

COMMITTEE REPORT

Date: 8 May 2014 **Ward:** Fulford
Team: Major and **Parish:** Fulford Parish Council
 Commercial Team

Reference: 13/03481/FULM
Application at: Royal Masonic Benevolent Institute Connaught Court St
 Oswalds Road York YO10 4QA
For: Erection of 14no. dwellings following demolition of existing
 bowling clubhouse and garage block
By: RMBI and Shepherd Homes Ltd
Application Type: Major Full Application (13 weeks)
Target Date: 31 January 2014
Recommendation: Approve subject to Section 106 Agreement

1.0 PROPOSAL

1.1 Erection of 14 detached houses on two parcels of land (Area A and Area B) within the grounds of Connaught Court care home. Ten of the houses would have 2.5 storeys; the remaining four houses would have two storeys. The houses would have 4, 5 or 6 bedrooms. All units would have integral or detached garages. An existing internal access road from St Oswalds Road would be widened and the junction improved. The existing bowling green on the site would be removed and a bowling pavilion and greenhouse would be demolished.

1.2 At the committee meeting of 6 February 2014 Members found the layout of Area A unsatisfactory in terms of its impact on the trees and the adjacent listed building. Furthermore, the design of the rear parking and access were poor. The application was deferred in order to seek amendments to the design and layout of Area A.

1.3 The revisions since deferment amend the layout of Area A. In particular: plot 3 is now further from the listed cottage; plot 1 now faces St Oswalds Road; plots 2 and 3 are now detached; and the access road into the rear courtyard has been moved closer to St Oswalds Road enabling the adjacent Pear tree (T294) to be retained.

RELEVANT PLANNING HISTORY

1.4 In 2007 the Council refused outline planning permission for (principally) the erection of housing, extra care accommodation, an extension to the mentally frail unit, relocation of the bowling green on the site, a new access off Main Street and car parking (05/00022/OUTM). The subsequent appeal was dismissed due to impact on the character and appearance of the area, including the conservation area.

In the current proposal there is no access from Main Street, no replacement bowling green, the housing along the southern boundary of the site has been deleted and there are no proposals for extra care flats to the east of the existing care home. The current proposal is confined to the areas south and east of Atcherley Close.

2.0 POLICY CONTEXT

2.1 Development Plan Allocation:

Conservation Area GMS Constraints: Fulford CONF

City Boundary GMS Constraints: York City Boundary 0001

Floodzone 2 GMS Constraints: Floodzone 2

Floodzone 3 GMS Constraints: Floodzone 3

2.2 Policies:

CYGP1	Design
CYGP4A	Sustainability
CYGP9	Landscaping
CGP15A	Development and Flood Risk
CYNE1	Trees, woodlands, hedgerows
CYNE6	Species protected by law
CYHE2	Development in historic locations
CYHE3	Conservation Areas
CYHE10	Archaeology
CYT4	Cycle parking standards
CYED4	Developer contributions towards Educational facilities
CYL1C	Provision of New Open Space in Development

3.0 CONSULTATIONS

RESPONSES TO PROPOSALS AS INITIALLY SUBMITTED

INTERNAL

Highway Network Management

3.1 No objections subject to standard conditions and submission of a construction method of works statement.

Environmental Protection Unit

3.2 Add conditions re: unsuspected contamination, gas emissions from landfill sites, electrical recharging and hours of construction.

Design, Conservation and Sustainable Development (Landscape)

3.3 The building line of properties within Area A is just outside of the recommended root protection area (RPA) of the protected trees located along St. Oswalds Road; however construction operations such as scaffolding and excavations for footings would be within the RPA. Therefore an updated tree protection method statement to support this proposal should be submitted in order to illustrate that the development can be constructed without causing harm to tree roots. Pear trees of the stature of T294, which would be lost, are no longer commonplace so it would be preferable to retain this tree. New tree planting is suggested in the front gardens along the entrance into the site. The necessity of a temporary access route from St Oswalds Road between the trees is questionable. This would apparently also require crown lifting of the adjacent trees to 6m above ground level, which is deemed excessive; and would also look odd adjacent to the other trees. The planting proposals are fine and include a number of additional trees along the boundary with Area B.

Design, Conservation and Sustainable Development (Conservation)

3.4 The vehicular areas at plots 3 and 4 (Area A) are extensive and prevent the houses being moved further from the trees along St Oswalds Road. Nevertheless the impact on the conservation area is acceptable. The 2 ½ storey gable wall of the house at plot 9 (Area B) would have a rather overbearing impact on the occupiers of No. 26 Atcherley Close. The council's pre-application advice/guidance to the applicant has been consistent in requesting lower massing in this location. Details of the verge to St Oswalds Road and the proposed gates in the existing railings should be made conditions of approval.

Design, Conservation and Sustainable Development (Countryside)

3.5 I largely agree with the findings of the submitted bat survey report and have no objection in principle to the development. Despite its proximity to Fulford Ings SSSI, I do not consider that there will be any significant effect from the development on the wildlife interest of the designated site or to bats. However, with regard to the latter, a condition should be attached to any consent to cover the potential for bat roosts due to the presence of suitable roost features. I do not consider that a protected species licence is required.

Communities, Culture and the Public Realm

3.6 As there is no on-site open space commuted sums should be paid to the Council towards off-site provision of amenity open space, play space and sports pitches. Play and amenity open space payments will go toward facilities in Fulford Parish, sports pitch payments will be used within the south zone of the Sport and Active Leisure Strategy. The contribution is to be based on the latest York formula through a Section 106 Agreement. A contribution should also be paid towards the improvement of bowling facilities at Scarcroft Green, due to the permanent loss of the bowling green at Connaught Court. The investments reflect needs identified by existing and relocated bowlers.

