

# Fulford Parish Council

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Dear Hannah

**Re: 17/00972/FUL - Variation of conditions 13 and 32 of permitted application 01/01315/OUT to allow drainage works within archaeological zone and to allow construction of spine road into phase 1 as a continuous operation with the associated access and junction with the A19**

This letter sets out the Parish Council's initial observations but should further information be provided, we may wish to provide additional comments.

## **Procedure**

We appreciate your confirmation that the LPA will comply with the 2011 EIA Regulations but we note that Persimmon has still not submitted an ES, despite this being a requirement for s73 applications where EIA applies. The lack of an ES means that the LPA does not have the information necessary to determine this application and we therefore trust that Persimmon will be required to submit an updated ES that will deal specifically with the environmental effects of the proposals and will then fully comply with the EIA advertising procedure.

## **Condition 13**

*13. No built development or road construction shall take place within the area shown as an archaeological zone by the Updated Development Principles Report (as amended).*

The construction of the two outfalls will affect a relatively small area of the archaeological zone and the impact on archaeology will be limited if a comprehensive archaeological investigation is carried out as set out in the WSI. We consider however that a metal detecting survey should have been specified in the WSI.

A further point is that the updated WSI [§4.6.30-31] continues to claim that Germany Beck was created in the 15<sup>th</sup> century despite repeated instructions by the City Archaeologist and Historic England that this misleading information should be removed. Continuing to include these offending comments undermines the whole credibility of the WSI.

#### Commencement of work

Topsoil stripping has already been undertaken along two sections of the banks of Germany Beck despite the lack of planning permission. The developer should be asked to confirm that an archaeologist was present to supervise this work (as set out in the WSI §7.2-3) and also to confirm that no further ground disturbance will take place until permission is granted.

As a result of the topsoil removal, the area is now strewn with shards of glass, broken pottery and other remnants of the former rubbish tip. Not only does this demonstrate that the area of the tip extends much further than has been acknowledged by Persimmon, but it has created an unpleasant environment for walkers that could result in injury to children or dogs crossing the area (which is along a well used pathway).

#### Water voles

Both the affected areas are in a section of the beck (Area D) where surveys in both 2015 and 2016 demonstrated unambiguously that water voles were present. This is confirmed in the submitted survey plans and several times in the Ecology Chapter of the ES, for example:

*“a core population [of water voles] appears to be centred in Sections D, E and H of the Beck”* [§8.84] and; *“Update surveys for evidence of water vole undertaken in 2016 have revealed that water voles appear to be currently absent from all sections except for Sections D,E and H”*. [§8.85]

Despite this, the ES goes on to conclude:

*“Further habitat loss at the site of the four outfalls elsewhere along Germany Beck are not predicted to result in any habitat loss for water voles as there was no evidence of water voles in these sections in 2015 or 2016”* [§8.124] and; *“Disturbance of water voles is not predicted to occur at the locations of the four outfalls and sheet piling alongside the new road because water voles are currently absent from these areas...”* [§8.127]

Given these illogical conclusions, it can be presumed that checks for the presence or absence of water voles were not undertaken immediately before the bankside vegetation and topsoil was stripped in preparation for outfalls 2 & 3 but the developer should be asked to confirm whether this is the case. In any event, the ES is clearly misleading in its consideration of the impacts of the proposals on protected species and the developer should be asked to provide further information in the form of an update to the 2017 ES in order to clarify why the destruction of identified water vole habitat has occurred and what mitigation is proposed.

The requirement for compensation to replace the permanent loss of habitat is a further consideration that needs to be addressed in the application.

Of course, the information on water voles does not even form part of the application and this underlines the need for an updated ES to be submitted to identify and assess direct, indirect and cumulative environmental impacts.

#### **Condition 32** [proposed changes in bold]

*The junction with the A19 and the length of access road shown on the Bryan G Hall Drawing 05/401/TR/009A shall be fully constructed prior to any other works commencing on the site except in respect of flood storage measures **and the spine road for Phase 1**. No part of its carriageway shall be lower than 9.81 metres Above Ordnance Datum level **unless otherwise agreed in writing by the Local Planning Authority**.*

There are no sensible reasons cited to justify the proposal to permit construction of the spine road into the housing site before the completion of the access junction and neither is there any ambiguity in the wording of the condition: *'fully completed'* is clear in its meaning and intent. There is also no justification for the meaningless statement that *'the junction cannot be "fully constructed" prior to any other works as it [sic] construction of the spine road will need to continue as a single operation'*.

Furthermore, when considered in relation to condition 34 the reason for the imposition of condition 32 is made clear:

*34. Construction traffic associated with the development shall only access the site from the newly constructed junction with the A19 referred to in Condition 32 other than in respect of works to form the approved flood storage works.*

These two conditions in combination establish that the main reason for their imposition is to ensure that construction traffic can access the main site from the A19 rather than from Fordlands Road and if condition 32 is varied, it follows that condition 34 would need to be deleted.

No timescales for the eventual completion of the junction are provided and should condition 32 be varied, it will allow the developer to take as long as it pleases to bring the junction into use, whilst concurrently beginning work on the housing site and continuing to utilise Fordlands Road for access of construction traffic.

The developer has already exceeded the terms of condition 32 by constructing the road further into the site than shown on the Bryan Hall drawing whilst the associated construction traffic has for many months been causing significant nuisance to residents in the area through dust, noise, traffic congestion and road safety issues for cyclists and pedestrians.

As long as the junction remains unfinished and unused there is the potential for significant environmental effects:

- a) The southern entrance into York and the Fulford Village Conservation Area will continue to be blighted by the visually intrusive paraphernalia of a construction site. In this regard, it is notable that the former grassed paddock to the west of the A19 and within the conservation area, has been reduced to a field of rubble with new hard-core areas and significant loss of vegetation (all without planning permission).
- b) Construction traffic will continue to be forced to negotiate the Fordlands Road junction and follow long diversion routes for a longer period.
- c) Residents of Fordlands Road will continue to suffer nuisance and unsafe pedestrian routes as long as the Fordlands junction remains unfinished.
- d) Delay to replacement landscaping at the A19 will mean that it will take longer to become established.
- e) Delaying the removal of the site compound will mean that the proposed restoration of the wetland and its future landscaping will be postponed (the area is proposed to be restored, planted with wild flowers, trees and willow barriers as part of the bat mitigation and should have been completed many months ago).
- f) Until the road drainage system is fully functional, the potential for surface water flooding will remain a risk, particularly during flood events.

All potential impacts should be fully addressed as part of an updated ES before the application is determined and clarity on timescales should be provided.

Tailpiece

The developer's proposed amendment to condition 32 includes a tailpiece that in effect could permit the access road and/or junction to be built below the stipulated minimum height of 9.81mAOD with the written agreement of the LPA. The justification for this additional wording should be fully explained in the application so the reasons can be understood.

In conclusion, we consider that the junction and access road as drawn on the Bryan Hall plan should be completed and brought into use as soon as practicable and that the development of the spine road into the main housing site should not be permitted unless a satisfactory timescale and full reasons are provided.

The Parish Council trusts that you will take account of these comments and that you will inform us when further information is provided.

Thank you for consulting us.

Yours sincerely,

Rachel Robinson  
**Clerk to Fulford Parish Council**