

COMMITTEE REPORT

Date: 3 October 2019 **Ward:** Fulford And Heslington
Team: East Area **Parish:** Fulford Parish Council

Reference: 18/02169/FULM
Application at: Royal Masonic Benevolent Institute Connaught Court St Oswalds Road York YO10 4QA
For: Change of use of existing care home bungalows (use class C2) to residential dwellings (use class C3b) and construction of associated car park and access road from Fulford Park
By: RMBI Care Company
Application Type: Major Full Application (13 weeks)
Target Date: 17 October 2019
Recommendation: Approve subject to Section 106 Agreement

1.0 PROPOSAL

1.1 The proposal comprises:

- (i) Change of use of 10 existing bungalows from C2, residential institutions to C3(b), dwellinghouses for people living as a single household and receiving care;
- (ii) Construction of a car park for 10 cars to serve the bungalows;
- (iii) Construction of an 85m-long internal access road to the bungalows from the public highway at Fulford Park.

The application does not include alterations to the bungalows.

RELEVANT PLANNING HISTORY

1.2 16/01577/FUL - Refurbishment of the bungalows 1,2,3,4,5,6,9 and 10. Approved. The building works are underway.

1.3 16/01585/FUL - Single storey extensions and external alterations to bungalows 7 and 8. Approved. The building works are underway.

1.4 05/00022/OUTM - Outline application for erection of extra care sheltered accommodation, extension to elderly mentally frail unit, residential development, relocation of existing bowling green and provision of new access road and car parking. Refused and dismissed at appeal.

2.0 POLICY CONTEXT

2.1 Development Plan Allocation:

Conservation Area: Fulford Village

2.2 Policies: City of York Publication Draft Local Plan (2018):

H9 – Older Persons Specialist Housing

D4 – Conservation Areas

2.3 Policies: City of York Development Control Draft Local Plan (2005):

CYGP1 - Design

CYHE2 - Development in historic locations

3.0 CONSULTATIONS

INTERNAL

Design, Conservation and Sustainable Development (Conservation)

3.1 I do not consider that the heritage significance of any listed buildings or built non-designated heritage assets or their settings would be affected by the proposals. They have the potential to affect the character or appearance of the Fulford Village conservation area because they involve the construction of a new car park and access road within an area of heritage and landscape significance.

3.2 The access road would have a low level effect on the communal significances of the site and would not affect its other heritage significances. The car park would be detrimental to the aesthetic and communal heritage significances of the site. These effects would amount to "less than substantial" harm to the character and appearance of the conservation area.

3.3 Any intensification of the proposals such as the widening of the proposed road, the imposition of a metalled surface, installation of electric lighting, kerbing or pavements or the creation of private curtilages to the bungalows involving the erection of fences, extension of hard surfacing outwith the courtyard or other forms of encroachment into the open parkland would have the potential to be substantially more detrimental to the landscape character of the site. Similarly, whilst a small number of vehicle movements across the drive would not significantly harm the character of site the parking of vehicles along the drive or on the parkland, as currently takes place, would be detrimental.

3.4 If the application is to be approved I would recommend that:

- o permitted development rights for fences and hardstandings be removed to prevent encroachment into the parkland;

- o parking be restricted to within the approved car park and secured by a section 106 agreement;
- o the car park be screened to reduce its visual impact.

Design, Conservation and Sustainable Development (Landscape)

3.5 Given the latest construction detail (timber edging and gravel wearing course) it would be technically feasible to construct the driveway between the Sweet chestnut and Red chestnut without harming the root protection area (RPA) if carried out in strict accordance with good practice, although there is always a degree of risk when operatives are working within the RPA of a protected tree. There is also a risk of future harm to all three trees closest to the driveway, post-construction, e.g. a degree of compaction (which may or may not be harmful to the trees); vehicle overrun; parking of cars on the grass beside the driveway. Damage to trees is often irreversible and may take several years to show in the crown.

3.6 The development would result in the loss of one protected beech tree and the risk of harm to three trees that make a valuable contribution to the amenity of the conservation area. Given the value of the protected trees, the risk of harm during development, and more importantly post-development, is of significant concern. Thus if the development presented no significant benefits this application should be refused on grounds of the loss of one established beech tree and a real potential risk of harm to at least three trees that are subject to a tree preservation order.

3.7 If the application were to be approved there is scope to re-plant a copper Beech within the courtyard, close to the north-west corner of the car park.

Design, Conservation and Sustainable Development (Ecology)

3.8 Fulford Ings Site of Special Scientific Interest (SSSI) is about 200m west of the application site. Using Natural England's Risk Impact Zones the development does not trigger consultation on likely impacts to the SSSI. Habitat connectivity to the SSSI will be maintained.

