

COMMITTEE REPORT

Date: 11 July 2018 **Ward:** Fulford And Heslington
Team: Major and **Parish:** Fulford Parish Council
 Commercial Team

Reference: 18/00495/FULM
Application at: Site of Former Fordlands House 1 Fordlands Road York
For: Erection of 64 bedroom care home, car parking and
 landscaping following the demolition of existing care home
 (revised scheme)
By: Octopus Healthcare Developments Ltd
Application Type: Major Full Application (13 weeks)
Target Date: 30 July 2018
Recommendation: Approve

1.0 PROPOSAL

1.1 The application site is of approximately 0.37 hectares and is situated on the eastern side of Fordlands Road, and south of Germany Lane. A public footpath runs along the frontage of the site. The boundary of Fulford Village Conservation Area, abuts the site to the immediate north and west. The site is not considered to be within the general extent of the York Green Belt. The surrounding context is predominantly residential, with larger detached and semi detached houses on Selby Road. The immediate vicinity around the site is one of smaller cottages to the west, and single, and one and a half storey mews houses directly opposite the site. To the north east lies the land currently being developed for housing with the land to the immediate east of the application site as open space in the form of meadow land associated with that development. The majority of the site lies within Flood Zone 2 with the south east of the site within Flood Zone 3, as noted on the Environment Agency's Flood Map for Planning. The site is currently occupied by a vacant care home.

1.2 The existing building on the site is understood to have been constructed in the 1970's and used as a care home for the elderly with provision for 31 residents. The Council resolved to close the building in 2012, and it is now vacant except for on-site security staff.

HISTORY

1.3 Permission was granted at planning committee on November 11th 2017 for the erection of a replacement residential care home, (use class C2), comprising 64

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bedrooms with en-suite bathrooms for the elderly with associated amenity facilities, car parking and external landscaping, including private residents' gardens (17/01969/FULM). The application was subject to a number of pre-commencement conditions which have now been approved.. Such conditions include details of materials, large scale details, drainage, bat mitigation, tree protection, Arboricultural Impact Assessment, Archaeological Written Scheme of Investigation, Gas Protection measures, noise insulation measures, Construction Environmental Management Plan, and details of cycle shelter.

1.4 Works carried out on site relate to the removal of trees approved as part of the approved landscaping details. Since the granting of the planning permission (17/01969/FULM), a European Protected Species Licence (EPSL) has been issued by Natural England pursuant to Regulation 53 of the Conservation of Habitats and Species Regulations 2017 authorizing the development to go ahead. Works in accordance with the EPSL, have been undertaken by the developer in April 2018 to exclude bats from the building. The site has also been fenced off.

1.5 This grant of planning permission is subject to a legal challenge in the High Court and the current application which is the subject of this report, is a re-submission by the same applicant for a largely identical development.

PROPOSAL

1.6 The proposed building is two and three storey, with a steeply pitched roof to all frontages, with a flat roof behind the pitched areas. It will be constructed predominantly from brick with some areas of timber cladding under a slate effect roof. Windows and exposed purlins will be timber construction. The building has been visually subdivided, with a variation in ridge heights throughout. The highest ridge is approximately 11.5m (above finished floor levels) on the northern elevation, it is noted however that finished floor levels will be raised to take account of flood mitigation. Eaves heights vary to enhance the articulation of the building.

1.7 The previous application (17/01969/FULM) included balconies to some bedrooms and communal café areas. This included the elevation that faces towards the existing dwellings on Germany Lane. The balconies have now been deleted from the bedrooms on the northern elevation. Landscaped grounds, including seating areas and pathways, are provided to the south of the building. Since application 17/01969/FULM was approved, the design of the building has been slightly revised for operational reasons.

1.8 The access into the site will be located at the north western corner of the site, with egress towards at the eastern end of the site frontage. 18 parking spaces will be provided along the frontage of the site, with one space directly in front of the main entrance, and a further two spaces along the eastern boundary. The delivery

yard is along the eastern boundary. Cycle storage will be provided to the frontage, and in the basement.

2.0 POLICY CONTEXT

2.1 See section 4 for more detail.

2.2 National Planning Policy Framework (NPPF) March 2012.

2.3 Publication Draft York Local Plan 2018 ('2018 Draft Plan')
relevant policies:

Policy D1 Placemaking
Policy D2 Landscape and setting
Policy D6 Archaeology
Policy D4 Conservation Area
Policy D5 Listed Buildings
Policy G12 Biodiversity
Policy G14 Trees and Hedgerows.
Policy CC2 Sustainable Design and Construction
Policy ENV1 Air Quality
Policy ENV2 Managing Environmental Quality.
Policy ENV 4 Flood Risk
Policy ENV 5 Sustainable Drainage
Policy H9 'Older persons' specialist housing'
Policy H1 'Housing allocations'

2.4 Development Control Local Plan (DCLP) 2005

Policies relevant to the development are:-

Policy GP1 'Design'
Policy GP4a 'Sustainability'
Policy GP9 Landscaping
Policy GP15a Development and Flood Risk
Policy NE1 Trees Woodlands and hedges
Policy NE6 Species protected by law
Policy HE 3 Conservation Areas
Policy HE4 Listed Buildings
Policy HE10 Archaeology
Policy HE11 Trees and Landscape
Policy H17 Residential institutions

3.0 CONSULTATIONS

INTERNAL

3.1 Highways Network Management

3.2 No objection to the proposed development subject to conditions. Planning permission for a fundamentally similar scheme has been approved with highway conditions requested previously. This application differs in that items conditioned and discharged previously have been incorporated in the new submission for the same site.

3.3 The proposed development includes a one way thoroughfare through the site requiring a new access to the site, accessing echelon parking and servicing. Details of the access and egress have been agreed with our Adoptions Engineer and are included in the detailed submission. The egress is located close to the existing site access to the north west of the site with suitable visibility provided for public footpaths users. Works to the egress will include appropriate tying into the adjacent public footpaths and relocation of a lighting column. Appropriate intervisibility between users of the public footpaths and the egress is to be increased by reducing the extent of the vegetation to the north east of the site.

3.4 A marginal increase in traffic is expected to be generated by the development from that of its previous care home use; however it is not envisaged this to be detrimental to the highway network. To improve accessibility by foot to the local facilities on Main Street, Fulford, a pedestrian crossing is to be provided on the desire line to the opposite footpath. This will allow users and staff of the care home to access village facilities with an 'at level' access suitable for wheelchair use. This has been designed and detailed to fall within existing adopted highway and will be conditioned appropriately as 'off site highway works'.

3.5 The site is in a sustainable location with frequent bus service to the city centre/ Designer Outlet park and ride, available at bus stop on the A19 close to the site. The applicant has agreed to fund 106 contributions of circa £15k to provide a BLISS real-time display screen at the local inbound bus stop on Main Street, Fulford in order to make the use of public transport more attractive. Cyclists are well catered for with good local on and off road cycle links to the site giving access to a large residential catchment attract staff and potential occupants/ visitors from. Cycle parking for staff and visitors is provided.

3.6 Car parking is in accordance with CYC Maximum standards and supported by a transport statement outlining the applicants experience at other sites including low car usage by staff. Improved sustainable transport measures, good sustainable transport links and a commitment to travel planning will ensure that the development is unlikely to have an adverse impact on the locality in terms of parking. The building

shall not be occupied until the cycle parking area and means of enclosure have been provided within the site in accordance with the Proposed Cycle Shelter Details drawing numbered G4061 (21) 02A, and this area shall not be used for any other purpose other than the parking of cycles.

3.7 Construction: The applicant has provided a detailed method of works statement identifying the programming and management of site clearance, excavation, preparatory and construction works which has been approved in writing by the LPA.

3.8 Recommend conditions in relation to areas for parking and manoeuvring of vehicles to be laid out, removal of redundant crossing, dilapidation survey and works to tie access into PROW, relocation of lighting column, tactile paving and BLISS screen.

Flood risk management

3.9 Response similar to that for application 17/01969/FULM, and no objections to the proposed development. However it will only meet the requirements of the National Planning Policy Framework if in summary, the approved Report and Drainage Plan show that foul water will discharge to public combined water sewer. In terms of surface water disposal, the submitted borehole logs by Ground Investigation Specialist Ltd, dated 12th and 13th March 2018 show that sub-soil conditions do not support the use of soakaways and a watercourse is remote from the site. As stated in the Report, Drainage Plans and submitted information, the existing property, driveway and car parking areas positively connects to the public sewer network, therefore, surface water will discharge to public sewer via storage with restricted discharge of 20 (twenty) litres/second. This will include the proposed building, associated driveway and car parking areas. No objection subject to conditions tying the development to the measures, as detailed in the Flood Risk Assessment by Met Engineers, dated July 2017, Ref: 12244-5001, Revision 04, together with the drainage plan by Armstrong Burton Structures dated 24th April 2018, Ref:18013s 003 Rev D submitted with this application are implemented and secured by way of planning conditions. Further conditions require details of the diversion of the sewer that is laid within the site boundary, and the submission of details of the future management and maintenance of the proposed drainage scheme, together with the submission of a plan to demonstrate safe access and egress.

Public Protection

3.10 Comments remain the same as for application 17/01969/FULM. The proposals would appear satisfactory given extant permissions, however the surroundings of the home have altered slightly due to the granting of permission for the Germany Beck housing development further along Germany Lane and the creation of an access road near to the proposed care home. Therefore recommend a condition

regarding noise insulation. My only other noise concern relates to the potential impact of the demolition and construction phases of the development on nearby residential properties and also noise from any plant or equipment to be installed on site. In view of this I would request appropriate conditions in relation to construction noise, and odour. The noise survey required by condition 19 and the CEMP required by condition 20 of application 17/01969/FULM have already been submitted and are acceptable.

3.11 In relation to contamination The Phase 1 report shows that the current care home and garages were constructed in the 1980s and that the site was largely undeveloped prior to this. The report identifies a number of potential pollutant linkages and recommends that an intrusive site investigation is carried out, to find out whether land contamination is present. The Phase 2 report presents the findings of the intrusive site investigation. I am pleased to advise that the reports are acceptable. A further condition in relation to electric charging is recommended to promote sustainable transport.

Air Quality

3.12 City of York Council monitors levels of nitrogen dioxide at a number of locations along the A19, including various locations on Fulford Main Street, Selby Road and at the junction of Fordlands Road and the A19. Annual mean concentrations of nitrogen dioxide have improved in this area in recent years and based on the latest monitoring results available (2017) there are no monitoring sites that are in excess of the government's health based standards in this area. Annual mean levels of nitrogen dioxide at the junction of Fulford Road and Fordlands Road (where the largest air quality impacts were predicted as a result of the Germany Beck scheme) have been well below health based objectives for the last 5 years. Indeed, levels of nitrogen dioxide have been 25ug/m³ or lower for the last 3 years at this location. The health based objective for this pollutant is 40 ug/m³.

3.13 The net trip generation is predicted to be minimal for the proposed care home is predicted to be only an additional 6 two way trips in the morning peak hour and 4 two way trips in the evening peak when compared with the previous care home. This is minimal and it is not considered that this would have a significant impact on air quality in the local area.

3.14 When taking into account City of York Council's existing air quality monitoring in the area (well below objective levels), the predicted levels of increase in NO₂ for the Germany Beck Housing development together with the additional traffic impacts associated with the care home would not result in air quality even approaching health based objective levels. The cumulative impacts of the two schemes are not considered to be materially different to Germany Beck Alone, which was not considered to have significant air quality impacts.

3.15 Regarding construction traffic, based on City of York Council's local draft air quality guidance, the movements fall well below the required threshold. When such movements are considered cumulatively with the housing development, the most intensive period will be during the initial strip and foundation phase and will be short term in nature. In addition, the construction vehicles associated with the Germany Beck housing development will use the new access road which minimises cumulative impacts for residents.

Noise impact

3.16 The noise impacts have been based on existing traffic count figures together with the predicted operational use of Germany Beck and the construction phase of the Fordlands (care home) site. For the care home, the most intensive phase of the development will be the strip and foundation phase. This will result in a 0.1% increase in overall traffic. The increase in sound produced is minute. You would need a 25% increase in traffic for there to be a 1dB increase in noise. The 2012 Environmental Impact Statement (Germany Beck Housing) predicts that the operation of the site fully developed will increase the traffic by 15%. By adding the 0.1% of traffic produced by the Fordland (care home) development, this would still increase the noise level by less than 1dB.

