

HARROGATE BOROUGH COUNCIL

PLANNING COMMITTEE – AGENDA ITEM 6: LIST OF PLANS.

DATE: 6 January 2009

PLAN: 01	CASE NUMBER: 06/05096/EIAMAJ
	GRID REF: EAST 418460
	NORTH 457408
APPLICATION NO. 6.90.201.B.EIAMAJ	DATE MADE VALID: 20.06.2008
	TARGET DATE: 19.09.2008
CASE OFFICER: Mr M Williams	WARD: Nidd Valley

VIEW PLANS AT: <http://tinyurl.com/6gcgzr>

APPLICANT: Partnership In Care

AGENT: Graham Bolton Planning Partnership Ltd

PROPOSAL: +Conversion of existing buildings and erection of three single storey extensions to form a medium secure hospital, erection of 5.2m fencing to gardens, retention of existing perimeter fencing and provision of associated car parking (Revised Scheme).

LOCATION: HMS Forest Moor Menwith Hill Road Darley Harrogate North
Yorkshire HG3 2RE

REPORT

SITE AND PROPOSAL

Forest Moor is a former naval base located in the open countryside of the Nidderdale AONB 12km west of Harrogate. The site fronts onto Menwith Hill Road, which runs parallel to the A59, 2km to the north. The site occupies an area of about 8ha. The whole site is surrounded by a 3.2m high security fence, with floodlights positioned around the perimeter at regular intervals.

The site is very open to the south, where it backs onto open fell. The main public views into the site are from the approaches along Menwith Hill Road, especially from the east. There are also clear views into the site from the public bridleway (No44), which runs along a track outside the west boundary of the site. A large shelterbelt runs along the west edge of the bridleway.

The site lies in an area of upland landscape that separates the Washburn and Nidderdale valleys.

The landform is undulating with large rectilinear grassland fields, typical of parliamentary enclosure, bound by a mixture of fragmented walls and hawthorn hedges that are often replaced or reinforced with fencing for stock control.

A few mature individual trees survive along field boundaries between widely scattered

small conifer plantations. Tree cover would appear sparse but for the impact of the outgrown hedges that sometimes block views along the otherwise open landscape.

To the north of the site lies a public highway, Menwith Hill Road, beyond which lies privately owned agricultural land used for rough grazing. To the east land is owned by the MoD and currently tenanted for rough grazing, beyond which lies the B6451 and RAF Menwith Hill. To the south land is owned by the MoD and currently occupied by the Forest Moor communications systems, the area also comprises Delves Ridge Lodge, a converted barn. To the west the area is occupied by the former MoD houses (now in private ownership) at Trafalgar Square beyond which lies a long conifer plantation and further residential properties.

The extensive range of buildings occupy the north and east sections of the grounds. These are mainly single storey, but with some 2-storey elements. The tallest and most prominent building is the sports hall, which fronts onto the road. There is a gatehouse inside the main gated entrance, with kennels and tennis courts behind. There are two storage sheds in the south-east corner of the site. All the buildings are contained within the lower part of the site, the ground stepping up to the playing fields to the south. A second gatehouse fronts onto the track which carries the bridleway to the west.

The buildings are constructed of 'Forticrete' blocks, coloured buff, with Harddraw roof slates and dark painted hardwood window frames.

It is proposed to use the site as a medium secure psychiatric unit (MSU). This would involve the demolition of part of the existing building to the rear and the erection of three, single storey 'V'-shaped wings attached to the spine of the existing building. Each wing would be self-contained and would house 16 patients.

Each 'V'-shaped wing would measure approximately 37m deep and 54m across the open end of the 'V'. They would be 7m to ridge height, no higher than the existing buildings. The open end of the 'V' would be enclosed by a 5.2m high security fence.

The existing 3.2m high perimeter fencing would remain around the site, but the existing floodlights would be removed.

A total of 120 parking spaces would be provided within the site. That part of the internal road leading from the bridleway into the site would be removed and landscaped.

The nearest dwellings are the four former MoD houses to the west along Menwith Hill Road (Delves Ridge Road), and the former MoD houses at Trafalgar Square to the west of the bridleway. All of these are now in private ownership.

The applicant is 'Partnerships in Care', an independent provider of specialist mental health services. The proposed unit is intended to provide medium secure accommodation for male patients with mental illness. All patients would be referred to the Unit by the NHS.

When the previous planning application was being considered, a Tree Preservation Order was placed on the proposed planting areas (TPO xx/2005).

The proposed unit would provide 148 jobs as follows: 80 clinical staff, 30 admin staff, 18

teaching staff and 20 catering and domestic staff.

The application is accompanied by an Environmental Statement as the proposed development is considered to be an Urban Development Project falling within Schedule 2 of the Environmental Impact Assessment Regulations.

MAIN ISSUES

1. Policy
2. Environmental Impact Assessment
3. Impact on AONB
 - a) Landscape
 - b) Light Pollution
 - c) Fencing
4. Patient Care
5. Public Safety
6. Foul Drainage
7. Surface Water Drainage
8. Traffic
9. Public Right of Way
10. Wildlife

RELEVANT SITE HISTORY

6.90.103 Reconstruction of HMS Forest Moor. Permitted 16.10.1981

6.90.201 Installation of perimeter anti-intruder security fencing. No objection 16.10.1989

6.90.204 Installation of exterior security lighting. Permitted 26.02.1990

6.90.234 Erection of gatehouse. No objection 28.10.1992

6.90.201.A.FULMAJ - Conversion of existing buildings and erection of 4 single storey extensions to form medium secure hospital unit, with the erection of 5.2m and 3m fencing, formation of 25 car parking spaces, and various hard and soft landscaping.

Planning permission for this development was granted by the Area 1 Development Control Committee on 15 February 2005. Following this decision a group of objectors, the Residents for the Protection of Nidderdale, applied for Judicial Review. The Judicial Review was allowed and the planning permission duly quashed on 5 April 2006. The grounds for Judicial Review, which were conceded by the Council, were:

1. That the Council erred in its interpretation of the Environmental Impact Assessment Regulations and failed to adopt a Screening Opinion.
2. That the Council failed to make its decision in accordance with the Development Plan.
3. That the Council failed to take into account relevant considerations and/or took irrelevant considerations into account in its decision.
4. That the reasons given for the decision were inadequate and did not satisfy the requirement to provide summary reasons for the decision.