3.9 The site is located within 'Local Green Corridor (26) Fulford Park' as set out in the City of York Local Biodiversity Action Plan 2017. The construction of the access road would not significantly impact on the functioning of this green corridor, particularly as no new, additional artificial lighting is proposed.

3.10 Neither of the two trees to be removed have features suitable for use by roosting bats.

3.11 If approved, a planning condition should be used to ensure the new access road is not lit to avoid disturbance to species (such as bats) that are sensitive to artificial light pollution.

Design, Conservation and Sustainable Development (Archaeology)

3.12 The application site lies within the former grounds of Fulford Park. It is about 150m to the north-west of the medieval village of Fulford and 350m to the south-east of St. Oswald's Church (11th century). The creation of the road and car park could reveal or disturb archaeological features particularly relating to the medieval or Roman periods. It will be necessary to record any revealed features and deposits through an archaeological watching brief.

Flood Risk Management

3.13 No objections. The track construction will permit air and water to pass through it to the tree roots beneath, to maintain the status quo and the health of the adjacent trees.

Public Protection

3.14 No objections. Add conditions to require provision of recharging facilities for electric vehicles and to restrict hours of construction.

Housing Development

3.15 No affordable housing contribution required as the application is for only 10 units and under 1,000sqm total floor area.

EXTERNAL

Fulford Parish Council

3.16 Objection on the following grounds:

- Harm to the conservation area due to intrusion of the access road passing through the green corridor.
- Harm to ecology (especially bats) through loss of parkland plus light and noise pollution.
- Harm to protected trees including the copper beech within the bungalow courtyard. The presence of the new road passing underneath the canopies of mature trees will increase pressure to reduce or fell on safety grounds.
- A change of ownership of the bungalows will necessitate boundary treatment that may further damage the character of the parkland.
- The proposed access road is on a bend in Fulford Park, creating a dangerous highway situation.

Neighbour Notification and Publicity

3.17 12 objections have been received raising the following planning issues:

Heritage

- The site is unsuitable for change of use if it can only be achieved by creating an access road from Fulford Park.
- The introduction of road infrastructure into the parkland will cause harm to the peaceful character of this part of the conservation area and will reduce its function as an important area of open space between Fulford and York.
- The heritage statement does not consider the impact on the undesignated heritage assets ie the Sir John J Hunt almshouses, and rejects any impact on the setting of the Coach House on Fulford Park.
- The proposal would cause significant harm to the conservation area. The applicants have not demonstrated over-riding public benefits.
- If the dwellings are sold off in the future, either to a care provider or to residents direct, they would each require a separate curtilage, which could have a seriously harmful impact on the conservation area.
- The assessment of significance understates the wider historic and symbolic value of the Connaught Court site as the last undeveloped green space separating Fulford village from the city suburbs. Nor does it make clear that public accessibility is not an essential criterion in assessing impact.

Trees

- The proposal will cause harm to the historic open parkland and protected trees, including an established copper beech within the bungalow courtyard. A reduction in the size of the car park would allow this tree to be kept. The loss of the tree and its raised bed is not justified.
- A geogrid grass driveway could be installed for emergency access only. This would have a much lesser impact on the parkland
- A degree of cutting into the existing ground will be unavoidable. It could harm tree roots and the general appearance of the area.

Ecology

- The area forms part of a designated 'local green corridor' The loss of parkland, introduction of lighting and vehicular movements through the parkland corridor will cause harm to bats, a protected species, and will result in loss of habitat for other wildlife.

Traffic and Highway Safety

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- There will be more traffic than the applicant suggests.
- The road access onto Fulford Park raises concerns about highway safety due to its location on a bend and where parking pressure is very high.
- The development will cause more traffic at the junction with Fulford Road, a very busy road.
- The access road does not include pavements for pedestrians.
- Parking provision at the adjacent doctor's surgery is inadequate, with the result that vehicles are parked on both sides of the access gate on a regular basis, reducing visibility further.
- The road would seem to be consciously under-engineered in order to minimise intrusion in the conservation area. As a consequence it would seem to fall short of being fit for purpose.
- The road is described as being structurally suitable for 'cars and light vehicles' but by implication not for heavier vehicles. It is not clear how this limit would be enforced, especially in an emergency.
- No suggestions are provided as to how fire tenders or removal vehicles would gain access, requiring the road to be constructed to a much more robust and conventional standard.

Parking

- Parking provision, including for staff and visitors is inadequate. Deliveries, waste collection and emergency access will add further complications. There is a risk that the surrounding parkland will be used as a car park by vehicles that are unable to find a space in the new car park.
- The access road could be the first step towards the whole of the parkland being used for parking.
- Lack of provision for cycle storage.