3.17 The Design Manual for Roads and Bridges (DMRB) classifies changes in noise levels. It classifies a short term change in noise of 0.1 dB to 0.9dB as 'negligible'. This shows that the part of the construction phase with most movements will have no environmental impact even when looked at in conjunction with the Germany Beck development.

3.18 You will note that once the Fordlands 6 week strip and foundation stage of the site is complete, the number of vehicle movements to the site drops from 20 per day to 8 per day, showing that the remainder of the construction phase will have even less impact.

Design Conservation and Sustainable Development (Conservation Architect)

3.19 The proposal site is within the setting of a designated heritage asset, Fulford Village Conservation Area. Paragraph 129 of the NPPF, makes clear that development within the setting of a heritage asset has the potential to impact on its significance. The applicant has applied the Historic England approach to setting.

3.20 The applicant dismisses the site of the former pinfold as not visually prominent and not specifically identified on a plan in the Conservation Area Appraisal. I, would disagree as this pen space has a particular character, which is emphasised by it being largely absent elsewhere.

3.21 The present care home buildings detract from this aspect of the Conservation Area, but to a very small or negligible degree. The reason for this minimal impact is due to the scale of the existing building. It does not dominate this view and does not detract from its open nature. Nor does the building dominate the buildings on Main Street (identified as positive) and which quickly establish the scale of the village.

3.22 Disagree with the applicants assessment in relation to the view of the care home from the stone bridge as the care home can be seen as you cross the bridge and approach the conservation area. The views into and out of the Conservation Area are important especially in terms of their setting. The current care home buildings have a limited impact on the setting of the Conservation Area due to their small scale, and therefore do not impact on the significance of the Conservation Area.

3.23 Agree that the proposed new building is designed in a manner that is sympathetic to the existing buildings in the adjacent part of the Conservation Area, including brick elevations, slate effect roofs and wooden windows and doors. I believe however that the scale of the proposals could have a detrimental impact on the identified setting, and consequently will have a detrimental impact on the Conservation Area's significance. The view across the Pinfold will be dominated by the new building and its open nature reduced; the positive buildings on Main Street will no longer establish the scale of the village due to the dominance of the proposal; and, as you cross the stone bridge, the proposal will be much more apparent than the current building increasing the impression of the scale of the building. All of these will have a negative impact on the significance of the conservation area.

3.24 In response to an objection to the application, in heritage terms the site is not considered a key part of the village as it is outside the Conservation Area boundary, but it still forms part of that assets setting. The existing building has a negative impact on the significance of the Conservation Area but at a very negligible degree due to a lack of inter-visibility and its low scale.

3.25 The proposed development will also have a negative impact on the significance of the Conservation Area, but to clarify previous comments, and in the light of issues raised, this will also be at a low level. The negative impact is due to the increase in scale, and therefore an increase in visibility. The visual prominence is however balanced in terms of harm by the new design being much more sympathetic than that of the existing building. The proposed design reflects the character and appearance of the buildings in the adjacent part of the Conservation Area, which the current building does not. Furthermore, the Persimmon's access is progressing and it is now possible to better assess any cumulative effects on the Conservation Area setting. The new junction is situated within the extension to the Conservation Area (2007), it was also considered as part of the public inquiry in 2006 and found to be acceptable in outline by the Inspector. It is therefore concluded that the access junction was not considered to have an adverse impact

on the Conservation Area. Having visited the site again, and considered the various viewpoints raised by a contributor, I reiterate that the negative impact, on the setting of the Conservation Area, caused by the proposed development is at the same low level as that caused by the existing development. Consequently there is no significant adverse cumulative impact.

Design Conservation and Stainable Development (Landscape)

3.26 Having revisited the site again, I am satisfied that there is no significant cumulative impact to the Germany Beck development caused by the Fordlands development. I have looked at the Fordlands site and considered its relationship with the Germany beck development within views from several locations on Fordlands Road, Main Street, Germany Lane and from the Germany beck public rights of way. At the time of my visit the trees to be removed had already gone. As stated before, the Fordlands site already had a building on it. There is a loss of trees relating to the Germany beck development. These are mitigated through the Germany beck landscape scheme. Germany beck development is set north of Germany lane. The existing remaining trees, and the new tree planting associated with Germany beck, and the open space to the south of Germany Lane, plus the proposed mitigation planting for Fordlands will set each development in their own contexts. The Fordlands development is a distinctly independent development to Germany beck, rather than an extension to it.

Design Conservation and sustainable Development (Archaeology)

3.27 A desk-based assessment and subsequent trial trenching has taken place at Fordlands House in advance of proposed re-development. The archaeological investigation revealed that the potential for the survival of deposits is low and did not produce any evidence to suggest that the Battle of Fulford was fought in this location.

Despite this an archaeological watching brief should be conditioned to enable the recording of any deposits which may survive in isolated pockets across the site.

Design Conservation and Sustainable Development (Ecology)

3.28 This is a resubmission of planning application 17/01969/FULM where the ecological issue on site was the presence of roosting bats within the building. Since the granting of planning permission 17/01969/FULM a European Protected Species Licence (EPSL) has been issued by Natural England pursuant to Regulation 53 of The Conservation of Habitats and Species Regulations 2017 authorizing the development to go ahead 30th April 2024). Work in accordance with the EPSL, has been undertaken in April 2018 to exclude bats from the building. Two bat boxes have been erected on an Ash tree (T17) on the southern boundary of the site and the licence further requires the provision of more permanent bat boxes by April 2019. The consultant ecologist who has undertaken the work (Wold Ecology Ltd)

has confirmed that no bats were observed during the destructive searches and that based on current information, the building no longer supports active bat roosts.

3.29 There is no longer a roost on site and therefore it is not necessary to do this or consequently the LPA does not need to consider the three tests required to derogate from the provisions of the Habitat Regulations or the likelihood of a licence being granted. However, should this new planning permission be implemented it will be the developer's responsibility to obtain a modification to the EPSL from Natural England. Under Regulation 60(1) of the Conservation of Habitats and Species Regulations 2017, it is an offence to contravene or fail to comply with a licence condition. It is outside the jurisdiction of the LPA to police legal compliance with an EPSL however a planning informative is recommended to draw attention to its requirements.

3.30 Tree works (not subject to planning permission) have also been recently undertaken within the site and this is reflected on the Existing Site Plan Post Tree Works DWG No. G4061(90)09B. The landscape proposals also include the further removal and replacement of vegetation on the eastern boundary. To help maintain habitat connectivity in the short term to Germany Lane and wider area part of hedgerow H6 will remain in-situ until it is entirely necessary to be removed due to construction activity when it will be replaced by new native hedging. This approach and the landscaping scheme should be secured through an appropriate planning condition. Vegetation along the southern boundary has been removed or coppiced in connection with the separate highways work taking place here. It is understood that following completion of the road works this will be replanted using a native species rich hedgerow mix.

3.31 The introduction of additional artificial light might mean bats and other nocturnal animals are disturbed and/or discouraged from using their breeding and resting places, established flyways or foraging areas. However the impact of lighting is an emerging and complex area of research with many knowledge gaps remaining. The proposed external lighting layout avoids the use of upward light (e.g. ground mounted floodlights) and includes LED wall mounted bulkhead at 3.5m on the building which allows for directional lighting and low level bollards on rear pathways, helping to reduce light spill. Two 6m street lamps are proposed for the car park and two for the eastern service road. The lighting contour plan shows that the illuminance levels reduce to between 1 and 5 lux on the southern and eastern boundary which is considered to be tolerable for the species of bats most frequently recorded in this area (*Pipistrelle* spp.).

3.32 The proposed development is considered to be acceptable if the landscaping and lighting scheme is implemented, and the relevant informative in relation to the EPSL and nesting birds are used.

Housing and Adult Social Care

3.33 Housing & Adult Social Care team support the provision of a care home on this site because it meets an identified need, as detailed below.

- York has an under-supply of good quality residential and nursing care accommodation, particularly care for those living with dementia. York's over 75 population is expected to grow by 50% by 2030 (i.e. over the next twelve years) which will make the shortfall worse if it is not addressed.
- Even if all current planning application for C2 care home developments are delivered, York will still have a SHORTFALL in bed provision of 725 in 2020, rising to 1,407 in 2030.
- The shortage of good quality care accommodation in the city, if not addressed, would have a profound and negative impact on the care and health "system" in York, leading to potential delays in people leaving hospital beds, people continuing to live in inadequate accommodation and diminished support for informal carers.
- The need in the Fulford & Heslington, Fishergate and Guildhall area mirrors that across the city: it is rising and supply will need to keep up and/or catch up.
- While the current number of beds in this area just about meets the City's bed planning criteria (11 beds per 100 people over 75), not all of them deliver the range of services that we require and, of particular relevance, 90 of those beds (at Connaught Court) are restricted to use by people involved in the Masonic Orders and, therefore, not available to all citizens of the city. If we exclude from our calculations of supply these restricted use beds at Connaught Court then each ward in this area has an absolute shortfall in supply when compared to need.

The number of units per 100 residents over 75 in the Wards of Fishergate, Fulford and Heslington and Guildhall is currently 5.4 when Connaught Court is excluded. The shortfall of beds is 90. In 2020, the number of units per 100 residents over 75 is 4.9, the shortfall in beds is 110. By 2025 the units per 100 residents is 4.1 with a shortfall in beds of 149, and by 2030, the units per 100 residents over 75 is 3.7 with a shortfall in beds of 172.

3.34 The benchmark for the calculation of need and supply is drawn from the Housing Learning and Information Network (Housing LIN) data set. They use a benchmark norm to calculate expected need based on population size. The basis for establishing the benchmark norm of 11 residential and nursing care beds per 100

of the over 75 population is drawn from the "More Choice Greater Voice" research (pages 44 and 45 of the report). More Choice, Greater Voice is a toolkit for producing a strategy for accommodation with care for older people, published by the Housing Learning and Improvement Network at the Care Services Improvement Partnership at the Department of Health and the Department of Communities and Local Government, February 2008. The same LIN benchmark is used by the Housing City of York Council Strategic Housing Market Assessment dated June 2016. However, the Adult Social Care assessment of need is updated to reflect the most recent changes in care home provision including homes that have closed and homes that are expected to open in the next three years

EXTERNAL

Fulford Parish Council

3.35 Detailed objection submitted. Main points include:

(i) Sequential Test

There are sequentially preferable sites available so test has not been passed. Test should have looked city wide.

(ii) Heritage

Harm to setting of Fulford Village Conservation Area

(iii) Flood Risk

Flood Assessment is conflicting and also doesn't address how flood water will disperse after flood event.

(iv) Highway/parking

Chronic shortage of parking in Fulford. The development should provide the full requirement of parking spaces.

(v) Neighbour amenity

Overbearing impact and loss of outlook. Severe detrimental impact on amenity of no 7 Fulford Mews

(vi) Loss of trees/hedges.

Severe damage to rural character.

(vii) Bats

Survey doesn't address impact on commuting corridor or habitat in context of Germany Beck, and fails to address mitigation proposed by Persimmon.

(viii) Archaeology

Potential destruction of archaeological remains and setting of battlefield.

(viii) There is still some crucial information missing. The Transport Statement does not include any of the seven appendices listed. The Noise Assessment refers several times to historic data contained in the Germany Beck Environmental Statement. These should be submitted.

3.36 Construction Environmental Management Plan (CEMP) Version 3 of the CEMP fails to deal adequately with vibration impacts and how these will be mitigated. This aspect of the construction is important because several properties were damaged due to the vibration caused by sheet piling on the Germany Beck site.

3.37 The site is clearly not large enough to accommodate such a large facility and the damage to the environment and local heritage will be considerable. The need for additional care home beds in Fulford has not been demonstrated, thus reducing the public benefit of the proposal. The site is in flood zone 2 and 3 and more sequentially preferable sites should have been chosen for housing vulnerable Care Home residents. A very limited public benefit is insufficient to outweigh the harm to the Conservation Area caused by overdevelopment of this distinctive parcel of land.

