

14th May 2014

Dear Hannah,

Re: AOD/14/00120 | Details required by Conditions 12 (scheme of archaeological work), and 19 (site investigation) (01/01315/OUT) | Germany Beck Site East Of Fordlands Road York

Fulford Parish Council makes the following comments and objections in response to the submitted details. Please note that the absence of comment on particular parts of the submitted information should not be interpreted as our agreement with that information.

General comment.

This subsequent EIA application contains further substantive environmental information, which should have been submitted in the form of an update to the Environmental Statement with an accompanying Non-technical Summary. We note the Regulation 8 assessment that no further information is required but this does not negate the need for the information (which is itself defined as 'further information') to be submitted in a form required by the EIA Regulations. Without compliance with the Regulations, it would be unlawful to approve the submitted details.

Condition 12 – WSI Revision F

The WSI as a whole is set out and written in a disjointed and confusing way so that the reader is unable to understand exactly what work is being proposed for individual areas of the site. The figures at the end of the document are both inadequate and incomplete. The WSI fails to fulfil the requirements of Condition 12, is badly written and cannot be considered to be an objective report.

Section 1

Phasing of works:

1.1: The Introduction notes that the development will proceed in phases and that the details of this WSI relate to the initial archaeological work required prior to the creation of the junction and access/haul road and compensatory flood storage ponds. It is proposed to submit addenda to the WSI for approval by the LPA at a future unspecified date.

However, Condition 12 states: *"No development shall commence on site until a scheme of archaeological work has been submitted to and approved in writing by the*

Local Planning Authority". It makes no provision for the submission of addenda or of a scheme that deals only with the access road and online storage ponds. Furthermore, the submission of later addenda would require further public participation in order to comply with the EIA Regulations.

Condition 12 (a) requires "a pre-development metal detecting survey of the site". There is no allowance made within the wording of the condition for a phased metal detecting survey, which would not be completed for a period of ten years or longer. Furthermore, a phased survey would clearly not be a 'pre-development' survey and the proposals outlined in Para 1.1 would not be in compliance with the requirements of Condition 12a).

Section 2

2.3: We note that the latest revision (F) has omitted the word "natural" to describe the watercourse of Germany Beck following comments made by English Heritage. We consider this to be a deceptive and unacceptable solution to the inconsistency identified by EH because later comments still refer to Germany Beck as a "man-made feature", a "new dyke" and a "newly created landscape feature" (para 4.6.19). Such comments misrepresent the true position that Germany Beck was carved during the last ice-age and serve only to confuse and misinform the reader. The document should not be approved unless the applicant deletes all the unsubstantiated insinuations (eg, paras 4.6.19 – 4.6.22) from the document and accurately describes the glacial origins of Germany Beck.

Section 3

3.1. The description of Condition 12 in this section should reflect the Secretary of State's numbering in the condition – ie, a) to g) rather than causing confusion by creating additional points h) and f).

3.3 The first sentence in this paragraph cannot be understood and needs to be reworded in a more comprehensible way.

Section 4

This section has many incorrect headings, subheadings and errors. This jumble of paragraphs is not acceptable for a serious archaeological report.

4.1 The word 'comprehensive' should be removed.

4.5 is headed 'Roman' but later paragraphs under this heading relate to the Battle of Fulford. This anomaly should be corrected.

4.5.8: Reference is made to the "*archaeological zone*" but there is no plan either in the WSI or the planning documents that shows the actual extent of the area. The boundaries of the zone should be accurately drawn on a plan within the WSI together with the location of the trenches that are mentioned in 4.5.4 to 4.5.8.

4.5.15: states: "*The location of the battle is open to conjecture*". This statement is wholly inadequate to describe the current understanding of the location of the

battlefield. It is also inconsistent with the statement in the same paragraph that Edwin and Morcar “*lay in wait at Fulford*”.

4.5.18: Refers to a detailed specification of four trenches and that they revealed no evidence for the battle. We understand that the methodology carried out in this area was inappropriate in the context of locating evidence for a 11c battle and this should either be explained in the WSI or omitted.

4.5.22: refers to the Historic Landscape Appraisal (MAP 2003) and its conclusions that there was no evidence to locate the battle on the development site. This report was thoroughly discredited at the time of publication and it is not appropriate to use it to promote its misleading findings as if they were true. The later 2005 HLA is equally flawed and all reference to these reports should be removed unless the criticisms levelled at them are included. We note that many paragraphs within this WSI were lifted from these flawed HLAs and proper scrutiny should be applied as to whether these factually wrong assertions should be given such prominence.

4.5.23: Refers to a metal detecting survey but fails to acknowledge that: a) only a tiny proportion of the site was metal detected and b) the methodology did not comply with that currently recommended by experts in battlefield archaeology and c) the majority of the area subjected to metal detection was the site of a former rubbish tip. It is our understanding that it is now accepted practice for battlefields that a top layer should be removed before metal detecting as otherwise only modern debris will be found. This should be fully explained within the WSI or the reader will be misled.

