

## **NORTH AND EAST PLANS PANEL**

**THURSDAY, 1ST OCTOBER, 2015**

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

Councillors M Harland, C Macniven,  
G Wilkinson, B Cleasby, S McKenna,  
A McKenna, P Wadsworth, B Flynn,  
J McKenna and C Towler

### **60 Chair's opening remarks**

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

### **61 Appeals Against Refusal of Inspection of Documents**

There were no appeals against refusal of inspection of documents.

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

At the start of the meeting the Chair informed the meeting that during discussions on application 14/00575/FU 56 The Drive there would be an exempt discussion relating to legal advice in connection with the case.

**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:

Discussions referred to in minute 69 under Schedule 12A (3) Local Government Act 1972 and the terms of Access to Information Procedure Rule 10.14(5) and on the grounds that there would be disclosure of information in respect of which a claim to legal professional privilege could be maintained. It is considered that if this information was in the public domain there would be potential legal implications in respect of the information discussed

### **63 Late Items**

There were no formal late items. However, in respect of application 14/0057/FU – 56 The Drive - a copy of the exempt legal information which had been circulated with the report at the meeting on 27th August 2015 was tabled to Members for information. (minute 69 refers)

## **64 Declarations of Disclosable Pecuniary Interests**

There were no declarations of disposable pecuniary interests.

However, in respect of application 15/03847/FU 29-35 Gledhow Lane, Cllr. Macniven brought to the attention of the Panel that she lived at 8 Gledhow Lane.(minute 71 refers)

## **65 Apologies for Absence**

Apologies for absence were received from Cllr. R Grahame, Cllr. J Procter and Cllr. B Selby.

Cllr. Towler attended for Cllr. Grahame

Cllr. Flynn attended for Cllr. Procter

Cllr. J McKenna attended for Cllr. Selby

## **66 Request to defer items on the agenda**

The Chair heard a request from Cllr. Wilkinson who reported a request from Cllr Rachael Procter to defer two items;

Item 12 - Application 15/04649/FU – Reighton House, Moor Lane, East Keswick on the grounds that the submitted report was incomplete.

Item 13 - Application 15/03918/FU – Conkers, The Ridge, Linton, Wetherby be deferred as although consultation had taken place with neighbours since the last meeting no agreement had been reached and that discussions should continue and include Ward Members and Officers

The Chair considered the requests and suggested that the Officers continue with their presentations on both these applications before Members took a view on whether to defer consideration of these items.

## **67 Minutes**

**RESOLVED** – That the minutes of the North and East Plans Panel meeting held on 27th August 2015 be approved subject to the following amendments:

Minute 49 – Declarations of Disclosure of Pecuniary Interests – that the minute be preceded by the following wording ‘There were no declarations of disclosable pecuniary interests, however.....’.

Minute 56 - Application 15/03918/FU Conkers – The Ridge Linton Wetherby. Councillor Wilkinson requested that the minute be altered to reflect concerns expressed that the site levels were not in accordance with the approved details

**68 Application 14/03958/OT - Land off York Road, Killingbeck Bridge**

The Panel's Lead Officer reported that a request for a site visit had been received from Councillor Selby who had raised concerns relating to access. In relation to a query from a member of the public, the Panel's Lead Officer clarified the Public Speaking Protocol at Plans Panels

**RESOLVED** – That the consideration of this application be deferred for one cycle so that Members can visit the site.

**69 Application 14/00575/FU - 56 The Drive, Cross Gates**

Further to minute 53 of the North and East Plans Panel meeting held on 27th August 2015, where Panel considered an update report on this application, accompanied by an exempt appendix relating to legal advice, Members considered a further report of the Chief Planning Officer.

