

## COMMITTEE REPORT

**Date:** 10 March 2016                      **Ward:** Fulford And Heslington  
**Team:** Householder and                  **Parish:** Fulford Parish Council  
                Small Scale Team

**Reference:** 15/01956/FUL  
**Application at:** Royal Masonic Benevolent Institute Connaught Court St  
                         Oswalds Road York YO10 4QA  
**For:** Erection of detached sun room and construction of footpath  
**By:** Mr Marc Nelson Smith  
**Application Type:** Full Application  
**Target Date:** 17 March 2016  
**Recommendation:** Approve

### 1.0 PROPOSAL

1.1 Connaught Court is a 90 bed care home (4.86ha) in a parkland setting. It lies between Main Street, St.Oswalds Road, Atcherley Close, Fulford Park and Fulford Ings and is within Fulford Conservation Area. The site is dominated by a large 2/3 storey building, towards the western end, with associated smaller buildings and dwellings grouped around it. Most of the remainder of the site is private open space. The main vehicular access is from St. Oswalds Road.

1.2 The application site lies amongst trees just to the east and slightly south of the main building in the southern half of the care home complex.

1.3 This application seeks permission to erect a timber clad sun room for residents to use. The sun room would be constructed from timber boarding and would have a pitched roof of green felt shingles. A new path would be constructed to provide access to the facility and a patio would be constructed on the west side of the sun room.

1.4 There is a long history of planning applications for residential development and various extensions/buildings on the care home site but it is not considered that any are relevant to the consideration of this application.

#### Councillor Call-in

1.5 The application has been called to Committee by the Cllr. Aspden because the proposed development is in a green corridor and it concerns whether the principle of development is acceptable in an area designated as conservation area for its open space and green infrastructure qualities. He also considers that the development within the park would set a precedent for further development in the future.

## 2.0 POLICY CONTEXT

### 2.1 Development Plan Allocation:

Conservation Area GMS Constraints: Fulford CONF

### 2.2 Policies:

CYHE2 - Development in historic locations

CYGP1 - Design

CYNE1 - Trees, woodlands, hedgerows

CYNE8 - Green Corridors

CYNE6 - Species Protected by Law

## 3.0 CONSULTATIONS

The consultations responses outlined below cover two phases in the application consideration process. Firstly, responses made by various parties (internal and external) to the initial submission and, secondly, responses made following the submission of additional tree survey information, details of footpath construction and revisions to the scheme, which involve a slight relocation of the sun room and the connecting footpath.

### INTERNAL

#### **Planning and Environmental Management (Conservation Architect)**

3.1 It is proposed to add a small summer house into the parkland for use in connection with the neighbouring residential home which has views and access into this area. The parkland and its mature trees provide an important break between Fulford Village and sub-urban development on the edge of the city. The openness also reinforces the semi-rural and less dense setting of the village. The association between Fulford Park House and its parkland is of historic significance, having been formed together in the late C18th. The area also provides visual amenity and views towards Fulford Ings which contribute to relief from the urban area and the busy main road leading into York city centre.

3.2 The summer house would be a relatively small intervention into the openness of the area. It would be located in a line of trees close to the existing buildings. Its eaves height would be 2.2m which is very low in relation to the main buildings on site and the stature of the mature trees. The effect of the proposed building within the area would be further diminished in views from Fulford Road towards the Ings by the significant slope of the land towards the river. The path is a necessary part of the scheme; the only concern is in relation to the impact on trees on the proposed site.

Trees are integral to the character and history of the site and they must be preserved.

3.3 Summary - The summer house would enable residents to enjoy the garden, especially in poor weather conditions as well. Due to its size, location and materials, the summer house would have an insignificant impact on the character and appearance of the conservation area if it can be demonstrated that adjacent trees would remain unharmed. For clarification, by the use of the term “insignificant impact” it is meant that there would be no harm to the overall character and appearance of the conservation area. As the proposal would introduce a very small garden building and access path into the area for the enjoyment of the gardens by residents then there would be a minor change to the area which would not have a significant impact on its character and appearance.