4.5.24 states: “There is no information that firmly locates the battle site within the proposed development”. It is particularly misleading to omit any reference to English Heritage’s view (and the widely accepted view) that Germany Beck is the “most likely site” of the battle. To completely ignore so much evidence presented in ‘Finding Fulford’ does not provide the reader with a balanced or objective appraisal of the status of the battlefield’s location at the current time.

4.6.2: Refers to the derivation of the place names of Naburn and Wheldrake. This should be removed as being an entirely irrelevant observation deliberately inserted to take the reader in a false direction.

4.6.19 to 4.6.22: These thoroughly misleading paragraphs have been shown to promote false evidence and must be removed. It would be highly irregular to approve a public report that continues to allege that Germany Beck was a 15C creation and a ‘man-made feature’. If the applicant refuses to correct these statements, the application should be refused.

4.6.25 refers to “Non-designated sites in Fulford” and provides a list of reference numbers for medieval spoons, cropmarks and ridge and furrow. However, it fails to mention that the Battle of Fulford is listed in Persimmon’s own Environmental Statement (Chapter 14 Para 14.8) as a ‘non-designated site’.

Section 5 – Overall Key Research Aims and Objectives

5. It is a very surprising omission not to include investigations into the Battle of Fulford within the key aims and objectives of the work. When a battle site of national importance is at stake and when the opportunity for truly pioneering battlefield archaeology arises, the investigations must be considered as absolutely 'key' and must be added to the list. The document lacks the correct aims and objectives and it is unacceptable for the author to devote so much of the document promoting the theory that the battle site does not exist on the development site.

Early Medieval and Medieval

Why are there only two objectives listed in this section? Why for instance will there be no investigation into evidence of medieval settlement?

5.2.4. This sentence wrongly implies that there is at present no evidence to support the widely held view that the battle was fought on the site. It should highlight that English Heritage also holds this view and that there is a wealth of evidence that points to the ford at Germany Beck as the focus of the battle.

Section 6 – Methodology

Project Reporting

6.2.a This paragraph states that *"[t]he entire length of the corridor required for the temporary haul road will be metal detected."* From the information in Figure 1 it becomes clear that this is not true. Area C, the south west meadow, seems to be excluded as it states for Area C: "Metal detecting-WORK COMPLETE". This is misleading and unacceptable. See further comments on 'figures' below.

6.2.1 to 6.2.5 It is assumed that these paragraphs refer to future work proposed to be carried out in phases (although this is not explained in the text). It is a further example of the lack of clarity and transparency within the document. We have already stated our strong objections to the phasing of metal detecting work and repeat that this should be undertaken over the whole site prior to the commencement of development.

Section 7 – Archaeological Recording

7.5 states: *"For all areas other than the land from Fordlands Road to Germany Lane, prior to Top Soil Stripping a metal detecting survey will be undertaken"*.

It is unclear which areas will be excluded from the survey and in order to be transparent, they should be clearly annotated on a plan. The figures are not adequate for this – see comments below. It is also unclear whether this method is in accordance with the current best practice in battlefield metal detecting.

7.5 also states: *"The majority of the haul road will have one transect through it...."*. The sentence is nonsensical and should be reworded to unambiguously state how the haul road will be investigated. What does 'majority' mean in this context? In any

event, one transect is clearly insufficient for the haul road and the whole length should be investigated to encompass the full width of the works needed to construct the raised access road with associated walling, side embankments and fencing or other structures to be employed in the construction of the bat hop-overs. If areas for car-parking provision and cycle storage are proposed (as described in Outline Condition 10), these should also be fully investigated prior to the start of development.

Section 11.0 - CONFIDENTIALITY, COPYRIGHT and PUBLICITY

The WSI is particularly vague in dealing with the involvement of the public and does not comply with the requirement of Condition 12 for: “ *f) A programme of access for the community to the archaeological excavations*”. The programme should be described in this WSI for all phases of the development, otherwise the WSI will not comply with Condition 12 (f). It is particularly important that the WSI sets out access arrangements for the public for the initial stages of the work at the junction, the south west meadow, the haul road and storage ponds.

11.1: “*All reports arising from the implementation of this WSI will remain confidential ... Reports will be released into the public domain ONLY with prior written agreement of Persimmon and City of York Council.*”

It is unacceptable that Persimmon Homes and the City of York archaeologist should be allowed to withhold information about archaeological finds from the public and interested parties.

In order to be transparent, the ‘arbitration process’ must be described in this WSI, not in a future appendix.

11.3 “*No publicity will be entered into with respect of the archaeological works without the prior written consent of the Persimmon Homes or their agents*”.

