

# COMMITTEE REPORT

**Date:** 15 November 2023      **Ward:** Fulford And Heslington

**Team:** East Area      **Parish:** None

**Reference:** 22/02108/FUL

**Application at:** 47 Heslington Lane York YO10 4HN

**For:** Erection of two storey detached dwelling after demolition of existing bungalow and outbuildings

**By:** Miss Susi Clark

**Application Type:** Full Application

**Target Date:** 17 November 2023

**Recommendation:** Approve

## 1.0 PROPOSAL

1.1 The application relates to 47 Heslington Lane in Fulford which is sited within Fulford Conservation Area. The existing building is stated to be of neutral value in the Conservation Area Appraisal. The existing dwelling is a detached bungalow accessed from a private drive off Heslington Lane. It is of red brick construction with a pantile roof and single glazed fenestration. A concrete extension was added in the 1970's. To the north of the site lies Fenby Fields playing field. Residential dwellings and a Nursing Home lie to the west. Further residential dwellings lie to the east. To the south west is St Oswald's CofE School. The site is not within Flood Zone 2 or 3.

1.2 The dwelling is set back within the site (approximately 35m from Heslington Lane) and hosts a substantial rear garden. A number of mature, large trees are located on the site and combined with the setback, the dwelling is currently well screened from public viewpoints. A sycamore tree at the site entrance is protected by a Tree Preservation Order. Further into the site, but forward of the dwelling, 2no. trees are protected by a Tree Preservation Order (Scots Pine and Black Locust). The site has been vacant for some time.

1.3 This application seeks permission to demolish the existing bungalow and associated outbuildings and construct a two-storey, detached, four bedroomed dwelling. It is of U shape form and provides a courtyard with garden and swimming pool. External materials include sandstone, timber cladding, aluminium triple glazed fenestration and a GRP flat roof with sedum covering. Access is to remain as existing however the driveway is to be upgraded. Parking is either in the garage or on the private drive. 7no. trees are proposed for removal.

1.4 The amended plans received on the 11 July 2023 have been used as the basis for determination for this application. From the original plans, the dwelling has been moved further south (approximately 8m) and the car port has been removed in the interest of trees on the site. A Preliminary Ecological Appraisal, a Preliminary Bat Roost Assessment, Great Crested Newts Technical Report and Nocturnal Bat Activity Survey were submitted during consideration of the application. There is no relevant planning history.

1.5 The application was called in by former Councillor Aspden on the following grounds;

- Insufficient Information including lack of ecological appraisal, lack of bat surveys, out of date tree survey, lack of heritage assessment and lack of information relating to drainage/surface water management and proposed/replacement landscaping;
- Harm to the Fulford Village Conservation Area including harm to the extensive garden, increase in scale and height of the proposed building, absence of public benefits that may outweigh the harm;
- Loss of public amenity – including intrusion on outlook from adjacent properties and loss of Category A trees.

## **2.0 POLICY CONTEXT**

### NATIONAL PLANNING POLICY FRAMEWORK

2.1 Key chapters and sections of the NPPF are as following:

Achieving sustainable development (chapter 2)

Decision-making (chapter 4)

Delivering a sufficient supply of homes (chapter 5)

Promoting sustainable transport (chapter 9)

Making effective use of land (chapter 11)

Achieving well-designed places (chapter 12)

Meeting the challenge of climate change, coastal change and flooding (chapter 14)

Conserving and enhancing the natural environment (chapter 15)

Conserving and enhancing the historic environment (chapter 16)

### DRAFT LOCAL PLAN (2018)

2.2 The Draft Local Plan 2018 was submitted for examination on 25 May 2018. It has now been subject to full examination. Modifications were consulted on in February 2023 following full examination. It is expected the plan will be adopted in late 2023. The following policies are relevant;

DP2 – Sustainable Development

DP4 – Approach to Development Management

D1 – Placemaking

D2 – Landscape and Setting

D4 – Conservation Areas

D6 – Archaeology

GI2 – Biodiversity and Access to Nature

GI4 - Trees and Hedgerows

CC2 – Sustainable Design and Construction of New Development

ENV2 – Managing Environmental Quality

ENV3 – Land Contamination

ENV4 – Flood Risk

ENV5 – Sustainable Drainage

T1 – Sustainable Access

T8 – Demand Management

### **3.0 CONSULTATIONS**

#### INTERNAL CONSULTATIONS

##### Highway Network Management

3.1 Proposed surfacing is gravel so the applicant should confirm the suitability of this material for use by fire tender. First 10m from the highway boundary should have a sealed surface and be positively drained (highway condition HWAY11). Sufficient manoeuvring space in front of the proposed dwelling for a vehicle to enter and exit in forward facing direction, using no more than two changes of gear. Additional cycle parking for 4no. cycles is provided beneath the first-floor terrace, but it is neither weatherproof nor secure. The applicant should provide a suitably sized locker noting that there is space within the garage to park two cycles.

##### Landscape Architect

3.2 In the original response the Landscape Architect noted that there are a large number of trees across the entire application site and some trees on the boundary. The trees are within Fulford Village Conservation Area and some are protected by a TPO (T42, T35 and T34). The Arboricultural survey provides some advice but need an Arboricultural Impact Assessment (AIA) and draft Arboricultural Method Statement (AMD) to show exactly which trees would be retained and removed and which may require special protection measures.

3.3 The tree survey was carried out with no development proposals in mind (October 2019). It is not uncommon for tree surveys to be carried out every 4 to 5 years. The change to the root protection area would be negligible. The condition of trees can be picked up in an AIA. Suggest an arboricultural consultant visit the site to check no significant changes.