### **Planning and Environmental Management (Landscape Architect)**

#### **Comments on Initial Submission**

3.4 The summer house is shown not only within the canopy spread of an adjacent Sycamore but will most likely cover a considerable portion of the root protection area (RPA) as well. The footpath crosses the RPA of an adjacent tree, however, this could probably be overcome by a porous, no-dig construction, especially as it would only take foot traffic and not a maintenance vehicle.

3.5 By placing the summer house amongst the trees its impact on the sweeping open space is limited. However the current location is inappropriate due to the likely harm that it would cause the adjacent Sycamore. The buttress roots appear quite shallow as will probably be the root plate. Excavations for a pad foundation could be limited but this could still result in compaction and loss of water, gaseous exchange and soil health over a large portion of the rooting zone and is therefore unacceptable.

3.6 A nearby terraced area adjacent to the buildings is likely to have caused some root damage to trees and the addition of a summer house in the proposed location would represent incremental harm to a number of the trees within the grounds of Connaught Court. There appears to be scope, however, to relocate the sun room to the north west to avoid, or at least considerably reduce, the intrusion into the RPA of the surrounding trees.

#### **Comments on Revised Proposals**

3.7 The sun room has limited encroachment into the RPA of the adjacent Sycamore. The footpath passes through the RPA of a couple of trees; this will cause minimum disruption by adopting a porous shallow footpath construction as shown on the construction detail and annotated plan. Thus provided great care is taken to contain

the construction operations, the proposal is now acceptable in respect of minimising risk to trees.

### **Planning and Environmental Management (Ecology and Countryside Officer)**

3.8 Fulford Ings Site of Special Scientific Interest (SSSI) is found c.140m at its closest point west of the site. Using Natural England's Risk Impact Zones the development does not trigger consultation on likely impacts to the SSSI. There are no comparable habitats within the development site, the loss of which could have an indirect impact on the SSSI. However best working practices for construction should be followed e.g. waste water, dust control etc.

3.9 The site is located within 'Local Green Corridor (26) Fulford Park' as set out in the draft Biodiversity Action Plan (2013). Green corridors are not fixed boundaries but are a consensus of where multifunctional green infrastructure assets occur. The proposed sunroom will not significantly impact on the functioning of this green corridor.

3.10 The main habitat on site to be impacted by the development is amenity grassland with standard trees. The wider site is managed as a care home complex. The Council's landscape architect has been consulted and is satisfied that the construction of the footpath will not impact on the trees. There is no proposal to introduce new lighting into the area. The construction of a stand alone timber sunroom in the grounds of Connaught Court will have negligible impact on local biodiversity, including bats. Bat roosts may be present within the immediate area and bats are likely to forage in the grounds, however no trees will be felled as part of the development, no new lighting will be introduced to the area and the loss of amenity grassland is not significant. There is no objection to the proposal on the grounds of ecology. An informative relating to bat protection and the incorporation of bat enhancement features into the scheme should be attached to a planning consent.

### EXTERNAL

#### **Fulford Parish Council**

##### **Comments on Initial Submission**

3.11 The Parish Council objects on grounds of harm to Fulford Village Conservation Area stating that the sun room is within the view corridor from Main Street mentioned in Fulford Village Conservation Area Appraisal 2008 and in a 2008 Inspector's report relating to a previous Connaught Court application.

## Comments on Revised Proposals

### 3.12 Object as follows:

- The sun room will harm the character of the conservation area by introducing built development into open parkland of historic importance, the importance of which is emphasized in the Fulford Village Conservation Area Appraisal.
- The green corridor forms a separation between Fulford Village and Fishergate, keeping it free from development is important to the identity of Fulford village.
- No assessment has taken place of the impact on views from Main Street, from public footpaths along the Ings or from Fulford Park.
- Despite the slight shifting of the sun room, the proposed building is still within the root protection area of very tall, mature trees.
- Shading of the sun room and the risk of falling branches will lead to the eventual demise of trees
- The proposed development will set a precedent for further developments encroaching into an area that is of great value to Fulford Village.
- In planning guidance it is clear that there is no presumption in favour of development within a conservation area. The proposal will cause significant harm to the conservation area and we therefore ask that it is refused.

