

North Yorkshire Council

Thirsk and Malton Area Constituency Planning Committee

Minutes of the meeting held on Thursday, 18 April, 2024 commencing at 10.00 am.

Councillor Caroline Goodrick in the Chair, plus Councillors Joy Andrews, Alyson Baker, Lindsay Burr MBE, Sam Cross, Nigel Knapton and Malcolm Taylor.

Officers Present: Alpha Love-Koh, Ann Rawlinson, Nicki Lishman and Alan Goforth.

Copies of all documents considered are in the Minute Book

84 Apologies for absence

There were no apologies for absence.

85 Minutes for the meeting held on 21 March 2024

The minutes of the meeting held on 21 March 2024 were confirmed and signed as a correct record.

Voting record

Confirmed by general affirmation.

86 Declarations of interests

Councillor Goodrick declared a personal, non-prejudicial but non-pecuniary interest in Item 5 as she knew the Chair of the Parish Council, who was registered to speak and in Item 6 as she knew the objector registered to speak and was a member of the Howardian Hills AONB Joint Advisory Committee.

Councillor Andrews declared a personal, non-prejudicial but non-pecuniary interest in Item 5 as she knew the Chair of the Parish Council, who was registered to speak.

Planning Applications

The Committee considered reports of the Assistant Director Planning – Community Development Services relating to applications for planning permission. During the meeting, Officers referred to additional information and representations which had been received.

Except where an alternative condition was contained in the report or an amendment made by the Committee, the condition as set out in the report and the appropriate time limit conditions were to be attached in accordance with the relevant provisions of Section 91 and 92 of the Town and Country Planning Act 1990.

In considering the report of the Assistant Director Planning – Community Development Services regard had been paid to the policies of the relevant development plan, the National Planning Policy Framework and all other material planning considerations. Where the Committee deferred

consideration or refused planning permission the reasons for that decision are as shown in the report or as set out below.

Where the Committee granted planning permission in accordance with the recommendation in a report this was because the proposal is in accordance with the development plan, the National Planning Policy Framework or other material considerations as set out in the report unless otherwise specified below. Where the Committee granted planning permission contrary to the recommendation in the report the reasons for doing so and the conditions to be attached are set out below.

87 APPLICATION WITHDRAWN - ZB23/01870/FUL - Construction of multi-use games area (MUGA) finished with a porous macadam surface. Including perimeter fence, directional LED sports lighting system, equipment store, landscaped bunds and access pathways at Thirsk Community Primary School , Hambleton Place, Thirsk, North Yorkshire, YO7 1SL on behalf of Andrea Mansfield

The Planning Officer explained that the applicant had withdrawn the application and confirmed that they did not wish to progress the proposal.

88 23/00348/MFUL Update report - application for the erection of 13no. dwellings comprising 7no. three bedroom dwellings, 2no. two bedroom dwellings and 4no. four bedroom dwellings with associated infrastructure, garaging, parking and landscaping on land off Aspen Way, Slingsby, Malton on behalf of W & W Estates

The Assistant Director Planning – Community Development sought determination for the erection of 13no dwellings comprising 7 three bedroom dwellings, 2no two bedroom dwellings and 4no four bedroom dwellings with associated infrastructure, garaging, parking and landscaping on land off Aspen Way, Slingsby, Malton.

The application was brought to committee as an allocated site within the development plan, contributing towards housing supply and it was considered that significant planning issues had been raised.

The application was deferred at the last meeting of the committee as Members requested that consideration be given to;

- Whether the temporary construction traffic access to and from the B1257 could be an alternative option for residential traffic accessing the application site.
- Whether the applicant for the adjacent residential development site (Castle Howard Estates Ltd) would be agreeable to an additional clause within the Section 106 agreement associated with ZE23/05729/MFUL to secure the provision of an unfettered/un-ransomed road connection to the 23/00348/MFUL site boundary prior to the occupation of any dwellings on their development site.

Presenting the report, the Planning Officer drew Members' attention to the fact that;

- the Local Highway Authority did not consider access from the B1257 to be in the interests of site and third-party safety and would create an unsatisfactory access arrangement.
- Castle Howard Estates Limited confirmed that they were declined the request to accept an additional clause within their section 106 agreement.

Tim Waring spoke to object to the application.

Fiona Farnell spoke on behalf of the Parish Council.

Paul Butler, agent, spoke in support of the application.