Amenity and Security

- The access road will have a detrimental and permanent negative effect on the surrounding area, affecting local residents.
- It will damage views from Main Street and Fulford Park, which are highly valued by residents for the visual amenity they provide.
- There would be unwanted lighting and activity across the tranquil, open parkland.

- Miscreants will be able to enter the site freely and have access right up to the bungalow windows. It may be just a matter of time before internal security fencing and security lighting appears.
- Vehicles passing along the new roadway would be seriously intrusive, particularly when leaving the bungalows with headlights beamed towards the public roads.
- Vehicles on the new roadway, especially leaving the bungalows at night with headlights beaming towards the Coach House, would harm its setting and general amenity.
- The development would exacerbate the already high levels of vehicle pollution.

Other Matters

- If the bungalows are no longer needed they should be demolished to enhance the landscape.
- There is no provision for waste storage or collection.
- The extent of the roadway could be difficult to discern during snow or fog, especially its tight corners, posing risks to its users. Robust kerbs and/or kerb markers would be necessary over time, with or without the need for planning consent.
- The absence of road lighting will pose risks for all types of foot and wheeled traffic, some form of lighting would eventually be found essential, and would have to be provided, within or without the scope of permitted development.
- The new road would require upgrading to cope with refuse vehicles and refuse storage.
- If the planning application goes ahead it would encourage further harmful development in the future.

3.18 One letter of support has been received from a local resident: The bungalows have been empty for many years. The current proposals seem appropriate and are welcome.

4.0 APPRAISAL

4.1 KEY ISSUES

- Principle of the proposed development
- Impact on heritage assets
- Landscape

- Future development
- Traffic and access
- Car parking and cycle storage
- Amenity
- Community safety
- Ecology
- Archaeology
- Flood risk and drainage

THE APPLICATION SITE

4.2 Connaught Court is a large (approximately 90-bed) care home in a parkland setting. The site lies between Main Street, St. Oswalds Road, Atcherley Close, Fulford Park and Fulford Ings. The care home site is dominated by a large 2 and 3-storey building, with associated smaller buildings and dwellings grouped around it. Most of the remainder of the site is private open space. The main vehicular access is from St. Oswalds Road. The whole of the site is in Fulford Conservation Area and in flood zone 1.

4.3 The application site mainly comprises five pairs of 1 and 2-bed bungalows, most of which partially enclose a shared, central amenity space. The bungalows are close to the main care home building but project into the care home's parkland setting. The site also includes the route for an internal access road to the bungalows from the public highway at Fulford Park.

PLANNING POLICY CONTEXT

4.4 In the absence of a formally adopted local plan the most up-to date representation of key relevant policy is the National Planning Policy Framework (NPPF). It is against this Framework that the application should principally be addressed. Paragraph 38 states that local planning authorities should work proactively with applicants to secure developments that will improve the economic, social and environmental conditions of the area. Decision-makers at every level should seek to approve applications for sustainable development where possible.

4.5 The Publication Draft Local Plan 2018 ('the emerging plan') was submitted for examination on 25 May 2018. The policies of the plan can be afforded limited weight at this stage of preparation and subject to their conformity with the NPPF. The evidence base underpinning the plan is capable of being a material consideration in the determination of planning applications.

4.6 The City of York Draft Local Plan Incorporating the Fourth Set of Changes was approved for development management purposes in April 2005. It does not form part of the statutory development plan for the purposes of s.38(6) and its policies carry very limited weight.

PRINCIPLE OF THE PROPOSED DEVELOPMENT

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4.7 Section 5 of the NPPF contains the Government's objective of significantly boosting the supply of homes. Section 11 promotes the effective use of land. It states that 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. It goes on to state that planning decisions should promote and support the development of under-utilised land and buildings, especially if this would help to meet identified needs for housing where land supply is constrained and available sites could be used more effectively.

4.8 The bungalows would operate as self-contained houses for older people with low-level needs to maintain their independence with 24-hour on-call assistance and support. The applicant states that the bungalows would be let by the RMBI on assured shorthold tenancies, which would be subject to criteria restricting occupancy to people over 55 years of age, with residents responsible for arranging their own care package.

4.9 Paragraph 59 states that to support the Government's objective of significantly boosting the supply of homes, it is important that the needs of groups with specific housing requirements are addressed without unnecessary delay.

4.10 Paragraph 117 outlines that 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 118 states that planning decisions should promote and support the development of under-utilised land and buildings, especially if this would help to meet identified needs for housing where land supply is constrained and available sites could be used more effectively. As part of this approach, decisions should support efforts to bring back into residential use empty homes and other buildings. Paragraph 110 states that applications for development should address the needs of people with disabilities and reduced mobility in relation to all modes of transport and allow for access by service and emergency vehicles.