Yorkshire Water

3.38 No objection subject to a condition in respect of foul and surface water drainage. The Flood Risk Assessment (prepared by MET Engineers - Report 12244-5001 revision 04 dated July 2017) requires clarification with regard to surface water drainage but the matter can be dealt with via condition. Proof is required of existing connectivity to the public sewer is required to calculate a minimum 30% reduction in discharge rate. On the Statutory Sewer Map, there is a 375mm diameter public combined sewer recorded to cross the site. It is essential that the presence of this infrastructure is taken into account in the design of the scheme and Yorkshire Water has no objection in principle to the proposed sewer diversion (subject to the requirements of Section 185 Water Industry Act 1991) shown on submitted drawing G4061 (90) 01 (revision J) dated 28/06/2017 prepared by WR Dunn.

Environment Agency

3.39 No objections to the proposed development, but consider that it will only meet the requirements of the National Planning Policy Framework if the following measures, as detailed in the Flood Risk Assessment by Met Engineers, dated July 2017, Ref: 12244-5001, Revision 04, submitted with this application are implemented and secured by way of a planning condition on any planning permission granted:

(i) Provision of compensatory flood storage as detailed within the FRA and in accordance with drawings numbered, 12244-5001-04, 12244-5001-06 REVA, 12244-5001-10 REVA & 12244-5001-09 REVA.

(ii) Finished floor levels are set no lower than 10.66m above Ordnance Datum (AOD).

(iii) The mitigation measures shall be fully implemented prior to occupation and subsequently in accordance with the timing / phasing arrangements embodied within the scheme, or within any other period as may subsequently be agreed, in writing, by the local planning authority.

3.40 The Technical Guide to the National Planning Policy Framework (paragraph 9) states that those proposing developments should take advice from the emergency services when producing an evacuation plan for the development as part of the flood risk assessment.

Foss Internal Drainage Board

3.41 The Board does have assets adjacent to the site in the form of Germany Beck; this watercourse is known to be subject to high flows during storm events. The Board wishes to state that where possible the risk of flooding should be reduced and that, as far as is practicable, surface water arising from a developed site should be managed in a sustainable manner to mimic the surface water flows arising from the site prior to the proposed development. Recommend condition that no development approved by this permission shall be commenced until the Local Planning Authority in consultation with the Internal Drainage Board has approved a Scheme for the provision of surface water drainage works

Neighbour notification and publicity

3.42 The application was advertised by site notice, and direct consultation with immediate neighbours. One letter of support has been received on the basis that they are very close neighbours and have no objection to the care home. Furthermore the plans are pleasing, the site has always been a care home whilst

they have lived in the vicinity and to leave the property in its current state is unacceptable. The community would benefit by its speedy completion.

3.43 15 detailed letters of objection have been received, and the following is a summary of the main points raised;

Design

- The building is too large and will dominate the much smaller houses that lie around the site, that have been there for over 150 years. The proposed building is a visual intrusion due to its scale.

Over development.

- The development is contrary to policy by virtue of its density, layout, scale mass and design.

Impact on amenity

- Adverse impact on amenity of surrounding dwellings due to scale and design.
- Impact on properties due to piling. This has already occurred on the Persimmon development.
- Delighted that balconies have been removed but remain very concerned that pedestrian crossing is directly in front of window.

Landscape and Ecology

- Object to the loss of so many trees and hedges. The tree and hedge felling that was carried out without warning on 23rd March has changed a beautiful area into an utter wasteland.

Access and Parking

- Highway works are needed in land that is not in the applicant's control (blue line)
- The works also appear to be outside publically maintained highway. It is therefore unclear how these works and be secured/delivered.
- Proposal will bring more vehicles exiting the site onto Germany Beck at the point where pedestrians and cyclists movements in the carriageway are concentrated.

- Proposal will require service vehicles to pull out of the site, onto the lane, and then manoeuvre/reverse back into the site and then exit again onto the lane.
- Service vehicles will only be able to make these manoeuvres if that section of Germany Lane is clear of parked cars.
- If that is not possible, service activity will take place elsewhere within the site or within Germany Lane or Fordlands Road.
- The building process will cause traffic and parking problems in the area adjacent to neighbouring houses. Inadequate parking provision on the site. There is very little parking provision in the area and what there is will be reduced even further by the development. This is compounded by the impact of the Germany Beck access road that has resulted in the loss of all the parking previously available along Fordlands Road.
- Development shouldn't be allowed to be carried out at same time as Persimmon development. The roads are already a mess ,blocked with heavy machinery for the current housing project, and the impact on the environment is irreversible. The noise levels are significantly higher than they have been.
- The car park entrance and exit are very close the school lane alley way and the daily route local children take to school, dog walkers use and other residents. Conflict between pedestrians and construction and delivery traffic.
- How will a delivery lorry get out of the development without driving into oncoming traffic or pedestrians crossing the road . Question whether turning for lorries etc has been demonstrated.
- Absence of footway on the side of Germany Lane raises highway safety concerns.
- Design does not take 'Germany Beck' changes into account
- Design requires engineering works outside the applicant's site red line
- The road onsite is one-way; there is no allocated parking space for the emergency services visit these places frequently. These generally park for a while, whilst treating patients. As there is no allocated parking for them it will result in a blockage of the one-way system and the only way for vehicles to exit is by reversing out of the road onto the main junction, directly onto the main route to school and junction.

Pollution

- Air Pollution levels in the area are already one of the worst in the country. Further pressure in the area, along the already congested transport system along Fulford Main Street with additional vehicles from the 700 homes on the Germany Beck site.
- Light pollution and impact of lights shining into the mews.
- Noise pollution will inevitably increase with further vehicles attending the site; delivery vehicles (at what times are these restricted too?), staff vehicles throughout the day and night and visitors attending residents. Then there are the emergency vehicles bringing not only light pollution but also noise pollution into this quiet residential area.

Flood risk and drainage.

- The development is knowingly being built on a flood plain and on an area that annually floods. What measures have been taken to address impact of development in conjunction with housing development?
- The statement of need does not identify a need for Fulford and Heslington.
- The sequential test has not demonstrated that there aren't other sites available that are at less risk of flooding.
- The applicant has not considered the appropriate design flood level inclusive of climate change. If this was done it could have the effect of raising the finished floor levels.

Heritage

- Harm to heritage asset
- The heritage statement ignores many viewpoints.

Archaeology

- This Heritage Assessment attempts to maintain the fiction that the care home is not at the core of the battle site of Fulford. This fiction is no longer tenable.
- The Heritage Assessment fails to take account of accurate information about internationally important heritage located on the proposed site. It quotes out-

of-date and discredited opinion of the 2007 planning inspector while ignoring more recent archaeological information.

- The site is recognised by Historic England as the likely site of the battle of Fulford and, as such, enjoys protection under the NPPF as a non-designated heritage asset.
- Any planning decision should await the report from Historic England about whether or not this site should be added to the register of battlefields.
- In 2012 Historic England stated that they would not want to see additional developments along Germany Beck that would damage the landscape of the battle.
- In August 2017 I notified the authorities that a line of wooden stakes, and possible landing stage, had been found on the opposite bank to proposed care home. Samples have been submitted for C14 dating. This finding has significant archaeological potential and should be addressed in this application.
- The planning condition attached to the Germany Beck development requires that the design of a Battle of Fulford path is approved before the first house is occupied. Because the care home site is at the core of the battle, the ability to visit the battle site must also be considered as a part of granting any planning permission to make it consistent and integrated with the battlefield walk that must be built.
- The Heritage investigations must precede the grant of any development permission. Only then will it be possible to make an informed decision. I would be unhappy to rely on conditions or a WSI to ensure that proper research is undertaken. My experience with the WSI which was prepared by the contractor for the Germany Beck site gives me no confidence that it will address the archaeological issues since none of those I raised were incorporated.

4.0 APPRAISAL

4.1 MAIN ISSUES

- EIA assessment
- Policy background
- Principle of the development
- Flood Risk
- Heritage Considerations
- Design and character

- Amenity considerations
- Highways issues
- Designing out crime
- Sustainable design and construction
- Other materials considerations

EIA ASSESSMENT

4.2 The Town and Country Planning (Environmental Impact Assessment) Regulations 2017 define EIA development as either;

- (a) Schedule 1 development; or
- (b) Schedule 2 development likely to have significant effects on the environment by virtue of factors such as its nature, size or location.

If the proposal is listed in Schedule 2 and exceeds the relevant exclusion thresholds and criteria set out in the second column, the local planning authority must decide whether the proposal would be likely result in significant environmental effects. The proposed development falls within class 10b of Schedule 2 of the EIA Regulations. However, it falls well below the thresholds within the second column of Schedule 2. The site is not in or partly in a 'sensitive area' as defined within the regulations. There is an SSSI approximately 150m to the south west of the application site, however it is separated from the site by the A19 and the new access road, and the City of York Council Ecologist has confirmed there no likely significant environmental impact.

4.3 It is not considered that the site falls to be considered under 13b of column 1 of the table to Schedule 2. This relates to any change to, or extension of development of a description listed in paragraphs 1 to 12 of column 1 of the table, where that development is already authorised, executed or in the process of being executed. The proposed development is independent, and has no connection with the approved housing development at Germany Beck. Furthermore it is a previously developed site. As such, the development is not considered to be Schedule 2 development. Nevertheless, officers have assessed the potential cumulative effects in relation to the nearby housing development at Germany Beck.

4.4 It is not considered that the works associated with the care home will result in any individual or cumulative impact that will give rise to significant environmental effects. In terms of heritage, the proposed development will have a negative impact on the significance of the Conservation Area by virtue of its height and increase in visibility. The visual prominence is however balanced in terms of harm by the new design being much more sympathetic than that of the existing building. In terms of any cumulative impact, the new junction is situated within the extension to the Conservation Area (2007). This was considered as part of the public inquiry for the

housing development in 2006 and found to be acceptable in outline by the Inspector. It is therefore concluded that the access junction was not considered to have an adverse impact on the Conservation Area. Having visited the various viewpoints raised by a contributor, it is considered that the negative impact, on the setting of the Conservation Area, caused by the proposed development is at the same low level as that caused by the existing development. In terms of archaeology, the site is previously developed with a building of a similar footprint. Trial trenching has demonstrated that any additional impacts will be on 20th century landfill deposits, or highly truncated natural deposits. The development will not prejudice the construction of the proposed battlefield walk.

4.5 In terms of landscaping, it is considered that the loss of trees will be mitigated by the proposed new planting, and will maintain habitat connectivity to Germany Lane and wider area. In relation to flood risk, the drainage strategy is independent of the housing development. Furthermore the site is previously developed land, and the proposed footprint is slightly less than the existing building on the site, with raised finished floor levels to approved level. Surface water drainage will be attenuated, and it is not considered that the development will have any significant environmental effects, but will provide betterment.

4.6 In relation to the impacts of the development on air pollution, annual mean concentrations of nitrogen dioxide have improved in this area in recent years, and are well below health based objectives. When taking into account existing air quality monitoring in the area, the development of the care home, including its construction would result in air quality well below health based objective levels. The cumulative impacts of the two schemes are not considered to be materially different to that of Germany Beck alone. Furthermore, the construction vehicles for the housing development now utilise the new access road which minimises any cumulative impact. In terms of noise associated with the construction, the existing traffic count figures have been considered, together with the proposed vehicular movements. Taking this into account, together with the short time period for the most intensive part of the construction work, it is considered that the noise impacts from construction will be minimal. It is particularly relevant that when considering cumulative impacts of noise/vibration, the construction of the access road was a particular factor. However this is nearing completion and will not therefore be a factor in assessing any cumulative impact. In relation to the care home, piling will be restricted to approximately two weeks and will utilise Continuous Flight Auger Piles which is the quietist form and produces very low levels of sound and vibration. Consequently there is no significant adverse cumulative impact.

4.7 On that basis, it is not considered that the development either individually or cumulatively will give rise to any significant environmental effects. As such it is not EIA development.