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

Officers outlined the current position in respect of works to achieve a practical completion of the building and referred to additional correspondence received on behalf of the applicant requesting an extension of time for the completion of the works and from the Residents' Association raising concerns about the lack of progress; the safety of the building, with Officers pointing out that the Building Control function in this case did not rest with the Council and further concerns relating to detailed elements of the build which were beyond the planning merits of the Panel

Relating to the concern raised about the impact on neighbours of an overhanging tree on the site, Members were informed that the Environmental Action Team had contacted the applicant and that as a result, the tree issues would be considered comprehensively

The discrepancies between what was on site and the approved plans were outlined and the difference in the position of some windows were highlighted, which were largely due to the alterations to reduce the depth of the building

At this point, having resolved to undertake a discussion in relation to legal advice in private, the public withdrew from the meeting

A copy of the legal advice from Counsel which had been provided to Panel at its meeting on 27th August 2015 was circulated to Members

The Panel discussed the current position as seen on site and possible options to resolve this long-standing planning matter

The Panel's Legal adviser responded to queries from the Panel and provided information on issues relating to the Compulsory Purchase Act 1965 and the

process of serving of a Notice for demolition of the property and matters contained within Counsel's advice

Following these discussions, the public were readmitted to the meeting

In light of the legal advice Members had received on this matter, it was considered that three options were open to the Panel, these being:

- 1) whether the works to the property were at a stage where Members were content that no further action was required
- 2) that Officers should continue to monitor the works and bring back a further report
- 3) that the appropriate actions be taken to bring about the process for demolition of the property

Members discussed the options, with the second option being preferred at this stage, subject to regular progress reports being received and a strict deadline being set for completion of the works. For the avoidance of doubt, the Chair stated that if Panel resolved to pursue the second option at this time, the possibility of demolition as set out in option three and provided for in the signed Unilateral Undertaking, had not been discounted

In terms of a deadline for completion of the works a period of three weeks was suggested, with Panel considering this was a reasonable timescale. The need for a list of the works to be undertaken needed to be agreed with the applicant and that regular progress reports, i.e. every two days should be provided to Panel Members and Ward Members

The Panel considered how to proceed. The Chair commented that he considered that the Local Authority had acted reasonably in this matter and if the applicant did not meet his obligations and within the specified timescale he could be seen as acting unreasonably

**RESOLVED –**

- a) To note the report and the information provided as part of the verbal update
- b) That in light of the previous resolution and the further works undertaken in implementing planning permission 14/00575/FU that Officers continue to monitor building works on the site and that:
  - a list of works to bring about the practical completion of the external shell of the dwelling be agreed with the developer
  - that such works be completed within three weeks from the 1st October 2015
  - that Panel Members and Ward Members be updated on progress every two days
  - that a further report be presented to Panel at its meeting on 29th October 2015

## 70 Application 14/07389/FU - The Kiln, Brignall Garth LS9

Further to minute 54 of the North and East Plans Panel meeting held on 27<sup>th</sup> August 2015, where Panel resolved not to accept the officer's recommendation to approve an application for a change of use from public house to a community education and training centre (Class D1) at The Kiln, Brignall Garth, Members considered a further report of the Chief Planning Officer. The report included a possible reason for refusal of the application based upon Members' previous concerns.

Members were informed that subsequent to the Plans Panel of the 27<sup>th</sup> August 2015, a site meeting between officers and the applicant had taken place where concerns raised by Members were discussed, further information had been provided to address these concerns and this information including a timetable of proposed activities was included within the submitted report.

Members were informed that proposed changes included:

- The removal of the paved area to the front of the premises providing car parking spaces for 10 cars, therefore a total of 21 car parking spaces were now proposed
- The original proposal of a metal paladin fence to be removed and the proposal by the applicant for new boundary treatment around the perimeter of the site to comprise brick dwarf walls and brick piers with timber fencing in between.
- A 1 metre deep landscape buffer was proposed behind the front boundary treatment to help soften the current environment.

The Panel was informed that the group the Ayendah Sazan was a registered charity established in 2006. The applicants were members of the Hazara community, who came to the UK in the 1999 onwards to escape persecution from the Taliban. The scheme was supported by the local ward councillor and the Community Leadership Team who had received a presentation on the work of the group was satisfied with the amended proposals.