## Publicity and Neighbour Notifications

### Comments on Initial Submission

3.13 Ten letters of objection have been received from local residents. Their objections can be outlined as follows:

- proposal will set a precedent for further development of the site
- detrimental impact on the green corridor and views to the river
- positioning of the building and footpath so close to large mature trees presents a risk to the residents using the property and to the trees and will lead to need to prune or remove trees
- no benefit to residents or wider community
- inappropriate encroachment into conservation area
- unnecessary and will be underused and not the correct position
- would be better to convert one of the existing empty bungalows
- building lacks charm and looks gloomy
- It is not possible to properly assess the impact on protected trees without a BS survey and plan to identify the age, height and structural condition of nearby trees.

- In a tree survey submitted with an application for tree work dated Sept 2014 (Ref 14/02375/TCA) three trees are assessed as in 'severe decline' - T27, 28 & 34. The siting of a recreational building underneath the canopy and/or within falling distance of these trees will significantly increase the risk to their future health and survival.
- In 2005, a tree survey was carried out to establish the potential for individual trees to support roosting bats and several trees in the vicinity were identified as suitable, including the two sycamores. Also in 2005, The Council's ecology officer confirmed the probable presence of a roost within the park.

### Comments on Revised Proposals

3.14 Three letters received – objections as follows:

- The changes are minimal and do not address concerns.
- The local plan shows this area should be kept open for its amenity value and there is no public benefit in this building.
- A building of this type would not be allowed in the Museum Gardens, Rowntree's Park or any of the other green open areas which are beneficial to the city.
- It will interrupt the long distance views and open rural aspect of the site, which the local plan rightly seeks to protect.
- The Council defends other areas in the city where there is a possible impingement of conservation areas or green spaces and it should be consistent in its approach.
- The building is unnecessary as adjoining it are four unused bungalows which could easily be adapted to provide far better facilities for the residents.

### Fulford Friends

#### Comments on Initial Submission

3.15 Object on following grounds:

- building will encroach into green corridor and one of most important long distance views in Fulford from Main Street to Fulford Ings
- no evidence provided to quantify impact on this view
- positioning of the building under trees will lead to calls for branches or whole TPO trees to be removed - more info needed on the impact of construction works and additional lighting within the green corridor
- unwelcome encroachment into conservation area and green space

## Comments on Revised Proposals

### 3.16 Comments as follows:

- The minor repositioning of the sun-room does not overcome previous concerns in relation to trees. The sun-room would still sit beneath the overhanging branches of tall, mature trees and will cause excessive shading to users of the sun-room during the summer months.
- The tree survey describes the two sycamore trees as being in a 'fair' structural condition but also states that they are 'over mature' and that their physical condition is in 'decline'. Both trees have a height of 20m or more and the siting of a sun-room directly beneath the overhanging branches is also likely to create a perceived or actual danger to anyone sitting within falling distance either within the sun-room or in the patio area.
- We maintain our previous objections in relation to harm to the conservation area and question the lack of justification for siting the building within the green corridor.
- If the planning committee are minded to allow this development there should be a condition to prohibit the addition of any external lighting. To safeguard protected species such as the bats.
- The proposal would create a very unwelcome precedent for further development in the area.

## **4.0 APPRAISAL**

### KEY ISSUES

4.1 The key issues in the assessment of this proposal are the design of the proposals, impact upon the character and appearance of the conservation area, impact on the green corridor and protected species and impact on the amenities of local residents.

### LEGISLATIVE BACKGROUND

4.2 In the exercise of an LPA's planning function with respect to any buildings or other land in a conservation area, Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that special attention shall be paid to the desirability of preserving or enhancing the character and appearance of that area.

### POLICY CONTEXT

4.3 The National Planning Policy Framework 2012 (NPPF) sets out the overarching roles for the planning system. Paragraph 186 states that Local Planning Authorities should approach decision-taking in a positive way to foster the delivery of sustainable development. Paragraph 187 states that Local Planning Authorities

should look for solutions rather than problems and decision takers at every level should seek to approve applications for sustainable development where possible. A principle set out in paragraph 17 is that planning should always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings.