3.4 The development retains the trees that have the greatest public amenity (those along the frontage/driveway connecting with Heslington Lane and those along the Northern boundary with the playing field to the rear). Some of the trees along the eastern and western boundaries are visible in part and provide characteristic division between gardens and a sense of garden space from the street.

3.5 The Landscape Architect asked for the car port to be removed from the proposal, more detail with regards to external works such as driveways, fencing etc. Also requested an AIA relating to the proposed development and a draft AMS including a Tree Protection Plan.

3.6 Following receipt of the amended plans, the Landscape Architect concluded that given that the applicant has changed the design in accordance with the recommendations, happy for the Arboricultural Method Statement to be attained through a pre-commencement condition.

#### Ecologist and Countryside Officer

3.7 No objections but recommend a condition with regards to bats and biodiversity enhancements. Informatives recommended with regards to hedgehogs, invasive non-native species, nesting birds and lighting.

#### Flood Risk Management Team

3.8 Proposal will enlarge the existing build and will increase surface water run off therefore formal and separate foul and surface water drainage details must be provided. Foul water in accordance with the requirements of Yorkshire Water and surface water in accordance with our Sustainable Drainage Systems Guidance for Developers and the hierarchy of surface water disposal. This must be explored prior to determination of the application.

#### Public Protection

3.9 No objections to the application but recommend an unexpected land contamination condition and EV charging point informative (this is covered by building regulations).

#### City Archaeologist

3.10 The proposed development is within close proximity to St Oswald's School which was subject to archaeological evaluation in 2003 which produced some interesting archaeological remains. It is uncertain how much disturbance the garden of 47 Heslington Lane has been subject to. As the proposed development is larger than the existing footprint and includes a pool, the Archaeologist recommends an archaeological watching brief via condition.

#### CYC Urban Design and Conservation

3.11 DM to assess.

### EXTERNAL CONSULTATIONS

#### Yorkshire Water

3.12 No observation comments as the developer is intending to retain and re-use the existing drainage system of the bungalow.

#### Ouse and Derwent IDB

3.13 Board has assets in the wider area in the form of Germany Beck. The watercourse is known to be subject to high flows during storm events. Board notes the application form states the applicant intends to use the mains sewer for the disposal of surface water. The Board recommends that soakaways are first

considered in accordance with the PPG hierarchy. Board notes the applicant is proposing to use the mains sewer for the disposal of foul sewage. If Yorkshire Water is content with this arrangement, then the Board would have no objection.

## 4.0 REPRESENTATIONS

4.1 The application was advertised via neighbour notification, site notice and press notice. One general comment and one letter of support was received in November 2022 (same party) on the following grounds:

- Development strikes as high standard
- Pleased to see the development preserves as many of the existing trees as possible, especially the mature trees near the sites eastern boundary.
- Reservations about the positioning of the car port.
- Want to ensure the tree roots of a Scots pine is not damaged.
- Would be beneficial to introduce some new planting of trees/bushes along the current boundary between the two properties to screen. Hope fencing could be rectified as part of the development.

4.2 One letter stating no objection to the plan itself, however wants to ensure the access to the Nursing Home and the Bungalow in the grounds is maintained as per their deeds. Providing the boundary and access is adhered then satisfied.

4.3 Following the amended plans, three letters of objection (signed by the same two parties) were received. These comments are:

- Width of the development is out of proportion to the existing house.
- Width would spoil the open aspect from back garden of no.49.
- Loss of amenity and loss of privacy.
- Proposed development is not sensitive to the existing character of the Fulford Village Conservation Area.
- Concerns regarding root protection area of visually prominent trees (T32, T33 and T35).
- Loss of healthy mature trees.
- Seek the retention of healthy and thriving trees in the immediate area.
- More proportionate development would allow more of the existing trees to be retained.
- Incomplete and out of date tree survey.
- Poor condition of no.47 and will need to be redeveloped.

- Large proposed development does not relate closely in scale or footprint to the existing house.
- Car parking and driveway close to neighbour's boundary.
- Loss of green space.

4.4 A letter of general comment was received on the following grounds;

- Concerned about access to property.
- When bought the property there was no fixed boundary marker between the properties.
- Vendors erected a post and rail fence but since fallen down.
- The fence was incorrectly positioned.
- Ensure the new boundary is marked in the correct position and clear access is maintained.

#### Ward Councillor

4.5 Objection was received by the Ward Councillor on the following grounds;

- Potential to harm the Fulford Village Conservation Area including significant increase in scale and height of the building.
- Overdevelopment.
- Loss of public amenity.
- Intrusion on outlook from adjacent properties.
- Loss of category 'A' trees.
- Excess number of car parking spaces.
- No provision for cycle parking/storage.

#### Fulford Parish Council

4.6 Objected to the original plans on the following grounds;

- a) Lack of ecological appraisal.
- b) Lack of bat surveys.
- c) Out of date tree survey.
- d) Lack of heritage assessment.
- e) Information lacking with regards to drainage/surface water management and proposed/replacement landscaping.

- f) Harm to the Fulford Village Conservation Area (extensive garden is an important historic space and contributes to significance and provides a verdant and spacious setting).
- g) Two storey building is of much greater scale and height than the existing bungalow and spans almost the full width of the site as well as being positioned deeper into the garden.
- h) Unnecessary loss of trees.
- i) Flat roof design and contemporary materials would appear discordant in the landscape.
- j) Loss of public amenity due to scale and massing.
- k) Visible from nearby gardens in particular no.49.
- l) Replacement of bungalow of more sustainable construction and green roof could be supported in principle but only if it does not harm the heritage or natural environment.