4.11 Policy H9 of the emerging plan relates to older persons specialist housing and states that the council and its partners will work together to enable the delivery of specialist (supported) housing for vulnerable people including for the ageing population. It notes that the city's population aged over 65 is predicted to continue to grow. It adds that ensuring appropriate accommodation in suitable locations is available to meet everyone's needs, including older people to remain in their homes longer, is a key issue to be addressed. The City of York Council SHMA and Addendum identify a need for 84 specialist units of accommodation for older people (generally considered to be sheltered or extra-care housing) per annum over the period 2012-2033.

4.12 Most of the bungalows have been vacant for over 10 years and all are in need of refurbishment. Although they already exist as residential dwellings they cannot be brought back into use without vehicular access, manoeuvring space and car

parking. The applicant has advised that Care Quality Commission regulations prevent employees of the care home being reallocated to the bungalows as this would have an adverse impact on existing staffing levels and care provision within the care home. Moreover, the number of bungalows is not sufficient to generate a need for a dedicated support staff. Therefore, in order for the bungalows to be returned to use as supported housing the bungalows would have to be occupied independently of the care home, with care provided by a third party. As the bungalows would operate in isolation of the care home it is essential that they have a dedicated access and parking area in close proximity to serve carers, residents and visitors, as well as ambulances in the event of emergency. To maintain the proper security of the care home, the bungalows would have to have their own separate access, i.e. not through the care home. The applicant states that without this separate access the bungalows would not be able to be let, which would result in them remaining vacant. The application would therefore achieve the substantial public benefits of bringing back into use of 10 much-needed homes for older people in need of care.

IMPACT ON HERITAGE ASSETS

4.13 There are no listed buildings in the vicinity of the application site but the whole of Connaught Court, including the application site, lies within Fulford Village Conservation Area. Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 imposes a statutory duty on local planning authorities to pay special attention to the desirability of preserving or enhancing the character or appearance of conservation areas. A conservation area appraisal for Fulford Village Conservation Area was approved by the council in 2008.

4.14 In the NPPF conservation areas are classed as 'designated heritage assets'. Paragraph 192 advises that in determining applications, local planning authorities should take account of the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation. 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 (paragraph 193). Any harm or loss should require clear and convincing justification (paragraph 194). Paragraph 196 advises that where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use.

4.15 Paragraph 197 advises that the effect of an application on the significance of a non-designated heritage asset should be taken into account in determining the application. In weighing applications that directly or indirectly affect non-designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset. Non-designated heritage assets include buildings identified in the conservation area appraisal as being of positive value to the conservation area. They are the St John J Hunt

Memorial Cottage Homes (the almshouses) to the north of the site and The Coach House (the former coach house to Fulford Park House) to the south.

4.16 Policy D4 (Conservation Areas) of the emerging plan states that development proposals within or affecting the setting of a conservation area will be supported where they would preserve or enhance the conservation area. Policy D1 (Placemaking) states that development proposals that fail to make a positive design contribution to the city or cause damage to the character and quality of an area will be refused.

4.17 The conservation area appraisal states, at paragraph 8.11, that the parkland setting of Fulford House (which includes Connaught Court care home and the application site) is a landscaped and planted area in existence before 1851 and probably of late C18 or early C19 origin, and is a private oasis of peace and tranquillity. It adds, at paragraph 8.12, that 20th century development within the park has still left significant large areas of open space, including some fine mature trees, and a margin of parkland between the Main Street and the Fulford Ings, which helps to preserve the distinction between Fulford Village and the city suburbs.

4.18 The Connaught Court part of the park site (including the bungalows) has a distinctive landscape character. Its significance is not limited to the undeveloped green wedge of 19th century parkland but encompasses its later 20th century adaptation. The arrangement of low-rise buildings within the parkland landscape is a relatively sensitive development within the historic parkland. The application proposals have the potential to affect the character or appearance of this historic setting because they involve the construction of a new car park and access road within an area of heritage and landscape significance. However, due to the historic pattern of development of the parkland landscape, the site is not so sensitive to change that any alteration would be harmful. The proposed access road would be single width, informal in layout and material and designed to have a seamless connection with the grassed parkland. Its vehicular use would be intermittent and of low intensity. Consequently officers do not consider that the access road would appear incongruous or diminish the historic or aesthetic significances of the site. However, the proposed car park would occupy the landscaped garden around which the bungalows are constructed and which melds into the adjacent landscape. The car park would appear as a discordant use due to the extent of hard surfacing and presence of parked cars. It would detract from the existing character of the Connaught Court development within the parkland setting. That said, the car park would be seen only from certain viewpoints - glimpsed between the pairs of bungalows and through the surrounding parkland.

