



Meeting: **SPECIAL PLANNING COMMITTEE**
Date: **WEDNESDAY 29 JUNE 2016**
Time: **2.00 PM**
Venue: **COUNCIL CHAMBER**
To: **Councillors J Cattanach (Chair), D Peart (Vice Chair),
Mrs L Casling, I Chilvers, J Deans, D Mackay, C Pearson,
P Welch and B Marshall.**

Agenda

- 1. Apologies for Absence**
- 2. Disclosures of Interest**

A copy of the Register of Interest for each Selby District Councillor is available for inspection at www.selby.gov.uk.

Councillors should declare to the meeting any disclosable pecuniary interest in any item of business on this agenda which is not already entered in their Register of Interests.

Councillors should leave the meeting and take no part in the consideration, discussion or vote on any matter in which they have a disclosable pecuniary interest.

Councillors should also declare any other interests. Having made the declaration, provided the other interest is not a disclosable pecuniary interest, the Councillor may stay in the meeting, speak and vote on that item of business.

If in doubt, Councillors are advised to seek advice from the Monitoring Officer.

- 3. Chair's Address to the Planning Committee**
- 4. Minutes**

To confirm as a correct record the minutes of the Planning Committee meetings held on 1 June and 8 June 2016 (pages 1-16 attached).

5. Suspension of Council Procedure Rules

The Planning Committee are asked to agree to the suspension of Council Procedure Rules 15.1 and 15.6(a) for the Committee meeting. This facilitates an open debate within the Committee on the planning merits of the application without the need to have a proposal or amendment moved and seconded first. Councillors are reminded that at the end of the debate the Chair will ask for a proposal to be moved and seconded. Any alternative motion to this which is proposed and seconded will be considered as an amendment. Councillors who wish to propose a motion against the recommendations of the officers should ensure that they give valid planning reasons for doing so.

6. Planning Applications Received

- 6.1 2016/0195/OUT - Hodgson's Lane, Sherburn In Elmet
(pages 18 – 78 attached)
- 6.2 2015/0544/OUT - Hodgson's Lane, Sherburn In Elmet
(pages 79 – 133 attached)
- 6.3 2015/0895/OUT - Land at Hodgson's Lane, Sherburn In Elmet
(pages 134 – 191 attached)
- 6.4 2015/0848/OUT - Pinfold Garth, Sherburn In Elmet
(pages 192 – 252 attached)

Gillian Marshall
Solicitor to the Council

Dates of next meetings
Wednesday 13 July 2016
Wednesday 3 August 2016

Enquiries relating to this agenda, please contact Janine Jenkinson on:
Tel: 01757 292268, Email: jjenkinson@selby.gov.uk

Recording at Council Meetings

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Minutes

Planning Committee

Venue:	Council Chamber
Date:	1 June 2016
Time:	2.00 pm
Present:	Councillors Cattanach (Chair), D Peart (Vice Chair), D Buckle (substitute for Mrs E Casling), I Chilvers, J Deans, D Mackay), P Welch, B Marshall, and C Pearson.
Apologies for Absence:	Councillor Mrs E Casling.
Officers Present:	Ruth Hardingham – Principal Planning Officer, Calum Rowley – Senior Planning Officer, Nigel Gould – Principal Planning Officer, Keith Thompson – Senior Planning Officer, Kelly Dawson – Senior Solicitor, and Janine Jenkinson – Democratic Services Officer.

Public: 9

Press: 1

1. DISCLOSURES OF INTEREST

Councillor Dave Peart declared a non-pecuniary interest in agenda items 6.6 – 2016/0312/ADV – Selby Leisure Village, Scott Road, Selby and 6.7 – 2016/0254/FUL – Selby Leisure Centre, Scott Road, Selby, due to having been a member of the Executive of Selby District Council when funding for the proposals was considered. He stated that in the interest of transparency, he would take no part in the consideration of the applications.

2. CHAIR'S ADDRESS TO THE PLANNING COMMITTEE

The Chair informed the Committee that on 11 May 2016 the Court of Appeal had allowed the Secretary of State's appeal in the challenge brought by Reading Borough

Council and West Berkshire District Council against the Written Ministerial Statement (WMS) dated 28 November 2014 in relation to affordable housing and tariff based contributions on small schemes. Officers had reviewed the judgement and in light of the decision, the Written Ministerial Statement was a material consideration and therefore, a report would be brought to next week's Committee meeting in relation to the applications affected and to consider the creation of a Sub-Committee.

In addition, the Chair reported that Councillor Richard Musgrave had resigned from the Planning Committee and had been appointed as a member of the Executive. The Committee was informed that Councillor Dave Peart had joined the Planning Committee as Vice Chair. Members welcomed Councillor Peart to the Committee.

3. MINUTES

The Committee considered the minutes of the meeting held on 11 May 2016.

RESOLVED:

To APPROVE the minutes of the Planning Committee held on 11 May 2016, and they be signed by the Chair.

