

Planning Committee

Held at West Wing, Malton School, Middlecave Road, Malton
Thursday 24 April 2014

Present

Councillors Arnold (Substitute), Mrs Burr MBE, Cussons, Mrs Goodrick, Hope, Richardson, Mrs Sanderson, Walker (Substitute), Windress (Vice-Chairman) and Woodward

Substitutes: Councillor S Arnold (for Councillor J Raper) and Councillor P Walker (for Councillor B Maud)

In Attendance

Ryedale District Council Officers

Jo Holmes, Karen Hood, Shaun Robson, Jill Thompson and Anthony Winship

North Yorkshire County Council Officer

James Kennedy

External Consultants

- (i) Dr John England, a Director of England and Lyle; and
- (ii) Mr Gary Swarbrick, a Principal Planner for England and Lyle

Minutes

210 Apologies for absence

Apologies were received from Cllrs' Raper and Maud.

211 Declarations of Interest

Before the Chairman requested Members to make any declarations of interest he requested Anthony Winship, the Council Solicitor to explain what the declarations of interest are for the benefit of the audience.

The Council Solicitor advised Members of the Planning Committee and members of the public that the conduct of members of the planning committee is governed by two separate matters.

The first matter is the Members Code of Conduct which all members need to follow.

The second matter is the Common Law of England whereby decisions of the council can be subject to judicial review.

In relation to the first matter, namely the member's code of conduct, the Council Solicitor advised that the fundamental principle of the member's code of conduct is that Members must make decisions in the public interest and must not make decisions in accordance with outside interests. So if any Member has a pecuniary, personal or personal and prejudicial interest they need to declare that at the meeting. Such interests often arise if a Member has an interest in an outside body.

The Council Solicitor further advised that the fact that the application site is Council owned land is not a declarable interest. The reason for this position is that declarations of interest are primarily concerned with external interests such as ownership of shares by a limited company or other external interest. Declarations of interest are not normally concerned with interests of the Council.

In relation to the second point the Council Solicitor advised that Members are aware that the decisions of the Planning Committee are subject to the supervisory jurisdiction of the High Court. The Courts have set minimum quality control standards on local authority decision making.

The quality standard of decision making that judges of the High Court require of members includes that Members have an open mind when making decisions. That means in the planning context that decisions are only made on planning grounds in accordance with material considerations and the relevant legislation.

The Council Solicitor also gave advice on the point that the planning applications relate to land which is owned by the council – namely Wentworth Street Car Park.

The Council Solicitor advised that Parliament has decided that planning committees can make decisions in relation to the development of land owned by councils. It was explained that there was a very good reason for that and that is that planning committee's need to make decisions on planning grounds and not on any other grounds such as financial benefit. There is also the safeguard that planning applications of the kind before Members tonight need to be notified to the Secretary of State. The Secretary of State may call in the planning application.

The Council Solicitor also advised the Planning Committee that if any Member does not have an open mind and has pre-determined the matter they are advised not to participate in the determination of the application.

A failure to make a planning decision on planning grounds puts the decision of the Planning Committee at risk of legal challenge by way of judicial review.

The Chairman requested Members to make any declarations of interest.

The following Members' indicated that they would be declaring interest under the Members' Code of Conduct in respect of the following items.

Councillor	Application	Reason
Cussons	5,6	Personal - Lobbied
Windress	5,6	Personal - Lobbied
Hope	5,6	Personal - Lobbied
Goodrick	5,6	Personal - Lobbied
Sanderson	5,6	Personal - Lobbied
Burr	5,6	Personal - Lobbied

Woodward	5,6	Personal - Lobbied
Richardson	5,6	Personal - Lobbied
Walker	5,6	Personal - Lobbied
Arnold	5,6	Personal - Lobbied

212 **Schedule of items to be determined by the Committee**

The Head of Planning & Housing submitted a list (previously circulated) of the applications for planning permission with recommendations there on.

The Committee considered reports relating to applications for planning permission prepared on behalf of the Head of Planning.

The Chairman advised the Planning Committee that it was being advised by experts who are specialists in retail planning from England and Lyle and introduced the committee to:

- (i) Dr John England, a Director of England and Lyle; and
- (ii) Mr Gary Swarbrick, a Principal Planner for England and Lyle.

Public Speaking

Pursuant to Council Procedure Rule 35 of Part 4 of the Council's Constitution, in relation to public rights in participation in planning applications, the Chairman allowed each of the following to give a three minute presentation. Given the considerable public interest in the two applications the Chairman allowed additional speakers for each category of speaker.