4.19 The harm to the conservation area would be less than substantial, requiring the harm to be weighed against the public benefits of the proposal including securing its optimal viable use. The proposals would have no impact on the heritage significance of any listed buildings or non-designated heritage assets or their settings.

LANDSCAPE

4.20 The area of parkland between the existing access from Fulford Park and the bungalows contains a number of mature trees protected by a tree preservation order. The route of the new road would wend its way between these trees to minimise the risk of harm to their root systems.

4.21 The road would pass between tree T1, an over-mature sweet chestnut and T2, a mature horse chestnut. The council's landscape architect agrees with the applicant's assessment that these two trees are of moderate quality (category B1) with a retention life span of over 40 years. Both trees are substantial and contribute to the character of the conservation area and the amenity of the area generally. The sweet chestnut is the most valuable of the affected trees due to its size and species, which is a rarity in York.

4.22 The space between the trees is not sufficiently wide to avoid the road encroaching into the root protection area (RPA) of these trees. Since submission the design and construction of the road have been modified to further reduce its impact. The road as now proposed would comprise granular material in a 'no-dig' Cellweb TRP system laid over the existing grass and topped by a decorative gravel surface. The proposed width of the road has also been reduced from 3.5m to 3m and would be edged in timber (rather than block paviors bedded in concrete).

4.23 The road as currently designed can be constructed between the sweet chestnut and the horse chestnut without harming the RPA as long as the work is carried out in strict accordance with good practice. To that end the applicant has submitted an arboricultural method statement which is acceptable. Compliance with it should be made a condition of approval.

4.24 The works would also encroach into the RPA of two Norway maples (T102 and T103) and a hawthorn (T100). The degree of encroachment would not be significant.

4.25 The provision of the car park would require the removal of two category A copper beeches (T104 and T105). T105 is unsuited to its confined location but T104 has good future potential. The car park would also require the loss of much of the central amenity space for the bungalows. Although the courtyard is not visible from the public domain its current design and central tree (protected by a TPO) are an integral part of the grounds and landscape. The amenity space provides an attractive outlook for the occupiers. The loss of this outlook would be partially mitigated by the proximity of the retained parkland around the bungalows.

4.26 There is a short, steep fall in the land across the width of the proposed driveway where it turns into the car park tight against the first bungalow. A low retaining wall comprising an on-edge flagstone or similar (nominally 300mm high)

would be erected on the inside of this curve to avoid cutting into the ground within the RPA of the adjacent Norway maple (T103).

4.27 In summary, the development would result in the loss of one protected maturing beech tree and the risk of harm to three trees that make a valuable contribution to the amenity of the conservation area, especially T1, a sweet chestnut. The applicant has agreed to plant a suitable replacement for the beech that would be lost. There is scope for replacement planting within the northern part of the central courtyard or in the surrounding parkland, which would remain under the applicant's control. Details of replacement planting and screening of the car park should be made a condition of planning permission.

FUTURE DEVELOPMENT

4.28 Following the submitted design changes and clarification about construction methods, any residual harm to heritage assets would be outweighed by the benefits of bringing the 10 bungalows back into long-term use. Nevertheless, without adequate safeguards relating to the manner in which the dwellings would be occupied (i.e. residential dwellings as opposed to care home bungalows), parking facilities and the management of the adjacent parkland, the proposed use could, over time, have a gradual but significant detrimental impact on the conservation area and other heritage assets. The risk of harm could be reduced to an acceptable level by the provision of an effective management plan, secured by a section 106 agreement, for the lifetime of the development. It is unlikely that the management plan and its effective implementation for the lifetime of the development could be dealt with through planning conditions as it would require the agreement and cooperation of those with an interest in the application site and the surrounding parkland. The bungalows and surrounding parkland are in the ownership of the applicant which, officers are advised, would retain ownership. The applicant has agreed to the principle of the agreement and its heads of terms, which would include:

- Regular inspection and maintenance of trees;
- Regular inspection and maintenance of access road;
- No parking of vehicles other than in the designated parking area shown on the approved plans;
- Weight/size limitation on the access road except for emergency vehicles.

4.29 Other causes of possible conflict in the future could be prevented by planning conditions. These should include:

- Removal of permitted development rights for extensions to buildings, erection of fences, construction of hardstandings, etc;

- Retention of the access road in the form shown on the submitted plans;
- No external lighting outwith the courtyard area

TRAFFIC AND ACCESS

4.30 Policy 108 of the NPPF requires that safe and suitable access to the site can be achieved for all users. It adds, at paragraph 109, that development should only be 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.