Since the Judicial Review application Ref 6.90.201.A.FULMAJ has effectively remained invalid since it was not accompanied by an Environmental Impact Assessment. The application therefore lies undetermined and has been superseded by the current application.

06/03381/SCREEN - Screening Opinion. EIA not required. 25.08.2006.

06/05601/SCREEN - Screening Opinion. EIA required. 23.10.2006.

Following an initial screening opinion, the Council adopted a second Opinion following legal advice from Counsel. The applicant applied to the Government Office for a Screening Opinion. The Government Office subsequently determined that an Environmental Impact Assessment was not required. However this decision was challenged in the European Court by Residents for the Protection of Nidderdale. The European Court found that the Government Office had erred by not giving reasons for its decision in accordance with the Environmental Impact Assessment Regulations.

6.90.254.B.FUL - Installation of replacement package treatment plant, GRP kiosk, 1.8m high palisade fence and formation of vehicular hardstanding area. Pending consideration.

CONSULTATIONS/NOTIFICATIONS

Conservation and Design Section

See assessment of main issues.

Parish Council

MENWITH WITH DARLEY

BEWERLEY PARISH COUNCIL (59)

Bewerley

HIGH AND LOW BISHOPSIDE PARISH COUNCIL (49)

High Low Bishopside

H.B.C Land Drainage

See assessment of main issues

NYCC Highway Authority

Recommend conditions re Private Access/Verge Crossing, Visibility Splays, Provision of Parking, Glare from Site Lighting and provision of Travel Plan.

AONB - Joint Advisory Committee

We objected to the original application on the grounds of the harm that would be caused to the AONB's landscape and we have not been persuaded to change our position by the latest information provided by the applicants. We believe that the Council's Landscape Architect's analysis of the likely impact of the proposal is rigorous and accurate; we share her concern about the effect of lighting and security fencing in particular and agree with her assessment of the visual impact of new development in a landscape that is nationally

important that is highly sensitive and unable to accommodate new development (Harrogate Borough Council's Landscape Character Assessment 2004).

We therefore recommend that Harrogate Borough Council should refuse the current application for planning permission.

Ramblers Association - Mr B Ellis

No objection.

The British Horse Society

No comments received

DCS Arboricultural Officer

The loss of the alders to allow for the construction of the accommodation wings is acceptable. These were not covered by the TPO as they are poor quality trees of limited height that do not make a significant contribution to tree cover in the area. It would be possible to replace these trees with new plantings that have the potential to add to the area over the coming decades. New species should include Scots Pine, Oak and Ash as these are the dominant species locally.

No other trees of note would be adversely affected by these proposals.

Environment Agency

Recommend condition re surface water drainage. See assessment of main issues.

Economic Development Officer

Support.

Environmental Health

No objections to the revised scheme but cannot comment fully on the proposals for the foul water drainage. The comments provided with the application relate more to the discharge consent which the Environment Agency regulate.

In terms of facilities to be provided on site which may give rise to noise such as laundry, air conditioning or kitchen extracts etc the applicant should ensure that the BS4142 rating noise level of the new development during normal daytime hours (0700 to 2300 hrs) measured over 1 hour, should be 5dB below the background (LA90). During the night time period (2300 to 0700 hrs) the BS4142 rating level measured over 5 minutes should be 5dB below the background (LA90).

Landscape Officer

see assessment of main issues

Yorkshire Water

No comments. Site has its own treatment works, no public sewers in area.

Police Architectural Liaison Officer

see assessment of main issues.

Rural Strategy Officer

No objections. Recommends conditions re bat mitigation and retention of marshy grassland.

Natural England Sites Within AONB

No comments received

DACRE PARISH COUNCIL (65)

see Representations Section.

NY Police Headquarters

No objection.

RELEVANT PLANNING POLICY

PPS1 Planning Policy Statement 1: Delivering Sustainable Development
PPS07 Planning Policy Statement 7, Sustainable Development in Rural Areas
PPG13 Planning Policy Guidance 13, Transport
PPS25 Planning Policy Statement 25 - Development and Flood Risk
02C99 Circular 02/1999 Environmental Impact Assessment
RSE7 The Yorkshire and Humber Plan Policy RSSE7, Rural Economy
LPC01 Harrogate District Local Plan (2001, as altered 2004) Policy C1, Conservation of Nidderdale A.O.N.B
LPC02 Harrogate District Local Plan (2001, as altered 2004) Policy C2, Landscape Character
LPC15 Harrogate District Local Plan (2001, as altered 2004) Policy C15, Conservation of Rural Areas not in Green Belt
LPC16 Harrogate District Local Plan (2001, as altered 2004) Policy C16, The Re-use and Adaptation of Rural Buildings
LPA01 Harrogate District Local Plan (2001, as altered 2004) Policy A1, Impact on the Environment and Amenity
LPHD13 Harrogate District Local Plan (2001, as altered 2004) Policy HD13, Trees and Woodlands
LPHD20 Harrogate District Local Plan (2001, as altered 2004) Policy HD20, Design of New Development and Redevelopment
LPCF09 Harrogate District Local Plan (2001, as altered 2004) Policy CF9, Other New Community Facilities
LPR11 Harrogate District Local Plan (2001, as altered 2004) Policy R11, Rights of Way

APPLICATION PUBLICITY

SITE NOTICE EXPIRY: 18.07.2008

PRESS NOTICE EXPIRY: 18.07.2008

REPRESENTATIONS

MENWITH WITH DARLEY PARISH COUNCIL- Objects to the application

For the following reasons :-

1. The development would have a significant adverse impact on the landscape.
2. No local need has been demonstrated.
3. It will contribute little to the rural economy as it is expected that most of the workforce will be specialist. Should they choose to live in the area, this will add to the rural housing shortage.
4. Design and building materials do not reflect the local distinctiveness of the area and do not follow guidelines for developments in the AONB.
5. The applicant states that applications have already been submitted to other places in the UK. Thus it is not incapable of being located outside the Nidderdale AONB.