#### 4.7 Objects to the amended plans on the following grounds;

- a) Out of date tree survey, almost 4 years old. The inspection should be carried out prior to determination.
- b) Lack of heritage assessment.
- c) Harm to Conservation Area and nearby non-designated heritage assets. Development may only be permitted if the public benefits are sufficient to outweigh the harm and provide clear and convincing justification.
- d) Extensive garden represents an important historic space and contributes to its significance. Provides a verdant and spacious setting for the substantial houses.
- e) Greater height and scale than the existing bungalow.
- f) Spans across the site.
- g) Unnecessary loss of significant trees.
- h) Flat roof design and use of contemporary materials would appear discordant.
- i) Fail to respect the historic grain and layout of the surroundings.
- j) Would not appear subservient and conflicts with 10.6 of the CA Appraisal.
- k) Readily visible from nearby gardens.
- l) Impact on public amenity.
- m) Loss of visual amenity and biodiversity from the felling of trees.

## 5.0 APPRAISAL

### 5.1 The key issues in this case are:



- Principle of the proposed development
- Design and impact on Fulford Conservation Area, street scene and surrounding area.
- Residential amenity
- Highways, access and parking
- Trees
- Sustainable design and construction
- Drainage
- Ecology
- Archaeology

## PRINCIPLE OF THE PROPOSED DEVELOPMENT

### Policy

5.2 Paragraph 60 of the NPPF seeks to significantly boost the supply of homes. Planning decisions should promote an effective use of land in meeting the need for homes and other uses, while safeguarding and improving the environment and ensuring safe and healthy living conditions (paragraph 119 of the NPPF). Planning decisions should give substantial weight to the value of using suitable brownfield land within settlements for homes and other identified needs, and support appropriate opportunities to remediate despoiled, degraded, derelict, contaminated or unstable land (paragraph 120c of the NPPF).

### Assessment

5.3 The proposal seeks to demolish the existing residential dwelling and construct a new, larger replacement dwelling. The residential use of the site is established. The existing dwelling is listed of neutral value in the Conservation Area. The site has been vacant for some time and the dwelling is now unfortunately in a poor condition. The demolition of the dwelling is therefore considered acceptable. Subject to a review of other material planning considerations, the principle of development is acceptable.

## DESIGN AND IMPACT ON FULFORD CONSERVATION AREA, STREET SCENE AND SURROUNDING AREA

### Policy

5.4 Section 16 of the NPPF, conserving and enhancing the historic environment, advises that heritage assets are an irreplaceable resource, and should be conserved in a manner appropriate to their significance, so that they can be enjoyed for their contribution to the quality of life of existing and future generations. Paragraph 199 states that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation.

5.5 Section 72 of the Planning (Conservation Areas & Listed Buildings) Act requires that special attention shall be paid to the desirability of preserving or enhancing the character and appearance of a conservation area. This is supported by Policy D4 of the Draft Local Plan which seeks to protect Conservation Areas and its setting.

5.6 Policy D1 of the Draft Local Plan supports development where they improve poor existing urban environments. Design considerations include the urban structure, grain, density, massing, spacing, scale and appearance.

### Assessment

5.7 The site is located within Fulford Village Conservation Area. The Fulford Village Conservation Area Appraisal (dated April 2008) notes at 9.3 'The conservation area culminates with a handful of larger Victorian and early 20th century houses and villas on the north side of the street which are set much further back from the road, with mature trees dominating the street frontage and front gardens. The long rear gardens are mostly inaccessible and undeveloped, and again interspersed with mature trees, and contribute to the character and amenity of the area: the new houses to the rear of Nos 33 and 43 Heslington Lane are an unfortunate intrusion'.

5.8 There is no set pattern in terms of materials, property style or siting along this section of Heslington Lane, however the Appraisal notes the design of new buildings needs to observe closely the characteristics of the area and be guided by them: this applies particularly to the scale of development behind the frontages, which should always be subordinate.

5.9 The new dwelling is two storey and is to be sited slightly further north than the existing bungalow. It is of U shape form and extends further east than the existing dwelling. The new dwelling will be larger than the existing dwelling, however the dwelling benefits from a substantial plot and the scale would not be disproportionate

in this context. As such the house, although increasing in scale, will still sit comfortably within the spatial context of the street and plot. It is set in from the plot boundaries and set back considerably from the public highway. The spaciousness is retained and it is considered the dwelling would remain subordinate.

5.10 The dwelling is of contemporary design and is to be constructed in sandstone, timber cladding, aluminium triple glazed fenestration and a GRP flat roof with sedum covering. The design will add interest to this part of the Conservation Area. The materials will be new within the immediate area, however given the set back, dark colours and existing screening, the materials are considered acceptable as only parts of the front elevation will be visible from public viewpoints. A condition is recommended to approve sample materials prior to their use to secure high quality materials.

5.11 Overall the proposed works are visually considered an improvement and will result in a high quality and contemporary dwelling, which when taking into account the context of the existing dwelling on site, will enhance the character and appearance of the Conservation Area in line with Section 16 of the NPPF, policy D1 and D4 of the Draft Local Plan (2018) and Section 72 of the Planning (Conservation Areas & Listed Buildings) Act

## RESIDENTIAL AMENITY

### Policy

5.12 NPPF section 12 in respect of design advises decisions should create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users. Section 15 refers to noise and its potential impact on amenity. Policy ENV2 of the Draft Local Plan seeks to ensure development does not unacceptably harm the amenities of existing and future occupants on the site occupiers and existing in neighbouring communities. Policy ENV3 relates to land contamination and the Public Protection Officer recommends an unforeseen land contamination condition in this respect.