During consideration of the item, the Committee considered the following matters:

- The consequences of refusing the application
- The fact that permission has previously been granted for the west portion of the site

DECISION

That planning permission be GRANTED subject to the conditions listed in the report and completion of a Section 106 legal agreement with regards to affordable housing, commuted sum and public open space.

Voting record

6 For

1 Against

- 89 ZE23/06955/73 Update report - application for the variation of condition 02 of planning approval 23/00077/73 dated 18.04.2023 to remove the restriction on the number of evening events per month and to allow an increase in the total number of evening events from 10 to 50 occasions per calendar year on land at Dogh, Main Street, Welburn, Malton on behalf of Mrs Georgia Dowkes-White (Dogh Limited)**

The Assistant Director Planning – Community Development sought determination of a planning application for the variation of Condition 02 of planning approval 23/00077/73 dated 18.04.2023 to remove the restriction on the number of evening events per month and to allow an increase in the total number of evening events from 10 to 50 occasions per calendar year on land at Dogh, Main Street, Welburn, Malton.

The application was reported to the Area Planning Committee for determination because it was considered that significant planning issues had been raised.

The application had been reported to the Area Planning Committee meeting held on 21 March 2024, when the item was deferred at the request of Members to allow further consideration of Condition 10 regarding deliveries to the premises and further investigation into the proposed Traffic Regulation Order relating to Main Street, Welburn.

Presenting the report the Planning Officer drew Members' attention to;

- The applicant's agreement to amend the existing delivery time condition as stated in 4.7 of the report.
- The introduction of double yellow lines at Main Street, Welburn and the informal parking arrangements agreed between the premises and the neighbouring public house.
- The further comment from the Local Highway Authority that visitor parking allied to the increase in evening events at the site would not give rise to a significant impact on local highway capacity and safety.

Rob Stansfield spoke to object to the application.

Ryan Cuthbert spoke in support of the application.

The Planning Officer then gave the following statement in response to a submission received and circulated in the late pages.

Members have read a written objection from the registered speaker, which was submitted to the LPA earlier this week. The representation expresses the view that the report for this application is misdirecting and refers to the possibility of a judicial review. Planning officers and legal officers of the Council have considered the points raised and do not consider that they give rise to any grounds for challenge and for clarity, they will be addressed as part of this statement.

The objection refers to the extant permission for the application site being from 2009. That is a permission reference 0900241/FUL whereas in fact it is the permission, the most recent permission which has the reference 23/00077/73, which was granted in 2023. Members will be aware that a successful Section 73 application results in the grant of a new planning permission, in which the conditions attached to the previous permission are either carried over varied or removed. Therefore, the relevant conditions for varying and carrying over are those attached to the permission granted last year.

The current permission for this site includes Condition 2, which covers the operating hours and permitted exceptions for evening events. Condition 5 limits evening events to be held within a licenced area, as shown on the slide, which relates to an approved floor plan drawing.

Condition 7, which provides for the development to be carried out in accordance with an approved drawing that delineates respective floor space for the retail and cafe uses. These conditions would ensure that the café and retail uses are both operational during daytime hours and that they take place in the allocated areas on the ground floor but for the evening events, both areas can be used for the cafe use.

This is considered compatible with the reason for imposing Condition 7, which is listed on the decision notice to ensure that the preparation area and tea room do not encroach on the retail area. Obviously, the risk of encroachment is not engaged during evening events.

For the avoidance of doubt, all these conditions are currently in effect and are not a new proposal.

The objection suggests the floor area allocated for evening events is a change of use amounting to development, whereas it is a permitted use under the existing mixed-use permission and the floor area used for evening events is in accordance with Condition 5 of the planning permission.

The objection also suggests that there is a breach of condition occurring within the retail area delineated by Condition 7. The Council's enforcement officers do not have any live cases open for this site but will duly investigate any reported potential breaches of planning control. However, there are none at present, and even if there were, they would not preclude the determination of the current application before Members, which is for an amendment to the number of evening events permitted by Condition 2.

During consideration of the item, the Committee discussed the following:

- The legal position with regard to the objection received
- Clarification of areas contained within the red line on the premises plan
- The change in condition 10 regarding delivery times

- Parking and highway matters

DECISION

That planning permission be GRANTED subject to the conditions listed in the report.

Voting record

6 For

1 Abstention

90 Any other items

There was no other business.

91 Date of next meeting

23 May 2024 at 10am at a venue to be confirmed.