It is therefore against Policy C1 of the Harrogate District Local Plan

6. It is also against Policy C2 as it will change the existing character of open grassland plateau.

7. Drainage - Foul Water

The Environmental Assessment states an expected daily outflow of 34 cu.m.

However, the Environment Agency figures suggest a daily outflow of 52cu.m. and the present consent to discharge is for 45cu.m which would therefore be exceeded.

The Council is also concerned about the possible chemical inclusions within the waste due to administered or wasted drugs. These could be a health hazard to wild life as it potentially enters the local stream and thence the River Nidd.

8. Surface Water

There is a history of flooding down stream.

9. Traffic

The plan infers that the present site has around 250 daily traffic movements, and the new development would have a similar number, based on surveys of a similar site. Peak hourly rate is anticipated as 50 movements.

In fact, the present site has a much smaller number of traffic movements, as the work at HMS Forest Moor was scaled down more than 5 years ago. Present traffic flow is negligible. Thus the new 250 movements will mean a considerable increase to traffic in the area, particularly at peak time. Menwith Hill Road has reverted to a country road since the MoD moved out and is at present used by walkers and horse riders. Extra traffic will seriously affect this use.

The plan states that 55 cars will park each day, with 1 HGV movement and 1 other vehicle movement.

This seems to be inconsistent with the above movement figures.

Government guidelines for this type of establishment state that they should be accessible to the families it serves by public transport. This site has no public transport

10. Amenity and privacy of dwellings

There are some dwellings adjacent to the perimeter.

The privacy of the residents will be compromised in terms of light and noise.

11. Waste disposal

The Council would like reassurance that all waste both from demolition and construction, and from day to day running of the establishment would be safely removed and disposed of.

12. Community Involvement

There has been no recent consultation with the community by the applicant.

13. Clarification of plans

Perimeter Fence

The Council would like to see documentation from the registering authority confirming that

the proposed secure area is a suitable and adequate area for patients to receive all their care and treatment and that a 5.2 metre high fence around the perimeter of the site will not be needed now or in the foreseeable future.

Based on other sites, the Council believes a 5.2m perimeter fence, will be mandatory.

Commenting on amended landscape plans:

Objects on the grounds below

1. The new landscaping plans have not changed the Council's view that this development is unacceptable and should be rejected. No amount of additional landscaping will make an unacceptable development in an AONB acceptable. The inclusion of even more landscaping only serves to emphasise the need to hide this proposed development from public view.
2. The security of the site will always override any landscaping considerations and where trees are shown to be against fences as in the section B1 - B2 they will be removed. Experience from the planning application for new fencing at York illustrates the point that landscaping will be removed to satisfy security requirements.
3. The landscaping plans are incomplete as they do not show any alteration to the planting around the area which is designated for the surface water holding tank. To prevent flooding, this tank is to be constructed adjacent to Menwith Hill Road along with a low-lying bunded area to contain any overflow from the tank. This will have some impact on landscaping yet it is not shown on the latest plans so the effect on visual amenity cannot be assessed.
4. The developer also appears to have taken the opportunity of re-positioning the car park to add approximately 14 additional car parking spaces.
5. There are other amendments on the planning file that have not been circulated to the consultees: a plan of the trees to be removed, and a letter from the Health Care Commissioners. The latter raises concerns regarding security and patient care which effectively renders the developer's planning statement obsolete. Perhaps more importantly this letter also makes it even more obvious that a 5.2 metre secure fence around the entire site perimeter would be required at some point.

DACRE PARISH COUNCIL- 'There is no doubt a facility of this type is required but to put it in an AONB with high fencing, additional traffic and other adverse items, consideration seems to be against everything AONB stands for!'

BEWERLEY PARISH COUNCIL- Objects on the following grounds:

The proposed development contravenes the criteria of Policy C1 of the Conservation of the Nidderdale AONB.

PATELEY BRIDGE TOWN COUNCIL - The Parish Council does not object or support the application but notes the concerns of parishioners with regards to the possible development; whilst recognising the need for such up to date Medium Secure Units.

Commenting on amended landscape plans:

Does not object or support the application but wishes to reiterate the comments made previously.

OTHER REPRESENTATIONS - 107 letters received objecting to the development, including letters from Residents for the Protection of Nidderdale, Nidderdale Society and residents of Nos 1, 2 & 4 Delves Ridge Road and Nos 4,5,7 & 12 Trafalgar Square.

Grounds of objection: -

- * Public safety and fear of crime
- * Unsustainable location
- * Harm to landscape of AONB
- * Lack of public transport
- * Noise pollution
- * Light pollution
- * Perimeter fence not high enough
- * Harm to wildlife
- * Increased surface water run-off
- * Sewerage facilities inadequate
- * No local economic benefit
- * Increased traffic
- * Increase in built form
- * Would discourage use of bridleway
- * Harm to residential amenity of near neighbours
- * EIA is flawed.

VOLUNTARY NEIGHBOUR NOTIFICATION - Public meeting held prior to submission of previous application. Meeting held with residents of Delves Ridge Road and Trafalgar Square prior to submission of current application.

ASSESSMENT OF MAIN ISSUES

1. POLICY - Government Guidance in PPS1(Delivering Sustainable Development) states that planning policies should seek to protect and enhance the quality, character and amenity value of the countryside and urban areas as a whole. ' *A high level of protection should be given to most valued townscapes and landscapes...Those with national and international designations should receive the highest level of protection.*'

PPS1 goes on to state that local planning authorities should prepare robust policies on design and access. Key objectives should include ensuring that developments create safe and accessible environments where crime and disorder or fear of crime does not undermine quality of life or community cohesion.

PPS1 also states that design which fails to take the opportunities available for improving the character and quality of an area should not be accepted.

PPS7 sets out key principles for development in rural areas. The guidance states that new building development in the open countryside away from existing settlements should be

strictly controlled - the Government's aim being to protect the countryside for the sake of its intrinsic character and beauty. PPS7 goes on to say that priority should be given to the re-use of previously-developed ('brownfield') sites in preference to the development of greenfield sites.

PPS7 states that nationally designated areas such as AONBs have been confirmed by the Government as having the highest status of protection in relation to landscape and scenic beauty. The conservation of the natural beauty of the landscape and countryside should therefore be given great weight in planning policies and development control decisions in these areas.

