

## **Plans Panel (East)**

**Thursday, 14th January, 2010**

**PRESENT:** Councillor G Latty in the Chair

Councillors D Congreve, R Finnigan,  
P Gruen, M Lyons, J Marjoram, A Taylor,  
P Wadsworth and D Wilson

### **139 Chair's opening remarks**

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

### **140 Late Items**

There were no formal late items, however Panel Members were in receipt of the following additional information to be considered at the meeting:

Application 09/00541/OT – The Avenue Collingham LS22 – a letter of representation from Councillor Rachael Procter

Application 09/02871/FU – Churchside Villas Methley – further written information and photographic images submitted by an objector

Natural Resources and Waste Development Plan Document Policy Position Report (Preferred Options) – maps and a summary document circulated by Officers

### **141 Declarations of Interest**

Application 09/05236/LA – Residential development at Easterly Mount Gipton – Councillors Congreve, Lyons and Wadsworth declared personal interests as members of West Yorkshire Integrated Transport Authority as Metro had commented on the proposals (minute 153 refers)

Applications 09/05236/LA and 09/05235/LA – Residential developments at Easterly Mount Gipton and St Wilfrids Avenue Harehills – Councillor Wadsworth declared personal interests through being a director of East North East Homes ALMO which would manage the properties (minutes 153 and 154 refer)

(Further declarations of interest were declared later in the meeting - minutes 148, 153 and 154 refer)

### **142 Apologies for Absence**

Apologies for absence were received from Councillor Parker

### **143 Update on an appeal decision**

The Head of Planning Services, who was in attendance referred to a recent planning appeal decision in respect of an appeal against non-determination of application 09/01678/OT – detached dwelling at land adjacent to 16a Church Lane Bardsey. At the Plans Panel East meeting held on 30<sup>th</sup> July 2009 Members had

been asked to indicate what their decision would have been had they been in a position to determine the application (minute 51 refers). Panel had indicated it would have refused the application on grounds relating to access to the site; the status of the Street Design Guide; drainage; siting of the dwelling and its effect on the adjoining Conservation Area

The Panel was informed that the appeal had been upheld

In reaching a decision the Inspector had considered carefully the Street Design Guide which had been adopted by the Council and also had regard to a previous appeal decision on the site and the revisions put in place by the applicant to address those concerns

Whilst the Inspector accepted that the application did not comply with the Street Design Guide he concluded that it did not undermine it

A costs application against the Council had been successful and this was currently being negotiated by the Head of Planning Services

#### **144 Request for a site visit**

Councillor Lyons requested that agenda item 11, application 09/04286/FU – extensions to 164 Ring Road Halton LS15 be deferred to enable a site visit to take place prior to the next meeting on the grounds of residential amenity

**RESOLVED** - To defer consideration of the application to enable a site visit to take place

#### **145 Training**

The Chair referred to planning viability training which had been offered to the Panel - with this having been arranged for 27<sup>th</sup> January between 12 noon -2pm - and encouraged Members to attend as currently only one Member had taken up the offer

Councillor Gruen stated that only one date and time had been given to Members who often had prior commitments they could not cancel, so explaining the low level of response

It was agreed that this would be taken up with Officers

#### **146 Minutes**

**RESOLVED** - That the minutes of the Plans Panel East meeting held on 10<sup>th</sup> December 2009 be agreed

#### **147 Application 09/00541/FU - Outline application to erect three detached houses at the rear of Bryn, Winton House and Towerhurst, The Avenue Collingham LS22**

Further to minute 129 of the Plans Panel East meeting held on 10<sup>th</sup> December 2009 where Panel resolved to defer consideration of an outline application for three detached houses at the rear of properties known as Bryn, Winton House and Towerhurst on The Avenue Collingham LS22 for a site visit, Members considered the application

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

Officers briefly presented the report which had been discussed in detail at the previous meeting where speakers for and against the application had been heard  
**RESOLVED** - That the application be refused for the following reason:

The application site comprises mature garden spaces that are prominent in the streetscene, provide a positive element in the landscape, are intrinsic to the character of the local area and consequently are of significant public value. The proposed development by reason of its scale, extent and layout results in the loss of these mature gardens and produces a form of development that is inappropriate in its content and that fails to take opportunities available for improving the character and quality of the area. Consequently the proposed development is contrary to policies GP5, N12, H4 and BD5 of the Unitary Development Plan Review (2006) and the guidance set out in Planning Policy Statement 1, 'Delivering Sustainable Development' and Planning Policy Statement 3 'Housing'