EXTERNAL

York Natural Environment Panel

3.7 The Panel are glad to see the retention of an open corridor along the southern aspect of the site leading from Main Street down to the Ings. The proposals are contrary to policy GP10, converting what is essentially garden space into building land. The proposals represent a loss of green land when the priority should be for the development of brownfield sites, of which York has a significant provision. There is concern that the build line extends closer to the flood plain, an extent which is likely to expand over time given climate change and the associated increase in flooding incidence.

Police Architectural Liaison

3.8 No concerns or issues.

Natural England

3.9 Does not wish to comment on the details of the application as it does not pose any likely or significant risk to those features of the natural environment for which we would otherwise respond.

Ouse & Derwent Internal Drainage Board

3.10 No objections subject to drainage details, including attenuation, being submitted for approval.

Environment Agency

3.11 No objections subject to conditions requiring adherence to the submitted flood risk assessment, submission of drainage details (including attenuation) and no erection of structures within flood zone 3.

Conservation Area Advisory Panel

3.12 No objection. The panel commends this much improved scheme.

English Heritage

3.13 No comments.

Yorkshire Water Services

3.14 No response.

Fulford Parish Council

3.15 Objection on the following grounds:

- The principle of development on the site.
- The proposed housing would have a detrimental effect on Fulford Village Conservation Area and Fulford Road Conservation Area.

- The replacement and repositioning of railings along the highway verge would be harmful to the conservation area [Officers' response: The railings will now be refurbished instead].
- The appearance of the verge would be further changed by two footpaths crossing it.
- The position of houses 1, 3 and 4 forward of the building line formed by Sir John Hunt Homes would harm both conservation areas.
- Houses 1, 3 and 4 are too close to prominent trees that contribute positively to the character of the conservation area.
- All houses along St Oswald's Road should face onto it. The house at plot 1 does not.
- Plot 3 and 4 are connected by garages creating a terraced effect that is inappropriate for this location.
- The setting of The Cottage, which is a listed building, would be harmed because the house at plot 4 would have an overbearing effect on, due to its location and size.
- Several protected trees would be lost
- Several houses within area B are partly in floodzone 2. Sequential testing should be applied to this [Officers' response: Sequential testing is not required for housing in zone 2].
- Raising the level of private gardens would obstruct the floodplain, contrary to guidance.
- The houses at plots 10-14 (Area B) would be very conspicuous from the Ings, which is in the green belt
- No affordable homes are provided, contrary to local planning guidance.
- The submitted bat survey is deficient.
- The proposed site is immediately adjacent to Fulford Ings, an SSSI. The local authority should ensure that it fully understands the impact of the proposal on the local wildlife site, before it determines the application.
- EIA regulations apply to the development site and an EIA should be carried out.
- The site is not allocated for housing in the consultation draft of the local plan.

Fulford Friends

3.16 Objection on the following grounds:

- The iron railings and the verge contribute greatly to the rural character of the conservation area.
- The application should not include the line of trees or any part of the public verge within the curtilage of the new dwellings [Officers' response - The trees and railings will now remain outside the curtilage of the houses].
- Impact on the setting of the listed cottage.
- The number and height of dwellings at Area B should be reduced to minimise the impact on the local and wider environment.

- Three of the dwellings are located within flood zone 2, with some garden areas within zone 3. The sequential test has not been adequately applied to these areas.
- Loss of important trees/hedges, especially T294, T298 and T299, which have high amenity/wildlife value and contribute to the conservation area.
- Long-term risk to the trees along the St Oswalds Road frontage.
- Impact on bats should be fully assessed before any planning decision is taken.
- The need for the development does not outweigh the loss of the bowling green, which is a local community asset.
- The scale of development is just below that which would require the provision of affordable housing

Trustees for Sir John Hunt Memorial Homes

3.17 No objection providing the boundary trees are not adversely affected and that the distance of the nearest house to our mutual boundary is not reduced, nor the house developed with rooms in the roof space. This support is subject to the Highways Department confirming that there would be no noticeable increase in traffic flows that cannot be accommodated within the existing highway network.

Public Consultation

3.18 The consultation period expired on 30 December 2013. 14 objections have been received raising the following issues:

- Impact on the conservation areas
- Out of keeping with character of the area
- Increase in traffic along Main Street and St Oswalds Road
- Inadequate access
- Traffic calming required
- Verge should be kept to prevent kerbside parking in St Oswalds Road
- Would exacerbate parking problems in St Oswalds Road
- Loss of attractive open parkland
- Loss of trees
- Loss of open views from the river
- Removal of railings
- Bowling green should be retained as a community facility
- There is no oversupply of bowling greens
- Impact on the adjacent SSSI
- Increase in flood risk
- Impact of house 4 on the listed cottage
- The temporary construction road is unnecessary and would damage protected trees
- Insufficient mix of housing types
- Houses along Atcherley Close are too big and would result in overdevelopment, overshadowing and overbearing

- EIA needed.

RESPONSES TO RECONSULTATION

INTERNAL

Design, Conservation and Sustainable Development (Landscape)

3.19 The revision is a better scheme than that taken to planning committee in that it provides a better relationship between the houses and also the street. I would endorse a preference for this latest proposal.