Accordingly, PPS7 states that major developments should not take place in these designated areas, except in exceptional circumstances. Furthermore, because of the serious impact that major developments may have on these areas of natural beauty, applications for such developments should be subject to the most rigorous examination. Consideration of such applications should therefore include an assessment of; the need for the development, the cost and scope of developing outside the designated area, and any detrimental effect on the environment (including landscape).

PPG13 (Transport) states that, when determining the acceptability of developments which will not be well served by public transport, local planning authorities should consider the extent to which the proposal needs to be in the location, pay particular attention to scale, layout parking and access arrangements, and seek measures to increase access to the site by suitable transport modes.

One of the key objectives of PPS25 (Development and Flood Risk) is to ensure that flood risk is taken into account at all stages in the planning process. The guidance confirms that effective disposal of surface water from development is a material planning consideration. Surface water arising from a developed site should, as far as is practicable, be managed in a sustainable manner to mimic the surface water flows arising from the site prior to the proposed development, while reducing the flood risk to the site itself and elsewhere, taking climate change into account. This should be demonstrated as part of the flood risk assessment.

Safer Places: The Planning System and Crime Prevention (February 2004), notes that community safety is an aspect of the quality of life in which people are sufficiently free from, or reassured about, a range of real and perceived risks centering on crime and related misbehaviour.

Local Plan Policy C1 states that within the Nidderdale AONB priority will be given to the conservation of the natural beauty of the landscape. The policy goes on to state that within the AONB:

A) Development which would have a significant adverse impact on the landscape will not be permitted.

B) Development should, wherever possible, be located in or adjacent to existing settlements.

C) Development in the open countryside will be permitted where it complies with criteria A) and B) of this Policy and

- i) contributes to the rural economy*
- ii) satisfies a need for local community facilities; or*
- iii) is for the purpose of recreation*

D) Proposals for large scale developments in the open countryside will not be permitted unless:

- i) proven to be in the national interest, and*
- ii) incapable of being located outside AONB, and*
- iii) the environmental impact has been fully assessed and if acceptable any adverse effects minimised.*

E) Where development is permitted, the highest standards of design will be required which should reflect the local distinctiveness of the area.'

As the site is within the AONB, the policies of the AONB Management Plan are also relevant. Policy LC1 of the Management Plan is to ensure that new residential and commercial development does not cause harm to the landscape of the AONB.

Local Plan Policy HD20 states that proposals for new development and redevelopment should take into account certain design principles, including:

- A) New buildings should make a positive contribution to the spatial quality of the area and their siting and density should respect the area's character and layout.
- B) New buildings should respect the local distinctiveness of existing buildings, settlements and their landscape setting.
- C) New buildings should respect the scale, proportions and height of neighbouring properties.
- D) New building design should respect, but necessarily mimic, the character of their surroundings and, in important locations, should make a particularly strong contribution to the visual quality of the area.
- E) Fenestration should be well proportioned, well balanced within the elevation and sympathetic to adjoining buildings
- F) The use and application of building materials should respect materials of neighbouring buildings and the local area.
- G) New development should be designed with suitable landscaping as an integral part of the scheme.

Local Plan Policy A1 states that proposals for development should make a positive contribution to the area. Proposals will not be permitted where they would result in a detrimental effect on the visual amenity and character of the area, or have an unacceptable effect on residential amenity.

I) new development should respect the privacy and amenity of nearby residents and occupiers of adjacent buildings.

Development which is contrary to these design principles will not be permitted.

Local Plan Policy C2 states that development should protect existing landscape character.

Local Plan Policy C15 states that outside the development limits of settlements existing

land uses are expected to remain for the most part undisturbed.

Local Plan Policy CF9 states that proposals for new community facilities, including health services, will be expected to be provided within the development limits of the main settlements and larger villages, or within the confines of smaller villages in accordance with the following requirements:

- A) the site should be easily accessible for the community to be served, including those without a private car;
- B) there should be no adverse impact on residential amenity;
- C) there should be no significant loss of industrial, business or housing land or buildings, recreational land or important amenity open space.

When the previous application was considered in 2005 Local Plan Policy C17 was in force. This made provision for infilling or redevelopment of major developed sites in the open countryside. The previous recommendation to grant planning permission was partly based on a judgment balancing the requirements of Local Plan Policies C1 and C17, but this was criticised in the Judicial Review.

The situation now has changed in that Policy C17 has not been saved. Local Plan Policy C1 therefore remains the prime Local Plan Policy in terms of considering this application.

Local Plan Policy C16 states that outside development limits and the built-up confines of settlements, all proposals for the re-use and adaptation of rural buildings should have regard to certain criteria. The proposal, by virtue of any physical changes and the level of activity associated with the proposed use, should not harm the character or appearance of the countryside or of the building itself.

Local Plan Policy HD13 states that proposals which would involve the loss of trees or woodland which contribute to the character or setting of a settlement will not be permitted.

Local Plan Policy R11 states that, when considering development proposals which affect public rights of way, these rights of way and the opportunities they afford for informal recreation should be retained.

2. ENVIRONMENTAL IMPACT ASSESSMENT - Following the challenge in the European Court by the objectors, the applicant decided to submit an Environmental Impact Statement in accordance with the Council's second Screening Opinion. This opinion determined that the proposed development fell with Schedule 2 of the Environmental Impact Assessment Regulations, being an Urban Development Project within a defined sensitive area (the AONB).

Although the Government Office subsequently decided that this was not an E IA development, that decision did not give reasons and was found to be flawed in the European Court.

In giving the Screening Opinion, the Council provided a list of topics it expected to be covered in the Statement. However a formal Scoping Opinion was not provided and the applicant did not request one.

The Environmental Statement includes the following:

- Landscape & Visual Impact Assessment by Randall Thorp
- Light Pollution Study by Clancy Consulting Ltd
- Environmental Audit
- Drainage Reports by Bolton Priestley
- Waste Assessment
- Bat Survey by Baker Shepherd Gillespie
- Phase I Habitat Survey
- Traffic and Transport Assessment by Singleton Clamp and Partners
- Non-technical summary

The Residents for the Protection of Nidderdale have questioned the adequacy of the Environmental Statement, particularly with regard to its coverage of landscape, drainage and highway issues. This issue is dealt with in the relevant sections of this report (3. Landscape, 7. Drainage, 8. Traffic). If the Environmental Statement is considered to be inadequate in any way, this itself could be reason for refusing planning permission.