Two local residents spoke at the meeting against the application they outlined their concerns as:

- the size of the main room
- the access to the side of the building for vehicular access and the frequency this would be used
- noise levels
- opening hours
- possible unauthorised parking occurring on or around the premises
- the extent to which the community centre would cater for the residents living close by

In response to questions from the Panel the residents explained that when the Kiln had originally opened as a public house it had been well run, a nice social meeting place used by local people. However, when it had been sold with a change of landlord the public house became a meeting place for people from

outside the area and prior to its closure there had been problems with anti-social behaviour.

The Panel then heard representation on behalf of the applicant who informed them that he appreciated the concerns raised by the local residents. He said that the premises would be used as a training and educational facility to assist the Hazara community to integrate into society and assist their children with school work.

In response to questions about parking he informed the Panel that an attendant would be employed to control the parking arrangements.

The applicant said that the timetable within the submitted report was for information to show the type of courses that they would be running, the opening hours could be flexible but the opening times were to enable those who worked to attend classes and for children to attend after school. The representative said that the applicant would be open to suggestions for changes including:

- a reduction of opening hours at weekends.
- no more than 20 Cars on site at any one time
- an increase in the time between classes/meetings
- local residents would be welcome to visit the premises and to participate in the classes/meetings if they wished

The Panel's Lead Officer explained to the Panel that as planners they were unable to control ownership of a premises, however, they were able to restrict what the building was used for and set conditions to reduce the effects of the proposed use. He reminded the Panel that there was a fall-back position that the premises could again be used as a public house subject to a premises licence being granted.

The Head of Planning Services suggested Members may wish consider a revision for hours of opening to 10:00am to 8:00pm Monday to Friday, 10:00am to 6:00pm on Saturday and 10:00am to 4:00pm on Sunday and that an additional condition be included for the submission and agreement of a noise management plan, including for construction.

Members discussed the application with the main issues being:

- weekend opening hours, Saturday opening 10:00am -18:00 being acceptable but consider reducing the hours on a Sunday to 10:00am - 16:00
- requesting that permeable car parking surface be used
- concerns in relation to unauthorised parking particularly in view that a residents only parking is in operation in the area
- sufficient time being allowed between classes/meetings so as not to cause issues with parking

Members carefully considered the views of all parties.

**RESOLVED** –That the application be granted planning permission subject to the conditions specified on page 20 of the submitted report with the following amendments and additions:

- Opening hours be restricted to 10:00am to 8:00pm Monday to Friday, 10:00am to 6:00pm on Saturday and 10:00am to 4:00pm on Sunday.
- That a noise management plan (including for construction) be submitted.
- That external construction and building works shall cease before 5:00pm on any weekday, before 1:00pm on Saturday and no external construction / building works shall take place Sunday or Bank Holidays.
- Details of a scheme of permeable paving for the parking areas shall be submitted and approved and carried out in accordance with the approved details.

Cllr. Flynn left the meeting after the consideration of this item.

#### **71 Application 15/03847/FU - 29-35 Gledhow Lane**

Officers presented a report seeking approval for the demolition of existing outbuilding; conversion of existing buildings to three dwellings with associated parking and landscaping at 29-35 Gledhow Lane, LS8.

Plans and photos were displayed at the meeting and Members had visited the site prior to the meeting.

The Officers recommendation was to grant permission subject to conditions set out in the submitted report.

Members were informed that this was a sustainable location comprising of large semi-detached houses with good links in to the city.

The three two storey buildings located in the Roundhay Conservation Area which were adjacent to a Grade II Listed Building were currently used for commercial purposes. Number 29 the outbuilding was set slightly apart from the other buildings the proposal was to demolish this building to allow car parking for three cars.

The proposal for the three dwellings was to have skylights to the rear of the properties to allow sufficient light into the properties. The skylights would overlook the neighbouring property. The Panel was informed that the proposal stated that the skylights would not directly look over the property at the rear as the internal floor level in the three dwellings would be 2.5 metres. The proposal was to have openings only at the bottom of the skylights and for them to be fitted with obscured glazing.