EXTERNAL

Police Architectural Liaison

3.20 No concerns or issues about the revised scheme.

Natural England

3.21 Revisions would not have significantly different effects to the original proposal.

English Heritage

3.22 No comments.

Fulford Friends

3.23 Objection on the following grounds:

- The site should be treated as greenfield land not brownfield;
- The application should not be determined without a response from Yorkshire Water.
- The site should be fully assessed for allocation in the Draft Local Plan.
- The impact of the proposals on public views from or into the conservation area, particularly from the green belt, has not been taken into account.
- At the previous committee meeting the officers misled members by stating that the dwellings are all within flood zone 1. Some of the dwellings are located within flood zone 2. The sequential test has not been adequately applied to these areas. [Officers' response: Sequential testing is not required for housing in zone 2].

Public Consultation

3.24 The reconsultation period expired on 8 April 2014. Three objections have been received raising the following issues:

- Would exacerbate parking problems in St Oswalds Road including access to care home for emergency vehicles;
- Increase in traffic;
- Risk of flooding to the area and the trees along St Oswalds Road;

- Loss of natural sunlight/daylight;
- Overdevelopment;
- Flood risk.

4.0 APPRAISAL

4.1 MAIN ISSUES

- Principle of Development for Housing
- Trees and the Parkland Setting
- Heritage
- Recreation and Open Space
- Highways Issues
- Flood Risk and Drainage
- Neighbour Amenity
- Education Provision
- Bio-Diversity
- Archaeology
- Affordable Housing
- Environmental Impact Assessment

CONNAUGHT COURT AND THE APPLICATION SITE

4.2 Connaught Court is a 90-bed care home (4.86ha) in a parkland setting, which includes trees protected by Tree Protection Order (TPO). The site lies between Main Street, St.Oswalds Road, Atcherley Close, Fulford Park and Fulford Ings. The main vehicular access is from St. Oswalds Road. The site is dominated by a large 2 and 3 storey care home, with associated smaller buildings and dwellings grouped around it. The buildings are mainly grouped towards St. Oswalds Road and Atcherley Close. Most of the remainder of the site is private open space and includes a bowling green. The site contains large number of protected trees, in particular near Main Street.

4.3 The whole of the site lies within the settlement limit of York. The land is mainly flat except at the south-western corner where it falls steeply down towards Fulford Ings and the River Ouse beyond. This part of the site lies in the flood plain (flood zones 3a and 3b). The whole of the site is in Fulford Conservation Area and abuts, to the north, Fulford Road Conservation Area. The land at Fulford Ings, to the south-west is in an SSSI and the green belt.

4.4 The two parcels of land mainly comprise the current application total 1.28ha of private open space and lie to the east (Area A) and south (Area B) of Atcherley Close. The site area is significantly less than half of the site area of the previous application, which included land to the south and east of the care home buildings.

POLICY CONTEXT

4.5 National planning policy is set out in the National Planning Policy Framework (NPPF). The essence of the framework is the presumption in favour of sustainable development which, for decision-taking, means approving without delay development proposals that accord with the development plan. Where the development plan is absent, silent or relevant policies are out of date, planning permission should be granted unless: (1) any adverse impacts would significantly and demonstrably outweigh the benefits, when assessed against the policies in the framework taken as a whole; or (2) specific policies in the framework indicate development should be restricted (paragraph 14). Local planning authorities should seek to approve applications for sustainable development where possible and work with applicants to secure developments that improve the economic, social and environmental conditions of the area (paragraph 187).

4.6 The City of York Development Control Local Plan was approved for development control purposes in April 2005. Its policies are material considerations although it is considered that their weight is limited except where in accordance with the National Planning Policy Framework. Relevant local plan policies are listed in section 2.2 of the report and are made reference to in the appraisal below.

PRINCIPLE OF DEVELOPMENT FOR HOUSING

4.7 The National Planning Policy Framework requires local planning authorities to deliver a wide choice of high quality homes, widen opportunities for home ownership and create sustainable, inclusive and mixed communities. The application site is in a sustainable location within the settlement limit of York and with good access to public transport and local services.

4.8 Fulford Friends consider that the application site should be treated as part of the residential garden of the care home and as such not as previously developed land. The National Planning Policy Framework excludes private residential gardens from the definition of previously-developed ('brownfield') land. Furthermore it requires local planning authorities to consider policies to resist inappropriate development of residential gardens, for example where development would cause harm to the local area. The exclusion of private gardens from the definition of previously-developed land was introduced in 2010 to prevent local authorities feeling forced to grant planning permission for unwanted development on garden land simply to reach the government's target for development on previously developed land.

4.9 Connaught Court has the character of a residential institution (Use class C2 of the Use Classes Order). Class C2 includes such uses as hospitals, nursing homes and residential schools. Whether the site should be considered previously-developed or not is a matter of judgment.

Nevertheless the designation of the land does not change Officers' consideration of the site's suitability for housing development. The removal of residential gardens from the definition has not introduced a general presumption against the development of gardens; it merely removes this as a positive factor in determining such applications. Local planning authorities are still expected to seek the efficient use of land, which focuses new residential development on sites in sustainable locations, such as Connaught Court. Any scheme still has to be judged against the impact on the character of an area, the impact on adjacent residents and any other material considerations. In this particular case, the change in the definition of previously developed land (which was introduced since the 2005 planning application) does not change officers' opinion that the principle of the use of the site for housing is acceptable.