### Assessment

## **Impact on 49 Heslington Lane**

5.13 The existing dwelling at its highest point is 6.38m as confirmed on the existing site plan (the highest ridge level of the Bungalow to be demolished is 19.69m from the survey data and the ground level is 13.31m). It is located approximately 10m (at its closest point) from the northern boundary and 15m from the rear elevation of no.49, however at a 45 degree angle (approximately).

5.14 The proposed dwelling will be 8m in height at its highest point and would be located 9m from the northern boundary and 20m from the rear elevation of no.49. The front elevation of the proposed dwelling is set back a further 7.4m than the front of the existing dwelling, however extends approximately 9m further east.

5.15 The windows in the front elevation facing 49 Heslington Lane are a ground floor snug, entrance hall, cloakroom and W.C. There is existing vegetation on and near the boundary which provides some screening at ground floor. The first floor window serves a corridor. Given the height and use of the room, it is recommended this first floor window is obscure glazed to remove any opportunity of overlooking. The distances between the two dwellings, alongside the use of obscure glazing at first floor, are considered sufficient to avoid overlooking between the two dwellings. Taking into account the plot sizes, height at 8m and distances between built form, the proposal is not considered to be overbearing or result in overshadowing.

5.16 Concerns are raised in the representation regarding planting trees/bushes or a fence to screen the two properties. Soft/hard boundary treatments are not proposed as part of this application and are not necessary to mitigate a planning concern.

### **Impact on 59-63 Heslington Lane**

5.17 The dwelling would be located 11m from the eastern boundary. Ground floor windows in the eastern elevation include a lounge window, kitchen window and utility window. First floor windows include an en-suite and dressing room. Mature trees run along the eastern boundary and a strip of land lies between this site and the neighbours (59-63). Taking the site characteristics into account and the distances between the sites, the proposal is not considered to result in overlooking, be overbearing or result in overshadowing.

### **Impact on 45 Heslington Lane**

5.18 45 Heslington Lane is a period property split into flats. The majority of the windows in this building either face towards Heslington Lane or are located on the

side elevation. The proposed dwelling is sited further north than the existing dwelling, therefore is moved away from the rear elevation of no.45. In some respects amenity is improved as the separation distances are increased.

5.19 There are no ground floor windows immediately facing towards this building, however there is a first floor dressing room located approx. 7.5m from the rear elevation of no.45. This window will mainly overlook a shared driveway and would not result in any privacy concerns. Obscure glazing is recommended by condition. The increase in height of the dwelling is considered acceptable. Amenity is therefore protected for occupiers of 45 Heslington Lane.

### **Impact on the Nursing Home**

5.20 The proposed dwelling will be sited to the east of the Nursing Home approximately 2m closer at a greater height (increase of approximately 1.62m), however it is still located approx. 15m from the offshoot buildings of the Nursing Home. There are no windows proposed in the side elevation facing this building, therefore there are no overlooking concerns arising. The distance is considered sufficient to prevent overshadowing or from being overbearing for occupiers.

### **Conclusion**

5.21 To conclude on amenity matters, the proposed dwelling would provide a good standard of amenity for future occupants and would not detrimentally impact neighbouring amenity by way of overlooking, overshadowing or being overbearing. The proposal is therefore in line with Section 12 and 16 of the NPPF and policy ENV2 of the Draft Local Plan.

## **HIGHWAYS, ACCESS AND PARKING**

### Policy

5.22 The NPPF requires development be focused on locations which are or can be made sustainable, through limiting the need to travel and offering a genuine choice of transport modes. This can help to reduce congestion and emissions and improve air quality and public health. Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe (paragraph 111 of the NPPF).

5.23 Policy T1 of the Draft Local Plan seeks to ensure development proposals demonstrate safe and appropriate access. Development must provide sufficient convenient, secure and covered cycle storage. Policy T8 relates to demand management and improving the overall flow of traffic in and around the City Centre.

### Assessment

5.24 The application will utilise the existing access served by the dwelling. The Highways Officer recommends the first 10m of the site to have a sealed surface. This condition has been added. There is sufficient manoeuvring space in front of the proposed dwelling for a vehicle to enter and exit in forward facing direction, using no more than two changes of gear. Car parking is provided either in the garage or on the driveway. The Parish Council raise concerns regarding too many car parking spaces; the application proposes a large gravel parking and turning area to the front. It would not be reasonable or necessary to seek to restrict the number of car parking spaces for a development such as this with a large garden.

5.25 The Highways Officer raises concerns about the style of cycle parking provided. Sheffield stands are proposed however these are not weather proof nor secure. As such a condition is recommended to secure cycle parking details at a later date as there is sufficient room to provide this on site. 4no. cycle spaces are required for a 4no. bedroom dwelling.

5.26 Overall the proposal provides adequate parking and turning for all uses and is not considered to result in an unacceptable impact on highway safety. The residual cumulative impacts on the road network would not be severe. The proposal is therefore in line with paragraph 111 of the NPPF.