4.4 Paragraph 132 states that 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. Significance can be harmed by or lost through alteration or destruction of the heritage asset or development within its setting. Paragraph 134 states that where a development proposal will lead to less than substantial harm to the significance of a heritage asset, this harm should be weighed against the public benefits of the proposal, including securing its optimum viable use.

4.5 The 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 content of the NPPF.

4.6 The relevant City of York Council Local Plan Policies are GP1, HE2, NE1 and NE8. Policy GP1 'Design' requires development proposals to respect or enhance the local environment, be of a design that is compatible with neighbouring buildings and the character of the area. Policy HE2 'Development in Historic Locations' advises that development in conservation areas must respect adjacent buildings and be of a design that is compatible with the character of the area and neighbouring buildings. Policy NE1 'Trees, Woodlands and Hedgerows' advises that trees, woodlands and hedgerows which are of landscape, amenity, nature conservation or historical value will be protected. Policy NE8 advises that planning permission will not be granted for development which would destroy or impair the integrity of green corridors and, conversely, development which ensures the continuation and enhancement of green corridors for wildlife will be favoured. Policy CYNE6 advises that where proposals may have a significant effect on protected species or habitats, applicants will be expected to undertake an appropriate assessment demonstrating their proposed mitigation measures.

## ASSESSMENT

### Proposals

4.7 The proposal involves erecting a sun room within a group of mature trees just to the south (circa 11m) of the complex of buildings on the site. The location lies circa 190m west of Main Street and 50m north of a row of residential properties in Fulford Park.



4.8 The sun room has an octagonal shape and is 5.7m long, 4.2m wide and has a pitched roof, the ridge of which is 3.7m above ground level. The walls would be constructed from cedar boarding and it would have a green mineral felt roof. A footpath would be constructed through a number of trees for circa 35m southwards from the main east-west footpath that connects the RMBI buildings with Main Street. A patio area 3.6m square would be constructed on the west side of the sun room.

4.10 The proposed footpath would have a surface constructed from Terrabound, which is a porous material that allows water to percolate to the ground below.

#### Context

4.11 The Connaught Court site fronts Main Street and extends approximately 320m to the west. It is then a further circa 200m across predominantly open fields to the eastern bank of the River Ouse. The green corridor, referred to above, commences at Main Street and runs through the southern part of the site. It varies in width being circa 70m wide on the Main Street frontage, narrowing to circa 25m where it runs past the easternmost buildings on the site (ie. circa 90m in from the site frontage). It then widens to circa 60m for the remainder of the site up to the western boundary.

4.12 There is a belt of mature trees up to 30m in width along the southern edge of this corridor, which extends circa 120m into the site from the site frontage. The remainder of the green corridor is then predominantly open grassland up to the western boundary of the site, apart from a belt of trees approximately 100m long and 20m wide along its northern edge. It is within this latter belt of trees that it is proposed to erect the sun room.

4.13 Within the RMBI buildings that form the northern edge of the green corridor there is a gap of circa 25m between two of the buildings and it is through this gap that it is proposed to run the footpath that would link the sun room with the main site footpath. The sun room would sit within a group of six trees but would not project as far into the open green space as the trees do (ie. it would be set back approximately 6-7m from the southern canopy edge of the two southernmost trees within the group).

#### Evaluation

4.14 In view of its relatively small size, its distance from Main Street, its setting within mature trees and the significant down slope of the land as it extends westwards towards the river, it is not considered that the proposed sun room would have a detrimental impact on the openness of the area or views across the green corridor from the east.

4.15 The sun room has been relocated circa 800mm to the north west and a reposition of the northern section of the footpath circa 1m to the east. They have also clarified details of footpath construction, including adopting a porous shallow

footpath construction, and secured the provision of protective fencing for the trees during construction. All of these measures will help avoid adverse impact on the trees and it is considered that the incorporation of a condition on a planning consent requiring the approval of a method statement to protect existing trees during construction works, will further ensure that the well-being of the trees near to the sun room and footpath is secured. Although the proposals will not require the removal of any trees, there may be a need to crown lift one of the trees near to the sunroom, it is considered, however, that such work would be acceptable and would not threaten its well being.