4.10 Local planning authorities are required to demonstrate a five-year supply of deliverable housing sites. The Council does not currently have a five-year supply, which the Council expects to be able to identify as part of the local plan process.

4.11 All of the houses comprising the application have 5-6 bedrooms, which are larger than is typical for a housing development. In this case the development of a relatively-small number of large houses is preferable to a greater number of more varied houses because it would have less impact on the conservation areas, particularly the site's parkland setting. The site abuts housing in St Oswalds Road and Atcherley Close. Taken together the housing contains a range of house types and sizes. Overall, development accords with national planning policy as set out in section 6 of the National Planning Policy Framework.

TREES AND THE PARKLAND SETTING

4.12 The National Planning Policy Framework states that planning permission should be refused for development resulting in the loss or deterioration of irreplaceable habitats, including ancient woodland and the loss of aged or veteran trees found outside ancient woodland unless the need for, and benefits of the development in that location clearly outweigh the loss (paragraph 118).

4.13 One of the key attributes of the care home's setting is the open swathe of parkland between Main Street and Fulford Ings. It helps to preserve the distinction between Fulford Village and the city suburbs. Unlike the 2005 planning application for Connaught Court, this part of the care home site would be left undeveloped. It does not form part of the current application.

4.14 The second key attribute of the parkland setting is the proliferation of mature trees of high amenity value. Most of these trees are at the eastern end of the Connaught Court site, near Main Street. This area is outside the application site. None of the trees in this part of the parkland setting would be affected by the application.

4.15 The application site does contain some attractive, mature trees, notably along the highway frontage facing St Oswalds Road. Whilst all of these frontage trees would abut plots 1, 3 and 4 of Area A they would all be retained. The application as first submitted had the three houses encroaching into the root protection area of these trees. Construction is likely to have caused them unacceptable damage. Furthermore, such close proximity of trees to houses frequently results in pressure on the local planning authority, from the occupiers of the houses, to agree to the trees' removal. Prior to the February committee revised plans were submitted showing the houses 2.5m further from the trees. This is the minimum distance that would be acceptable without resulting in damage to the trees. Nevertheless the trees will have to be properly protected during construction. A condition should be attached requiring adherence to the submitted construction method statement, including details of tree protection.

4.16 The applicant initially included a temporary construction access road between two of the trees for use whilst the existing access road into the site was being widened and improved. The proposed construction route has since been amended to avoid having to pass between the trees. It will now enter the site through the front gate before following a new alignment parallel to the internal access road.

4.17 Eight other trees and four sections of hedgerow would need to be removed, mainly along the perimeter of the bowling green. None of the trees are classed as aged or veteran, as described in the National Planning Policy Framework. Most of the nine trees are category C, of 'minor value'. The remaining two trees are category B, of 'moderate value'. The loss of trees would be compensated for by landscaping, including 60 replacement trees.

4.18 The layout as initially submitted included the loss of a further category C tree, a Pear, close to the private road through the site. The alterations to the layout since the application was deferred have enabled the tree to be retained, which is welcomed.

HERITAGE ISSUES

4.19 The whole of the site and its immediate surroundings lie within one or other of the Fulford conservation areas. The northern part of the site abuts the curtilage of The Cottage, a grade II listed building. Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 imposes a duty on local planning authorities to preserve or enhance the character or appearance of conservation areas. The current application should be assessed against this duty. The National Planning Policy Framework states that local planning authorities should recognize that heritage assets are an irreplaceable resource and conserve them in a manner appropriate to their significance (paragraph 126).

When considering the impact of a proposed development on the significance of a designated heritage asset great weight should be given to the asset's conservation (paragraph 132). The Town and Country Planning Act regulations advise that in determining planning applications the local planning authority should have special regard to the desirability of preserving any listed building and its setting and any features of special architectural or historic interest. It must also pay special attention to the desirability of preserving or enhancing the character and appearance of any conservation area.

4.20 The Fulford Village Conservation Area Appraisal states that '20th Century development within the park has still left significant large areas of open space, including some fine mature trees and a margin of parkland between Main Street and Fulford Ings which helps to preserve the distinction between Fulford Village and the city suburbs and the open space which encircles the settlement'. Any proposals for the eastern end of Connaught Court are likely to have a significant impact on the character and appearance of the conservation area. However, the current application does not include this part of the conservation area, which lies to the east of the main care home buildings. Nor would the proposed houses be visible from Main Street. Furthermore, the application would maintain the functional and visual gap between Fulford village and the city suburbs. Whilst the houses at Area B would be partially visible from Fulford Ings they would be seen against a backdrop of the main care home buildings, which are taller than the proposed houses and set at a higher level. The impact of the scheme on the Fulford Village Conservation Area would not be sufficient to justify refusal of the application.

4.21 The proposals would have a greater impact on the Fulford Road Conservation Area (which starts along the centre line of St Oswalds Road) and on the listed cottage. The Fulford Road Conservation Area Appraisal describes St Oswald's Road as a spacious and quiet residential cul-de-sac with a very strong sense of identity, quite different in character to anything else in the area. It goes on to say that the street has considerable townscape and architectural interest and that most of the houses bordering the site are of positive value to the area.

4.22 The elements of the application that most affect the conservation area are the houses that would face St Oswalds Road. The numbering of these plots has changed since the February meeting. Previously the plots were numbered (from west to east) 1, 3 and 4. They are now numbered 1, 2 and 3. This report uses the current numbering. All three houses would be 2-storeys high, with brick walls, pitched roofs, traditional detailing and front gardens. The houses would be set back from the public highway and from the listed cottage. Two of the houses (at plots 2 and 3) would face the street, in keeping with most of the existing houses in St Oswalds Road. As initially submitted, these houses were linked giving the appearance of a short terrace. The two houses will now be detached.

