

MATTER WHICH THE SUB-COMMITTEE DEALT WITH UNDER DELEGATED POWERS

16/07 - **PLANNING APPLICATION REFERRED TO SUB-COMMITTEE FOR DETERMINATION:** The Sub-Committee considered an application made by Barratt York, for the erection of 38 dwellings, including 19 affordable units with associated garaging, hard and soft landscaping with formation of three new vehicular accesses onto Bogs Lane, felling and various works to various trees under Tree Preservation Order 40, 2001 (site area 1.88ha Revised Scheme), which had been referred up from the Planning Committee at its meeting held on 3 July, 2007.

(Minute part dealt with in exempt session. There is also an unpublished minute).

The Sub-Committee made the decision indicated viz:-

(D)

16/07 (01)

CASE NUMBER: 07/02037/FULMAJ
GRID REF: EAST 432706 NORTH 456560

APPLICATION NO.: 6.79.7354.C.FULMAJ

LOCATION:

Former Builders Yard Land To South Of Bogs Lane Harrogate North Yorkshire HG1 1JF

PROPOSAL:

Erection of 38 dwellings including 19 affordable units, with associated garaging, hard and soft landscaping with formation of 3 new vehicular accesses onto Bogs Lane, felling and various works to various trees under Tree Preservation Order 40/2001 (site area 1.88ha, Revised Scheme)

APPLICANT: Barratt York

APPROVED subject to the following conditions:-

- 1 The development hereby permitted shall be begun on or before 26/07/2010.
- 2 The development hereby permitted shall not be carried out otherwise than in strict accordance with the submitted details, as amended by letter and or drawings received by the Council of the Borough of Harrogate on the 25.06.07 and 03.07.07 and as modified by the conditions of this consent.
- 3 The development hereby permitted shall not begin until a scheme for the provision of affordable housing as part of the development has been submitted to and approved in writing by the Local Planning Authority. The affordable housing shall be provided in accordance with the approved scheme. The scheme shall include
 - i. The timing of the construction of the affordable housing,
 - ii. The arrangements to ensure that such provision is affordable for both initial and subsequent occupiers of the affordable housing, and
 - iii. The occupancy criteria to be used for determining the identity of the prospective and successive occupiers of the affordable housing and the means by which such occupancy shall be enforced.
- 4 The development hereby permitted shall not begin until a scheme has been submitted and approved in writing by the Local Planning Authority for the provision of on-site and off-site public open space in accordance with Harrogate District Local Plan Policy IMP2. the provision for off-site public open space shall be

provided in accordance with the approved scheme.

- 5 The occupation of the development authorised by this permission shall not begin until:
 - a) the local planning authority has approved in writing a full scheme of works of improvement to -
 - i) Introduce traffic management and road safety/pedestrian measures on the link between Bogs Lane and Kingsley Road including extensions to existing footways.
 - ii) Introduce a connecting cycle/footway link between the site and Diamond Place.
 - iii) Introduce a footway and speed platform on Bogs Lane as indicated on drawing PO7:3762:01 rev B.
 - iv) Introduce pedestrian facilities on the High Street as indicated on drawing 07-157-TR-002 rev A.
 - b) the approved works have been completed in accordance with the local planning authority's written approval and have been certified in writing as complete on behalf of the local planning authority, unless alternative arrangements to secure the specified works have been approved in writing by the local planning authority.
- 6 Development shall not be begun until a scheme to deal with contamination of the site has been submitted to and approved in writing by the local planning authority. The scheme shall include an investigation and assessment to identify the extent of contamination and the measures to be taken to avoid risk to the public when and after the site is developed. Development shall not commence until the measures approved in the scheme have been implemented.
- 7 A detailed scheme for landscaping, including the planting of trees and or shrubs and the use of surface materials shall be submitted to the Local Planning Authority and no development shall take place until the Local Planning Authority have approved a landscaping scheme; such scheme shall specify materials, species, tree and plant sizes, numbers and planting densities, and the timing of implementation of the scheme, including any earthworks required.
- 8 In the event of failure of any trees or shrubs, planted in accordance with any scheme approved by the Local Planning Authority, to survive for a period of five years from the date of the completion of implementation of that scheme, such trees or shrubs shall be replaced by the developer with such live specimens of such species in such number as may be approved by the Local Planning Authority.
- 9 Before any materials are brought onto the site or any development is commenced, the developer shall erect chestnut paling or similar fencing in accordance with details previously submitted to and approved in writing by the Local Planning Authority, around the trees and shrubs to be retained as indicated on the approved

plan. The developers shall maintain such fences to the satisfaction of the Local Planning Authority until all development, the subject of this permission, is completed. The level of land within the fenced area shall not be altered without the prior written consent of the Local Planning Authority.