The Panel heard from Councillor Urry the local ward member, on behalf of the local residents against the application.

The local ward member highlighted a number of concerns with the application including:

- that the buildings had a history of flooding several times a year
- the heritage nature of the building and its unique character due to the small businesses it housed
- bin storage
- addition of skylights could cause issues with the roof trusses
- the skylights overlooking the property at the rear and the need for fixed skylights with opaque glazing
- extraction of fumes for gas appliances
- access to the dwellings through a narrow opening and restricted view when leaving to properties and entering a busy main road.
- close proximity to primary schools and a nursery
- that the scheme represented overdevelopment and should be refused

The Panel also heard from the architect representing the applicant who stated that he did not wish to address the Panel but was available to respond to questions.

In response to questions from the Panel further information was obtained:

- flooding – if granted planning permission the developers would work with building control to address the issue of flooding prior to the start of any works.
- he told how his client had consulted with the business owners and was assisting in the search for new business premises within the local area.
- that currently some on-street car parking occurred from the premises but the inclusion of car parking for the proposed properties would reduce on-street parking
- that the location of extractor fans and flues would be sited either to the front elevation, or through the roof with a slate ventilator tower
- the properties if converted could be for sale or rent

Members were of the view that the size of the accommodation being proposed could possibly accommodate two dwellings but what was proposed was overdevelopment.

The Highways Officer informed the Panel that it was recognised that the parking area was tight and although the access gap was narrow it was wide enough to get a car through.

The Highways Officer explained to the Panel that the businesses currently on the site did generate some on street and commercial parking. The properties benefit from an established access within a sustainable location, and taking into account the guidelines it would be one low key use for another. He informed Members that there had been no relevant recorded accidents in the vicinity of the site access.



The Panel's Lead Officer addressed Members concerns on the issue of flooding explaining that flooding was a material planning consideration the test was not to resolve the issue but ensure that through flood risk management the development did not make the existing situation worse.

**RESOLVED** - Members resolved not to accept the officer recommendation to grant planning permission and delegated the refusal of the application to the Chief Planning Officer. The reason for refusal being along the following lines:

The proposal constitutes an overdevelopment of that site that will fail to provide an adequate level of amenity for the prospective occupiers of the accommodation by reason of the size of some of the rooms, inadequate parking and amenity space provision, as such the proposal is contrary to Policy P10 of the Leeds Core Strategy Saved Policies GP5 and BD5 of the Leeds Unitary Development Plan Review 2006, Supplementary Planning Guidance Neighbourhoods for Living, and the National Planning Policy Framework.

## **72 Application 15/01677/FU - 7 Fern Way, Scarcroft**

Officers presented a report on an application for single storey front/side and two storey side extension, with dormer windows at 7 Fern Way, Scarcroft, LS14. The application was brought to Plans Panel by Councillor R Procter as a result of a number of objections being raised and a number of trees that have been felled on land close to the site.

Plans and photos were displayed at the meeting.

The Planning Officer explained that this was a stone built two storey building along a private drive with no access to the property from Syke Lane, however, the recent removal of some trees including some with Tree Preservation Order (TPO) have provided a view into the property.

The applicant had agreed to replant trees and this was covered by a separate agreement for application to plant trees.

The letters of objection had raised the following concerns:

- the new access off Syke Lane would cause highway safety concerns and harm the character of the rural area.
- a number of mature trees have been removed from the site and from the grass verge off Syke Lane.
- the balcony would raise overlooking concerns.
- the extensions were too large for the plot
- the proposed dormers would appear at odds with the design of the building and the character of the area.
- the proposed new garage would over-dominant and overshadow No.9 Fern Way.

Concerns had also been raised by Highways to the proposed new access on to Syke Lane.