POLICY BACKGROUND

NPPF

4.8 Paragraph 17 sets out the Core Planning Principles. The following are relevant to this application:

- proactively drive and support sustainable economic development to deliver the homes that the country needs;
- always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings;
- support the transition to a low carbon future in a changing climate and encourage the reuse of existing resources, including conversion of existing buildings;
- contribute to conserving and enhancing the natural environment and reducing pollution;
- encourage the effective use of land by reusing land that has been previously developed (brownfield land), provided that it is not of high environmental value
- promote mixed use developments, and encourage multiple benefits from the use of land in urban and rural areas, recognising that some open land can perform many functions (such as for wildlife, recreation, flood risk mitigation, carbon storage, or food production);
- actively manage patterns of growth to make the fullest possible use of public transport, walking and cycling, and focus significant development in locations which are or can be made;
- take account of and support local strategies to improve health, social and cultural wellbeing for all, and deliver sufficient community and cultural facilities and services to meet local needs.

4.9 Paragraph 50 refers to the delivery of a wide choice of high quality homes, and planning for a mix of housing based on current and future demographic trends, market trends and the needs of different groups in the community (such as, but not limited to, families with children, older people, people with disabilities, service families and people wishing to build their own homes).

4.10 Paragraph 60 states that planning policies and decisions should not impose architectural styles or particular tastes... however, it is proper to seek to promote or reinforce local distinctiveness. Paragraph 64 states that permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way that it functions.

4.11 Paragraph 65 states that Local planning authorities should not refuse planning permission for buildings or infrastructure which promote high levels of sustainability because of concerns about incompatibility with an existing townscape, if those

concerns have been mitigated by good design (unless the concern relates to a designated heritage asset and the impact would cause material harm to the asset or its setting which is not outweighed by the proposal's economic, social and environmental benefits)

4.12 Section 10 of the NPPF relates to meeting the challenge of Climate change, flooding and coastal change. The section provides guidance on planning new developments in locations and ways that reduce greenhouse gas emissions, and increase the use and supply of renewable and low carbon energy.

4.13 Paragraph 100 states that inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk of flooding, but where development is necessary, making it safe without increasing flood risk elsewhere.

4.14 Paragraphs 101 and 102 refer to the application of the sequential test to steer development away from areas at risk of flooding if there are reasonably available sites appropriate for the proposed use.

4.15 Paragraph 102 Advices that, if following the application of the Sequential Test, it is not possible, consistent with wider sustainability objectives, for the development to be located in zones with lower probability of flooding, the Exception Test can be applied.

4.16 Paragraph 103 advices that when determining planning applications, local planning authorities should ensure flood risk is not increased elsewhere and only consider development appropriate in areas at risk of flooding where informed by a site specific flood risk assessment.

4.17 Section 11 of the NPPF seeks to ensure that the planning system contributes to and enhances the natural and local environment.

4.18 Section 12 relates to conserving and enhancing the historic environment. This includes impact of development on designated heritage assets, and includes setting of conservation areas. It also relates to sites which have the potential to include heritage assets with archaeological interest.

Emerging Local Plan

4.19 The Publication Draft Local Plan 2018 ('2018 Draft Plan') was submitted for examination on 25 May 2018. The emerging 2018 Draft Plan policies may be afforded weight at this stage of preparation in accordance with paragraph 216 of the NPPF, subject to the extent to which there are unresolved objections and their degree of consistency with the NPPF. The evidence base underpinning the

emerging Local Plan is capable of being a material consideration in the determination of planning applications.

4.20 Policy H9 identifies that City of York Council and its partners will work together to enable the delivery of specialist housing and registered care housing for vulnerable people which includes the ageing population. Policy D1 supports developments that take account of local distinctiveness and make a positive design contribution. Policy D2 relates to landscape and setting. Policy D4 relates to development within or affecting the setting of a conservation area. Policy D6 relates to development proposals that affect archaeological features and deposits. Policy G12 seeks to conserve and enhance York' biodiversity. Policy G14 relates to the value of trees and hedgerows. Policies CC1 and CC2 relate to sustainable design and energy efficiency. Policy ENV1 requires that development will only be permitted if the impact on air quality is acceptable. ENV2 relates environmental impacts. Policies ENV4 and ENV5 relate to flood risk and sustainable drainage. Policy T1 supports development where it minimises the need to travel and provides safe suitable access. It is considered that in accordance with paragraph 216 of the NPPF, in taking account of the advanced stage of preparation of the 2018 Draft Plan, the lack of significant objection and the degree of consistency with the NPPF these policies carry moderate weight.

4.21 The evidence base includes:

- Strategic Housing Land Availability Assessment (SHLAA) (2017)
- Strategic Housing Land Availability Assessment (SHLAA) Annexes(2017) (18.67 MB - PDF)
- Heritage Impact Assessment (2017) (2.36 MB - PDF)
- Heritage Impact Assessment Annexes (2017) (5.61 MB - PDF)
- The City of York Council Strategic Flood Risk Assessment 2013 is also of relevance to this application. It requires a sequential risk based approach to determining the suitability of land for development in flood risk areas in line with NPPF requirements.

The 2005 DCLP policies remain material considerations in respect of development management decisions but are now considered to carry very limited weight.

PRINCIPLE OF DEVELOPMENT

4.22 The site is not allocated in the 2018 Draft Plan for development, and is currently occupied by a care home, which is now vacant. Section 6 of the NPPF relates to the delivery of a wide choice of high quality homes. At paragraph 50 the NPPF includes reference planning for a mix of housing based on current and future demographic trends and the needs of different groups in the community including older people. The NPPG, and evidence in the SHLAA detail the need for elderly

persons accommodation. The number of people aged 65 and over has increased by more than other age categories in the city and reflects national trends in line with increasing life expectancy.

4.23 Policy H9 of the 2018 Draft Plan reflects the provision of care through City of York Council and its partners working together to enable the delivery of specialist housing. Including for the ageing population. It is considered that this policy carries moderate weight.

4.24 This position is backed up by information from the Council's Adult Social Care team who state that York has a significant under-supply of good quality residential and nursing care accommodation which will continue to rise if no new care homes are built. York's over 75 population is expected to grow by 50% by 2030 (i.e. over the next twelve years) which will make the shortfall worse if it is not addressed. Even if all current planning application for C2 care home developments are delivered, York will still have a shortfall in bed provision of 725 in 2020, rising to 1,407 in 2030. The shortage of good quality care accommodation in the city, if not addressed, would have a profound and negative impact on the care and health "system" in York, leading to potential delays in people leaving hospital beds, people continuing to live in inadequate accommodation and diminished support for informal carers. The need in the Fulford & Heslington, Fishergate and Guildhall area mirrors that across the city: it is rising and supply will need to keep up and/or catch up.

4.25 While the current number of beds in this area just about meets the City's bed planning criteria (11 beds per 100 people over 75), not all of them deliver the range of services that are required and, of particular relevance, 90 of those beds (at Connaught Court) are restricted to use by people involved in the Masonic Orders and, therefore, not available to all residents of the city. If these beds are excluded from calculations of supply, then each ward in this area has an absolute shortfall in supply when compared to need, a shortfall that increases over time.

4.26 Policy H17 of the 2005 DCLP seeks to ensure that there isn't a concentration of residential institutions that would have an adverse impact on residential amenity. It is considered that this policy carries very limited weight. Nevertheless, it is not considered that the development will result in an unacceptable concentration. Fulford Parish Council has referred to four homes in Fulford, however it is understood there are only two residential and nursing care homes: Connaught Court and Fulford Nursing. Given the brownfield nature of the site, and the sustainable location, the proposal is considered acceptable in principle subject to other material planning considerations.

FLOOD RISK

4.27 The site is located predominantly within Flood Zone 2 with part of the site within Flood Zone 3. As set out in the Technical Guidance to the National Planning Policy

Framework, inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk, but where development is necessary, making it safe without increasing flood risk elsewhere. For these purposes areas at risk of flooding" means land within Flood Zones 2 and 3; or land within Flood Zone 1 which has critical drainage problems and which has been notified to the local planning authority by the Environment Agency.

4.28 A sequential test should be used to steer development to Flood Zone 1. Where there are no reasonably available sites in Flood Zone 1, local planning authorities allocating land in local plans or determining planning applications for development at any particular location should take into account the flood risk vulnerability of land uses and consider reasonably available sites in Flood Zone 2, applying the Exception Test if required. Only where there are no reasonably available sites in Flood Zones 1 or 2 should the suitability of sites in Flood Zone 3 be considered, taking into account the flood risk vulnerability of land uses and applying the Exception Test if required. Update in relation to sites.

4.29 The majority of the building will be in that part of the site that lies within Flood Zone 2, with a small part within Flood zone 3. The proposed care home is identified as 'more vulnerable'. The use is the same vulnerability as the existing building. The Environment Agency Guidance on applying the sequential test will usually be applied over the whole Local Authority area, unless there are functional or relevant objectives in the Local Plan. The consultation response from Adult Social Care states that York has an under supply of good quality residential and nursing care accommodation. Even if all current planning applications for C2 care home developments are delivered, York will still have a shortfall in bed provision of 725 in 2020, rising to 1,407 in 2030.

4.30 A more restricted area of search for the sequential test was identified to take account of the existing care home on the site (now vacant), and the natural community of interest of the chosen wards. This is due to their connection by the radial transport route out of the city centre and along which public transport is well provided, and therefore through which residents, visitors and staff can easily move. This includes that part of the Fishergate, Fulford and Heslington, and Guildhall. The amended Sequential Test has been assessed, and also discussed with Forward Planning Officers in relation to potential sites in the area of search.

4.31 During the consideration of this application, Frederick House Fulford was marketed for sale. The site is situated within flood zone 1 and is therefore sequentially preferable to the application site. Nevertheless, the applicant has provided information which demonstrates that the site is not reasonably available for the proposed use. They state that the site comprises 2.17 acres and includes a number of buildings on it. This is well in excess of the area required for the care home, and consequently would not be viable. The agent marketing the property advised that partial purchase of the site was not available. The site access is shared

with the neighbouring police headquarters which is not suitable for a private care environment where operators look for a private entrance. The adjacent site to the north east is a public house with a large beer garden that is used for outdoor music performances. This is not considered a suitable neighbour for a care home. It is also noted that the closing date for bids has passed, and the agent has confirmed to the applicant that they have received a number of bids in excess of the guide price. The property is therefore no longer on the open market.

4.32 Whilst objections have been received that consider that the area of search should be city wide, and that furthermore, other sites should be considered, officers are satisfied that the applicant has demonstrated why a more restricted area of search is appropriate, and furthermore that Frederick House is not reasonably available. Other objections relate to the exclusion of Connaught Court from the supply of beds. However officers are satisfied that in view of its restricted occupancy, it should be excluded from the supply of beds. Nevertheless, even if this property is included in the supply, there will still be a shortfall of beds by 2020. The Sequential Test is therefore considered to have been passed.

4.33 In relation to the 'Exception Test', this is only required in relation to those sites that fall within Flood Zone 3. The test requires that proposed development must provide wider benefits to the community that outweigh flood risk, and second it must be safe for its lifetime without increasing flood risk elsewhere. Turning to the first step, the benefits of new care for the elderly will provide significant benefits. Many care homes across the city have been closed because they are not 'fit for purpose'. The proposed accommodation will be registered with the Care Quality Commission. It will provide en-suite rooms and communal facilities, hairdressers and activity rooms for residents. Furthermore it is a sustainable location which will provide ready access for residents, visitors and employees. The building will also be constructed to meet Building Regulation part L which deals with energy efficiency, and will be able to meet the requirements of BREEAM Very Good. The care home is in a location where staff can be employed who are able to access the site in a sustainable manner. The existing building is no longer fit for purpose, and is in a poor state of repair. Accordingly, it is considered that the sustainability benefits outweigh the flood risk of the development

4.34 In relation to the second bullet point to the exception test, as set out in the National Planning Policy Framework, the application is accompanied by a site-specific flood risk assessment. This demonstrates that the finished floor level will be set at 10.66m AOD, which is 600mm above the 1 in 100 year climate change level. The finished floor level of the existing building is 9.8m AOD. In addition, the footprint of the proposed building (1,149m²) is smaller than the footprint of the existing building (1,224m²). There will be an increase in flood storage from 1,929m³ to 2,189m³. The Flood Risk Management Team has advised that the proposed external levels will provide an additional flood storage volume of 216m³ and therefore making it safe without increasing flood risk elsewhere. Given that this is

accommodation that will have resident staff who will manage the building, together with easy access to parts of the building at a higher level, it is considered that safe access and egress can be provided in the event of a flood warning. It is recommended however that if permission is granted, it is subject to a condition requiring the submission of an evacuation plan.