- 10 The development shall only be undertaken in accordance with the arboricultural method statement submitted with the application.

The trees shall be inspected on a monthly basis by the arboricultural specialist and any breaches, corrective works or new instructions shall be reported to and agreed in writing by the Local Planning Authority.

- 11 The site shall be developed with separate systems of drainage for foul and surface water on and off site.
- 12 No Development shall take place until details of the proposed means of disposal of foul and surface water drainage, including details of any balancing works and off-site works, have been submitted to and approved by the Local Planning Authority.
- 13 Unless otherwise approved in writing by the Local Planning Authority, there shall be no piped discharge of surface water from the development prior to the completion of the approved surface water drainage works and no buildings shall be occupied or brought into use prior to completion of the approved foul drainage works.
- 14 The materials to be used in the construction of the exterior walls and roof of the development hereby approved shall be as may be approved by the Local Planning Authority, and no construction shall be commenced in advance of any such approval.
- 15 Notwithstanding the submitted plans, the precise line of the footway across the public open space shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of the development and the footway shall only be constructed in full accordance with the agreed scheme.
- 16 Prior to being discharged into any watercourse, surface water sewer or soakaway system, all surface water drainage from parking areas and hardstandings shall be passed through trapped gullies installed in accordance with a scheme previously submitted to and approved in writing by the Local Planning Authority.
- 17 There should be no discharge of foul or contaminated drainage from the site into either groundwater or any surface waters, whether direct or via soakaways.
- 18 Notwithstanding the layout and details shown upon the submitted drawing(s) PO7:3762:01 rev B the development hereby approved shall not be commenced prior to the submission to and approval by the Local Planning Authority in writing of

an amended layout and full engineering details to provide for -

- a) The construction of the proposed estate roads and footpaths/cycleways to an adoptable standard, including street lighting and drainage.
- b) The realignment of proposed footpaths and cycleways through public open space.
- c) The repositioning of the garage to unit 37 to achieve off drive visitor parking.
- d) finished floor levels of units to achieve drive gradients not exceeding 1 in 12.

The development thereafter shall not be first occupied prior to the introduction of the same in accordance with the details approved by the Local Planning Authority.

- 19 No dwelling to which this planning permission relates shall be occupied unless or until the carriageway and any footway or footpath from which it gains access is constructed to basecourse macadam level and or block paved and kerbed and connected to the existing highway network with street lighting installed and in operation.

The carriageway and footway or footpath wearing courses and street lighting shall be completed within three months of the date of commencement of construction of the penultimate dwelling of the development or within two years of the laying of the basecourse whichever is sooner, unless otherwise agreed in writing with the Local Planning Authority.

- 20 There shall be no means of vehicular access to or from the application site other than from Bogs Lane unless otherwise approved in writing by the Local Planning Authority.
- 21 Notwithstanding the provisions of the Town and Country Planning General Permitted Development Order 1995, or any subsequent Order, the garage(s) shall not be converted into a habitable room(s) without the express written approval of the Local Planning Authority.
- 22 The development shall not be commenced until vehicle wheel washing facilities have been installed on the access road to the site in accordance with details to be submitted to and approved by the Local Planning Authority. These facilities shall be kept in full working order at all times. All vehicles involved in the transport of waste materials or finished products to or from the site shall be thoroughly cleaned before leaving the site so that no mud or waste materials are deposited on the public highway.
- 23 The landscaping scheme required by condition 7 (above), shall incorporate the recommendations contained in paragraphs 5.8 - 5.13 of the submitted Ecological Appraisal.

- 24 The development hereby approved shall not be commenced, nor any shall any survey work involving the use of machinery be undertaken, until such time as the invasive weeds on the site have been eradicated in accordance with paragraphs 5.3 and 5.4 of the submitted Ecological Appraisal and thereafter, the development shall only be implemented in full accordance with paragraphs 5.1 and 5.2, (relating to bats) and paragraph 5.3 (in relation to birds) of the submitted Ecological Appraisal unless otherwise agreed in writing by the Local Planning Authority.
- 25 Prior to the development commencing details of how Secured by Design principles have been incorporated into the scheme shall be submitted for the written approval of the Local Planning Authority and once approved thereafter implemented prior to occupation of any of the units hereby approved.