As a result of the concerns raised the drawings had been revised these were the subject of the submitted report. These omitted the access road from Syke Lane and the two storey extension and balcony which were proposed at the north-western elevation of the dwelling had now been reduced to single storey and the balcony omitted from the plans.

Since the revised drawings were submitted no further objections have been received.

Members were shown properties within the vicinity which have also been extended.

**RESOLVED** – That the application be granted subject to the recommendations within the submitted report.

### **73 Application 15/04649/FU - Reighton House, Moor Lane, East Keswick**

With reference to minute 134 of the North and East Plans Panel meeting held on 5th February 2015, where Panel considered a report relating to unauthorised works to dwelling at Reighton House East Keswick LS17, the Panel considered a further report of the Chief Planning Officer setting out the submitted application. Members noted that earlier in the meeting a request had been made by Cllr. Wilkinson on behalf of Cllr. R Procter to defer consideration of this application on the basis that the report was incomplete; that there were issues around the height of the dwelling and its size and that it did not comply with Green Belt Policy with it being decided to hear the Officer presentation and for the Panel to decide how to proceed.

Photos and plans were displayed at the meeting. Members had visited Reighton House prior to the meeting.

The Panel's Lead Officer informed Members that the height of the building had been surveyed as part of the monitoring process, but that Councillor R Procter did not share the conclusions which had been reached on this. Members were informed that the ridge height was in the region of 40cm lower than the original, however the roof tiles had not yet been put on and in respect of the size, it was accepted that the level of the extension was well above the 30% allowed under policy.

Reference was also made to the Certificate of Lawfulness which had been granted and which had been discussed at North and East Plans Panel meetings in November 2014 and February 2015

The application that had been submitted had been prompted by the Panel's comments at the meetings in November 2014 and February 2015 that a planning application be sought. The Panel was reminded that the applicant still had a fall-back position of a valid Certificate of Lawfulness.

Members were informed that although the proposed family room was now slightly larger there was a reduction in the overall cubic content. Planning permission would secure issues of landscaping where a Certificate of Lawfulness would not.

Officers considered that the proposals were better and had less impact.

Councillor Wilkinson drew Members' attention to points of concern raised by Councillor R Procter who had been unable to attend.

The points of concern being:

- the Green Belt Policy of 30%
- that temporary structures had been included in the area to be redeveloped which was not appropriate
- landscaping could be moved at any time
- no mention in the report of requests by Officers to stop work and building continuing
- that the application should have been referred to the Secretary of State

In response to the concerns raised the Panel were informed:

- that landscaping formed part of the conditions and should be in position for at least 5 years, replacing plants should they die during that time
- that the development was not of such a size to be referred to the Secretary of State and the applicants had made it clear that they would not stop the build as they had a valid Certificate of Lawfulness.
- officers had asked that works be stopped but the applicant had made it clear that he had a Certificate of Lawfulness and would carry on

The Panel was informed that there had been no objections raised by neighbours or the Parish Council.

The Panel noted the discussions that had taken place with Ward Members

**RESOLVED-** That the application be granted subject to the recommendations outlined in the submitted report.

#### **74 Application 15/03918/FU - Conkers, The Ridge, Linton, Wetherby**

Further to minute 56 of the North and East Panel meeting held on 27<sup>th</sup> August 2015, where Panel deferred determination of an application for changes to the design of a house – Conkers, The Ridge, Linton, which had been granted planning permission in early 2014, for discussions on a range of issues, the Panel considered a further report of the Chief Planning Officer.

Photos and plans including proposed landscaping were shown at the meeting.

A proposal for boundary treatment was to remove conifers at the side and rear boundary and replanted with evergreens and ornamental shrubs.

Members were reminded of the application and provided with a brief overview of the issues in relation to the objections received from neighbours.

During the presentation the Panel were shown slides that featured cross sections on how the slight differences in land levels between Nithbank and Conkers would be addressed.