4.35 Objections has been received regarding the flood resilience of the site, and that the baseline flood level date relied on by the applicant is out of date. Officers are satisfied that on the basis of consultation responses from the Flood Risk Management Team and the Environment Agency the submitted flood risk assessment that informs the floor levels is acceptable. The submitted Flood Risk Assessment (FRA) considers climate change (CC) and the 1 in 100 year + climate change flood level (River Ouse) within the design. The design flood level adopted relates to the 2012 data for the Germany Beck Site 1 in 100 year + climate change which is 10.06m AOD. Since the flooding of December 2015, the Environment Agency (EA) undertook further modelling of the Ouse and Foss, but there were no significant changes to the data for the Ouse at this location and in some instances (to include this location) flood data for the 1 in 100 year event is lower. The design flood level for the proposed care home is the 1 in 100 year + CC (10.06m AOD 2012 data used) with an additional 0.6m which equals 10.66m AOD. This design flood level has been adopted and approved by the Environment Agency. It is noted that the agreed design finished floor level at 10.66m AOD is 0.16m above the 1 in 100 year + 50% climate change level. In accordance with the second limb of paragraph 103, sufficient information has been submitted to demonstrate that the ground conditions are unsuitable for soakaways, however surface water has been attenuated with below ground storage and restricted discharge being a recognised Sustainable Drainage System. Furthermore, the building is more flood resilient than the existing care home and together with the access and egress routes being above the 1 in 100 year + 50% climate change level any residual risk can be managed by the submission of an evacuation plan.

4.36 Objections have also been raised regarding the invasive work on the Persimmon site and how this could affect hydrology if similar work is carried out on the application site. Due to the subsoil conditions 'predominantly clay overlain by peat' found in the location of the construction of the new access road it was necessary to remove the peat and lay boulders to increase the strength of the road formation. It is not considered that this work changed the hydrology of the area. With regards to Persimmon Homes 'dewatering' of the deep excavations, this was to divert the existing Yorkshire Water Public sewer crossing their site. Dewatering is a term typically used to describe the process of extraction and removal of groundwater or surface water from a construction site. Typically performed by dewatering contractors for a project site, the process of dewatering plays an important role in many construction projects that involve excavation below the static groundwater level for construction of and in this particular case pipeline trench excavations where saturated sand is present. This process consists of groundwater extraction at the

site with the installation of 'dewatering wells' known as 'WellPoint dewatering' around the perimeter of the excavation by "drawing down" the groundwater level until a steady, dry state of the soil is reached allowing excavation and construction of the pipeline to progress in a safe manner. WellPoint dewatering systems can be installed speedily and made operational rapidly. This method of excavation is limited to the area of the excavation only and is only temporary. Once the section of pipeline is complete the system is moved up to the next section then removed altogether when the pipeline is complete and allowing the natural static groundwater level to return. It is not known at this stage whether such an excavation is required on this site, nevertheless, should such works be required, it is not considered that the development will have a lasting impact on the hydrology of the area. In relation to concerns raised regarding the proposed basement, this is a non habitable store room and is designed to flood thus providing additional flood water storage. Furthermore, in relation to comments made in relation to flood water being trapped on site after an event, the drainage is such that once levels drop, the water will drain from the site through flood relief pipes installed in the new access road.

4.37 It is therefore considered that the development accords with Policies ENV4 and Policy ENV 5 of the 2018 Draft Plan which carry moderate weight, and section 10 of the NPPF.

HERITAGE ASSESSMENT AND DESIGN

4.38 This site adjoins the boundary of the Fulford Village Conservation Area. In terms of the historic environment, the principal issue is whether or not this proposal will harm any elements which contribute to the significance of the Conservation Area and, if it would, whether or not there are any public benefits. Regard is to be had to the heritage policy in the NPPF, particularly Paragraph 132 which 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. The more important the asset, the greater the weight should be and makes it clear that significance can be harmed or lost through development within its setting.

4.39 The first consideration in this assessment is how much contribution this site currently makes to the significance of the Conservation Area and would the development harm that significance.

4.40 The application site is located to the east of the site of the former village pinfold, which forms a small piece of open ground between the care home and Main Street. The current care home buildings are visible, to some extent, from Main Street as the backdrop to the former village pinfold, although they are not particularly prominent being largely shielded from view by the hedged boundary and trees that form the western and south western boundary of the care home. So, whilst they cause some harm at present to this aspect of the Conservation Area, it is negligible. The loss of these buildings, therefore, will not harm the setting of the

Conservation Area and, indeed, presents an opportunity to enhance the southern approach to the village. There have been no objections to the principle of this site being redeveloped.

4.41 The question, therefore, is whether or not the proposed scheme is acceptable. Fulford Parish Council and some objectors consider that the proposed building fails to reflect the grain or character of its surroundings and will appear monolithic and overbearing even when the replacement landscaping eventually matures.

4.42 The proposed new building is designed in a manner that is sympathetic to the existing buildings in the adjacent part of the Conservation Area, including brick elevations, slate effect roofs and wooden windows and doors. However the scale of the proposals could have a detrimental impact on the identified setting of the Conservation Area, and consequently will have a negative impact on the Conservation Area's significance. The view across the former pinfold will be dominated by the new building and its open nature reduced; the positive buildings on Main Street will no longer establish the scale of the village due to the dominance of the proposal; and, as you cross the bridge the proposal will be much more apparent than the current building increasing the impression of the scale of the village. Officers have taken account of concerns raised regarding the impact of the development on the Conservation Area. However, in heritage terms the site is not considered a key part of the village as it is outside the Conservation Area boundary but it still forms part of that assets setting. The existing building has a negative impact on the significance of the Conservation Area but at a very negligible degree due to a lack of inter-visibility and its low scale. The proposed development will also have a negative impact on the significance of the Conservation Area, but that this will also be at a low level. As stated above the negative impact caused by the proposal is due to the increase in scale over the existing situation and, therefore, an increase in visibility. The consequent visual prominence of the proposal, however, is balanced in terms of harm by the new design being much more sympathetic than that of the existing building. The proposed design reflects the character and appearance of the buildings in the adjacent part of the Conservation Area, which the current building does not.

4.43 In a further assessment of design, many care home developments are characterised by buildings with large massing. The proposed development includes a mix of multi red facing brick and timber cladding, and varying eaves and ridge heights. Such design articulation has sought to break down the overall massing of the building to fit in with, and be sympathetic to, the surrounding streetscape. The proposed building has been set back into the site to provide an increased separation from the nearby dwellings when compared to the existing building, and the development has provided extensive landscaped gardens to the south. The west elevation (which is the one which faces onto the site of the former pinfold) has been designed to reflect the cottages to the front, by virtue of the overhanging eaves, exposed timber purlins and domestic scale windows. In terms of materials, design

concept, and architectural language, the building is not dissimilar from that found within parts of Fulford. Whilst balconies are not a feature typically found in the Conservation Area, those balconies previously shown on the front (northern elevation) have now been deleted from the development. The remaining balconies are therefore a small element of the overall scheme.

4.44 The new road junction which has been developed to access the new housing at Germany Beck has had a marked impact upon the approach to, and radically altered the rural setting of the Conservation Area. Paragraph 131 of the NPPF states that Local Planning Authorities should take account of the positive contribution that conservation of heritage assets can make to sustainable communities including their economic vitality and the desirability of new development making a positive contribution to local character and distinctiveness. An objection has advised that assessment of the development in the light of other viewpoints should be considered. Officers have re-looked at a number of viewpoints including the A19, Fulford Road, and the public right of ways in the vicinity of the site. The new access junction is nearing completion and it is now possible to better assess any cumulative effects on the Conservation Area setting. The junction is situated within a recent extension to the Conservation Area (2007); it was also considered as part of a public inquiry into the Germany Beck Housing development in 2006 and found to be acceptable in outline by the inspector. The Conservation Area Appraisal states, in relation to its extension and the inspector's conclusion:

'The archaeological and conservation area issues raised at this inquiry were considered, and the arguments for extension of the conservation area as outlined were not found to be in conflict with Inspector's conclusions, having weighed up all the evidence submitted'.

4.45 It is, therefore, concluded that the access junction was not considered to have an adverse impact on the Conservation Area. Consequently it is not considered that the development will have a significant adverse cumulative impact on the setting of the conservation area. It is considered that in terms of the details of the development, the building better reflects the character of the immediate area, and in particular the cottages to the frontage, than the existing building. It is further considered that the set back of the building is a positive contribution to the area.

4.46 So whilst the scale and massing of the building would cause some harm to the setting of the Conservation Area, it is considered that this would constitute very limited harm to the overall significance of this part of the Conservation Area. However, small though that harm may be, nonetheless, it is still going to result in some adverse impact to a designated heritage asset. NPPF Paragraph 134 states 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.

4.47 Undoubtedly, in terms of the detailing and quality of materials, the new building is a considerable improvement on a building which detracts from the character of this part of the Conservation Area. It is also considered that by setting it back from the frontage with Germany better, it provides a more attractive approach to the public footpath that leads to the open countryside. The harm identified is considered to be at the lower level of less than substantial. As such the development accords with the second and third bullet points of para 131 of the NPPF, and paragraph 60 in relation to local distinctiveness.

4.48 The development will provide accommodation for 64 residents and, therefore, contribute towards helping to meet an identified need for elderly accommodation in the City. On balance, therefore, it is considered that the limited harm to the setting of this part of the Conservation Area by virtue of the scale of the building would be outweighed by the benefits of the contribution the development will provide in meeting the under-supply of good quality residential and nursing care accommodation. As such the development accords with the requirements of paragraph 134 of the NPPF. It also accords with Policy D4 of the 2018 Draft Plan which carries moderate weight. It is considered that there is some conflict with criteria ii of policy D1: Placemaking, of the emerging plan, by virtue of the scale of the proposed building, and the likely dominance in relation to neighbouring dwellings. This policy also carries moderate weight. However it is considered that the improvements to the design and materials, and the set back of the building, are on balance acceptable. In relation to policy GP1: Design of the 2005 DCLP, it is considered that overall it accords with Policy GP1 a) in terms of the materials, however it breaches Policy GP1 (b) in relation to the scale and mass in relation to surrounding buildings. There is also some lack of conformity with GP 1: e) which seeks to retain/enhance the rural character and setting of villages. However this policy carries very limited weight.

ARCHAEOLOGY

4.49 The site lies outside the Area of Archaeological Importance but in an area where significant undesignated heritage assets are located and recorded on the City of York HER. There have been extensive archaeological excavations carried out in advance of the approved housing development at Germany Beck. These excavations have produced evidence of an organised rural landscape dating from the late prehistoric period through the Romano-British period. It has also been argued that the Battle of Fulford might have been fought in the area adjacent to Germany Beck between the River Ouse and Heslington Tillmire.

4.50 In accordance with para 128 of the NPPF, a desk-based assessment and a report on archaeological evaluation of the site were requested to enable an assessment of the impact the Fordlands House care home on any archaeological deposits as well as to see if the 20th century landfill site extends into the site.

4.51 In the light of this archaeological background, the applicant prepared an archaeological desk-based assessment and was subsequently requested by City of York Council to carry out an archaeological evaluation of the site. This has taken place and the applicant has submitted a report on the evaluation. The archaeological evaluation has demonstrated that there are modern land-fill types deposits present on part of the site and that deposits have been truncated so that no archaeological features survive above the level of natural deposits. The potential for survival of archaeological deposits is therefore low. However, it is possible that features may survive where they have been cut deeply into the natural deposits. The evaluation has not produced any evidence that suggests the Battle of Fulford was fought in this location. It is recommended however that an archaeological watching brief is maintained during the excavation of foundations, service trenches, etc so that any archaeological features that might be on the site can be recorded. The written scheme has now been produced in relation to the discharge of conditions on application 17/01969/FULM and has been submitted to accompany this application.