5.27 Private access arrangements and details protected in property deeds are not planning matters.

## TREES AND LANDSCAPING

### Policy

5.28 Policy GI4 of the Draft Local Plan states

Development will be permitted where it:

- i. recognises the value of the existing tree cover and hedgerows, their biodiversity value, the contribution they can make to the quality of a development, and its assimilation into the landscape context;
- ii. provides protection for overall tree cover as well as for existing trees worthy of retention in the immediate and longer term and with conditions that would sustain the trees in good health in maturity;
- iii. retains trees and hedgerows that make a positive contribution to the character or setting of a conservation area or listed building, the setting of proposed development, are a significant element of a designed landscape, or value to the general public amenity, in terms of visual benefits, shading and screening.
- iv. does not create conflict between existing trees to be retained and new buildings, their uses and occupants, whether the trees or buildings be within or adjacent to the site; and
- v. supplements the city's tree stock with new tree planting where an integrated landscape scheme is required; and,
- vi Provides suitable replacement planting where the loss of trees or hedgerows worthy of retention is justified.

### Assessment

5.29 The application is accompanied by an Arboricultural Survey and Implication Study (dated October 2019). The Sycamore Tree (CYC 151-T1), referred to as T42, the False Acacia (Robinia) (CYC 254-T1) and Scots Pine (CYC 254-T2) referred to as T35 and T34 respectively in the applicant's tree survey are protected by a Tree Preservation Order (TPO).

5.30 7no. trees are proposed for removal as part of this application (as shown on the Tree Mark up plan dated 3<sup>rd</sup> July 2023) however these are not protected by a TPO.

These include;

T11 – Holly (category B2)

T12 – Horse Chestnut (category B2)

T29 - Ginko Biloba (category B2)

T30 – Pine (category A2)

T31 – Weeping Willow (category B2)

T49 – Magnolia (category B1)

Small Laburnum

5.31 The trees proposed for removal are located behind the existing bungalow within the middle of the site and as such currently offer low public amenity value. Replacement planting would be required for the loss of these trees to preserve the existing verdant character within the conservation area. A condition is recommended to secure a landscaping scheme to compensate for the loss of the felled trees.

5.32 The tree survey was carried out with no development proposals in mind, i.e. it is an assessment of the state of the trees and their situation at the time of the survey in October 2019. Fulford Parish Council raise a concern that the tree survey is 'out of date', however it is not uncommon for tree surveys in respect of the condition of trees to be carried out every 4 to 5 years. Although the girth of the trees may have expanded slightly, the change to the recommended root protection area would be negligible. The Landscape Architect recommends an Arboricultural Method Statement which has been added as a condition.

## SUSTAINABLE DESIGN AND CONSTRUCTION

### Policy

5.33 Policy CC2 of the Draft Local Plan, as recently amended, states all new residential development of 1 or more dwellings should achieve:

- i. on-site carbon emissions reduction of a minimum of 31% over and above the requirements of Building Regulations Part L (2013), of which at least 19% should come from energy efficiency measures; and,
- ii. a water consumption rate of 110 litres per person per day (calculated as per Part G of the Building Regulations).

Should the dwelling not achieve a reduction in carbon emissions of 75%, compared to the target emission rate as required under Part L of the Building Regulations 2013, prior to construction a statement to demonstrate that such reductions would not be feasible or viable shall be submitted to and approved in writing by the Local Planning Authority.

### Assessment

5.34 With regards to the above sustainability requirements, these can be secured by condition for the new build dwellings.



## DRAINAGE

### Policy

5.35 Policy ENV5 requires sustainable drainage and states that for all development on brownfield sites, surface water flow shall be restricted to 70% of the existing runoff rate (i.e. 30% reduction in existing runoff), unless it can be demonstrated that it is not reasonably practicable to achieve this reduction in runoff.

### Assessment

5.36 The site lies within flood zone 1. The existing dwelling is already connected to a drainage system (mains for surface water and foul water). Yorkshire Water have no observation comments as the developer is intending to retain and re-use the existing drainage system. The Flood Risk Management Team state the proposal will enlarge the existing build and increase surface water run-off. As such further drainage details would be required as the suitability of other sustainable drainage methods has not been explored. This can be conditioned.

## ECOLOGY

### Policy

5.37 Policy GI2 of the Draft Local Plan (2018) relates to biodiversity and access to nature. Paragraph 174 (d) of the NPPF (2021) seeks to ensure development contributes and enhances the natural and local environment by minimising impacts on and providing net gains for biodiversity, including establishing coherent ecological networks that are more resilient to current and future pressures. These enhancements are required in addition to the protected species licence requirements to mitigate for bats.

### Assessment

5.38 The application is accompanied by a Nocturnal Bat Activity Survey by Peak Ecology LTD (dated 13.09.2023), Preliminary Ecological Appraisal by Peak Ecology LTD (dated 15.12.2022) and an Arboricultural Survey and Implication Study. Following the bat surveys carried out in 2023, a Soprano pipistrelle bat roost was identified within the northern elevation of the pitched extension. As the proposed

work would result in the loss of this roost, a European Protected Species licence issued by Natural England will be required prior to the commencement of works.

5.39 The species protection provisions of the Habitats Directive, as implemented by the Conservation of Habitats and Species (Amendment) (EU Exit) Regulations 2019, contain three "derogation tests" which must be applied by Natural England when deciding whether to grant a licence to a person carrying out an activity which would harm a European Protected Species (EPS). Notwithstanding the licensing regime, the LPA must also address these three tests when deciding whether to grant planning permission for a development which could harm an EPS.