The remaining house along the highway boundary (plot 1) was to have faced the access road into the site. The latest layout shows plot 1 rotated to face St Oswalds Road, in line with plots 2 and 3.

4.23 The house at plot 3 has been moved 2m further from the curtilage of the listed cottage (from 3.5m to 5.5m). This separation distance, together with the intervening 2m-high boundary wall, would be sufficient to prevent harm to the setting of the listed building.

4.24 The latest arrangement of houses in Area A improves the aspect onto St Oswalds Road, reduces the impact on Fulford Road Conservation Area, reduces the impact on the listed cottage and enables the adjacent Pear tree to be retained. Officers consider that the revisions satisfactorily address the concerns raised by members at the previous committee meeting.

RECREATION AND OPEN SPACE

4.25 The application requires a contribution of £48,856 towards open space in accordance with policy L1c of the local plan. Such contributions are calculated on the basis of each new dwelling approved. The applicant has agreed to make the contribution and is in the process of submitting a unilateral undertaking to that effect.

4.26 The application proposal would require an existing, but unused, bowling green at Connaught Court to be built over. Paragraph 74 of the National Planning Policy Framework allows existing open space to be built on where the land is surplus to requirements or would be replaced by equivalent or better provision or the development is for alternative sports and recreational provision that clearly outweighs the loss. The Connaught Court bowling green was constructed in the 1970s and was in regular use by care home members. More recently it was used by Connaught Court Bowling Club, which had a wider membership. The green has never been open to the public. For the past few years membership has been in decline so the green was opened to other clubs. Usage continued to decline so the green was closed at the end of 2012. By that time the green was in very poor condition. The Council's Leisure Officers acknowledge that demand for bowling is in general decline and that there is now an oversupply of bowling greens in the York area. Nevertheless the permanent closure of the Connaught Court green would be contrary to paragraph 74 of the National Planning Policy Framework unless it were to be replaced by equivalent or better provision. The Council's Leisure Officers consider that the best way of catering for the City's remaining bowling clubs is to provide suitable facilities at strategic locations throughout the city. Furthermore, that adequate provision could be made for the loss of the Connaught Court green by means of a financial contribution from the developer towards alternative facilities elsewhere. To this end the applicant has agreed to pay the council £19,381 (in addition to the contribution required under policy L1c), which would be used to improve the existing bowling green at Scarcroft Green.

Both open space payments would be enshrined in the same section 106 unilateral undertaking. Members will be updated at the meeting.

HIGHWAYS ISSUES

4.27 Access to the site would be via the existing access from St Oswalds Road. The care home's internal access road would be improved and widened as part of the proposals. Based upon experience of other sites around the city the level of development proposed can be expected to generate in the region of nine vehicle movements during the AM/PM peak network periods. This level of traffic will not have a material impact on the operation of the highway network and can be accommodated by adjacent junctions without detriment to the free flow of traffic or highway safety. The internal layout proposed is capable of being adopted as publicly maintainable highway and would provide turning facilities for servicing traffic. Car parking would be provided within the curtilage of each dwelling and it is not anticipated that the development would lead to a displacement of parking onto the adjacent highway. Sufficient areas exist within the internal layout to accommodate visitors/casual callers.

4.28 The accessible location of the site would encourage the use of sustainable modes of transport. Fulford Road is serviced by regular bus services to the city centre, and the area is well served by cycle routes along Fulford Road and both sides of the river.

The latest changes to the layout at Area A do not materially change the highway impacts of the development.

FLOOD RISK AND DRAINAGE

4.29 In terms of flood risk, housing is classed as a 'more vulnerable' use in technical guidance to the National Planning Policy Framework. Housing development is acceptable in zones 1 and 2; acceptable in zone 3a, subject to the exception test; and unacceptable in zone 3b, which is functional flood plain. All of the plots in Area A would lie in flood zone 1 so are acceptable. All of the houses in Area B would lie in zones 1 and 2 but part of the sloping rear gardens of plots 8-13 would be in zones 3a and 3b. A retaining wall would be built along the general alignment of zone 3a and would separate the occupiers' main amenity area from their garden land in zone 3. A planning condition should be attached to any planning permission preventing the construction of any structures beyond this line (i.e. in zones 3a or 3b) other than the proposed post and rail boundary fencing. Details of the fencing should be made a condition of approval.

4.30 The alignment of the proposed retaining wall, which would be straight for most of its length, does not follow exactly the zone 3 alignment. Nevertheless the variations (between the wall alignment and the zone 3 boundary) would balance and have been agreed with the Environment Agency and the Council's Flood Risk Officers. Finished floor levels of all the houses in Area B should also be made a condition of approval.

4.31 In summary, the whole of Area A and the houses at Area B are not at significant risk of flooding. There remains a risk of flooding to the undeveloped, low-lying garden areas of Area B but this residual risk would be managed by the mitigation measures outlined above.

4.32 Fulford Friends argue that the application should not be determined without the council first having received a response from Yorkshire Water because the drainage of the site is partly within the functional floodplain. In response, Yorkshire Water has no role in the surface water drainage of the site. Surface water would be attenuated to 5l/s/ha and discharge into the river Ouse via an existing connection. The proposals reduce the surface water run-off by 30 percent (in accordance with the council's Strategic Flood Risk Assessment) and provide further betterment by storing more water underground than required and applying further restrictions to its discharge. Details should be made a condition of approval.