3. IMPACT ON AONB - The Environmental Statement included a Landscape Assessment carried out by

a) Landscape

Harrogate District's Landscape Character Assessment 2004 is used in support of Policy C2 and states (Area 15) that:

'This is an elevated exposed transitional landscape that is highly visible and as a result is sensitive to change through the expansion of existing development and new development'

The applicants carried out an outline landscape and visual assessment in July 2008 to investigate the appearance of the development from various distances and locations. The potential extent to which the site would be visible from surrounding areas is set out below:

- * Menwith Hill Road, to the north, from close range at the site entrance;
- * Menwith Hill Road when approaching from the east, from a distance of approximately 0.4km;
- * The PROW to the east, from a distance of approximately 0.6km;
- * The PROW to the west from close range at the site boundary and as far as 1.0km where the PROW heads south; and
- * Delves Ridge Lodge to the south, from a distance of approximately 0.2km.

The assessment concluded that there is likely to be a high degree of visibility of the site but this visibility would be mitigated by the following existing tree cover:

- the large rectangular conifer plantation at the west boundary of the site that extends to the north of Menwith Hill Road;
- the long thin shelterbelt that runs in an east west direction and the plantation associated with Meagill Lane Farm;

- deciduous clumps of trees along the south verge of Menwith Hill Road .
- the bordering woodland to the southeast

Landscape proposals were submitted with the Applicant's Landscape and Visual Impact Assessment (LVIA), and these were updated following a site meeting with the Council's Landscape Architect. Nevertheless it is still considered that the mitigation proposed is inadequate for the following reasons:

1. Views of the site are mostly from the south where the existing vegetation along the boundary is thin and not fully established. The updated landscape proposals show new planting along this boundary that consists of a hedgerow with standard trees close to the security fence, this is supplemented with standard trees outside the development site. Planting directly adjacent to the perimeter fence may prove to be impractical for reasons of security. The new (most southerly) building is very close to the perimeter fence such that there will be insufficient depth to allow for effective screen planting. At its narrowest the screen belt will be only 2m wide this is not adequate to screen the new buildings and other ancillary uses.
2. There is an existing screen belt to the east boundary but it stops short of the car park offering the potential to allow views into the site. The updated landscape proposals propose the re-alignment of the parking to extend the existing tree belt further south. Although this will be provided it must be recognised that mitigation measures involving planting are not immediately effective.
3. There are potential views from the west across the football pitch and playing fields beyond which there is a double row of young alder. The proposals will involve the loss of these alders to allow for the construction of the accommodation wings. The loss of the trees as a group would have an adverse landscape impact as it would expose the new development, especially from views from the public right of way to the west. The existing buildings are already visible as close as 150m from the bridle path on this boundary. The new buildings will change the view because they are closer to the viewer by at least 30m and will introduce new fencing at 5.2m high around each garden area. Although new shelterbelt planting is proposed the understorey evergreen shrubby species only make up 25% of the mix. There is also the potential for winter views in the short, medium and long term.
4. There is no evidence to support that advance structure planting of site will be practical and possible. Planting is proposed on MOD land to the south, this site will be out of the applicant's control and therefore plans to maintain the screen planting into perpetuity are not guaranteed.

To conclude in terms of overall visibility, the position of the buildings, the lack of proposed structure planting and security issues means that the potential views of the new development will be most apparent at the southern boundary during the operational life of the development. There are new buildings proposed close to the perimeter fence and although these buildings are seen in context with other existing buildings, their direct relationship with the boundary fence and distinct lack of structure planting in this location is likely to result in visual intrusion and harm to the landscape of the AONB.

b) Light Pollution

A Light Pollution Study was submitted to consider the potential effect of the revised lighting scheme upon a change of site use and forms part of the Environmental Impact Assessment (EIA).

According to this Study, the lighting will be provided in the car parks, interconnecting roads, pedestrian paths, the new buildings and the inner security perimeter. It is proposed to remove the perimeter flood lighting although it is understood that this lighting has been non-operational since 2003.

The Light Pollution Study contains a fundamental error, in that the conclusions are based on the belief that the site falls within what is termed an E2 use. This is an Environmental Zone defined in guidance by the Institute of Lighting Engineers (ILE). An example of an E2 zone would be an area of low district brightness such as rural or small village locations. However the application site is within an AONB, which is classed as an E1 zone. By definition this is recognised as the most sensitive of locations.

The study is also not technically correct in terms of meeting requirements for sky glow or Upwards Light Ratio (ULR). The study states that: "The luminaires selected are in compliance with a category 2 site i.e. providing for a limiting Upward Light Ratio of 5% or less". This exceeds the ULR for an E2 use, which should be 2.5% or less. The ULR for an E1 use should be 0%.

To conclude in terms of the potential visual impact of the operational lighting scheme:

- * The study is too generic
- * The highest levels of illumination would be concentrated around the accommodation wings and close to the south boundary of the site where the screening vegetation is not of sufficient depth to mitigate light spill;
- * The conclusions should be based on an E1 use in terms of agreeing the basis of the design, defined principles and proposed lighting levels and the accepted standards of mitigation.
- * The maximum permitted percentage of luminaire lux that goes directly to the sky (ULR) at 5% exceeds the required standards for an E1 use at (0%).

c) Fencing

It is proposed to retain the existing 3.2m high perimeter fence. In addition, 5.2m high fencing would be erected at the end of the gardens which would serve the new residential wings.

The agent has stated that "All patients should have access to fresh air and secure external space and access to and from space for regular exercise with appropriate supervision". The report further goes on to say that "The layout of the accommodation must reconcile potentially conflicting requirements...the need to provide staff with easy but unobtrusive visual and auditory observation". Access to the sports hall, tennis courts and football

pitches will be required to offer patients the opportunity to take part in a wider range of sports on a daily basis and the report goes on to say "The majority of patients are relatively young and physically fit. A sports and exercise area is thus an essential feature if boredom and frustration are to be avoided".