5.40 The "derogation tests" which must be applied for an activity which would harm a European Protected Species (EPS) are contained within the species protection provisions of the Habitats Directive, as implemented by the Conservation of Habitats and Species Regulations 2017 (as amended) are as follows:

1. that the action is for the purpose of preserving public health or public safety or other imperative reasons of overriding public interest, including those of a social or economic nature;
2. that there is no satisfactory alternative; and
3. that the action authorised will not be detrimental to the maintenance of the species concerned at a favourable conservation status in their natural range.

5.41 With regards to the first test, in this case the new build dwelling would provide a fit-for purpose dwelling. The current dwelling has fallen into disrepair, is increasingly environmentally inadequate and is structurally unsound.

5.42 With regards to the second test, the Applicant does not have any alternative land to build on and the residential use is established on site. When taking into account the existing condition of the building, the demolition and re-build of a dwelling is the preferred option economically and environmentally to provide a more sustainable home on this site.

5.43 With regards to the third test, the conservation status of species will be taken as 'favourable' when:

- a) population dynamics data on the species concerned indicate that it is maintaining itself on a long-term basis as a viable component of its natural habitats, and
- b) the natural range of the species is neither being reduced for the foreseeable future, and

c) there is, and will probably continue to be, a sufficiently large habitat to maintain its populations on a long-term basis.

5.44 With regards to test 3, the building currently supports a roost for a single Soprano pipistrelle bat. This species is common and widespread throughout the UK and classed as a species of 'least' conservation concern. The requirement for a European Protected Species Licence will prevent any direct harm and the provision of new, integrated roosting features within the proposed building will maintain roosting opportunities on site. Therefore, the third test for maintenance of favourable conservation status is met.

5.45 The development will be required to provide biodiversity enhancements; in accordance with Paragraph 174 (d) of the NPPF (2021). Ecological enhancements have been recommended in the Nocturnal Bat Activity Surveys report with the aim of providing biodiversity gains post construction, in addition to mitigation requirements for bat mitigation licencing. A planning condition has been added with regards to biodiversity enhancements. Informatives are added with regards to hedgehogs, invasive non-native species, nesting birds and lighting.

## ARCHAEOLOGY

### Policy

5.46 Draft Local Plan Policy D6 relates to archaeology. Development must not result in harm to the significances of the site or its setting. It should be designed to enhance or better reveal the significances of an archaeological site or will help secure a sustainable future for an archaeological site at risk.

5.47 Where harm to archaeological deposits is unavoidable, detailed mitigation measures must be agreed with City of York Council that include, where appropriate, provision for deposit monitoring, investigation, recording, analysis, publication, archive deposition and community involvement.

### Assessment

5.48 The Council's Archaeologist was consulted on the proposal and notes the proposed development site is within very close proximity to St Oswald's School which was subject to archaeological evaluation in 2003. This investigation produced some interesting archaeological remains. This included finds of worked flint,

possible pre-Roman pits and ditches, Roman pottery, medieval ditches and, perhaps most significantly, an earthwork and finds associated with the Civil War Siege of York. These findings are of local/regional importance.

5.49 It is uncertain as to how much disturbance the garden of 47 Heslington Lane, outside of the existing bungalow footprint, has been subjected to. Disturbance to any surviving archaeological resource from the creation of the extant building and from tree roots.

5.50 As the proposed development is larger than the existing footprint and includes a pool, given the proximity to the findings at St Oswald's, the Archaeologist suggests an archaeological watching brief is maintained as a precaution during excavations for any foundations, pool or attenuation/drainage runs. This will ensure that any finds or features that may survive on the site are recorded. This can be conditioned.

## **6.0 CONCLUSION**

6.1 The proposal seeks the demolition of the existing bungalow at 47 Heslington Lane and the erection of a replacement, contemporary two storey dwelling. The works are considered to enhance the character and appearance of Fulford Conservation Area and its setting. The residential amenity of surrounding neighbours is protected. The first-floor window serving the corridor is recommended to be obscure glazed and this can be secured by condition. The proposal seeks to utilise the existing access which is to be upgraded. The development involves the loss of 7no. trees, however replacement planting can be secured by condition. A European Protected Species license will be required prior to commencement of any works. Matters such as parking, trees, sustainability, drainage and ecology can be adequately addressed via conditions. The proposal accords with national planning policy and draft local policy, therefore is recommended for approval subject to conditions.

## **7.0 RECOMMENDATION:** Approve

1 TIME2 Development start within three years

2 The development hereby permitted shall be carried out in strict accordance with the following drawings:

Location plan; 47 Heslington Lane.

Proposed site plan; drawing number 100/02, dated 10th July 2023.

Proposed ground floor plan; drawing number 100/03, dated 10th July 2023.

Proposed first floor plan; drawing number 100/04, dated 10th July 2023.

Proposed roof plan; drawing number 100/05, dated 10th July 2023.

Proposed north and south elevations; drawing number 100/06, dated 10th July 2023.

Proposed east and west elevations; drawing number 100/07, dated 10th July 2023.

Reason: For the avoidance of doubt and in the interests of proper planning.

3 Prior to the commencement of the external construction of the walls of the development hereby approved, a sandstone sample and cladding sample to be used shall be deposited on the site for the written approval of the Local Planning Authority. Development shall be carried out in strict accordance with the approved details and the samples shall be retained on site during the period of construction of all external walls.

Reason: In order to ensure that the materials used conform to the visual requirements of the locality and in the interests of securing a high quality development in the Conservation Area in line with policy D4 of the Draft Local Plan and sections 12 and 16 of the NPPF.

4 Before the first use of any materials in the external construction of the roof of the development hereby approved, samples of those materials shall have been made available for inspection by, and the written approval of, the Local Planning Authority and the development shall be carried out in strict accordance with the approved details.