NEIGHBOUR AMENITY

4.33 The development of Area A is unlikely to have any significant impact on neighbouring occupiers. The houses in Area B would lie behind houses in Atcherley Close, i.e. nos 11 and 26. Whilst the proposed houses would have two main storeys, additional floorspace would be provided in the roof space, lit by rooflights. Separation distances meet and exceed all normal requirements in relation to distances between habitable room windows, and distances between rear and gable elevations. In response to concern about overbearing impact raised by residents the house at plot 9 has been moved 6m from the site boundary. The separation distance between the gable wall of the proposed house at plot 9 and the main elevation of the nearest existing house (No.26 Atcheley Close) is now 20.7m. A proposed sewer would run under the 6m strip, requiring an easement which would prevent construction within it - as long as the sewer, as built, follows this alignment. In case it does not, officers recommended that a condition be attached removing permitted development rights in this area.

4.34 There would be no build up of existing ground levels and no significant overshadowing of rear gardens or dwellings.

EDUCATION PROVISION

4.35 The development would generate the need for four additional places at St Oswald's Junior School and two additional places at Fulford Secondary School. These schools are currently at capacity. Financial contributions totalling £84,053 would therefore be required under policy ED4 of the 2005 local plan. The applicant has agreed to make these contributions and is preparing the required s.106 agreement/undertaking. Members will be updated at the meeting.

BIO-DIVERSITY

4.36 The National Planning Policy Framework states that when determining planning applications local planning authorities should aim to conserve and enhance biodiversity. Planning permission should be refused for development resulting in the loss or deterioration of irreplaceable habitats unless the need for, and benefits of, the development in that location clearly outweigh the loss.

4.37 The framework encourages opportunities to incorporate bio-diversity in and around developments. A bat survey was carried out in the Summer of 2012. In 2013 this was supplemented by: a phase 1 habitat assessment of the site; an external visual assessment for roosting bats of the two buildings to be demolished (bowling pavilion and garages); and a single nocturnal survey of the bowling pavilion. No evidence of bat roosting activity was found. The council's countryside officer agrees with the findings of the submitted bat survey report and has no objection in principle to the development. Despite its proximity to Fulford Ings SSSI he does not consider that there would be any significant effect from the development on the wildlife interest of the designated site or to bats. Nor does he consider that a protected species licence is required.

ARCHAEOLOGY

4.38 An archaeological evaluation of the site was carried out in 2004. It recorded a number of ditches, pits and postholes in Area A dating back to the 1st and 2nd centuries AD. Features of a later Roman date were also found but in less quantity. No archaeological features were found in Area B. In mitigation the applicant proposes to excavate a series of trenches (to coincide with the footprints of the new buildings) and record their findings. The remains would largely be preserved in-situ. A condition should be attached requiring a written scheme of investigation for Area A to be submitted for approval. An archaeological watching brief should be applied to Area B.

AFFORDABLE HOUSING

4.39 The National Planning Policy Framework states that local planning authorities should set policies for meeting identified need for affordable housing on site. To that end the Council seeks to ensure that new housing development of 15 dwellings or more in the urban area will include affordable housing. The current application is for 14 dwellings, thereby not triggering the need for affordable housing. Whilst the site is large enough to accommodate a greater number of dwellings a balance has to be struck between the provision of housing and protection of the conservation area, particularly its landscape setting. Officers consider that the application achieves this balance.

ENVIRONMENTAL IMPACT ASSESSMENT

4.40 The local planning authority has taken into account the EIA regulations, the advice in Circular 2/99, the documentation submitted with the application, consultation responses, the scale and characteristics of the development and knowledge of the site. The authority concludes that the development is unlikely to have significant environmental effects. Accordingly an EIA is not required.

COMMUNITY INVOLVEMENT

4.41 The application includes a statement of community involvement. It sets out how, following the appeal inspector's decision in 2008, the applicant set out its revised intentions for the site. Pre-application discussions were held with council officers followed by a range of public consultation exercises. The public response was lower than the applicant expected and some changes were made.

5.0 CONCLUSION

5.1 The application would provide 14 much-needed dwellings in a highly sustainable and accessible location. The proposals respect the character of the two affected conservation areas, in particular the parkland setting of the Connaught Court site and its mature protected trees. All other issues are satisfactorily addressed notably flood risk, neighbour amenity and the character of the area generally. The development would contribute £84,052 towards education, £48,856 towards open space and £19,381 towards improvements to bowling green facilities at Scarcroft Green. The application accords with national planning policy set out in the National Planning Policy Framework and local planning policy in the 2005 City of York Draft Local Plan.

5.2 The latest arrangement of houses in Area A improves the aspect onto St Oswalds Road, reduces the impact on Fulford Road Conservation Area, reduces the impact on the adjacent listed cottage and enables a Pear tree to be retained.

Officers consider that the revisions satisfactorily address the concerns raised by members at the previous committee meeting.

6.0 RECOMMENDATION: Approve subject to Section 106 Agreement

1 TIME2 Development start within three years -

2 The development hereby permitted shall be carried out only in accordance with the following plans: Y81.822.02B, Y81.822.03M, Y81.822.05E, Y81.822.10C, Y81.822.11C, Y81.822.12C, Y81.822.13C, Y81.822.14C, Y81.822.15C, Y81.822.16D, Y81.822.17D, Y81.822.18C, Y81.822.19C, Y81.822.20B, Y81.822.21B, Y81.822.22B, Y81.822.23B, Y81.822.24C, Y81.822.25C, Y81.822.26, Y81.822.27A, R/1496/1C, H100/13/02/A and 34511_003F.