4. SUSPENSION OF COUNCIL PROCEDURE RULES

The Committee considered the suspension of Council Procedure Rules 15.1 and 15.6 (a) in the Constitution, to allow a more effective discussion on applications.

RESOLVED:

To agree the suspension of Council Procedure Rules 15.1 and 15.6 (a) for the Committee meeting.

5. PLANNING APPLICATIONS RECEIVED

- 5.1 Application: 216/0161/MLA**
Location: Flaxley Road
Selby
Proposal: Application to modify a section 106 planning
obligation under section 106BA following approval
of 2015/0341/OUT.

The Principal Planning Officer introduced the application and referred the Committee to the additional information provided in the update note.

The application had been brought to Planning Committee following the lodging of an Appeal by the appellants in relation to a decision issued on 13 April 2016.

The Committee was informed that a Hearing was expected to be held in late June/July 2016 with evidence and the agreements of Statements of Common Ground to be completed and submitted by officers in advance. As such, councillors' views were sought on the submission and agreement to the general grounds/scope of the case that officers and their advisors would present at the Hearing.

The Principal Planning Officer's recommendation as detailed in the report was proposed and seconded.

RESOLVED:

- I. **To AGREE that officers progress the case on the basis that the scheme can provide 40% Affordable Housing in-line with the advice of the District Valuer.**
- II. **To AGREE that officers can offer via evidence to utilization of a 20% developer profit level, contrary to the advice of the District Valuer, for the assessment and thus agree via the Hearing to a 35% of units on the site to be affordable as a fall-back position.**

**5.2 Application: 2016/0197/REM
Location: Land Near Crossing At Leeds Road
Thorpe Willoughby
Proposal: Reserved matters application relating
to the approval of details of
appearance, landscaping, layout and
scale in relation to the development of
276 homes and associated
infrastructure of approval
2014/1028/OUT Outline planning
permission for residential development
including access, all other matters are
reserved for future consideration.**

The Principal Planning Officer introduced the application and referred members to the additional information provided in the update note.

The application had been brought before the Committee due to the number of objections received.

Members were advised that the principle of residential development on the site had been established through the outline approval referenced 2014/1028/OUT. It was explained that the Section 106 Agreement which accompanied the outline approval secured 40% on site affordable housing, an education contribution for the primary school and secondary school, healthcare contribution, on-site open space provision, waste and recycling contribution. The application was therefore to consider the reserved matters with respect to appearance, landscaping, layout and scale to the development.

The Principle Planning Officer reported that having assessed the proposals against the relevant policies the proposal was considered acceptable. Members were recommended to approve the application.

Paul Butler, the applicant's Agent spoke in support of the application.

The Principal Planning Officer's recommendation to approve the application was proposed and seconded.

RESOLVED:

To APPROVE the application subject to the conditions detailed in section 2.17 of the report and any conditions from the Highway Authority.

5.3 Application: 2016/0332/OUT
Location: Land at Former Airfield
Lennerton Lane
Sherburn in Elmet
Proposal: Section 73 application for variation of conditions 7
(access), 9 (b) (footway/cycleway and crossing
points), 11 (a) (footway/cycleway and crossing
points) and 38 (drawings) of approval 2014/1235/FUL.

The Principal Planning Officer introduced the application and referred members to the additional information provided in the update note.

The application had been brought before the Planning Committee due to the proposal relating to a previously approved outline scheme which had been determined by Planning Committee.

Members were advised that since the compilation of the report, the description of the application had been amended to 'Section 73 application for the variation of conditions 7 (access), 9 (b) (footways/cycleway and crossing points), 11 (a) (footway/cycleway and crossing points), 17 (surface water drainage), 19 (foul water drainage), 38 (drawings) of approval 2014/1235/FUL'.

The Principal Planning Officer reported that having taken into account the policy context, minor changes to the proposed scheme and the variation to the conditions, it was considered that the proposals were acceptable and would allow the Local Planning Authority sufficient controls with respect to details covered by condition and would not have any significant adverse impact on the existing highway network.

Iain Bath, the applicant's Agent, spoke in support of the application.

The Principle Planning Officer's recommendation was proposed and seconded.

RESOLVED:

To APPROVE the application, subject to the revised application description, as detailed in the update note, amended conditions 17 and 19 as detailed in the update note, delegation being given to officers to complete the Deed of Variation to the original Section 106 Agreement and the conditions set out in section 2.8 of the report.

5.4 **Application:** **2016/0298/FUL**
 Location: **The Briars**
 Main Street
 Appleton Roebuck
 Proposal: **Section 73 application to vary condition 09 (plans)**
 of planning permission 2010/0086/FUL for the
 erection of a detached single storey dwelling on
 land to the rear and creation of a new access for
 the existing dwelling.

The Principal Planning Officer introduced the application and referred members to the additional information provided in the update note.