**148 Application 09/01462/FU - Variation of condition 22, laying out of car parking area of application 07/03669/FU at Peel Street/ Melbourne Street Morley LS27**

Further to minute 136 of the Plans Panel East meeting held on 10<sup>th</sup> December 2009 where Panel resolved to defer consideration of the application for additional information and a site visit, Members considered the application

Plans and photographs were displayed at the meeting. A site visit had taken place earlier in the day which some Members had attended. Appended to the report were copies of a photographic survey undertaken on behalf of the applicants, with better quality copies having been circulated to Members prior to the meeting

Officers presented the report which sought permission for the variation of condition 22 (laying out of car parking area) of application 07/03669/FU for 13 one bedroom flats with 13 car parking spaces at Peel Street/Melbourne Street Morley which was approved by Panel at its meeting held on 30<sup>th</sup> August 2007 (minute 84 refers)

Members were informed that the residential development had been erected and that this application sought to reduce the number of car parking spaces to nine, with these being unallocated, but for use by the flats

Since the grant of planning permission in 2007 the Council had adopted the Street Design Guide and there had also been a change in national guidance regarding parking for residential developments. The Panel's Highways representative stated that nine, unallocated car parking spaces met the requirements and did accord with the needs arising out of the development

Members commented on the following matters:

- the likelihood of the unallocated spaces being used by people visiting the commercial properties opposite the flats
- that whilst conditions could be imposed to prevent inappropriate parking, the difficulties in enforcing these, particularly due to the high work load of the Department's Compliance Section
- concerns at the number of complaints Ward Members received arising out of planning conditions which were not enforced
- that a smaller development would require some level of parking, yet in this case four flats would not have the benefit of a parking space

- the card entry system and how this operated in terms of visitors to the flats
- that the applicant had accepted the application in 2007 for 13 car parking spaces
- that the area was busy, with particular traffic problems occurring on Saturdays

As the Panel seemed minded to refuse the application the Chair invited the applicant's agent who was in attendance, to address Members

Members were informed of the low level of car ownership amongst the tenants of the development, with only 4 of the current tenants owning cars

Members considered how to proceed and were minded to refuse the application

The Head of Planning Services stated that what was before Members was a retrospective development which was occupied and that if the application for a variation of the car parking condition was refused and the decision appealed by the applicant, the Council would need to provide evidence that the lack of car parking was causing a problem. The current legislation would be considered by the Inspector and that if the evidence could not be provided to show that car parks were full, then the decision to refuse the application could be viewed as unreasonable and an award of costs could be made against the Council

**RESOLVED** - That the Officer's recommendation to approve the application 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 of the application based upon the concerns of Members that a lesser number of car parking spaces would be inadequate, causing harm to highways safety

Further to minute 141, Councillor Finnigan declared a personal interest during consideration of this matter, through being a member of Morley Town Council which had objected to the proposals

**149 Application 09/02871/FU - Change of use and alterations of former joiners shop to form one 4 bedroom dwelling house with attached car port with 2 car parking spaces - Churchside Villas Methley LS26**

Further to minute 124 of the Plans Panel East meeting held on 10<sup>th</sup> December 2009 where Members deferred consideration of the application for a site visit, Panel considered the application

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

Officers presented the report which sought permission for a change of use and alterations of a former joiners shop to form a four bedroom dwelling with car parking at Churchside Villas Methley which was situated in the Methley Conservation Area

The proposals would involve the renovation of much of the main building, although some rebuilding would be required to part of the building due to its dilapidated condition

The property was sited closely to other residential properties with some neighbours using an area to the rear of the former joiners shop for bin storage and to site washing lines

The Panel heard representations on behalf of the applicant and an objector who attended the meeting

Members discussed the following matters:

- the vehicular and pedestrian access arrangements
- the wall to the rear of 3 – 7 Churchside Villas and whether access would remain for these properties
- the trees on site and whether any were covered by a TPO

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

**150 Application 09/04229/FU - Single storey rear extension and enlarged balcony with covered area to rear (other single storey rear extension is Permitted Development ) at Oaktree House 9 Blackmoor Lane Bardsey LS17**

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

Officers presented the report which sought permission for an extension and enlarged balcony area at Oaktree House, 9 Blackmoor Lane Bardsey LS17

Clarification of the distance between Oaktree House and the adjacent property was sought. This was confirmed as currently being approximately 7m, with this degree of separation remaining even if the proposals were approved