4.16 As it is considered that the well-being of the trees will be ensured and there is no proposal to introduce new lighting into the area it can be reasonably concluded that there will be no impact on bats and it is therefore considered that there is no need to undertake a bat survey prior to determination of this application. The provision of new lighting along the footpath could not be prohibited by condition. Its installation would, however, require planning permission and if an application was submitted it would be considered on its merits, including and potential adverse impact on protected species such as bats.

4.17 Installing lighting units on sun room, however, may well be regarded as 'de-minimis' and therefore not requiring planning permission. In this respect it is possible that in some form external lighting could have an adverse impact on nocturnal animals such as bats. As there is good foraging habitat surrounding the site it is considered that a condition requiring the submission and approval of any external lighting on the sun room should be imposed.

4.18 In view of the distance from the nearest residential properties outside the site (ie. circa 50m), it is not considered that there would be any adverse impact on the residential amenity of nearby occupants. It is also not considered that approval of this small sun room would create a precedent for further development of the site. Any further development proposals, whether in the green corridor or any other part of the RMBI site, could legitimately be assessed on their own merits and potential impacts.

4.19 In terms of its visual impact, the sun room is a small building that will use materials entirely appropriate for its location and it is considered that the character and appearance of the conservation area will not be harmed. As such, if Members resolve to approve the application it is considered that in reaching its decision the Local Planning Authority will have properly exercised its duty under Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

4.20 In assessing the impact of the proposed development on the significance of the conservation area officers have placed great weight on the conservation of this heritage asset, as required by Paragraph 132 of the NPPF, and have judged that there will be no harm. As it is considered there will be no harm, there is no need to

weigh the proposal against the public benefits as required by Paragraph 134 of the NPPF.

## **5.0 CONCLUSION**

5.1 It is considered that the proposal would preserve the character and appearance of Fulford Village conservation area and would not have an adverse impact on trees on the site, protected species, the openness of the area or the amenities of local residents. As such the proposal satisfies national guidance in the NPPF and Development Control Local Plan Policy and it is considered that planning consent should be granted. In reaching this conclusion and recommendation special attention has been given to the desirability of preserving or enhancing the character and appearance of the conservation area as required by Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

## **COMMITTEE TO VISIT**

### **6.0 RECOMMENDATION:** Approve

1 TIME2 Development start within three years

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

Drawings nos. 18890-4000H, 4001C, 4002E and 4003C

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

3 Before the commencement of development including any excavations, a method statement regarding protection measures for the existing trees shown to be retained on the approved drawings shall be submitted to and approved in writing by the Local Planning Authority. This statement shall include details and locations of protective fencing in accordance with British Standard 5837, phasing of works, site access during construction, type of construction machinery/vehicles to be used, including arrangements for loading/off-loading, parking arrangements for site vehicles, and locations of stored materials.

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.

4 No external lighting shall be installed on the sun room until and unless details of a lighting scheme have been submitted to and approved by the Local Planning Authority showing how the scheme will minimise light spillage including:

- i) External lighting requirements to be carefully designed to avoid light spillage affecting surrounding habitat.
- ii) Security lighting to be on a short timer and motion sensitive to large objects only.

Reason: To take account of and to enhance the habitat for a protected species.

## **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:

Officers negotiated a slight relocation of the sun room and footpath and secured details of footpath construction and protective fencing to avoid adverse impact on the trees.

Account has been taken of all relevant national guidance and local policies and with the attachment of conditions the proposal is considered to be satisfactory.

#### **2. BAT PROTECTION AND ENHANCEMENT FEATURES**

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 (2010). 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 for the development to enhance the 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 (see [http://www.bats.org.uk/pages/accommodating\\_bats\\_in\\_buildings.html](http://www.bats.org.uk/pages/accommodating_bats_in_buildings.html) for more information).

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