

22nd April 2013

To Members & Substitute Members of City of York Planning Committee

Dear Councillor,

Re: 12/00384/REMM Germany Beck Reserved Matters, Agenda Item 4B.

Fulford Parish Council is writing to you regarding the above application in order to provide you with a summary of the objections contained in our letter of 26 March. We hope that you may find this summary useful in your consideration of this complex development.

1. Lack of up-to-date environmental information.

The submitted environmental information is deficient and substandard to the extent that there is insufficient information to allow a proper assessment of the environmental effects of the development, most especially in relation to flooding & drainage, heritage and protected species.

2. Flooding:

The Flood Risk Assessment dates from 2004. The updated ES 2012 states that the 2004 FRA is considered to be 'robust' and therefore according to the EIA Regulations, this document is a material consideration in the determination of this reserved matters application.

The FRA is outdated and defective in terms of the flood maps and calculations upon which it is based. **We urge you to request sight of the FRA in order that you can assess whether it is adequate to assess the current flood risk**, particularly as it relates to the layout of the housing, the proposed flood storage basin, the effects on neighbouring properties and to the floodplain in the area as a whole.

Furthermore, the current plans indicate that the combined main sewer that runs across the site is aligned directly under housing units and this matter needs to be resolved before reserved matters can be approved.

We ask you to consider whether a reserved matters application for EIA development can be lawfully determined without an up-to-date FRA and without any drainage details whatsoever being provided.

The flood zone map for the site is attached to this letter for your information.

3. Protected species – bats:

The developer's ERAP Bat Survey Report 2013 accepts that: "the site is a 'major infrastructure project' as defined by *Bat Surveys: Good practice guidelines (Hundt, 2012)*, being a proposed housing development of over 500 houses". (1.1.5 ERAP Report 2013)

Chapter 9 of the *Good Practice Guidelines* outlines the resources required for such a project. Paragraph 9.6.1 states:

"Resources required for survey: Organisations involved in the commissioning and operation of major infrastructure projects should be aware of the need to plan ahead for sufficient

surveys effort to inform their design. **Ideally one to three years baseline data should be available to design robust mitigation for bats**".

However, the developer has not provided any baseline information at all and the very limited and substandard ERAP surveys have been heavily criticised by Giles Manners of MAB Ecology (commissioned by FPC). The MAB Reports of 2012 & 2013 appraise the developer's surveys (ERAP 2012 & 2013) and conclude the following:

Paragraph 8:

"I maintain that ***the survey information provided within the ERAP reports is not sufficient to inform any reliable assessment of bat usage of the site and the impact of the development***". (MAB emphasis)

Paragraph 29:

"The apparently biased approach of the ecologist in this case not only undermines the entire ecological impact assessment of this development (not just bats), it also casts doubt on the integrity of environmental impact assessments as a whole. The reason behind membership of professional bodies such as IEEM is so that high professional standards are maintained. The impact assessment provided by ERAP in this case in my opinion falls below the standards expected by the industry as a whole".

Paragraph 37:

"The ERAP report is fundamentally flawed in all three main areas: survey input, impact assessment, and recommendations".

These serious criticisms by an independent fully qualified professional ecologist cannot be ignored. The unworkable mitigation that derives from the ERAP report is highly questionable and we note that the Yorkshire Wildlife Trust has expressed doubts about the effectiveness of hop-overs as mitigation for bats on this site.

The inadequacy of information regarding a protected species is a reason for REFUSAL.

4. Design quality:

The Updated Development Principle Report (UDPR) sets out the design principles of the development and is a material consideration against which the proposals must be judged (condition 3 of the outline permission).

Despite assurances that the development would reflect the local vernacular of Fulford's conservation area, the proposals comprise entirely of volume 'estate' dwellings of no architectural merit whatsoever. The elevational treatment of the housing units may have been 'tweaked' but they remain uniformly unremarkable. The central apartment blocks which form 'the Crescent' (at the heart of the development), are based on apartment blocks designed for a high-density city centre site and are wholly inappropriate as an extension to Fulford village.

Such unacceptable design constitutes a reason for REFUSAL.

5. Lack of conformity:

The layout lacks conformity with the Masterplan and the UDPR in many other respects:

- The key landscape feature of Tunnel Dyke will be mostly culverted and will lose its value in terms of visual amenity and as a wildlife habitat along a watercourse that connects Fulford School nature reserve through the site to Germany Beck.
- The raised trackway leading from the village to Tunnel Dyke is not retained despite it being highlighted as an 'ancient route' in the 2001 ES.
- Public rights-of-way are set within corridors of insufficient width and their amenity value is significantly reduced through inappropriate siting of buildings and boundary treatments.