Reasons for Conditions:-

- 1 To ensure compliance with Sections 91-94 of the Town and Country Planning Act 1990.
- 2 In order to ensure that the development is carried out in accordance with the approved drawings.
- 3 To ensure the provision of affordable housing in perpetuity in compliance with Policy H5 of the Harrogate District Local Plan.
- 4 In the interest of residential amenity and to ensure the provision of Public Open Space to meet local needs in accordance with Harrogate District Local Plan Policy R4 IMP2.
Footnote: the provision of Public Open Space can be met by payment of a commuted sum through the mechanism of either a unilateral obligation or through a section 106 agreement.
- 5 To ensure implementation of works necessary to make the development acceptable from a planning standpoint.
- 6 To provide a safe environment for the users of the development.
- 7 To safeguard the rights of control by the Local Planning Authority in these respects and in the interests of amenity.
- 8 To safeguard the rights of control by the Local Planning Authority in these respects and in the interests of amenity.
- 9 To ensure the protection of the trees or shrubs during the carrying out of the development.
- 10 In the interests of the maintenance of the health and amenity of the tree(s) and to ensure good arboricultural practice is followed.
- 11 In the interest of satisfactory and sustainable drainage
- 12 To ensure that the development can be properly drained.
- 13 To ensure that no foul or surface water discharges take place until proper provision had been made for their disposal.
- 14 To safeguard the rights of control by the Local Planning Authority and in the interests of general amenity.
- 15 In order to provide an acceptable replacement open space to off-set the loss of the allotments and in order to comply with Policy R1 and IMP2 of the Harrogate District

Local Plan.

- 16 To prevent pollution of the water environment.
- 17 To prevent pollution of the water environment.
- 18 In the interests of road safety.
- 19 To ensure safe and appropriate access and egress to the properties, in the interests of highway safety and the convenience of prospective residents.
- 20 In the interests of highway safety.
- 21 To ensure the retention of adequate and satisfactory provision of off-street accommodation for vehicles generated by occupiers of the dwelling and visitors to it, in the interest of safety and the general amenity of the development.
- 22 To ensure that no mud or other debris is deposited on the carriageway in the interests of highway safety.
- 23 In order to provide mitigation compensation and enhancement of bio-diversity as required by P.P.S 9.
- 24 In order to prevent the spread of invasive Japanese Knotweed and to protect legally protected species and their habitat.
- 25 In the interests of residential amenity and community safety in order to reduce the fear of crime.

INFORMATIVES

1. Trees on the site to which this permission relates are subject to a Tree Preservation Order and may not be lopped, topped or felled without the prior written consent of the Borough Council, unless the tree work has already been approved under cover of a planning permission which is being implemented. Any person undertaking work to protected trees without written consent is liable to prosecution. Application forms are available from the Councils Department of Development Services.
2. All bats and their roosts are fully protected under the Wildlife and Countryside Act 1981 (as amended by the Countryside and Rights of Way Act 2000) and are further protected under Regulation 39(1) of the Conservation (Natural Habitats etc) Regulations 1994. Should any bats or evidence of bats be found prior to or during development, work must stop immediately and English Nature contacted for further advice. This is a legal requirement under the Wildlife and Countryside Act 1981 (as amended) and applies to whoever carries out the work. All contractors on site should be made aware of this requirement and given English Nature's contact details. English Nature, North and East Yorkshire Team, Genesis 1 University Road Heslington York YO10 5ZQ. Tel: 01904 435500.
3. For the avoidance of doubt, the term "affordable housing" means subsidised housing at below market prices or rents intended for those households who cannot afford housing at market rates. It is expected that the applicant or developer will enter into a planning obligation with the local planning authority to provide the affordable housing in accordance with the approved scheme as agreed in principle.

4. In respect of Condition 25, contact details for the Police Architectural Liaison Officer are as follows:-

PC John McPartlan
Architectural Liaison Officer
Community Safety Department
Police Station
North Park Road
Harrogate
HG1 5PJ

Tel: (01423) 505541 Fax: (01423) 539473

JUSTIFICATION FOR GRANTING CONSENT

The proposed development relates to a sustainable site within the built-up limits, that, with the proposed off-site highway works, would not be detrimental to highway safety. With changes to policy in relation to the release of housing sites, it is appropriate to release the site at present time. The development provides an appropriate level of public open space and retains mature trees/wildlife habitat. The scheme is acceptable in terms of design and landscape impact and will not be detrimental to the amenity of residents. The development therefore addresses the reasons for refusal of the earlier scheme and complies with the development plan and there are no other material considerations which would warrant a different conclusion.

(Councillor Broadbank attended the meeting and spoke to the item as Ward Member for Starbeck under the Council's Opportunity to Speak Scheme).

(Mrs Waud attended the meeting and spoke to the item as an objector (on behalf of Starbeck Residents' Association) under the Council's Opportunity to Speak Scheme).

(Mr Brook attended the meeting and spoke to the item as the applicant's agent under the Council's Opportunity to Speak Scheme).

(Councillor Morris Lightfoot declared a personal interest in this item, on the basis that he was present at the Planning Committee meeting, which had considered the earlier, but different application, but on the basis that the interest was not prejudicial, he remained in the meeting and took part in the debate and voted thereon).

(Twelve Members voted for the motion and two voted against).