Whilst the concerns raised by the owners of 7 Blackmoor Lane were understood, it was felt that there would be little detriment to their amenity due to the screening of the extension which would be provided by the existing hedge

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

**151 Application 09/04313/FU - Detached stable block/hay store and menage to rear of dwelling - Holly Croft Sandhills Thorne LS14**

Plans, including a revised location plan and photographs were displayed at the meeting

Officers presented the report which sought approval for a small stable block/hay store and ménage to rear of Holly Croft, Sandhills Thorne LS14 to accommodate a horse to be ridden by the applicant's children

Although an objection had been received on the grounds that the proposals would encroach into the Green Belt, Members were informed that this was incorrect and perhaps unusually, the proposals would result in the area of the domestic curtilage being reduced

The Council's Agricultural Surveyor had considered the proposal for the stable and although this was small, it did comply with the minimum legal size required, albeit this was marginal

Concerns were expressed about the size of the stable and why the applicant was not choosing to construct a larger stable

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

**152 Application 09/04522/FU -Replacement 5 bedroom dwelling at Warren House The Ridge Linton**

The Panel's Lead Officer informed Members that the applicant, neighbours and the Ward Member had reached agreement on the issues which had been causing concern with an application for a replacement 5 bedroom dwelling at Warren House The Ridge Linton

In view of this, Officers asked that grant of planning permission be deferred and delegated to the Chief Planning Officer, subject to additional conditions

**RESOLVED** - That grant of planning permission be deferred and delegated to the Chief Planning Officer subject to conditions relating to a reduction to 400mm to the finished floor levels and a requirement for natural stone to be used for the external wall materials

### **153 Application 09/05236/LA - Residential development comprising 39 houses, 2 two bedroom flats over garages and 12 two bedroom flats Easterly Mount Gipton**

Plans, graphics and photographs were displayed at the meeting

Officers presented the report which sought permission for a 53 unit development on a brownfield site comprising 39 houses, 2 two bedroom flats over garages and 12 two bedroom flats in 1 three storey block at Easterly Mount Gipton. A similar, smaller scheme for 10 three bedroom semi-detached houses at St Wilfrid's Avenue was also discussed

Members were informed that there was an extant permission for a 53 unit housing scheme granted as part of the EASEL Phase 1 development programme. Unlike that scheme, the proposals would provide 100% affordable housing and would be built to higher environmental standards, with grant funding for the proposals being obtained from the Homes and Communities Agency (HCA) and matched funded by the Council

The Panel was informed that usually a scheme of this size would require developer contributions towards greenspace, education and transport. Although the previous scheme had provided for developer contributions, the scheme before Members would not include these. Officers referred to the decision taken by Executive Board at its meeting on 13<sup>th</sup> February 2009 which allowed for a waiver of the planning contributions for greenspace on 100% affordable housing schemes of below 50 units and funded via the HCA. Panel was also informed that whilst the scheme exceeded this threshold, Executive Board had agreed to the funding mechanism for this development at its meeting on 4<sup>th</sup> November 2009; this funding mechanism did not allow for additional costs

Details of the materials and colour schemes were provided as was information on the amount of consultation which had been carried out on these proposals and the lack of public response to this. As the public notification period for this and the following scheme (minute 154 refers) expired on 14<sup>th</sup> January 2010, Officers were seeking for the decisions on these schemes to be deferred and delegated to the Chief Planning Officer

Members commented on the following matters

- the reluctance of Members to support proposals containing flats over garages
- the role of Plans Panels to consider all material planning considerations including all associated financial considerations and concerns that the Executive Board had waived developer contributions

in this case, so taking this out of the Plans Panel East's remit, with concerns being raised how this would appear to the public