- There are no 'focal buildings', no 'mews' no 'housing courts' and no 'pedestrian lanes' as described in the UDPR
- Security and public safety has not been adequately addressed and the Police Liaison Officer remains dissatisfied.

Such non-conformity with the outline permission constitutes a reason for REFUSAL.

Further comments and reasons to refuse:

6. Extension to Parish Field.

The Parish Council has repeatedly requested the developer to clarify the ownership and maintenance arrangements for the proposed extension to the parish field, but have received no information whatsoever. This matter must therefore be fully resolved before any approval of reserved matters.

7. Section 106 obligations:

It is of significant concern that the main community benefit resulting from the development (the sports hall proposed within the grounds of Fulford School) is now in doubt because there is currently no funding or commitment in place to enable the project to commence. In these circumstances, it is likely that the key obligation in the S106 agreement may not be capable of being realised.

We ask you to consider the advisability of providing an access road to the school that will terminate at the boundary fence but with no plan or funding in place to provide turning arrangements and drop-off facilities for the school as envisaged.

With regard to the Pinch Point Fund (which directly relates to the raising of the A19), there is no information on whether any funds received: a) would be used to relieve the developer of existing obligations, b) what level of public funding is proposed and c) what would be the implications if the Council's bid proved unsuccessful?

8. Battle of Fulford:

It is not disputed that the Battle of Fulford is of huge significance as the first of the three major battles of 1066 and that it represents a wonderful heritage asset for the City, whether registered or not. It is also accepted that the line of Germany beck is the most probable location for the battle. We were therefore surprised and saddened to discover that Council Officers chose to write formally to English Heritage to object to the registration of the battlesite.

A decision not to designate the battlesite is under review by English Heritage and it would be premature to approve an application now that would degrade the historic landscape to such an extent that future registration would not be feasible.

It is notable that the applicant has not updated the Environmental Statement to take account of the publication 'Finding Fulford' despite the LPA requesting such an update in a Reg 22 request.

9. Reserved Matters:

We refer to the definition of 'reserved matters' contained in the *Town and Country Planning (Development Management Procedure) (England) Order 2010*.

2 (c) states:

- “ 'reserved matters' in relation to an outline planning permission, or an application for such permission, means **any of the following matters in respect of which details have not been given in the application-**
- (a) access; b) appearance; (c) landscaping; (d) layout; and (e) scale

There are many important areas where details were not provided at the outline stage and have not provided in the reserved matters application either. Officers have stated that these outstanding details will be dealt with through conditions, but we ask you to consider whether this is a lawful interpretation of the planning (and EIA) regulations. Furthermore, Paragraph 1.6 of the committee Report states that the application 'seeks approval for **all remaining reserved matters for the whole site**'.

We find it mystifying that to date, no landscaping plans or levels/contours have been provided for the Nature Park or the area of the new access road and junction at the A19. This directly contravenes Condition no 5, which states:

"The details to be submitted for approval of the Local Planning Authority under Condition no 2 shall include: a) a plan and schedule of all existing trees and hedging on the site", b) A detailed landscaping scheme which shall illustrate the number, species, height and position of trees and shrubs, c) Details of earthworks in connection with the formation of all landscaped areas. These details shall include the level and contours to be formed and the relationship of the proposed earthworks to the surrounding landform".

Further examples of details not provided to date, include:

- The proposed foul water-pumping station. This is to be located in the floodplain (south west meadow) yet there has been no detail of scale, appearance, access/turning arrangements, boundary treatments or environmental effects.
- Additional flood defences at the A19.
- Details of parking and cycle storage for the Nature Park as outlined in condition no 10.

The failure to include all 'reserved matters' is a reason for REFUSAL.

10. Access road:

Paragraph 3.7 of the Committee Report states:

"Access Road: The access road was approved prior to the conservation area being extended to the south. Conditions 30 & 31 cover detailed development of the highway, including the new link road from the A19. It is most important that the detailed highway scheme drawings are developed to mitigate their impact on the landscape, ecology and other valued aspects of the existing environment".

Condition no 32, relates to the junction with the A19 and refers to a specific plan that was approved at the outline stage (Bryan G Hall Drawing 05/401/TR/009A). The condition also stipulates that 'no part of its carriageway shall be lower than 9.81 metres AOD level'. There is no mechanism at reserved matters stage to vary this condition and the applicant is not proposing to change it. Therefore it will be impossible to ensure that adverse environmental effects can be mitigated through alterations to the design of the road as suggested in the Committee Report.

We refer you to the Parish Council's full objection letter (dated Mar 26th) should you require further details on the concerns raised during the consultation process.

We thank you for reading this letter and trust that you will fully consider the points we raise and that you will decide that are many valid reasons to refuse this defective application.

Yours sincerely,

Jeanne Fletcher
Clerk to Fulford Parish Council.