A letter from the agent dated 30 June 2008 states that "It is not proposed that patients will use the sports pitch as the gymnasium, fitness suite and external secure gardens provide for all their fitness needs".

There appears to be some inconsistency, as this site has been chosen in part because it includes an extensive area of land with recreational facilities already in place. This is a significant advantage since it will provide a full range of opportunities in one location for the benefit of the patients in a tranquil setting. All these opportunities indicate that it may be necessary to place a 5.2m high fence around the whole perimeter of the site and not specifically to secure the patient gardens.

Because of inadequacies and inadequate investigations in the information submitted the EIA does not present a clear and sound argument by which to demonstrate that the new development will fit into the existing landscape. There are clear discrepancies in the information submitted in the LVIA and some matters are not clearly clarified or resolved that have the potential to affect the landscape character of the surrounding area and the potential visibility of the site especially in respect to planting, security fencing and lighting. The information submitted does not offer a sufficient evidence base to prove that the proposals will not cause harm to the natural landscape character of the AONB. The site is located in an area where priority is given to the conservation of the natural beauty of the landscape.

Of greater significance is the potential landscape and visual impacts of the requirements for security fencing and lighting. The provision for an increase in lighting is misrepresented in the Lighting Study and LVIA of the EIA and the residual effects of the need for 5.2m high fencing is not fully resolved in the Planning Statement, Lighting Study and LVIA.

Based on this assessment, the Council's Landscape Architect has recommended that planning permission be refused.

The AONB JAC concurs with the assessment of the Council's Landscape Officer, and has objected to the proposed development.

4. PATIENT CARE - There is a recognised shortage of mental health beds throughout the country. Around 28,000 mental health beds are currently provided by the NHS in England. In line with Government policy these numbers have been reduced, with an increasing reliance on the private sector. In 1992 the Reed Report noted that at least 1500 additional places would be needed nationally. In 1998 there were 1509 medium secure unit places in England and Wales in 97 individual facilities including 5 private sector hospitals.

Within the Trent and Yorkshire Region there are only 411 secure beds available to severe a population of over 8.5 million. This represents one bed for every 0.24% of the population compared to the 2-4% who would be expected to suffer severe mental illness.

The applicant PiC (Partnerships in Care) is the UK's leading independent provider of

specialist mental health care. PiC employ 3000 staff throughout the country, over 18 facilities providing over 900 beds.

All patients would be funded by the NHS and generally referred by NHS consultants. All patients would be detained under the provisions of the Mental Health Act 1983 and as such would not be free to leave the Unit without permission. The Unit would be monitored and regulated by various external bodies including the Mental Health Commission and the Healthcare Commission. Units must comply with the standards set out in the National Health Design Guide for Medium Secure Psychiatric Hospitals, the PICU/Low Secure Design Guide and NHS Building Note 35.

As the majority of patients will be relatively young and physically fit, a sports and exercise area are considered to be essential features to ward off boredom and frustration. Patients will be allowed free access to the secure gardens at the end of the wings, which will be enclosed by 5.2m high fences. The sports hall, football pitch and tennis courts will be available under supervision. Such visits outside the main secure area would be permitted under Section 17 of the Mental Health Act 1983.

5. PUBLIC SAFETY - An overwhelming majority of objectors cite fear of crime and public safety as their main cause for concern with the proposed development.

Circular 5/87 states that 'planning authorities are expected to take into account the views of local residents when determining a planning application. Nevertheless on its own local opposition to a proposal is not a reasonable ground for refusal of the planning application unless that opposition is founded upon valid planning reasons which are supported by substantial evidence.'

While fear of crime and anti-social behaviour can be material planning considerations, in practice they can be difficult to sustain as reasons for refusing planning permission unless based on solid evidence. Mere conjecture, supposition or anecdotal evidence would not normally be considered sufficient justification to refuse a planning application for such facilities, and this is borne out in many appeal decisions. The exceptions - where such objections are upheld by Planning Inspectors - tend to be cases where existing facilities (e.g. bail hostels) have a proven track record of causing problems.

While many of the objectors' fears here may be legitimate, much is based on supposition and press reports of what has happened in similar facilities throughout the country. However some objectors have pointed to recent cases at Stockton Hall near York, which is run by the applicants and may have more direct relevance to the application. Recent absconsions have meant that Stockton Hall has had to erect taller perimeter fencing (5.2m) around the site. This case raises two issues which are of relevance to the proposed development. First, it shows that patients can and do abscond from medium secure units (something the applicant has never denied). Second, it raises concerns over the adequacy of retaining the existing 3.2m perimeter fence around Forest Moor.

On the first point, the applicants has stated, in relation to the previous application, that the proposed unit will not house patients with personality disorders and learning disabilities as at Stockton Hall. However if planning permission was granted the Council would have no control over the type of patient admitted, as this would be a matter for other regulatory bodies.

On the matter of fencing, the applicants have repeated their view that the taller 5.2m fencing around the gardens is sufficient for the unit to comply with the Regulations. However a letter received from the Primary Care Trust (**Appendix 1**) throws some doubt on this assertion. Indeed this letter suggests that the limited facilities provided by the proposed development could prejudice the number of referrals it receives. As the developer is a private company relying entirely on NHS referrals, this must raise serious doubts as to the future viability of the unit as proposed. A consequence of this, if planning permission were granted, there might be a future application for a taller perimeter fence, as has happened at Stockton Hall. Notwithstanding the site's location within the AONB, it might be difficult to resist such an application, as planners found at Stockton Hall, which is located in a Conservation Area.

The Department of Health's Best Practice Guidance 2007 sets out the specifications for adult medium secure services, as proposed here. The Guidance states that Medium Secure Units (MSUs) should have a 5.2 m fence of welded mesh surrounding the whole unit. It also states that the perimeter security will not be hampered by the presence of shrubbery close to or growing on the perimeter fence. This is relevant as one of the main planning issues is the visual impact of the proposed extensions, and the applicant is relying heavily on the proposed scheme of planting to mitigate this impact. Much of the proposed planting is close to the perimeter fence.

While there are very real concerns over the adequacy of the fencing, and whether the proposed unit would be 'fit for purpose', it is still considered that it would be difficult to reject the application based purely on fears for public safety when a patient absconds, however real those fears may be.