- that the Panel was in effect being instructed not to consider a material planning consideration. On this point, the Panel's legal representative stated that he was not aware that this had been an instruction from Executive Board and that he was of the view that the Panel did have the final say on what considerations should be made
- that developers in the private sector were indicating they were unable to provide elements of schemes as they could no longer afford them, yet the Panel was being recommended to accept a scheme which did not provide the usual contributions and where the applicant was Leeds City Council
- that if the decision taken by Executive Board should be regarded as guidance not instruction, that Education Leeds and Metro should be consulted regarding who should pay for these elements
- that originally Executive Board had agreed to waive greenspace contributions for schemes of 50 units and under which provided 100% affordable housing; that this scheme was for 53 units and that contributions had seemed to have been waived in this case also, together with concerns relating to the role of Executive Board in this matter and how the number of units not requiring contributions had been arrived at
- concerns that if planning permission was granted that this area of the city would be provided with something it might not be satisfied with; that the lack of education and public transport contributions could add to pressures on school places and lead to increased car use and that the aims of the Natural Resources and Waste Development Plan Document to be discussed later in the meeting were unlikely to be achieved if contributions were not included in such developments
- acknowledgement of the situation as set out in the submitted report that the local housing market would need to return and then exceed 2007 house prices before developments would become financially viable
- the difficult position the Panel now faced in determining these applications
- the need for social housing in the city
- the properties which had been demolished for the EASEL project which was now not forthcoming in its original form and whether any contributions would be provided on the remaining EASEL sites
- whether by agreeing to these two schemes without developer contributions the Panel would be setting a precedent if other schemes came forward. On this point, the Panel's legal representative stated that any decision on these schemes would not tie the Panel's hands for the future and that each application would need to be considered on its merits
- regarding the lack of response to the proposals, that local residents had been extensively consulted on plans for the area over a long period and possibly felt they had already commented

- regarding the lack of a contribution towards education, that several high schools were in a reasonable distance of the site and that many primary schools in the area were increasing their pupil numbers
- that good public transport already existed in the area
- that the scheme would maintain the jobs which currently existed on site and had the potential to create more
- that the proposals would result in development investment in excess of £7million and that the lack of developer contributions would be compensated for by a reduction in the housing waiting list

Officers provided the following responses:

- that the proposals had arisen due to an opportunity to secure short-term grant funding. Whilst EASEL sites 3, 4, 6 and 8 fell within the Strategic Development Agreement and would be developed for private housing at a profit, if the schemes could be developed within the lifetime of the planning permission, the two sites before Members had been cleared some time ago on the basis of the decency programme and as they were difficult to let. The Council's Regeneration Team had been working to secure some regeneration in the area and had developed these schemes which would deliver a total of 63 affordable units across the two sites

Members considered how to proceed

Concerns were raised that as a member of Executive Board, Councillor Finnigan had not declared his prior involvement in this matter

Following advice from the Panel's legal representative given privately to Councillor Finnigan, Councillor Finnigan chose to declare a prejudicial interest in this matter

Having been present during the debate on these applications discussion ensued as to whether Councillor Finnigan should withdraw from the meeting prior to the decision being taken. The Panel's legal representative confirmed the view voiced by some Members that having declared such an interest that Councillor Finnigan must leave the room

(Councillor Finnigan withdrew from the meeting )

The nature of the interest declared by Councillor Finnigan related to being a member of Executive Board which had taken decisions relating to waiving of contributions on 100% affordable housing schemes of 50 units or less and the financial mechanism for the provision of 63 affordable units in applications 09/05236/LA – Easterly Mount Gipton and 09/05235/LA – St Wilfrids Avenue Harehills

In considering the recommendation in the submitted report, two amendments were suggested by Panel

**RESOLVED -**

i) To defer and delegate to the Chief Planning Officer for approval, subject to the conditions set out in the submitted report and to allow the expiry of the public notification period and no adverse representations being received that raise new issues, but to reaffirm that developer contributions were generally expected to be levied in accordance with the scheme, but for the reasons given, ie the need for



regeneration of the sites; the need for social housing and the financial viability case as set out in the report, that the recommendation be accepted

ii) That Executive Board be recommended to review any such schemes in the light of the financial situation at the time and be advised of the points raised during the Panel discussion

**154 Application 09/05235/LA - Residential development comprising 10 three bedroom semi-detached houses at St Wilfrids Avenue Harehills**

With reference to the discussions on application 09/05236/LA – residential development at Easterly Mount, (minute 153 refers) Members considered an application for 10 three bedroom semi-detached houses at St Wilfrids Avenue Harehills, which was a brownfield site and had formed part of the EASEL scheme

**RESOLVED** - To defer and delegate to the Chief Planning Officer for approval, subject to the conditions set out in the submitted report and to allow for the expiry of the public notification period and no adverse representations being received that raise new issues

(At this point, Councillor Finnigan resumed his seat in the meeting)

The decisions referred to in this minute and in minute 153 above were taken in the course of one debate during which the following interests were declared:

