clarification was sought on the submission of the landscaping proposals, with Members being informed that the North East Area Planning Manager – who was currently on leave – had seen these but they had not yet been fully considered. In responding to the comments made by the objector and applicant, Members were advised that adequate screening was important and that Officers were confident a scheme could be worked out which protected the privacy of both parties

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

- detailed design issues relating to the proposed omission of a chimney from its original location and that this feature should be retained; consideration of the two side windows to be obscure glazed and the inclusion of a stone wall at the front of the dwelling, which was not in keeping with the area
- the difference in the levels of the site; that the site levels were not in accordance with the approved details; how the site levels would impact on the neighbouring property and the need for a supporting structure to contain the mound of earth on the site, if this was to be retained
- overlooking issues and maintenance issues relating to the dividing boundary wall in the event it was damaged by trees
- that this application was tied in with the landscaping proposals and boundary treatments

The Panel considered how to proceed

**RESOLVED** – That determination of the application be deferred to enable discussions to take place on the finalisation of the landscaping scheme, land levels, boundary treatments, aspect and design details, in consultation with the immediate neighbours, previous contributors and Ward Members and that a further report be submitted to the next meeting to enable Members to determine the application

**57 Application 15/03034/FU - Two storey rear, single storey side extension - 9 Fieldhead Drive Barwick in Elmet LS15**

Plans, including those of the previous scheme, together with photographs were displayed at the meeting. A Members site visit had taken place earlier in the day

Officers presented the report which sought the deferral and delegation to the Chief Planning Officer for approval of an application for a two storey rear, single storey side extension at 9 Fieldhead Drive which was situated in the Green Belt



Members were advised that the proposal did result in the extension having a flat roof however this was not readily visible in the streetscene and the wider area. In terms of the extent of the increase in development within the Green Belt this was calculated as being 39/40%, which, although above the 30% limit of the Council's Green Belt policy, it was less than the previous schemes which had been sought to be approved on the site and was similar to several other schemes which had been approved in the area, albeit before the current policy limit. Officers considered that the proposals did not harm the character or appearance of the Green Belt or project into open countryside and that the extension was not disproportionate. It was noted that no objections had been received to the application

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

- the extent of the increase in the building's footprint from that of its original size
- the design of the proposals and whether the Council's Design Officers had been asked to comment on this
- an appreciation of the applicant's desire to enlarge his property
- the importance of Green Belt policy
- the extent of what could be built under Permitted Development (PD). In responding on this Members were informed that the applicant had already secured agreement for an 8m extension but that a two storey development could not be considered to be PD
- the absence of objections to the proposal, particularly from the Parish Council

**RESOLVED** - To defer and delegate approval to the Chief Planning Officer subject to the expiry of the publicity period and no objections being received that raised significant new planning issues and with the conditions set out in the submitted report

**58 Application 12/05434/FU - Aberford Village Hall and land to the rear - Main Street Aberford LS25 - Appeal decision**

Further to minute 98 of the North and East Plans Panel meeting held on 27<sup>th</sup> November 2014, where Panel resolved to refuse planning permission for alterations and extension to Aberford Village Hall to form mixed use development and erection of 5 detached houses with associated car parking and landscaping, Members considered a report of the Chief Planning Officer setting out the Inspector's decision to the appeal lodged against this refusal. It was the decision of the Inspector to dismiss the appeal.

**RESOLVED** – To note the appeal summary set out in the submitted report

**59 Date and Time of Next Meeting**

Thursday 1<sup>st</sup> October 2015 at 1.30pm in the Civic Hall, Leeds