4.52 A letter of objection to the development has raised concern that the development fails to take account of more recent archaeological information in relation to the Battle of Fulford. They further state that The Battle of Fulford should be regarded as a non-designated heritage asset. Furthermore, that as an undesignated heritage asset the battle is a material consideration as noted by Historic England's advice in 'Historic Environment Good Practice Advice in Planning: 2' "For sites with archaeological interest, whether designated or not, the benefits of conserving them are a material consideration when considering planning applications". [§31]"

4.53 A Heritage Asset is defined in Annex 2: Glossary, National Planning Policy Framework (Department for Communities and Local Government, 2012) as: "A building, monument, site, place, area or landscape identified as having a degree of significance meriting consideration in planning decisions, because of its heritage interest. Heritage asset includes designated heritage assets and assets identified by the local planning authority (including local listing)." In order to record a heritage asset, it is necessary to be able to record the spatial extent or identify with precision the location of the heritage asset.

4.54 Historic England's published Registration Selection guidance on Historic Battlefields states that "If the site of a battle is to merit registration it has, notwithstanding any other claims, to have been an engagement of national historic significance, and to be capable of secure location on the ground.' The selection guidance goes on to state on page 5 that "... the precise location of [the Battle of] Fulford (North Yorkshire), remains open to debate."

4.55 It is not possible at this time to locate precisely and securely on the ground the Battle of Fulford. Historic England in their own guidance accept that the location of

the Battle is open to debate. It is therefore not possible to consider the suggested site of the Battle of Fulford as an undesignated heritage asset. The suggested site of the Battle of Fulford is not recorded on the City of York Historic Environment Record as a heritage asset and has not been considered as an undesignated heritage asset in our recommendations. Nevertheless, the application site is of archaeological interest. This led to the recommendation of the City Council Archaeologist to request a desk-based assessment and an archaeological evaluation of the site. The results of the DBA and the evaluation led to the further recommendation that an archaeological watching brief would be required if the application is approved.

4.56 Officers are therefore satisfied that whilst the suggested site of the Battle of Fulford is not an Undesignated Heritage Asset, it has duly been taken into account as a material consideration of the archaeological interest of the site. As such the development accords with paragraph 139 of the NPPF. It also accords with policy D6 of the 2018 Draft Plan which carries moderate weight.

NEIGHBOUR IMPACT

4.57 In relation to the impact of the development on the existing amenities of neighbouring occupiers, one of the core plan planning principles of the NPPF requires that planning should seek a good standard of amenity for all existing and future occupants of land and buildings. In this case, the proposed building is of a significant mass and scale. This is of particular relevance in relation to the site context where those houses on Germany lane are predominantly single storey, with one dwelling at one and a half storey in height. The cottages to the west are two storey.

4.58 In relation to the cottages that lie between Selby Road, and Fordlands, the proposed building will be just under 30m from the rear of their property. The scale of the proposal is significantly greater, and will include more fenestration at a higher level. However it is considered that given the distance involved, together with the existing position of the cottages in close proximity to a public road, it is not considered that the development will have a significant adverse impact on their existing amenities in terms of overlooking or overbearing impact. In addition it is not considered that their outlook will be unduly compromised because of the angle of the cottages in relation to the proposed building.

4.59 It is considered that the separation with 143 Main Street is also acceptable. Numbers 1 and 3 Fulford Mews have already experienced the location of the existing care home looking towards their properties. The proposed building will be significantly taller, with many more windows directed towards their properties. Nevertheless, the proposed building will be sited 22m from the front of those properties, compared to the existing building at 13-14m. It is considered that the development will not have a significant adverse impact on the outlook of no.1 Fulford Mews, because of its offset location. 1 Fulford Mews has an outlook that

extends beyond the building. In relation to no. 3 Fulford Mews, there will be some impact on their amenities, by virtue of the increase in scale of the building, and increase in fenestration. The removal of the balconies from the bedrooms on the first and second is a welcome change to the application, and a neighbouring occupier opposite the site has expressed support for this element of change to the development.

4.60 It is considered that the greatest impact will be on no. 7 Fulford Mews. This is because this property does not currently look towards the existing care home, but across the parking and access to the side. As such there will be some impact by virtue of the dominance of the building, and the level of fenestration. The end of the mews cottage will however still retain its outlook past the proposed building. Furthermore, the proposed planting adjacent to the kerb will provide a softening of the impact of the development. It is also considered that in terms of distances between the dwelling and the care home, this is a relationship that is typical of many streets and lanes within, or on the edge of urban areas. It does not relate to a more private rear aspect.

4.61 Given the increase in the size of the care home, there is likely to be an increase in deliveries and general comings and goings. Nevertheless, it is not considered that this will have a significant adverse impact on the existing amenities of neighbouring occupiers, and the proposal is not considered to be incompatible in relation to its proximity to residential properties.

4.62 The application is accompanied by a Construction Environmental Management Plan which will address concerns regarding impact on amenity during construction work. (See section on noise pollution).

4.63 An objection has been received from a neighbouring occupier with regard to the location of a pedestrian crossing outside his window. The proposal consists of a dropped kerb and tactile paving to facilitate crossing by those in a wheelchair or visually impaired. It is considered that such work is minor in effect and in a location where there are likely to be existing people crossing the road, or indeed traversing along the footpath from the PROW at Germany Beck.

4.64 Accordingly, it is considered that there will be some adverse impact on the existing amenities of neighbouring occupiers in relation to the overbearing impact of the building, and level of fenestration. However given the relationship of the site with neighbouring occupiers, and the increased set back it is not considered that such harm will be so significant as to warrant refusal on that basis. As such the development will result in that part of one of the core planning principles of the NPPF that requires planning to deliver a good standard of amenity for all. It will also accord with that part of Policy D1 of the 2018 Draft Plan that relates to amenity, this policy carries moderate weight, and Policy GP1 (i) of the 2005 DCLP which carries very limited weight.

LANDSCAPE AND TREE ASSESSMENT

4.65 Mature trees and hedging is something that is particularly characteristic of this part of Fulford. The application is accompanied by an arboricultural impact assessment and method statement. During consideration of the previous application a number of trees were agreed for removal. Much of this work has already been carried out in accordance with the approved plan. A further area of planting on the eastern boundary will be removed, however the work will be phased to maintain habitat. The landscape (mitigation) proposals show the introduction of 37 new trees within the site (10 advanced nursery stock and 18 extra heavy and heavy standards) to both mitigate the loss of existing trees and to improve the overall amenity of the development site. Of these trees proposed there is an avenue of trees along the frontage of Germany Lane to enhance the current situation post development. There are also new hedges proposed which the report states would further mitigate the loss of hedges on the site.

4.66 During consideration of the previous application, it was considered that the loss of some of the mature trees would have a significant impact on landscape character and amenity. However, in the long run, this would be mitigated with the proposed tree planting. Details of the construction methodology in relation to the planting of trees in close proximity to parking spaces has been submitted to ensure longevity of such planting.

4.67 As such, it is considered that the proposed planting as shown on the landscape masterplan will be acceptable in retaining the character of the area, and softening the impact of the proposed building. Accordingly it is considered that the development accords with that part of one of the core planning policies of the NPPF that requires planning to contribute to conserving and enhancing the natural environment and with policy G14 of the 2018 Draft Plan which carries moderate weight.

ECOLOGY

4.68 Section 11 of the NPPF relates to conserving and enhancing the natural environment. Policy G12 of the 2018 Draft Plan seeks to conserve and enhance biodiversity. The former Fordlands Care Home was previously known to support roosting bats. Accordingly the key ecological issue on site during consideration of application 17/01969/FULM was the presence of roosting bats within the building. Since the granting of planning permission 17/01969/FULM a European Protected Species Licence (EPSL) has been issued by Natural England pursuant to Regulation 53 of The Conservation of Habitats and Species Regulations 2017. Work in accordance with the EPSL, was undertaken by the developer in April 2018 to exclude bats from the building. Two bat boxes have been erected on an

Ash tree (T17) on the southern boundary of the site and the licence further requires the provision of more permanent bat boxes by April 2019. The consultant ecologist who has undertaken the work (Wold Ecology Ltd) has confirmed that no bats were observed during the destructive searches and that based on current information, the building no longer supports active bat roost. For the previous planning application the Local Planning Authority (LPA) had to consider the impact on the favourable conservation status of Common and Soprano Pipistrelle bats due to the direct loss of a bat roost. However as there is no longer a roost on site and an EPSL has already been issued by Natural England it is not necessary to do this or require specific mitigation through a planning condition.

4.69 The previous application agreed the removal of some trees along the eastern boundary. However this work was phased to maintain habitat. This work has now been implemented and this is reflected on the Existing Site Plan Post Tree Works DWG No. G4061(90)09B. The landscape proposals also include the further removal and replacement of vegetation on the eastern boundary. To help maintain habitat connectivity in the short term to Germany Lane and wider area part of hedgerow H6 will remain in-situ until it is entirely necessary to be removed due to construction activity after which it will be replaced by new native hedging. Subject to conditions, it is considered that the proposals are acceptable and accord with bullet point 3 of paragraph 109 of the NPPF that relates to conserving and enhancing the natural environment, and the appropriate part of Policy G12 of the 2018 Draft Plan. This policy carries moderate weight.

HIGHWAY CONSIDERATIONS

4.70 Section 4 of the NPPF relates to promoting sustainable transport. It states that transport policies have an important role to play in facilitating sustainable development but also in contributing to wider sustainability and health objectives. The site is well served by local facilities which the travel statement advises is within the preferred maximum walking distance of 1.2km from the site along the A19. These include a convenience store, pharmacies, hairdressers, pub restaurants, food takeaways, library, doctor etc. Whilst residents themselves will not necessarily be able to access such facilities on foot, the sustainability of the location in terms of staff and visitors is also important. There is also a very regular bus service in close proximity to the site. The Travel Plan states that bus stops are located on the A19 and on Fordlands at a distance of 90-240m from the site. These bus stops are served by high frequency routes to and from the city centre and the Park & Ride at York Designer Outlet, with approximately 15 buses per hour serving the four stops closest to the site. The statement states that there is a potential for linked trips by rail and bus, or utilising the park and ride.

4.71 The transport assessment has based the parking requirement on sheltered housing requirements. This seeks a maximum of 1 space per 4 units and 2 spaces if a resident warden is present plus one space per non residential staff is required.

However given the use of the building as a 'care home' and not sheltered housing, it is not considered that residents will cycle or drive. Parking will therefore be for staff and visitors, twenty one car parking spaces are therefore proposed, including one disabled space and one delivery bay. The majority of parking spaces will be located in the car park to the north of the care home, while two 'staff only' parking spaces will be located to the south of the delivery bay. This will ensure that one space will be available for every two staff members on site at any given time. Showers and lockers are to be provided for staff in order to facilitate and encourage cycling to work. 10 secure cycle parking spaces will be provided in a covered storage area at the front of the building. Secure spaces will also be provided within the basement of the building.

4.72 Fulford Parish Council has expressed concern regarding the number of parking spaces proposed. This is a concern also raised by other objectors. Highway Network Management Officers have confirmed that they have no objection to the development from a highway point of view. They confirm that cycle parking for staff and visitors is to be provided, and furthermore that car parking is in accordance with CYC maximum standards and supported by a transport statement. Taking this into account, together with the sustainable location of the site, it is considered that the level of parking is acceptable. Whilst a further objection has been received that states that the development will restrict parking for those attending the cemetery, it is not considered that this application can address existing parking concerns.

4.73 Objections have also been raised in relation to the access to the site, together with the potential conflict with children and other pedestrians going to school via the PROW. Highway officers have confirmed that they are satisfied with the proposed access details, both during construction and once operational. A construction Management Plan has been submitted which details the following information;

- the routing that will be promoted by the contractors to use main arterial routes and avoid the peak network hours;
- how vehicles are to access and egress the site;
- how pedestrians are to be safely routed past the site;
- how access to the PROW is to be maintained;
- details of any implications to the highway of demolition and waste removal vehicle operation;
- where contractors will park to avoid affecting the highway;
- how large vehicles will service the site;
- where materials will be stored within the site;
- measures employed to ensure no mud/detritus is dragged out over the adjacent highway.

4.74 In terms of other objections raised, highway officers have advised that in relation to the absence of footway provision on the site side of Germany Lane, there

has never been a footway in this location and the pedestrians successfully negotiate this route to the desired destination.. In terms of concerns that the development fails to take account of the 'Germany Beck' changes, this site is independent to the Germany Beck project. However consultations have been carried out to ensure that there is no conflict in relation to site traffic and deliveries. The access to this site is already established on Germany Lane and the changes predominantly relate to installing an additional access to enable all traffic enter the site at one point, and exit from another point.