The property at South Breeze was slightly higher than that of Conkers, the concerns raised by neighbours at South Breeze were in relation to the height of the wall adjoining the two properties; the boundary treatment would increase the rear wall and planting. The application also recommended that the link to the garage roof be altered to improve the outlook.

Councillor Wilkinson raised concerns on behalf of Councillor Procter in her absence and stated that although a meeting had taken place with the immediate neighbours nothing had been agreed. In view of this Councillor Wilkinson moved that the application be deferred but this was not supported.

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

Cllr. Wadsworth left the meeting after the consideration of this item.

**75 Applications 15/02634/FU & 15/02635/FU - Marks and Spencers, Horsefair, Wetherby**

Further to minute 51 of the North and East Plans Panel meeting held on 27<sup>th</sup> August 2015, where Panel agreed to defer consideration of applications relating to delivery hours and erection of a permanent storage facility at the Marks and Spencer store in Wetherby to enable a Members site visit to take place, the Panel considered a further report of the Chief Planning Officer.

Photographs were displayed at the meeting and Members had attended a site visit earlier in the day.

Objections to both applications had been received from Wetherby Town Council and concerns raised by residents at Victoria Court. It was stated that Cllr. J Procter did not object to the applications but had requested that they be considered by Plans Panel due to the concerns about the impact to local residents.

The changes to the delivery times sought a variation in condition 1 of a previous approval to allow deliveries to be received an hour earlier. Currently deliveries are allowed between 08:00 and 18:00 hours Monday to Saturday and 10:00 and 13:00 hours on Sunday and bank holidays.

Members were informed that historically there had been previous permissions for extending opening hours over the Christmas period.

A planning permission for longer hours had been refused in the past due to the impact on residents living above the premises.

The current application sought delivery hours to be increased by one hour in the morning, starting at 07.00 Monday to Saturday and 09.00 on Sundays and Bank Holidays

In terms of storage on the site, unauthorised storage was occurring at the front of the store as there was insufficient internal storage to cater for what was a busy and popular store. The proposals were for a timber building with a felt roof to be constructed, with Officers being satisfied on the visual appearance of the proposed building.

On the issue of extending the delivery hours, objections had been received from a number of residents who lived above the premises, with the issues raised being outlined to Panel. The receipt of two letters of support also from residents who lived above the store was reported.

Members were informed of the comments received from colleagues in the Environmental Protection Team who had given strong advice to the effect that deliveries commencing at the times proposed by the applicant would lead to noise and disturbance for local residents.

The Officer's recommendations in the submitted report to approve the storage building and refuse the extension of delivery hours were noted.

The Panel firstly discussed the application for the new storage facility with concerns being raised in respect of:

- the need for the additional storage in view of an existing building at the end of the car park which appeared not to be fully utilised, except for the storage of disused items
- the location and appearance of the proposed storage and that it was inappropriate in siting and design

As Members were minded to refuse the application, the applicant's agent was invited to address the Panel, with the main points being raised relating to:

- the lack of space at the store and that alternative locations for the storage had been considered but no other suitable, safe location had been identified
- that the existing storage area was used to capacity

The Panel considered how to proceed and the Chair asked if Marks and Spencer would enter into a constructive dialogue with Ward Members, with the applicant's agent stating there was no reluctance from his client to speak with Ward Members

Members then considered the second application relating to the extension of hours, with the applicant's agent being invited to address the Panel

The main points raised by the applicant related to:

- the benefits to the local road network and of taking deliveries out of the peak morning period
- the use of the company's quiet delivery protocol

- consultation with residents living above the store which had indicated initially there was broad support for the application
- deliveries at Morrisons supermarket located close by which began at 06.00

Members considered how to proceed

RESOLVED – To defer determination of both of the applications to enable further negotiations with the applicant in consultation with Ward Members and that a further report be submitted to Panel to enable Members to determine the applications and to note that the applicant's agent had agreed that Marks and Spencer would meet with Ward Members

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

Thursday 29<sup>th</sup> October 2015 at 1:30pm in the Civic Hall, Leeds