Councillor Finnigan – personal and prejudicial interest through being a member of Executive Board which had taken decisions relating to waiving of contributions on 100% affordable housing schemes of 50 units or less and the financial mechanism for the provision of 63 affordable units in applications 09/05236/LA – Easterly Mount Gipton and 09/05235/LA – St Wilfrids Avenue Harehills

Councillor Gruen declared a personal interest through being a member of the Affordable Housing Strategic Partnership Board as the schemes provided 100% affordable housing

**155 Natural Resources and Waste Development Plan Document Policy Position Report (Preferred Options)**

(Prior to consideration of this item, Councillor Gruen left the meeting)

The Panel considered a report of the Chief Planning Officer setting out the content of the Natural Resources and Waste Development Plan Document Policy Position Report to enable Members to comment on this as part of the informal public consultation which would commence on 18<sup>th</sup> January 2010 and run for six weeks

A copy of the Policy Position Report Summary and two plans were tabled at the meeting

An Officer from the Strategy and Policy Section within City Development Department presented the report and outlined the main points of the document relating to:

- land use – including the need for efficient use of previously developed land, particularly contaminated land and the safeguarding of existing rail sidings and canal wharfs

- minerals and aggregates – with existing mineral sites being safeguarded for continued mineral purposes and future capacity also being considered
- water resources – including the need to ensure space was made for floodwater by protecting areas of functional floodplain and by ensuring that developments in flood risk areas provide space for flood water; requiring developments to take measures to reduce the rate of surface water run-off and require developments to include water efficiency measures
- air quality – including measures for improving air quality commensurate to the scale of the development and investigations into the benefits of low emission zones
- sustainable energy use – with significant encouragement being given to more renewable energy generation and heat distribution
- waste – the importance of reducing, re-using and recycling the level of waste which is produced; to generate energy from waste; that existing waste sites would be safeguarded and to allocate new strategic waste sites and to identify existing industrial estates which would have the capacity for more waste and mineral-type uses

Members were informed of the public consultation events which would be taking place over the six week period with several events taking place in local supermarkets

Members commented on the following matters:

- where the proposed waste incinerator would be sited
- the likelihood of considerations having been given to the transportation of waste to an incinerator
- whether it was a policy to move waste by rail
- whether the railway site at Neville Hill was being reserved to move waste in view of the comments at paragraph 4.2 of the submitted report that to improve air quality and reduce carbon emissions, more opportunities would need to be made for alternative transport from road, with the use of railway sidings being a possibility
- the view being expressed that the Wholesale Market site on Pontefract Lane was the most likely site to house an incinerator
- why proposals existed to demolish good quality homes and build a railway siding in close proximity to a possible site for a waste incinerator on Pontefract Lane
- the consultation process and when local people, particularly those living in close proximity to the site on Pontefract Lane, would be consulted
- that the points included in paragraph 4.5 of the submitted report did not address the demand for water and that greater recycling of water was needed
- concerns at the possible introduction of Low Emission Zones (LEZs); that for some people a large car was necessary and if penalties for owning such a vehicle were introduced there was the possibility that people would purchase a second car to drive in LEZs

- that a reasoned debate was needed on the use of wind turbines for the provision of energy but that the use of gas and coal would still be heavily relied upon
- whether the number of turbines which would be required to meet the target given to Leeds could be achieved given the siting restrictions relating to the airport and the MOD restrictions which had prevented the Hook Moor site from being suitable
- the possibility of buying in renewable energy from other districts
- the need for local communities to be involved in the debate on renewable energy, possibly through benefiting from reduced bills from locally produced energy
- the hope that the points raised would be fed into the consultation

The following responses were provided, however the Chair stated that specific information relating to the site of any proposed waste incinerator and technical details could not be addressed by the Officer who was present

- that not all rail sidings and wharfs could be safeguarded
- that in terms of consulting with the local communities close to the possible incinerator sites that colleagues within the Department were working on a further consultation programme
- that developments which aimed for a BREEAM 'excellent' rating were welcomed
- that the point raised regarding LEZs and car use was interesting and that the whole issue of LEZ's would need to be treated with caution
- regarding the ownership of wind turbines, that in some parts of the country there had been successful local ownership

The Panel noted Councillor Lyons' request for the issues he had raised to be minuted and that responses to these points be forwarded to him

**RESOLVED** - To note the report, the presentation and the comments now made

(During consideration of this item, Councillor Congreve left the meeting)

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

Thursday 11<sup>th</sup> February 2010 at 1.30pm in the Civic Hall, Leeds