4.31 The proposed road would be the sole vehicular access to the bungalows. It would be 3m wide, which is suitable for cars and occasional light vans including ambulances. A passing place would be provided part way along the road and turning/manoeuvring space provided in the car park, thereby enabling vehicles to leave the site in forward gear.

4.32 The road would not have a dedicated footway for pedestrians; they would share the road space with the cars and light vans. Bearing in mind the very low number of traffic movements and the very low traffic speed this arrangement would be acceptable and is commonplace elsewhere.

4.33 Refuse vehicles would not need to use the access. Refuse would be collected from each bungalow by the operator of the care home and taken to a central point for despatch via St Oswalds Road. Ambulances would be easily able to pass along the road, whether routinely or in emergency. The road would be wide enough for use by fire tenders, which would be in emergency only and almost certainly rare. There would be nothing to prevent fire tenders easily reaching the bungalows if the need were to arise. The new road would be an improvement over the present situation as emergency vehicles needing to reach the bungalows currently have no alternative but to drive across the parkland grass. A condition should be attached prohibiting use by large vehicles except in emergency.

4.34 The road width and construction of the road are acceptable bearing in mind the anticipated low level of use and the historic significance of the parkland setting.

4.35 The proposals seek to formalise and reuse an existing access, which is used on an occasional basis. The geometry of the access would need minor adjustment within the highway boundary in order to achieve satisfactory visibility splays for vehicles leaving the site. This has been agreed by the applicant. Details should be made a condition of approval.

4.36 Fulford Park is a quiet, lightly-trafficked cul-de-sac with a 20mph speed limit. The road provides access to up to 30 private dwellings and a doctors' surgery. The level of traffic that would be generated by the application is extremely low and would have no material impact on any existing air pollution. The applicant's traffic survey

(submitted with the application) estimates the worst case to be about one vehicle every 10 minutes. This level of additional traffic is not significant in highway terms and can easily be accommodated on Fulford Park and the nearby junction with the A19. The doctors' surgery on Fulford Park can, at times, cause peaks in parking demand and careless/inconsiderate parking by patients/visitors. This is not an unusual occurrence in urban areas. During these peaks most of the inconsiderate parking is to the east of the site entrance, i.e. towards Main Street. The west side, towards the closed end of Fulford Park, is generally lightly parked. For vehicles exiting the site the primary concern is of vehicles approaching from the right, the closed end of Fulford Park. Visibility in this direction from the site is good, subject to the minor alteration to the highway boundary referred to above.

CAR PARKING AND CYCLE STORAGE

4.37 The site is in a very sustainable location, within York urban area and close to shops, local services and public transport. The proposed level of parking is in accordance with national planning policy which seeks to ensure that appropriate opportunities to promote sustainable transport modes can be taken up while achieving a safe and suitable access to the site for all users (NPPF paragraph 108). It is also consistent with policy T1 of the emerging plan which supports development that provides safe, suitable and attractive access for all users, including those with impaired mobility, and allows the use of more sustainable modes of transport.

4.38 Two of the 10 spaces would be constructed to disabled standard. Five of the spaces would be allocated to occupiers of the bungalows. Allocation of the spaces would be managed by the applicant. The other five spaces would be provided for the use of carers, medical staff and other visitors. Given the nature of the use and the sustainable location of the site this level of provision should be sufficient without the need to park on adjacent streets.

4.39 There is sufficient space around the proposed car park to provide cycle parking for residents together with cycle racks for visitors. Details should be submitted as a condition of approval.

AMENITY

4.40 The presence of cars where there is currently a landscaped courtyard would have some impact on the outlook for residents but it would be compensated for by the improved access and mitigated by the very close proximity of the adjacent parkland, which would continue to be available for their use. The very low number of vehicles passing along the new road would have negligible impact on residents of the bungalows or those of neighbouring houses, whether from car headlights, noise or general disturbance. Cars parked in the car park would be almost entirely screened from view from the A19 and largely screened from Fulford Park.

COMMUNITY SAFETY

4.41 Some objectors are concerned that miscreants will be able to enter the site freely and have access right up to the bungalow windows. From a security perspective the application would not make the site much more accessible than it is already. The bungalows would be no less secure than other homes in the vicinity of the site, which has a generally open character. The existing lamp posts in the courtyard would be retained and any cars in the car park would be overlooked by the residents of the bungalows.

ECOLOGY

4.42 Fulford Ings Site of Special Scientific Interest (SSSI) is approximately 200m from the application site at its closest point. The proposal is unlikely to have any material impact on the SSSI and the development does not require Natural England to be consulted. There are no comparable habitats within the development site, the loss of which could have an indirect impact on the SSSI.