4.75 In relation to comments that the development requires land outside the control of the applicant, Highway Network Management officers have advised that any works outside the redline, are within the control of The Highway Authority, and will be subject to a Section 278 highways agreement. This is not an uncommon situation.

4.76 Objections have raised concern that the proposal will bring more vehicles exiting the site onto Germany Lane at the point where pedestrians and cyclists movements in the carriageway are concentrated. At present the only access to the site is at the location where the pedestrians and cyclists movements in the carriageway are concentrated. However whilst the exit will be closer to the boundary with the PROW, visibility has been improved by setting back the heavy landscaping that was previously at this point. Furthermore vehicles will now enter the site at a different point to provide a one way system. The exit access is larger and on the basis of the advice of Highway Network Management, officers are satisfied that this movement will be safer than having two way traffic at this location.

4.77 Comments have also been made that the development will require service vehicles to pull out of the site, into the lane, and then manoeuvre/reverse back into the site and then exit again onto along the lane. Again on the basis of consultation responses from Highway Network Management, officers are satisfied that the turning is acceptable, and deliveries leaving the site will do so in a forward gear. It is an area, where there has previously been an access in close proximity to the PROW. Whilst there will not be a turning area within the site at this point, the separation of vehicles entering the site, will reduce a potential area of conflict. Further comments have been made that service vehicles will only be able to make this manoeuvre when cars do not park on Germany Lane. Whilst cars parking close to the exit could restrict the ability for service vehicles to manoeuvre, this can occur close to any access. Vehicles should not obstruct an access, and can be prosecuted by the police for obstruction. In addition deliveries can be made from the road side as long as it is safe to do so, free from restriction and they are not causing an obstruction.

4.78 It is considered that the proposed development accords with paragraph 32 of the NPPF and Policy T1 of the 2018 Draft Plan which carries moderate weight.

DESIGNING OUT CRIME

4.79 The submitted Design and Access Statement states that the care home has been designed carefully so that it takes due account of recognising good practice in its overall design and relationship to the context; this in accordance with the Planning Practice Guidance. Access to the care home for residents and visitors is restricted to the main entrance. Staff will have a secure separate entrance to the building. Communal garden and external space is surrounded by existing timber boundary fences which provide an enclosed secure space for residents. The façade treatment, with large openings at all levels, provides a high degree of surveillance over external areas whilst protecting resident privacy. The home is to be staffed 24 / 7 and therefore the risk of crime and vandalism will be greatly reduced.

SUSTAINABILITY

4.80 In terms of sustainability of the build, the submitted information states that the development will be fully compliant adhering to current Building Regulations, specifically Part L with reference to building energy usage and efficiency and will be able to meet requirements of BREEAM Very Good. Photovoltaic cells are provided on the flat area of the roof and will not be seen from ground level because they are screened by the pitched roof.

AIR POLLUTION

4.81 Policy ENV1 of the 2018 Draft Local Plan states that development will only be permitted if the impact on air quality is acceptable, and mechanisms are in place to mitigate adverse impacts and prevent further exposure to poor air quality. This is broadly in accordance with the paragraph 109 of the NPPF which states that the planning system should contribute to and enhance the natural and local environment by preventing both new and existing development from contributing to or being put at unacceptable risk from, or being adversely affected by unacceptable levels of soil, air, water or noise pollution or land instability.

4.82 The site is located in a sustainable location with good access by walking, cycling and public transport. Public protection officers have taken account of concerns raised regarding the cumulative impact of the development on air quality when considered together with the Germany Beck Housing development. Annual mean concentrations of nitrogen dioxide have improved in this area in recent years and based on the latest monitoring results available (2017) there are no monitoring sites that are in excess of the government's health based standards in this area. Annual mean levels of nitrogen dioxide at the junction of Fulford Road and Fordland Road (where the largest air quality impacts were predicted as a result of the Germany Beck scheme) have been well below health based objectives for the last 5 years. Indeed, levels of nitrogen dioxide have been 25ug/m³ or lower for the last 3 years at this location. The health based objective for this pollutant is 40 ug/m³.

4.83 The net trip generation is predicted to be minimal for the proposed care home is predicted to be only an additional 6 two way trips in the morning peak hour and 4 two way trips in the evening peak when compared with the previous care home. This is minimal and it is not considered that this would have a significant impact on air quality in the local area.

4.84 When taking into account City of York Council's existing air quality monitoring in the area (well below objective levels), the predicted levels of increase in NO₂ for the Germany Beck Housing development together with the additional traffic impacts associated with the care home would not result in air quality even approaching health based objective levels. The cumulative impacts of the two schemes are not considered to be materially different to Germany Beck lone, which was not considered to have significant air quality impacts.

4.85 Regarding construction traffic, based on City of York Council's local draft air quality guidance, the movements fall well below the required threshold. When such movements are considered cumulatively with the housing development, the most intensive period will be during the initial strip and foundation phase and will be short term in nature. In addition, the construction vehicles associated with the Germany Beck housing development will use the new access road which minimises cumulative impacts for residents. It is therefore considered that the impact on air quality is acceptable and the development accords Policy ENV1 of the 2018 Draft Local Plan which carries moderate weight.

NOISE IMPACT

4.86 Policy ENV2 of the 2018 Draft Plan and paragraph 109 of the NPPF seek to reduce risk from noise. It is not considered that the operation of the care home will result in a significant adverse impact on the existing amenities of neighbouring occupiers. Officers have also taken into account of noise during demolition and construction, together with work being carried out on the Germany Beck housing development. The noise impacts have been based on existing traffic count figures on the A19, together with the predicted operational use of Germany Beck and the construction phase of the Fordlands (care home) site. It is of note that a particular noise generator for the Germany Beck site was the construction of the new access road which included deep piling. The new access is now being used for construction traffic for the housing development, and is soon to be fully opened. For the care home, the most intensive phase of the development will be the strip and foundation phase. The increase in sound produced is considered to be minimal. Public Protection officers have advised that it would be necessary for a 25% increase in traffic for there to be a 1dB increase in noise. The 2012 Environmental Impact Statement (Germany Beck Housing) predicts that the operation of that site fully developed will increase the traffic by 15%. By adding the 0.1% of traffic produced by

the Fordland (care home) development, this would still increase the noise level by less than 1dB.

4.87 The Design Manual for Roads and Bridges (DMRB) classifies changes in noise levels. It classifies a short term change in noise of 0.1 dB to 0.9dB as 'negligible'. This shows that the part of the construction phase with most movements will have no environmental impact even when looked at in conjunction with the Germany Beck development.

4.88 Fulford Parish Council and a neighbouring occupier have raised concern regarding the piling that will be required for foundations. However this will be limited to approximately two weeks and will utilise Continuous Flight Auger Piles which is the quietist form and produces very low levels of sound and vibration. Taking the above into account, together with the requirements of the submitted Construction Environmental Management Plan, it is not considered that the development will result in a significant impact on the amenity of neighbours by virtue of noise either during construction or once the use is operational. It is considered that the development accords with paragraph 123 of the NPPF and policy ENV2 of the 2018 Draft Plan which carries moderate weight.

OTHER MATERIAL CONSIDERATIONS

4.89 A letter of objection states that the site should be considered to fall within the general extent of the York Green belt. However the site is previously developed land that doesn't fulfil any of the 5 green belt purposes identified in the NPPF. Furthermore, the site is excluded from the Green Belt boundary in the 2018 Draft Plan and the 2005 DCLP.

5.0 CONCLUSION

5.1 The presumption in favour of sustainable development contained in paragraph 14 of the NPPF applies to this application. This is to the effect that permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies of the NPPF taken as a whole, or specific policies in the NPPF indicate that development should be restricted. On that basis, the main issue in this case is whether; having regard to material planning considerations, any adverse impacts of the development proposed would significantly and demonstrably outweigh any benefits, when assessed against the policies of the Framework as a whole.

5.2 In the planning balance, the application site is a brown field site in a sustainable location that is currently occupied by a vacant care home. The site is located predominantly within flood zone 2, with part of the site within flood zone 3. It has been demonstrated that York has an under-supply of good quality residential and nursing care accommodation. This will have a profound and negative impact on the

care and health "system" in York, leading to potential delays in people leaving hospital beds, people continuing to live in inadequate accommodation and diminished support for informal carers.

5.3 A Sequential Test (in relation to flood risk assessment) has been carried out by the Developer using a more restrictive area of search. This was agreed with the Local Planning Authority to take account of the existing use of the site for a care home, the identified and increasing need for accommodation and because the wards chosen form a natural community. As such, the sequential and exception tests have been passed.

5.4 Officers have given great weight in the planning balance to the impact of the development on Fulford Village Conservation Area. It is considered however that given the low level harm identified, the public benefits of the delivery of elderly persons accommodation together with the jobs to be provided in this sustainable location, outweigh the level of harm identified.

5.5 Officers have taken account of objections raised in relation to the development. However, it is not considered that any other material considerations have been raised that would significantly and demonstrably outweigh the benefits of the development.

6.0 RECOMMENDATION: Approve

1 The development shall be begun not later than the expiration of three years from the date of this permission.

Reason: To ensure compliance with Sections 91 to 93 and Section 56 of the Town and Country Planning Act 1990 as amended by section 51 of the Compulsory Purchase Act 2004.

2 The development hereby permitted shall be carried out in accordance with the following plans and other submitted details:-

Proposed site plan G4061 (90) 01 P

Proposed ground floor G4061 (01) 01H

Proposed first floor plan G4061 (01) 02H

Proposed second floor plan G4061 (01) 03G

Proposed north and east elevations G4061 (02) 01 D

Proposed south and west elevations G4061 (02) 02 D

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Proposed details G4061 (21) 01 C

Drainage plan 18013s 003 D

Proposed cycle shelters G4061 (21) 02A

Landscape masterplan 50074 DR LAN 102A

Sample panel details G4061 (21) 03A

Material schedule REV A

Lighting layout 2017-076-E600C

Flood Risk Assessment by Met Engineers, dated July 2017, Ref: 12244-5001, Revision 04, including dwgs: 12244-05001-04, 12244-5001-06 REV A, 12244-5001-10 REV A, and 12244-5001-09 REV A.

Drainage plan by Armstrong Burton Structures Ref 18013s 003 REV D

Construction Management Plan. (Method of Work Statement) York Version 4
18/04/2018

Construction Environmental Management Plan V3

Arboricultural Method Statement March 2018 V2

Tree Protection Plan 50074 DR ARB 103B

Tree Pit Details 50074_DR_LAN_301A

Written Scheme of Investigation OSA 18WBO2

Proposed site access details dwg. G4061 (90) 08.

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

3 The premises shall be used only as a residential care home for older people within Use Class C2 and shall not be used for any other purpose, including any other purpose in Class C2 of the Schedule to the Town and Country Planning (Use Classes) Order 1987, as amended, or in any provision equivalent to that Class in any Statutory Instrument revoking and re-enacting that Order. For the avoidance of doubt, older people is defined as over 55.

Reason: In order to allow a consideration of the impact of any changes on amenity, and because the consideration of the planning application has taken account of the need for older persons accommodation.

4 The development hereby approved shall be carried out in accordance with material schedule REV A and the sample panel details G4061 (21 03A). The sample panel shall remain on site for the duration of the build.

Reason: So as to achieve a visually cohesive appearance and to make a positive contribution to local character and distinctiveness.

5 Prior to the development hereby approved being brought into use, an evacuation plan to demonstrate safe access / egress in the event of flood risk to the building or grounds, shall be submitted to and approved in writing by the Local Planning Authority. Thereafter the development shall be operated in accordance with the approved plan.

Reason: To ensure that the development is safe for its lifetime

6 The development permitted by this planning permission shall only be carried out in accordance with the approved Flood Risk Assessment (FRA) by Met Engineers, dated July 2017, Ref: 12244-5001, Revision 04 and the following mitigation measures detailed within the FRA:

1. Provision of compensatory flood storage as detailed within the FRA and in accordance with drawings numbered, 12244-5001-04, 12244-5001-06 REVA, 12244-5001-10 REVA & 12244-5001-09 REVA
2. Finished floor levels are set no lower than 10.66m above Ordnance Datum (AOD).