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 development hereby approved shall not commence until details of the following matters have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.

- Public verge along St Oswalds Road
- Alterations to the railings and gates along St Oswalds Road frontage
- Footpaths between the houses at plots 1, 3 and 4 and the public highway at St Oswalds Road
- Post and rail fencing to plots 9-14.

Reason: In the interests of the character and appearance of the conservation area, protected trees and mitigation of flood risk.

4 HWAY1 Details roads, footpaths, open spaces req. -

5 HWAY7 Const of Roads & Footways prior to occup -

6 HWAY18 Cycle parking details to be agreed -

7 HWAY19 Car and cycle parking laid out -

8 HWAY40 Dilapidation survey -

9 Prior to the commencement of any works on the site, a detailed method of works statement identifying the programming and management of site clearance/preparatory and construction works shall be submitted to and approved in

writing by the local planning authority. Such a statement shall include at least the following information:

- the routing that will be promoted by the contractors to use main arterial routes and avoid the peak network hours
- where contractors will park
- where materials will be stored within the site
- measures employed to ensure no mud/detritus is dragged out over the adjacent highway.

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

10 The tree planting scheme shown on submitted plan numbered H100/13/02/A received by the council on 23 January 2013 shall be implemented within a period of six months from the completion of the development. Any plants which within a period of five years from the substantial completion of the planting and 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 the Local Planning Authority agrees alternatives in writing.

Reason: In the interests of the character and appearance of the ca and to enhance the biodiversity of the area.

11 Development shall not begin until details of foul and surface water drainage works have been submitted to and approved in writing by the Local Planning Authority, and carried out in accordance with these approved details, which shall include:

- A. Peak surface water run-off from the proposed development to a maximum 5.0 lit/sec.
- B. Consent should be sought from Yorkshire Water to connect additional foul water into their sewers and their easement requirements.
- C. Details of the future management and maintenance of the proposed drainage scheme.

Notwithstanding the drainage details submitted and approved under this condition the drainage works shall be carried out in accordance with the following plans:

- a. Flood Risk Assessment - PR/34511 005A
- b. Drainage Layout - 34511 003F

- c. Plot Drainage Layout - 34511 012B
- d. Catchment Area Plan - 34511 013A
- e. Flow Control Detail-Manhole S5 Sheet 1 of 2 - 34511 015A
- f. Flow Control Detail-Manhole S5 Sheet 2 of 2 - 34511 016A
- g. External Works Plan - Area B Sheet 2 of 2 - 3411 19B
- h. External Works Plan - Area A Sheet 1 of 2 - 3411 14B

The development shall not be raised above the level of the adjacent land.

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

12 The finished floor levels on the ground floor of the dwellings hereby approved shall not exceed those shown on plan 34511/019/B received 24 January 2014.

Reason: In the interests of the amenities of neighbouring occupiers and the character and appearance of the conservation areas.

13 Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 or any order revoking and re-enacting that Order with or without modification, no structure shall be erected within Flood Zone 3 (as delineated on drawing no. 34511/004 Rev C) except the 1.2m-high post and rail fencing to plots 9, 10, 11, 12, 13 and 14 shown on approved plan Y81:822.03/M.

Reason: To ensure that there is no loss of flow and storage of floodwater.

14 Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking or re-enacting that Order), no door, window or other opening shall at any time be inserted in the eastern elevation of the house at plot 3, the northern elevation of the house at plot 4 or the northern elevation of the house at plot 9 without the prior written consent of the local planning authority.

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

15 Prior to the commencement of the development, the developer shall submit for the written approval of the Local Planning Authority an initial Code for Sustainable Homes (CSH) Design Stage assessment for the development.

Unless otherwise agreed in writing with the Local Planning Authority, this shall indicate that at least the minimum code level 3-star rating will be achieved. This shall be followed by the submission of a CSH Post Construction Stage assessment, and a CSH Final Certificate (issued at post construction stage). These documents shall be submitted to the Local Planning Authority after completion and before first occupation of the building. Both documents submitted shall confirm that the code rating agreed in the initial CSH Design Stage assessment has been achieved.

Reason: In the interests of sustainable development.

16 The development hereby approved shall provide a minimum of 10% of expected energy demand from on-site renewable sources. Details of the proposed renewable energy systems to be installed in order to achieve this target shall be submitted to and approved in writing prior to the commencement of the development. The approved renewable energy systems shall be installed in their entirety and shall be fully operational prior to the first occupation of the development.

Reason: In order to achieve a sustainable form of development.

17 No development shall take place until full details of measures for bat mitigation and conservation have been submitted to and approved in writing by the local planning authority. The measures shall include:

- i. An emergent survey at the appropriate time of year, if the work is to be carried out between April and September, and submitted to the beforehand. This survey to be carried out no more than one month prior to work commencing.
- ii. Details of how the work, particularly demolition work, is to be implemented to take account of the possible presence of bats.
- iii. Details of provision to be made within the development to enhance or mitigate for loss of the features suitable for bat roosting. Features suitable for incorporation include the use of special tiles, bricks, soffit boards, bat boxes and bat lofts.