4.43 The site is located within 'Local Green Corridor (26) Fulford Park' as set out in the City of York Local Biodiversity Action Plan (LBAP, 2017). These have been identified across York with the aim to link together habitat to create an overall structural network for wildlife. Green corridors are not fixed boundaries but are a consensus of where multifunctional green infrastructure assets occur.

4.44 Neither of the two trees to be removed (T104 and T105) has features suitable for use by roosting bats. The loss of any trees should be replaced as a condition of planning permission.

4.45 Although the construction of a new access road will result in the direct loss of amenity grassland it is not considered to significantly impact on the functioning of this green corridor, particularly as no new, additional, artificial lighting is proposed. A planning condition should be attached to ensure that the new access road is not lit to avoid disturbance to species (such as bats) that are sensitive to artificial light pollution. Habitat connectivity to Fulford Ings SSSI, through its key elements of open space and mature tree cover, will be maintained.

ARCHAEOLOGY

4.46 This application is located about 150m to the north-west of the medieval village of Fulford and 350m to the south-east of St. Oswald's Church (11th century). It appears that the land has never been built upon and was used for agricultural purposes during the medieval and post-medieval periods.

4.47 Fulford Road, running to the east of this site may have Roman origins so Roman archaeological deposits may exist on the site. An evaluation at Connaught Court in 2004 revealed very significant Roman features to the north of this site on the south side of St Oswald's Road. Trenches to the west of the proposed car park revealed only medieval ploughsoils and furrows but did contain some Roman pottery.

4.48 It is possible that any groundworks associated with the creation of the road and car park could reveal or disturb archaeological features particularly relating to the medieval or Roman periods. It will be necessary to record any revealed features and deposits through an archaeological watching brief during the stripping of the site in preparation for the creation of the road and car park. This should be made a condition of planning permission.

FLOOD RISK AND DRAINAGE

4.49 The site is in low-risk flood zone 1 and should not suffer from river flooding. The proposed angular gravel with timber edging on top of a no-dig road construction will provide a like-for-like permeable surfacing, which would mimic the existing permeable grass surfacing. It will therefore permit air and water to go into and through the track construction to the tree roots beneath, to maintain the status quo and maintain the health of the adjacent trees.

OTHER MATTERS RAISED BY OBJECTORS

4.50 Part of the parkland setting is being used by the care home as a temporary car park for staff until replacement car parking is provided following completion of the housing development elsewhere on the care home site. The council has accepted that this use does not require planning permission as long as it is used only by care home staff and only for a temporary period. The area appears to be being used as parking by the contractor(s) of the housing development. This is the subject of an investigation by the council's enforcement officers. For the avoidance of doubt this use is unrelated to the current planning application.

5.0 CONCLUSION

5.1 The council has paid special attention to the desirability of preserving or enhancing the character and appearance of the conservation area and given great weight to the conservation of all relevant heritage assets. While the harm is 'less than substantial', the harm to the conservation area is nevertheless a matter of considerable importance. This harm has been weighed against the substantial public benefits of bringing back into use 10 much-needed homes for older people in need of care. The council has concluded that, subject to safeguards provided by planning conditions and a s.106 planning obligation, the substantial public benefits of bringing forward the housing proposed outweigh the identified harm to the conservation area and provide clear and convincing justification for approving the application. It complies with the requirements of s.72 of the Planning (Listed Buildings and Conservation Areas) Act 1990, sections 5 (Delivering a sufficient supply of homes) and 16 (Conserving and enhancing the natural environment) of the NPPF and policies H9 (older Persons Specialist Housing) and D4 (Conservation Areas) of the emerging plan.

COMMITTEE TO VISIT

Application Reference Number: 18/02169/FULM

Item No:

6.0 RECOMMENDATION:

- (i) Permission granted subject to a s.106 legal agreement to secure the following planning obligations:
- Regular inspection and maintenance of trees;
 - Regular inspection and maintenance of access road;
 - No parking of vehicles other than in the designated parking area shown on the approved plans;
 - Weight/size limitation on the access road except for emergency vehicles.
- (ii) The conditions outlined below
- (iii) The Assistant Director for Planning and Public Protection be granted delegated powers to finalise the terms and details of the s106 agreement
- (iv) The Assistant Director for Planning and Public Protection be granted delegated powers to determine the final detail of the planning conditions.

Schedule of conditions:

1 TIME2 Development start within three years

2 The development hereby permitted shall be carried out only in accordance with drawings numbered 20640-1503 Rev L, 16781-Y-DR-001 Rev.P1 and 16781-Y-DR-002 Rev.P1.

Reason: For the avoidance of doubt and to ensure that the development is carried out only as approved by the Local Planning Authority.