11/00927/MOUT

Erection of retail units (Use Class A1), Offices (Use Class B1), petrol filling station, car park and associated landscaping (Revised Details) – Car Park Wentworth Street, Malton, North Yorkshire

DISTRICT COUNCILLOR	PARISH/TOWN COUNCIL	SUPPORTER	OBJECTOR	AGENT
Cllr Andrews	Mike Skehan	Jane Bradley	Fiona Croft	Graham Chase
Cllr Legard	Cllr Fraser		Roddy Bushell	Jonathan Wallace

11/00919/FUL

Alterations to parking layout and landscaping of the eastern section (upper level) of Wentworth Street Car Park to include demolition of existing concrete

sectional building – Land at Wentworth Street Car Park, Wentworth Street, Malton, North Yorkshire

DISTRICT COUNCILLOR	PARISH/TOWN COUNCIL	SUPPORTER	OBJECTOR	AGENT
Cllr Andrews				

213 **11/00927/MOUT - Car Park, Wentworth Street, Malton**

11/00927/MOUT - Erection of retail units (Use Class A1), offices (Use Class B1), petrol filling station, car park and associated landscaping (Revised Details)

Dr John England presented the report to the Planning Committee and updated Members on late information.

Registered speakers were then afforded an opportunity of making representations to the Planning Committee under the District Councils Public Speaking arrangements.

Members of the Planning Committee then proceeded to ask Officers and advisors questions on the planning application before moving into debate.

The Chairman then asked Councillor Burr to speak first as the District Councillor for the Malton Ward where the application site is located.

Councillor Burr moved refusal of the planning application on the following grounds :

- (i) The report produced cannot be relied on;
- (ii) Impact tests carried out by the applicant have not been sufficiently tested;
- (ii) The siting is in the wrong place and it would be detrimental to the town if this application was passed;
- (iii) There is a real risk of losing the Malton Livestock Centre;
- (iv) The access is not applicable;
- (v) The democratic view of residents has not been listened to;
- (vi) It will be detrimental to the environment; the economic viability and vibrancy of our town;
- (vii) The traffic impact report is unsound and unreliable and socially it could have a negative impact on jobs and businesses in the town.
- (viii) This site is wholly inappropriate for Malton.

The proposal to refuse was seconded by Councillor Walker.

At the conclusion of the debate three Members requested that a recorded vote be taken on the item.

Upon being put to the vote the Members of the Planning Committee cast their votes in the following way:

For

Councillors Mrs Burr, Richardson, Walker and Woodward.

Against

Councillors Arnold, Cussons, Mrs Goodrick, Hope, Mrs Sanderson and Windress.

Abstentions

None

Upon the recorded vote being taken the proposal was therefore lost.

At this point the following Members of the Planning Committee left the Planning Committee:

Councillors Mrs Burr, Richardson, Walker and Woodward.

The Vice-Chairman adjourned the committee meeting for five minutes to allow the departing Planning Committee Members and members of the public to vacate the school hall.

On reconvening the Planning Committee meeting the Council Solicitor advised that if any Member proposed moving approval it was the Officer recommendation to add the following words to the recommendation :

“and subject to any need to advertise as a departure” prior to the words “outline planning permission be granted.”

In response to a concern first raised during the Committee site inspection on the previous day and referred to at Committee about the route delivery vehicles would take to the application site the Planning Committee were advised by Gary Swarbrick that the applicants had volunteered the following condition to deal with this issue:

“Before the development hereby approved is brought in to use (including any stocking of the food store) the occupier of the development shall provide for approval by the Local Planning Authority a Delivery Management Scheme for the food store hereby approved. The Delivery Management Scheme shall include details of the delivery route(s) that the occupier of the development will require drivers of vehicles entering and leaving the site for commercial purposes (e.g. deliveries in either direction). For the avoidance of doubt the route shall require all vehicles entering or leaving the site for commercial purposes to do so via Pasture Lane

whenever this route is passable. Once approved, the Delivery Management Scheme will be adopted by the occupier for the lifetime of the development unless otherwise first agreed in writing with the Local Planning Authority.”

In response to a concern first raised during the Committee site visit and referred to at Committee with regard to maintaining access to and an appropriate level of car parking during the construction phase of the development Shaun Robson advised the Committee that the issue was brought to the applicants attention and a revised wording in regard to Condition 22 was received to address this issue. The revised condition reads as follows (revised text in bold):-

*“22. Before the commencement of development a Construction Environmental Management Plan shall be submitted to and approved in writing by the Local Planning Authority. The Construction Environmental Management Plan shall identify the measures and procedures that will be implemented to minimise the creation and impact of noise, vibration, dust and waste disposal resulting from the demolition, site preparation, groundwork and construction phases of the development and to manage the Heavy Goods Vehicle access to and from the site associated with such phases, including the proposed routing to be used by such traffic, **and maintaining general, public access car parking (a minimum of 150 spaces) at the site throughout the construction phase.** The Construction Environmental Management Plan shall include....”*

Councillor Cussons moved approval of the planning application in accordance with the Officer's revised recommendations including those relating to the amendment of condition 22 and the addition of a new condition on delivery vehicle routeing. The proposal was duly seconded by Councillor Arnold.