We question the need for such a restriction if any finds are made relating to the Battle of Fulford, or any other finds of importance. The outcome would be that Persimmon Homes could prevent disclosure indefinitely without the knowledge of the public. This must be deleted and replaced with appropriate wording to the effect that the public and other interested parties will be immediately informed if any finds are revealed relating to the Battle of Fulford or any other significant finds.

Section 13 Community Participation

13.1 “*It is proposed that for each phase of archaeological work, (except the insertion of the roundabout, access road, peat deposits and metal detecting survey), there will be a Community Programme of Archaeological Events.*”

It is hugely disappointing that the public will be excluded from participation in the more interesting parts of the site (in terms of archaeology). What are the reasons for this?

The word ‘roundabout’ should be deleted!

The paragraph should be much more explicit in terms of number of events and their frequency. The programme should be fully described in this WSI in order that full public participation is assured.

Figures:

The figures are inadequate, poorly annotated and do not provide adequate information.

Area F is not shown on the drawings at all although it is referred to in the side-bar.

The location of previously investigated trenches is not shown on any plan, despite references to 'zones' and 'areas' within the WSI (eg: 4.3.3 – 4.3.5). If particular areas, transects or trenches are described, there should at least be an indication of where the plans can be accessed.

'Area C' The boundaries of 'Area C' are not drawn on the plan and it is unclear which areas are supposed to be included.

Statements made regarding Area C (in the sidebar) are not accepted:

(1) "metal detection – WORK COMPLETE"

This statement is wrong because the methodology applied in the original metal detecting survey was not undertaken in accordance with the currently recommended methodology for battle site metal detecting, which must be undertaken for the whole site including the parts of the south west meadow that are due to be disturbed. This includes the former waste tip (where topsoil is due to be removed) and the area in the south east corner where a new pond is proposed.

(3) "Record any archaeological features in natural ground (WE UNDERSTAND THIS AREA TO BE CLEAR OF ARCHAEOLOGICAL FEATURES HOWEVER A WATCHING BRIEF IS REQUIRED)".

It cannot be established that the area is devoid of archaeological features until the waste material is removed and natural ground is investigated through appropriate battlefield metal detecting and archaeology.

Condition 19 (Site Investigations)

General comment:

The Geo-Environmental Appraisal Report is a long and complex document. The lack of a non-technical summary is regrettable and means that members of the public may feel unable to make comment. We repeat that this information should be submitted as an updated ES as required by the 2011 EIA Regulations.

We refer to section 9 in the report where a crucial paragraph which was present in Report (1298/2a October 2013) submitted for AOD/14.00003, has been deleted in this updated version (see extract below). The change is not referenced in the new report, therefore it is important to know the justification for omitting the original para 9.4 from the latest report.

[2013] CONTAMINATION (QUALITATIVE RISK ASSESSMENT & REMEDIATION)

“9.1 Topsoil, typically 400mm thick underlies the entire site. Testing suggests this material is suitable for re-use.

9.2 A small area of made ground is present in the south west of the site (vicinity of TPs 54 to 58; area referred to as South West Meadow). This made ground contains elevated concentrations of a number of inorganic determinands and contains materials which would generally be considered undesirable as a near-surface material in garden areas.

9.3 It is expected that this made ground will lie in Public Open Space, and placement of a nominal 300mm of topsoil should suffice.

9.4 However, if the proposed layout changes, and this made ground remains beneath garden and landscaped areas (i.e. not beneath hardstanding) it is recommended that a 600mm thick surface cover of “clean” soil comprising 500mm subsoil and 100mm topsoil be placed over the made ground. This cover will break potential pollutant linkages between the contaminated made ground and future end-users. (this paragraph has been deleted – why?).

9.5 Alternatively, the made ground could be redistributed beneath concrete oversite or areas of hardstanding, where it would be satisfactorily isolated from end users”.

We do not consider that 300mm of topsoil is sufficient in this area of the south west meadow because there are proposals to landscape and plant the area as a wildflower meadow as part of the bat mitigation strategy (ERAP Bat Survey Report). There are no proposals to cover it with hard standing, therefore if para 9.4 is to be believed then a covering of 600mm must be required.

Because of the sensitive ecological nature of the meadow and its proximity to Germany Beck, we consider that it would be preferable to remove all the waste in the made ground. The remediation scheme should also be informed by the reserved matters condition for a bat mitigation strategy which has not yet been submitted.

We therefore request that EPU is asked to make further comment on this aspect before the details are approved.

The impact of extensive soil removal on ecology or nearby mature trees is not assessed in this report and it has not been assessed in any of the applicant's Environmental Statements. It follows that an update to the ES is required in order to fully understand the implications of the proposed work on the south west meadow.

We trust that you and the relevant officers will take our serious concerns into account and that the details in this application will not be approved in this form.

Thank you for consulting us.

Yours sincerely

Jeanne Fletcher
Clerk to Fulford Parish Council