Reason: In order to ensure that the materials used conform to the visual requirements of the locality and in the interests of securing a high quality development in the Conservation Area in line with policy D4 of the Draft Local Plan and sections 12 and 16 of the NPPF.

5 No demolition, site clearance, preparatory work, or development involving excavations shall take place until a scheme for the protection of the retained trees (the tree protection plan) and the appropriate working methods (the arboricultural method statement ("AMS")) in accordance with British Standard BS 5837: Trees in relation to design, demolition and construction - Recommendations, shall have been submitted to and approved in writing by the local planning authority.

Amongst the detail within the AMS, the statement shall cover details and locations of protective fencing, ground protection, a schedule of tree works if applicable, site rules and prohibitions, phasing of protection measures, site access during development operations, types of construction machinery/vehicles to be used, method of demolition and site clearance, parking arrangements for site vehicles, locations for stored materials, locations and means of installing utilities, location of

site compound. The document shall also include methodologies and construction details where specialist construction techniques are required for a change in surface material and/or boundary treatment within the potential root protection area of existing trees.

A copy of the AMS shall be available for reference and inspection on site at all times. The scheme for the protection of the retained trees shall be carried out as approved. In this condition "retained tree" means an existing tree which is to be retained in accordance with the approved plans and particulars.

Reason: To ensure every effort and reasonable duty of care is exercised during the development process in the interests of protecting the existing trees shown to be retained which are considered to make a significant contribution to the amenity and setting of the development and the conservation area.

6 A detailed scheme for landscaping, including the planting of trees and or shrubs shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of any external construction of the walls of the development hereby approved. The landscaping scheme shall include the retention of all retained trees and include replacement planting for the trees removed as a result of this proposal. The 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 and shall be implemented in strict accordance with details as approved by the Local Planning Authority.

Reason: To safeguard the rights of control by the Local Planning Authority in these respects and in the interests of amenity and to compensate for the loss of the trees within the Conservation Area.

7 No development shall take place until details of the proposed means of surface water drainage have been submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be carried out in accordance with the approved details.

The required details shall evidence that the discharge of surface water has been prioritised in the following order - infiltration (i.e. soakaway), watercourse, and combined/surface water sewer. (Discharge to an existing public sewer network shall only be specified as a last resort with sufficient evidence that other methods are not appropriate).

If the proposed method of surface water disposal is via soakaways, these shall be shown to work through an appropriate assessment carried out under BRE Digest 365, (preferably carried out in winter), to prove that the ground has sufficient capacity to except surface water discharge, and to prevent flooding of the surrounding land and the site itself. City of York Council's Flood Risk Management

Team should witness the BRE Digest 365 test.

If SuDs methods are proven to be unsuitable then peak run-off from shall be attenuated to the following rate; Brownfield sites are to limit the discharge of surface water off site based on 140 l/s/ha of proven connected impermeable areas for the 1 in 1 year storm or better. A site survey of the existing drainage will be required to prove discharge and will not be assumed all impermeable areas drain to sewer. Brownfield sites drainage proposals will be measured against the existing performance of the site based on its proven connected impermeable areas. The drainage scheme shall reduce the previously developed surface water runoff rate by a minimum of 30%.

Details shall include -

- o Storage volume calculations, using computer modelling, which must accommodate a 1:30 year storm with no surface flooding, along with no internal flooding of buildings or surface run-off from the site in a 1:100 year storm. Proposed areas within the model must also include an additional 30% allowance for climate change. The modelling must use a range of storm durations, with both summer and winter profiles, to find the worst-case volume required.
- o Topographical survey showing the existing and proposed ground and finished floor levels to ordnance datum for the site and adjacent properties. (To evidence runoff from the site will not affect nearby properties).

Reason: In the interests of sustainable drainage and to avoid increased flood risk in accordance with NPPF section 14, in particular paragraph 167, Draft Local Plan policy EN5: Sustainable Drainage and in accordance with City of York Councils Sustainable Drainage Systems Guidance for Developers (August 2018).

8 Prior to the development coming into use, the initial 10m of the vehicular access, measured from the back of the public highway, shall be surfaced, sealed and positively drained within the site. Elsewhere within the site all areas used by vehicles shall be surfaced and drained, in accordance with the approved plans.

Reason: To prevent the egress of water and loose material onto the public highway.

9 Prior to the development being brought into use details of cycle parking storage, including means of enclosure, shall be submitted to and approved in writing by the Local Planning Authority. The building shall not be occupied until the cycle parking areas and means of enclosure have been provided within the site in accordance with such approved details, and these areas shall not be used for any purpose other than the parking of cycles.

Reason: To promote use of cycles thereby reducing congestion on the adjacent roads and in the interests of the amenity of neighbours.

10 Demolition works shall not in any circumstances commence unless the local planning authority has been provided with either:

- a) a licence issued by Natural England pursuant to Regulation 53 of The Conservation of Habitats and Species Regulations 2017 (as amended) authorising the specified activity/development to go ahead; or
- b) confirmation that the site is registered on a Bat Mitigation Class licence (formally Low Impact Class Licence) issued by Natural England; or
- c) a statement in writing from the relevant licensing body to the effect that it does not consider that the specified activity/development will require a licence.

Reason: To maintain the favourable conservation status of a European Protected Species.