Prior to this application being submitted the applicants held a series of meetings with the Police to discuss such issues, and it is understood that the Police undertook a risk assessment. However the formal response from the Police to this application has been a simple 'no objection'. The Council have written to the Police asking for a more fulsome response, and while some or part of their risk assessment may be confidential, a longer response should be available at the meeting.

While the fears of most of the objectors, however strongly felt, are not considered sufficient to reject this application, the concerns of those residents immediately adjoining the site are considered to hold more weight. The four former MoD houses abutting the site to the north have been sold on since the last application was considered, as have the 12 houses at Trafalgar Square. Residents on Delves Ridge Road, whose gardens back directly onto the site, have objected on the grounds that the proposed development would make them less likely to use their rear gardens.

It is considered that these fears, whether real or perceived, can be given more weight as a material consideration. Unlike the fears of the wider community - which are largely based on supposing what might happen if a patient absconds - these fears are based on something that will happen if permission is granted. Thus although patients will abscond, such incidents will be the exception. But patients will use the grounds, albeit under supervision, and so the fears of near neighbours are based on fact, not supposition. Furthermore, if these fears mean that these residents would not use their back gardens, it may be argued that the proposed development harms their living conditions and amenity,

and is an appropriate reason for rejecting the proposal.

6. FOUL DRAINAGE - The site is served by a private sewage treatment works to the north of Menwith Hill Road, which also serves the former MoD housing and part of the outfall from Menwith Hill. It is proposed that sewage from the proposed development would be discharged to these works.

The existing Discharge Consent from the sewage works is for 45 cu m/day (Consent No QR27/21/0004 dated 9 January 2006). The contract with the MoD allows a maximum of 92.3 cu m/day to be discharged into the sewage works. Calculations submitted on behalf of the applicants show that the discharge from the proposed Unit, together with the former MoD houses, would be 34 cu m/day. However, in response to the previous application, the Environment Agency estimated that the proposed development would discharge between 55-67 cu m/day depending on staff levels. If the discharge exceeded the levels permitted by the current consent the applicants would have to apply for a variation to the consent. Any such application would have to be advertised and there would be no guarantee that such a variation would be granted. As the discharge of foul drainage is the subject of a separate regulatory mechanism, by itself it would not be a reason for refusing planning permission.

A separate planning application has recently been submitted by the MoD for the installation of a replacement package treatment plant on the site of the existing works (Ref 6.90.254.B.FUL). The replacement facility would have the capacity to treat up to 45 cu m/day and would discharge to Darley Beck via an existing outfall pipe in accordance with the existing discharge consent. The new installation would be adopted by Yorkshire Water.

Clinical waste would be collected by PHS Waste Management, a licensed Clinical Waste management company, and would be disposed of by off-site incineration.

7. SURFACE WATER DRAINAGE - There is a history of ground and surface water flooding problems in this area, and complaints relating to culverts and watercourses downstream of the proposed development, particularly in relation to Volta House on Day Ash Lane.

At present surface water from the site discharges via a 140 cu m balancing tank into High Woods Stream and then to Darley Beck. The existing peak discharge rate is 131 l/s into High Woods Stream.

The proposed development would lead to an increase in hardstanding of around 9% (from 20,390 sq m to 22,311 sq m). It is calculated that an on-site storage capacity of 145 cu m would be required to achieve the required discharge rate of 2.4l/s/ha. Accordingly the proposed development includes the conversion of an existing fire-fighting water tank to provide about 200 cu m of surface water storage. This would then discharge into the existing off-site 140 cu m balancing tank.

The proposed surface water drainage system is based on a 1 in 100 year storm and allows for a 20% increase in rainfall due to climate change in line with current best practice.

These calculations are based on dealing with surface water drainage from the increased area of hardstanding only. However the Council's Drainage Engineer is not satisfied with

this approach, and considers that the development should address surface water drainage from the whole site which is known to be causing flooding problems in the area. This more sustainable approach to flood risk is in line with Government advice in PPS25.

8. TRAFFIC - The Environmental Statement accompanying the application includes a statement dealing with traffic and transport issues. In terms of traffic, it is calculated that the proposed development would generate 238 vehicle movements per day. This compares to the 250-270 movements, which were estimated to have been generated by the site when fully operational. The assessment recognises that the site is in a relatively remote location, and the applicants have offered to draw up a Travel Plan. This would include provision for staff being picked up and dropped off by minibus.

The Highway Authority has not objected to the proposed development, subject to various conditions. One of these relates to the provision of a Travel Plan. Some objectors claim that the Environmental Statement is flawed as it does not contain a Travel Plan. It is argued that the Statement should properly include all the information necessary for the local planning authority to make an informed decision. In response the applicants maintain that it would be unreasonable to expect such a plan to be produced up front, since they do not yet know where staff live. In this instance it is considered that the applicant's case is valid, and it would not be reasonable to expect them to produce a Travel Plan up front. Rather it is reasonable to cover this matter by way of a condition should planning permission be granted, as recommended by the Highway Authority.

9 PUBLIC RIGHT OF WAY - There is concern from some objectors that the proposed development could dissuade people from using the bridleway, and this could be interpreted as interference with the legitimate use of adjoining land. The bridleway is about 180m away from the buildings, and patients would not be allowed onto the fields adjoining the bridleway without supervision. Nonetheless, as with the near neighbours, there may be an argument that the proposed development would interfere with the legitimate use of adjoining land. However, unlike neighbouring residents who use their gardens on a permanent basis, use of the bridleway is by its nature transient, and it is considered that it would be difficult to sustain this argument at appeal.

10.WILDLIFE - The application is accompanied by a Bat Survey and a Phase I Habitat Survey. The Bat Survey, carried out in August 2008, follows surveys carried out in 2005 and 2006. The 2005 survey concluded that a small (non-breeding) roost of pipistrelles was within the roof spaces of one of the buildings due to be demolished. The 2006 survey found no evidence of the presence of other bats, and concluded that the buildings only supported small numbers of bats, but was unlikely to house a maternity bat roost.