The mitigation measures shall be fully implemented prior to occupation and subsequently in accordance with the timing / phasing arrangements embodied within the scheme, or within any other period as may subsequently be agreed, in writing, by the local planning authority.

Reason: To prevent flooding elsewhere by ensuring that compensatory storage of flood water is provided, and to reduce the risk of flooding to the proposed development and future occupants.

7 The development permitted by this planning permission shall only be carried out in accordance with the approved FRA by Met Engineers, dated July 2017, Ref: 12244-5001, Revision 04, and the Drainage Plan by Armstrong Burton Structures, dated 24th April 2018, Ref: 18013s 003 Revision D and the following measures detailed within the FRA and Drainage Plan:

1. the site shall be developed with separate systems of drainage for foul and surface water on site.
2. surface water discharge rate shall be restricted to a maximum rate of 20 (twenty) litres per second.
3. the means by which the surface water attenuation up to the 1 in 100 year event with a 30% climate change allowance.

Reason: So that the Local Planning Authority may be satisfied with these details for the proper and sustainable drainage of the site.

8 Unless otherwise approved in writing by the local planning authority, there shall be no piped discharge of surface water from the development prior to the completion of the approved surface water drainage works and no buildings shall be occupied or brought into use prior to completion of the approved foul drainage works:

Reason: So that the Local Planning Authority may be satisfied that no foul and surface water discharges take place until proper provision has been made for their disposal.

9 Construction of the building shall not commence until details of the future management and maintenance of the proposed drainage scheme have been submitted to and approved in writing by the Local Planning Authority.

Reason: So that the Local Planning Authority may be satisfied that proper management and maintenance of the proposed drainage scheme has been provided.

10 The construction of the building shall not commence the Local Planning Authority are satisfied that the diversion of the 375mm sewer that is laid within the site boundary has been carried out in accordance with the approved Drainage Diversion Plan by Armstrong Burton Structures, dated 16th March 2018, Ref: 18013s 001 Revision C and agreed with the relevant statutory undertaker that the approved works have been undertaken.

Reason: In order to allow sufficient access for maintenance and repair work at all times.

11 The development hereby permitted shall be implemented in accordance with the scheme of mitigation set out in Section 7.0 Recommended Method Statement of the Bat Survey dated June 2017 by Wold Ecology Ltd in all respects and any variation thereto shall be agreed in writing by the local planning authority before

such change is made. This includes the installation of at least 2 x Schwelger 1FQ bat boxes and 3 x Schwelger 2FR bat tubes on the new building.

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

12 The development including demolition, excavations, and building operations, shall be carried out in accordance with the approved Arboricultural Method Statement (AMS) MARCH 2018 - V2 and the 'Tree Protection Plan' 50074-DR-ARB-103 REV B. A copy of the document will be available for inspection on site at all times.

Reason: To protect existing trees which are covered by a Tree Preservation Order and/or are considered to make a significant contribution to the amenity of this area and/or development. The protection of existing trees and planting shall be carried out in full accordance with the 'Arboricultural Method Statement'.

Reason: The existing trees have significant amenity value, and to ensure their long term viability.

13 The removal of any trees on site (shown on the landscape masterplan for removal) and the planting of all new and replacement planting shall be carried out in strict accordance (unless a longer period has first been agreed in writing by the Local Planning Authority) with the 'Arboricultural Method Statement MARCH 2018 - V2, the 'Tree Protection Plan -50074-DR-ARB-103 REV B, and the 'Landscape Masterplan 50074-DR-LAN-101 REV H' and 50074-DR-LAN-102A. Any trees or plants which within a period of 10 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 the area.

14 The development shall be carried out in accordance with the submitted Written Scheme of Investigation OSA 18WBO2 and stages A and B detailed below. Each stage shall be completed and approved by the Local Planning Authority before it can be discharged:

A) The archaeological watching brief on site and post investigation assessment shall be completed in accordance with the programme set out in the approved WSI, and the provision made for analysis, publication and dissemination of results and archive deposition will be secured. This part of the condition will not be discharged until these elements have been fulfilled in accordance with the

programme set out in the WSI.

- B) 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 of the watching brief on site or such other period as may be agreed in writing with the Local Planning Authority.

Reason: In accordance with Section 12 of NPPF.

15 The development hereby approved shall be carried out in accordance with the submitted gas protection measures. Prior to first occupation or use, a gas verification report that demonstrates the effectiveness of the gas protection shall be submitted to and approved in writing by the local planning authority.

Reason: To ensure that risks from landfill gas to the future users of the land are minimised in accordance with paragraphs 109, 120 and 121 of the National Planning Policy Framework.

16 The development hereby permitted shall not come into use until the following highway works (which definition shall include works associated with any Traffic Regulation Order required as a result of the development), have been carried out in accordance with details which shall have been previously submitted to and approved in writing by the Local Planning Authority, or arrangements entered into which ensure the same;

* Formation of access/egress including tie-in to PROW (as shown indicatively on proposed site access details dwg. G4061 (90) 08, relocation of lighting column, provision of tactile pedestrian crossing, installation of real time BLISS display screen to inbound bus stop on A19, Main Street Fulford.

Reason: In the interests of the safe and free passage of highway users.

17 The development shall be carried out in accordance with the submitted scheme of noise insulation titled 'Surface Acoustic Report Feb 2018'. Upon completion of the insulation scheme works no part of the development shall be occupied until a noise report demonstrating compliance with the approved noise insulation scheme has been submitted to and approved in writing by the Local Planning Authority.

INFORMATIVE: The building envelope of all residential accommodation shall be constructed so as to achieve internal noise levels in habitable rooms of no greater than 35 dB LAeq (16 hour) during the day (07:00-23:00 hrs) and 30 dB LAeq (8 hour) and LAFMax level during the night (23:00-07:00 hours) should not exceed 45dB(A) on more than 10 occasions in any night time period in bedrooms and should not regularly exceed 55dB(A).

These noise levels shall be observed with all windows open in the habitable rooms or if necessary windows closed and other means of ventilation provided.

Reason: To protect the amenities of future occupiers.

18 The development shall be carried out in accordance with the Construction Environmental Management Plan V3 28.03.2018.

Reason: In the interests of protecting the amenities of nearby residents.

19 All demolition and construction works and ancillary operations, including deliveries to and dispatch from the site shall be confined to the following hours:

Monday to Friday 08.00 to 18.00

Saturday 09.00 to 13.00

Not at all on Sundays and Bank Holidays.

Reason: To protect the amenities of neighbouring occupiers who are situated in close proximity to the site.

20 One (1) electric vehicle recharge point, serving one dedicated car parking bay, should be installed prior to first occupation of the site. The bays should be marked out for the exclusive use of electric vehicles. The location and specification of the recharge points shall be agreed in writing with the Local Planning Authority prior to installation. Also, to prepare for increased demand in future years, appropriate cable provision should be included in scheme design and development in agreement with the Local Planning Authority.

21. Prior to first occupation of the site, the applicant will submit to the Council for approval in writing (such approval not be unreasonably withheld or delayed) an Electric Vehicle Recharging Point Plan that will detail the maintenance, servicing, access and bay management arrangements for the electric vehicle recharging points for a period of 10 years.

Reason: To promote the use of low emission vehicles on the site in accordance with the Council's Low Emission Strategy, Air Quality Action Plan and paragraph 35 of the National Planning Policy Framework.

22 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 where remediation is necessary a remediation scheme must be prepared, which is subject to the approval in writing of the Local Planning Authority. Following

completion of measures identified in the approved remediation scheme a verification report must be prepared, which is subject to the approval in writing of the Local Planning Authority.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.

23 Within 6 months of occupation a travel plan shall be submitted and approved in writing by the Local Planning Authority. The travel plan shall be based on the submitted Framework Travel Plan; developed and implemented in line with Department of Transport guidelines and be updated annually. The site shall thereafter be occupied in accordance with the aims, measures and outcomes of said Travel Plan. Within 12 months of occupation of the site a first year travel survey shall have been submitted to and approved in writing by the Local Planning Authority.

Reason: To reduce private car travel and promote sustainable travel.

24 The building shall not be occupied until the cycle parking area and means of enclosure have been provided within the site in accordance with the Proposed Cycle Shelter Details drawing numbered G4061 (21) 02A, and this area shall not be used for any other 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.

25 The building shall not be occupied until the areas shown on the approved plans for parking and manoeuvring of vehicles (and cycles, if shown) have been constructed and laid out in accordance with the approved plans, and thereafter such areas shall be retained solely for such purposes.

Reason: In the interests of highway safety.

26 The development shall not come into use until all existing vehicular crossings not shown as being retained on the approved plans have been removed by reinstating the kerbing/hard margin to match adjacent levels.

Reason: In the interests of good management of the highway and road safety.

27 The development hereby permitted and related highway works conditioned as part of this application shall be constructed in accordance with the submitted Method of works CONSTRUCTION MANAGEMENT PLAN (Method of Work Statement)York

Version 4 18/04/2018. The measures will be employed and adhered to at all times during demolition and construction works unless a variation has first been submitted to, and approved in writing by the Local Planning authority.

Reason: To ensure that the development can be carried out in a manner that will not be to the detriment of amenity of local residents, free flow of traffic or safety of highway users.

7.0 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 (paragraphs 186 and 187) 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:

Requested additional information in relation to access and the sequential test together with information to address concerns raised in respect of construction work.

2. The developer should also note that the site drainage details submitted have not been approved for the purposes of adoption or diversion. If the developer wishes to have the sewers included in a sewer adoption/diversion agreement with Yorkshire Water (under Sections 104 and 185 of the Water Industry Act 1991), they should contact our Developer Services Team (tel 0345 120 84 82, email:technical.sewerage@yorkshirewater.co.uk) at the earliest opportunity. Sewers intended for adoption and diversion should be designed and constructed in accordance with the WRc publication 'Sewers for Adoption a design and construction guide for developers' 6th Edition, as supplemented by Yorkshire Water's requirements. Under the provisions of section 111 of the Water Industry Act 1991 it is unlawful to pass into any public sewer (or into any drain or private sewer communicating with the public sewer network) any items likely to cause damage to the public sewer network interfere with the free flow of its contents or affect the treatment and disposal of its contents. Amongst other things this includes fat, oil, nappies bandages, syringes, medicines, sanitary towels and incontinence pants. Contravention of the provisions of section 111 is a criminal offence.

3. The application is advised that a European Protected Species Licence (EPSL) has been issued by Natural England pursuant to Regulation 53 of The Conservation of Habitats and Species Regulations 2017 authorizing works under approved planning permission 17/01969/FULM to go ahead (ref: 2018-33526-EPS-MIT, valid from 6th March 2018 to 30th April 2024). Under Regulation 60(1) of the

Conservation of Habitats and Species Regulations 2017, it is an offence to contravene or fail to comply with a licence condition. Implementation of the planning permission hereby granted will require a modification to the EPSL from Natural England, which it is the applicant/developer's responsibility to obtain.

4. 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. Trees and scrub are likely to contain nesting birds between 1st March and 31st August inclusive. Trees and scrub are present on the application site and are to be assumed to contain nesting birds between the above dates, unless a recent survey has been undertaken by a competent ecologist to assess the nesting bird activity on site during this period and has shown it is absolutely certain that nesting birds are not present.

5. You are advised that prior to starting on site consent will be required from the Highway Authority for the works being proposed, under the Highways Act 1980 (unless alternatively specified under the legislation or Regulations listed below). For further information please contact the officer named:

278/62 Tom Forrest

6. In the UK, due to the decline in bat numbers in the last century, all species of bat are protected by the Wildlife & Countryside Act (1981) as amended, Countryside and Rights of Way Act (2000) and the Conservation of Habitats and Species Regulations (2017). Because of their protected status, it should be noted that if bats are discovered during the course of the work, all works must cease and Natural England must be informed immediately. It is an offence for anyone to disturb or handle a bat without the appropriate licences. This may cause some delay but should not prevent the work continuing, provided that due account is taken of their presence.

There are opportunities to enhance the new building for bats. This can be done without detriment to the building through bat friendly features which can be designed at the outset and include features such as bat bricks, bat tiles or an adapted fascia. There is more information about this on the Bat Conservation Trust's website http://www.bats.org.uk/pages/bat_boxes.html

Contact details:

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