3 Notwithstanding the provisions of Article 3 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking or re-enacting that Order) development of the type described in Classes A, B, C, D, E or F of Schedule 2 Part 1 or Classes A or B of Schedule 2 Part 2 of that Order shall not be erected or constructed unless permission has first been granted by the Local Planning Authority.

Reason: In the interests of protecting the historic character and appearance of Fulford Village Conservation Area.

4 The development shall not be occupied until there has been submitted and approved in writing by the Local Planning Authority a detailed landscaping scheme (including replacement trees and visual screening of the car park) which shall

illustrate the number, species, height and position of trees and shrubs. This scheme shall be implemented within a period of six months of the completion of the development. Any trees or plants which within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of a similar size and species, unless alternatives are agreed in writing by the Local Planning Authority.

Reason: So that the Local Planning Authority may be satisfied with the variety, suitability and disposition of species within the site in the interests of the character and appearance of Fulford Village Conservation Area.

5 Within one month of commencement of development details of the following matters shall be submitted to the local planning authority for approval in writing. The development shall be carried out in accordance with the approved details and retained in perpetuity:

- o Cycling parking/storage
- o Alterations to access and boundary treatment along the Fulford Park frontage
- o Facilities for the recharging of electric vehicles.

Reason: To ensure that the development is carried out in a manner that will not be detrimental to protected trees, the character and appearance of the conservation area, the amenity of local residents and sustainable transport.

6 The development shall be carried out in accordance with the following programme of archaeological mitigation. All three stages shall be completed and approved by the local planning authority.

A) No development shall commence until a written scheme of investigation (WSI) has been submitted to and approved by the local planning authority in writing. For land that is included within the WSI, no demolition/development shall take place other than in accordance with the agreed WSI. The WSI shall conform to standards set by the Chartered Institute for Archaeologists.

B) The watching brief and any necessary post-investigation assessment shall be completed in accordance with the programme set out in the Written Scheme of Investigation approved under Part (A) above and the resources shall be made available for analysis, publication and dissemination of results and archive deposition. This part of the condition shall not be discharged until these elements have been fulfilled in accordance with the programme set out in the WSI.

C) A copy of a report (or publication if required) shall be deposited with City of

York Historic Environment Record to allow public dissemination of results within six months of completion or such other period as may be agreed in writing with the Local Planning Authority.

Reason: The site is of archaeological interest. Therefore, the development may affect important archaeological deposits which must be recorded prior to destruction.

7 The access road shall be constructed in accordance with approved plan 16781-Y-DR-002P1 and retained in that form for the duration of the development unless otherwise approved in writing by the local planning authority.

Reason: To protect trees that make a significant contribution to the character and appearance of Fulford Village Conservation Area.

8 Notwithstanding the provisions of Article 3 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking or re-enacting that Order) no external lighting shall be erected or installed except within the courtyard bounded by the dwellings at plots 3 to 10 on submitted drawing 20640-1002 Rev.B: Existing Site Plan.

Reason: To maintain the character and appearance of Fulford Village Conservation Area and to avoid disturbance to bats and other species sensitive to artificial light pollution.

9 There shall be no parking of vehicles except within the proposed car parking area shown on approved plan 20640-1503 Rev L.

Reason: In the interests of protecting the historic character and appearance of Fulford Village Conservation Area.

10 The development shall be carried out in accordance with the submitted Arboricultural Method Statement No.1 9213.T 09/06/2019 Rev.4 by Ryland Consultant Arborists.

Reason: To protect trees that make a significant contribution to the character and appearance of Fulford Village Conservation Area.

11 Except in case of emergency no demolition and construction works or ancillary operations, including deliveries to and dispatch from the site which are audible beyond the boundary of the site shall take place on site other than between the hours of 08:00-18:00 Monday to Friday and between 09:00-13:00 on Saturdays. The Local Planning Authority shall be notified at the earliest opportunity of the occurrence of any such emergency and a schedule of essential work shall be provided.

Reason. To protect the amenity of local residents.

12. The dwellings shall provide independent living accommodation for people aged 55+ years old in need of care and for no other purpose including any other purpose in Class C3 in the Schedule to the Town and Country Planning (Use Classes Order) 1987, or in any provision equivalent to that class in any statutory instrument invoking or re-enacting that Order.

Reason: To ensure that the application provides the substantial public benefits to outweigh the less than substantial harm to Fulford Village Conservation Area.

7.0 INFORMATIVES:

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) and, in seeking solutions to problems identified during the processing of the application the local planning authority negotiated with the applicant to, in particular:

reduce the impact on the conservation area and protected trees;
ensure that the access is designed to highway standards;
protect against unacceptable future changes to the parkland setting.

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