No further evidence of bats was found in the 2008 survey, though the roost found in 2005 remained unchanged. The proposed development would therefore lead to the loss of a small bat roost. The survey therefore proposes various mitigation measures, including the erection of bat boxes and the installation of suitable ridge access for bats on other buildings on site. It is considered that these measures would retain and enhance roosting opportunities for bats on site.

The Phase I Habitat Survey concluded that there was no need for further survey work. Aside from bats, no protected species were found on site, although nesting birds may well be present. In mitigation it is recommended that any works are carried out outside the

breeding season.

CONCLUSION

The proposed development represents major development in the protected landscape of the AONB, and is judged to harm the character and appearance of the landscape by virtue of the extension of the built form and light pollution. Furthermore the E IA is considered to be inadequate in terms of its analysis of light pollution.

The proposed development is likely to harm to residential amenities of near neighbours and fails to address the issue of surface water flooding from the site.

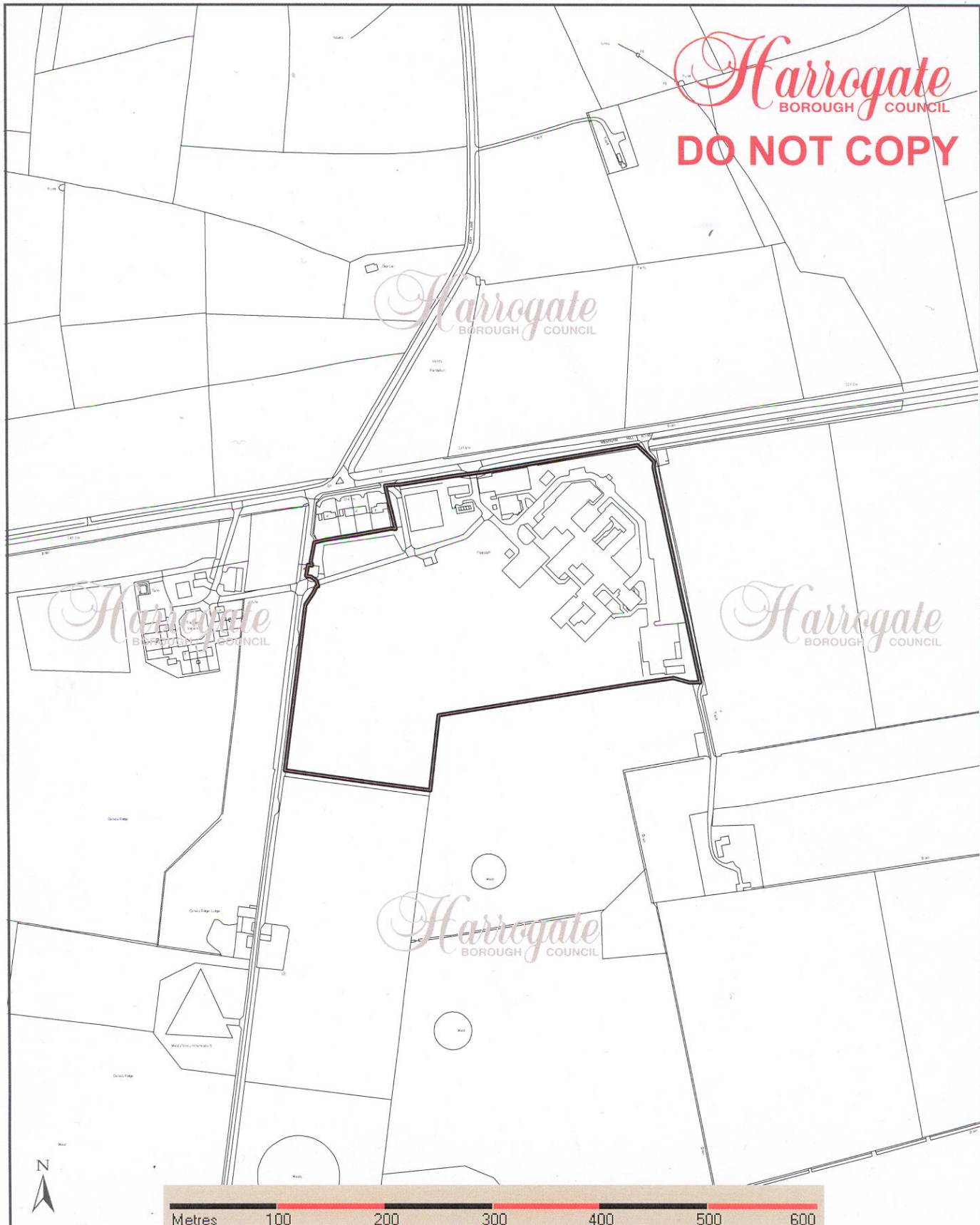
CASE OFFICER:

Mr M Williams

RECOMMENDATION

That the application be REFUSED. Reason(s) for refusal:-

- 1 The proposed development would, by reason of the extension of the built form and light pollution, seriously harm the natural beauty of the Nidderdale AONB, contrary to Government advice in PPS7 and Local Plan Policy C1.
- 2 Notwithstanding the national need for Medium Secure Units, the proposed development is unlikely to be fit for purpose due to the inadequate height of the existing perimeter fencing.
- 3 The use of the grounds by patients, albeit under escort, is likely to restrict the use of the domestic gardens which abut the site by local residents due to their real or perceived fears over public safety. The proposed development would therefore harm the residential amenities of these neighbours, contrary to Local Plan Policies A1 and CF9.
- 4 The information supplied in the Environmental Impact Assessment fails to demonstrate that the proposed development would fit into the existing landscape. Furthermore, the Environmental Statement misrepresents the impact of light pollution on the landscape. The mitigating effect of the proposed planting scheme is also likely to be compromised by the needs of security, which would render the proposed extensions more visually intrusive.
- 5 The proposed development fails to adequately address the existing surface water flooding from the site, contrary to guidance in PPS25.



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Department of Development Services

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Harrogate Borough Council 1000 19628 2008.

PLANNING COMMITTEE

Item No. **1**

App No./Case No.		08/05096/EIAMAJ 6.90.201.B.EIAMAJ	
Scale (at A4 size)	1:5000	Site area	8.03ha
Drawn	MDTT	Date	06.01.2009
		Site boundary	