Upon being put to the vote the Members of the Planning Committee cast their votes in the following way:

For

Councillors Arnold, Cussons, Mrs Goodrick, Hope, Mrs Sanderson and Windress.

Against

None.

Abstentions

None.

Upon the vote being taken the proposal was carried unanimously .

RESOLVED

That the application be notified to the Secretary of State under the Town & Country Planning (Consultation) (England) Direction 2009 and that, consequent upon the Secretary of State deciding not to intervene and require that the planning application be referred to him, and subject to the need to advertise as a departure outline **PLANNING PERMISSION BE GRANTED** subject to:

a. The completion of an agreement between the applicant and the Council and any other party pursuant to S.106 of the Town & Country Planning Act 1990 and subject to the Council Solicitor being authorised to negotiate with the applicant regarding such agreement to secure:

i. A contribution towards the implementation of a one-way system on Finkle Street, Newgate and Spital Street together with improvements to the footpaths.

ii. A contribution towards the introduction of measures to mitigate the impact of congestion at the junction of Town Street and Highfield Road.

iii. A contribution towards the costs associated with the making and implementation of Traffic Regulation Orders.

iv. A contribution towards the A64 Brambling Fields scheme.

v. A contribution towards improvements at Yorkersgate / B1248 junction.

vi. Provision of wayfinding infrastructure.

vii. Provision of public art.

viii. Provision of retailers' marketing workshops.

ix. Provision of an audiotrail.

x. Provision of display cabinets.

b. Conditions as set out in the report subject to the Council solicitor being authorised to negotiate further with the applicant regarding the detailed wording of such conditions as required and to (a) make such amendments to the detailed wording of those conditions; and (b) to add any further conditions not listed below, as necessary, and agreed with the applicant subject to the agreed amendment to condition 22 and the addition of the following condition:

“Before the development hereby approved is brought in to use (including any stocking of the food store) the occupier of the development shall provide for approval by the Local Planning Authority a Delivery Management Scheme for the food store hereby approved. The Delivery Management Scheme shall include details of the delivery route(s) that the occupier of the development will require drivers of vehicles entering and leaving the site for commercial purposes (e.g. deliveries in either direction).

For the avoidance of doubt the route shall require all vehicles entering or leaving the site for commercial purposes to do so via Pasture Lane whenever this route is passable. Once approved, the Delivery Management Scheme will be adopted by the occupier for the lifetime of the development unless otherwise first agreed in writing with the Local Planning Authority.”

In accordance with the Members’ Code of Conduct Councillors Cussons, Windress, Hope, Mrs Goodrick, Mrs Sanderson, Mrs Burr, Woodward, Richardson, Walker and Arnold declared a personal non pecuniary but not prejudicial interest.

214 **11/00919/FUL - Land At Wentworth Street Car Park, Wentworth Street, Malton**

11/00919/FUL - Alterations to parking layout and landscaping of the eastern section (upper level) of Wentworth Street Car Park to include demolition of existing concrete sectional building.

Shaun Robson, the District Council’s Development Manager presented the report to the Planning Committee and advised Members of a correction to the report at paragraph 7.4.4 so that the final sentence should read:

“Specifically in relation to the impact of the development on the setting of the listed cemetery wall and mausoleum, it is considered that the development will have a neutral affect on their setting, which is already essentially urban in nature.”

Registered speakers were then afforded an opportunity of making representations to the Planning Committee under the District Councils Public Speaking arrangements.

Councillor Cussons moved approval of the planning application in accordance with the Officer’s recommendations. The proposal was duly seconded by Councillor Arnold.

Upon being put to the vote the Members of the Planning Committee cast their votes in the following way:

For

Councillors Arnold, Cussons, Mrs Goodrick, Hope, Mrs Sanderson and Windress.

Against

None.

Abstentions

None.

Upon the vote being taken the proposal was carried unanimously .

RESOLVED

That the application be notified to the Secretary of State under the Town & Country Planning (Consultation) (England) Direction 2009 and that, consequent upon the Secretary of State deciding not to intervene and require that the planning application be referred to him, that the application be Approved subject to the conditions outlined in the report.

In accordance with the Members' Code of Conduct Councillors Cussons, Windress, Hope, Mrs Goodrick, Mrs Sanderson, Mrs Burr, Woodward, Richardson, Walker and Arnold declared a personal non pecuniary but not prejudicial interest.