The works shall be implemented in accordance with the approved details and timing unless otherwise approved in writing by the local planning authority.

Reason:

To take account of and enhance habitat for a protected species.

NOTE: The replacement/mitigation proposed should provide a net gain in wildlife value. If bats are discovered during the course of the work it should cease and Natural England consulted before continuing.

18 In the event that contamination is found at any time when carrying out the approved development that was not previously identified, it shall be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment shall be undertaken and where remediation is necessary a remediation scheme shall 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 shall be prepared, which will be 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.

19 Prior to commencement of development: (a) gas monitoring and/or a risk assessment shall be carried out by a competent person to assess landfill gas generation and migration. The findings shall be submitted to and approved in writing by the local planning authority; (b) based on the results of the gas monitoring and/or risk assessment, the detailed design of a gas protection system shall be submitted to and approved by the local planning authority. Prior to occupation of the development, a verification report that demonstrates the effectiveness of the gas protection system 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 and neighbouring land are minimised and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.

20 For each dwelling the applicant shall install a three pin 13 amp electrical socket in the garage which is in a suitable location to enable the charging of an electric vehicle using a 3m length cable.

Note: Any socket provided must comply with BS1363 or an equivalent standard, Building Regulations, be suitable for charging electric vehicles and should have a weatherproof cover if place outside. Where charging point is located outside an internal switch should be provided in the property to enable the socket to be turned off.

Reason: To promote sustainable transport through the provision of recharging facilities for electric vehicles / bikes / scooters

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

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Monday to Friday 08.00 to 18.00
Saturday 09.00 to 13.00
Not at all on Sundays and Bank Holidays.

Reason: In the interests of the occupiers of neighbouring occupiers.

22 No work shall commence on site until the applicant has secured the implementation of a programme of archaeological work (an archaeological excavation and subsequent programme of analysis and publication by an approved archaeological unit) in accordance with the specification supplied by the Local Planning Authority. This programme and the archaeological unit shall be approved in writing by the Local Planning Authority before development commences.

Reason: The site lies within an Area of Archaeological Importance and the development will affect important archaeological deposits which must be recorded prior to destruction.

NOTE: For Area B a watching brief will suffice.

23 The works hereby approved shall be carried out in accordance with the tree protection measures within the Tree Survey report by CAPITA dated 20 September 2013 (including the construction access alignment shown at revised Appendix F dated 5 February 2014) and the CAPITA Arboricultural Method Statement dated 28 January 2014 submitted with the application. A copy of each of these documents will at all times be available for inspection on site.

Reason: To protect existing trees which are covered by a Tree Preservation Order and to protect the character and appearance of the Fulford and Fulford Road conservation areas and to enhance the biodiversity of the area.

24 Notwithstanding the provisions of Article 3 of the Town and Country Planning (General Permitted Development) Order 1995 (or any Order revoking or re-enacting that Order), development of the type described in Classes A (enlargements or extensions), B (additions or alterations to the roof) or E(a) (garden buildings or structures) of Schedule 2 Part 1 of that Order shall not be erected or constructed within the curtilage of the house at plot 9 without the prior written consent of the local planning authority.

Reason: In the interests of the amenities of occupiers of adjacent residential properties in Atcherley Close the Local Planning Authority considers that it should exercise control over any future extensions or alterations which, without this condition, may have been carried out as "permitted development" under the above classes of the Town and Country Planning (General Permitted Development) Order 1995.

7.0 INFORMATIVES: Notes to Applicant

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

In considering the application, the local planning authority implemented the requirements set out within the National Planning Policy Framework (paragraphs 186 and 187) by seeking solutions to problems identified during the processing of the application. In order to achieve an acceptable outcome the local planning authority sought amendments to reduce the impact on the conservation area and applied appropriate conditions to the planning approval.

2. HIGHWAY WORKS

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. For further information please contact the officer named:

Works to an adopted highway - Section 38 - Michael Kitchen (01904) 551336

3. STATUTORY UNDERTAKERS EQUIPMENT

You are advised that this proposal may have an affect on Statutory Undertakers equipment. You must contact all the utilities to ascertain the location of the equipment and any requirements they might have prior to works commencing.

4. CONTROL OF POLLUTION

The developer's attention is drawn to the various requirements for the control of noise on construction sites laid down in the Control of Pollution Act 1974. In order to ensure that residents are not adversely affected by air pollution and noise, the following guidance should be adhered to, failure to do so could result in formal action being taken under the Control of Pollution Act 1974:

(a) The work shall be carried out in such a manner so as to comply with the general recommendations of British Standards BS 5228: Part 1: 1997, a code of practice for "Noise and Vibration Control on Construction and Open Sites" and in particular Section 10 of Part 1 of the code entitled "Control of noise and vibration".

(b) All plant and machinery to be operated, sited and maintained in order to minimise disturbance. All items of machinery powered by internal combustion engines must be properly silenced and/or fitted with effective and well-maintained mufflers in accordance with manufacturers' instructions.

(c) The best practicable means, as defined by Section 72 of the Control of Pollution Act 1974, shall be employed at all times, in order to minimise noise emissions.

(d) All reasonable measures shall be employed in order to control and minimise dust emissions, including sheeting of vehicles and use of water for dust suppression.

(e) There shall be no bonfires on the site.

5. SECTION 106 OBLIGATION

The planning permission is accompanied by an undertaking/agreement by the applicant to contribute £84,052 towards education, £48,856 towards open space and £19,381 towards improvements to bowling green facilities in York.

Contact details:

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