11 A biodiversity enhancement plan/drawing shall be submitted to, and be approved in writing by, the local planning authority prior to the commencement of works. The contents of the plan shall include, but not be limited to the recommendations set-out in the Nocturnal Bat Activity Surveys, provided by Peak Ecology Ltd., dated 13.09.2023. The approved works shall be carried out in accordance with details shown on the approved enhancement plan/drawing.

Reason: To take account of and enhance the biodiversity and wildlife interest of the area, and to be in accordance with Paragraph 174 (d) of the NPPF (2021) to contribute to and enhance the natural and local environment by minimising impacts on and providing net gains for biodiversity, including establishing coherent ecological networks that are more resilient to current and future pressures.

12 In the event that unexpected contamination is found at any time when carrying out the approved development, it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken and, if remediation is necessary, a remediation strategy must be prepared, which is subject to approval in writing by the Local Planning Authority. Following completion of measures identified in the approved remediation strategy, a verification report must be submitted to and approved by the Local Planning Authority. It is strongly recommended that all reports are prepared by a suitably qualified and competent person.

Reason: To ensure that the site is suitable for its proposed use taking account of ground conditions and any risks arising from land contamination.

13 The dwelling hereby permitted shall achieve a reduction in carbon emissions of at least 31% compared to the target emission rate as required under Part L of the Building Regulations 2013 and a water consumption rate of 110 litres per person per



day (calculated as per Part G of the Building Regulations).

Should the dwelling not achieve a reduction in carbon emissions of 75%, compared to the target emission rate as required under Part L of the Building Regulations 2013, prior to construction a statement to demonstrate that such reductions would not be feasible or viable shall be submitted to and approved in writing by the Local Planning Authority.

Reason: To fulfil the environmental objectives of the NPPF and support the transition to a low carbon future, and in accordance with policy CC2 of the Draft Local Plan 2018.

14 A) No groundworks shall take place until an archaeological contractor has been appointed by the applicant and approved in writing by the local planning authority. The site investigation, post-investigation assessment and provision for analysis, publication and dissemination of results and archive deposition shall be completed/secured in accordance with standards set by the Chartered Institute for Archaeologists and LPA.

B) A copy of a report shall be deposited with City of York Historic Environment Record to allow public dissemination of results 3 months of completion or such other period as may be agreed in writing with the Local Planning Authority.

Reason: The site lies within an area of archaeological interest and the development may affect archaeological deposits which must be recorded prior to destruction. This condition is imposed in accordance with Section 16 of NPPF.

15 Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any order revoking or re-enacting that Order), unless otherwise approved in writing by the Local Planning Authority the windows in the first floor south elevation (corridor) and the first floor east elevation (serving the dressing room and en-suite); shall at all times be obscure glazed to a standard equivalent to Pilkington Glass level 3 or above.

Reason: In the interests of the amenities of occupants of adjacent residential properties.

## **8.0 INFORMATIVES: Notes to Applicant**

### **1. STATEMENT OF THE COUNCIL'S POSITIVE AND PROACTIVE APPROACH**

In considering the application, the Local Planning Authority has implemented the

requirements set out within the National Planning Policy Framework (paragraph 38) in seeking solutions to problems identified during the processing of the application. The Local Planning Authority took the following steps in order to achieve a positive outcome; asked for amendments to overcome Landscape Architect concerns, additional ecological information, sustainability statement and highways clarification.

## 2. INVASIVE NON-NATIVE SPECIES

The applicant is reminded that some *Rhododendron* species, which was noted on site, are listed on Schedule 9 of The Wildlife and Countryside Act (1981 as amended) making it an offence to "introduce, plant or cause to grow wild" these species. Steps should be taken to prevent further spread of the plant which would have a negative impact on biodiversity and existing or proposed landscape features.

## 3. HEDGEHOGS

The applicant is advised to consider using permeable fencing or leaving occasional gaps suitable to allow passage of hedgehogs. Any potential hibernation sites including log piles should be removed outside the hibernation period (which is between November and March inclusive) in order to avoid killing or injuring hedgehogs.

Hedgehogs are of priority conservation concern and are a Species of Principal Importance under section 41 of the NERC Act (2006). An important factor in their recent population decline is that fencing, and walls are becoming more secure, reducing their movements and the amount of land available to them. Small gaps of approximately 13x13cm can be left at the base of fencing to allow hedgehogs to pass through. Habitat enhancement for hedgehogs can easily be incorporated into developments, for example through the provision of purpose-built hedgehog shelters or log piles. <https://www.britishhedgehogs.org.uk/wp-content/uploads/2019/05/developers-1.pdf>

## 4. NESTING BIRDS

The applicant is reminded that, under the Wildlife and Countryside Act 1981, as amended (section 1), it is an offence to remove, damage or destroy the nest of any wild bird while that nest is in use or being built. Planning consent for a development does not provide a defence against prosecution under this act. Buildings, trees and scrub are likely to contain nesting birds between 1st March and 31st August inclusive. Suitable habitat is present on the application site and is to be assumed to contain nesting birds between the above dates, unless a recent survey has been undertaken by a competent ecologist to assess nesting bird activity.

## 5. WILDLIFE AND LIGHTING:

When designing external lighting its potential impacts on light sensitive species should be considered. Direct lighting and light spill should be avoided where new bat roosting and bird nesting features are installed, on trees, soft landscaping, and

'green' linear features, such as hedges. Advice on lighting design for light sensitive species is available from the Bat Conservation Trust (2023) Bats and Artificial Lighting at Night: <https://theilp.org.uk/publication/guidance-note-8-bats-and-artificial-lighting/>

**Contact details:**

**Case Officer:** Natalie Ramadhin

**Tel No:** 01904 555848