The application had been brought before the Planning Committee as officers considered that although the proposal was contrary to the provisions of the Development Plan there were material considerations which would justify approving the application.

Members were advised that the principle of the development for residential development at the site had been established under the previous, extant planning permission. Furthermore, the proposal was acceptable in respect of its design and impact on the character and appearance of the area impact on residential amenity, highway safety and parking and flood risk.

The Committee was advised that the existing extant consent represented a fall-back position and it would be unreasonable to require the applicant to pay the commuted sum required under Policy SP9. Officers considered that the fall-back position was of sufficient weight to outweigh the policy requirement for a commuted sum on affordable housing.

The Principal Planning Officer's recommendation to approve the application was proposed and seconded.

RESOLVED:

To APPROVE the application, subject to conditions detailed in section 2.13 of the report.

5.5 **Application:** **2015/1325/FUL**
 Location: **Water Lane**
 Eggborough
 Goole
 Proposal: **Development of 4no. detached houses and**
 associated works.

The Senior Planning Officer introduced the application and referred members to the information provided in the update note.

The application had been brought before Planning Committee because officers considered that although the application was contrary to the provisions of the Development Plan there were material considerations which would justify approving the application. There had also been two objections to the proposal.

Members were advised that there was an extant planning permission for the erection of seven dwellings on the site which had been approved in October 2013 under planning reference 2011/0261/FUL. The extant planning permission was considered to be a clear fall-back position that was a material consideration of sufficient weight to outweigh the provisions of Policy SP9 of the Core Strategy, the Affordable Housing SPD and paragraphs 50 of the National Planning Policy Framework (NPPF) because 7 dwellings could be erected without any affordable housing contribution. The Senior Planning Officer reported that this was a material consideration of substantial weight which was considered would outweigh the requirements of Policy SP9 of the Selby District Core Strategy Local Plan.

The Committee was advised that having assessed the proposals against the relevant policies the application was considered to be acceptable, subject to suitable conditions.

Chris Carole, the applicant’s Agent, spoke in support of the application.

The Senior Planning Officer’s recommendation to approve the application was moved and seconded.

RESOLVED:

To APPROVE, the application, subject to conditions detailed in section 2.17 of the report and the revised conditions detailed in the update note.

Note – Further to his declaration of interest, Councillor D Peart took no part in the consideration of the following application. He remained in the Council Chamber.

**5.6 Application: 2016/0312/ADV
 Location: Selby Leisure Village
 Scott Road, Selby
 Proposal: Advertisement consent for 1 No illuminated
 fascia sign, 2 No non-illuminated fascia signs
 and 2 totem signs.**

The Principal Planning Officer introduced the application and explained that the proposal had been brought before the Planning Committee as it was an application submitted on behalf of Selby District Council.

Members were advised that the application would achieve an appropriate design which would ensure that there was no significant detrimental impact on the character

of the area. Furthermore the proposed advertisement would not be to the detriment of public safety.

The Principal Planning Officer’s recommendation to approve the application was moved and seconded.

RESOLVED:

To APPROVE the application, subject to conditions detailed in section 3.0 of the report.

Note – Further to his declaration of interest, Councillor D Peart took no part in the consideration of the following application. He remained in the Council Chamber.

- 5.7 **Application:** 2016/0254/FUL
- Location:** Selby Leisure Centre
- Scott Road, Selby
- Proposal:** Proposed extension of existing car park serving
- Selby Leisure Centre and Summit Indoor Adventure
- (Selby Leisure Village) to provide additional 23 car
- parking bays and associated pathways, relocation of
- existing bin store to location at rear with improved
- access for bin lorry.

The Principal Planning Officer introduced the application and explained that the proposal had been brought before the Planning Committee as it was an application submitted on behalf of Selby District Council.

Members were advised that the proposed development was considered acceptable in principle given that the site was located within the defined development limits and on the edge of the centre of the Principal Town of Selby and there had been no sequentially preferable sites identified to accommodate the development with the town centre itself.

The Principal Planning Officer reported that the proposals would achieve an appropriate design which ensured that there was no significant detrimental impact on the character of the area.

The Principle Planning Officer’s recommendation to approve the application was moved and seconded.

RESOLVED:

To APPROVE the application, subject to no objections from the Council’s Contamination Consultant and subject to the conditions detailed in section 3.0 of the report.

5.8 Application: 2015/1387/FUL
Location: Park Row
Selby
Proposal: Erection of 4 terraced houses with off-street parking
at Conservative Club Car Park.

The Senior Planning Officer introduced the report and referred members to the additional information provided in the update note.

The application had been brought before the Planning Committee as officers considered that although the proposal was contrary to the provisions of the Development Plan, namely SP9 'Affordable Housing', there were material considerations which would justify approving the application.

Members were advised that the principle of development for housing on the site had been firmly established under the previous, extant, outline planning permission and details in the reserved matters application. Furthermore, the proposal was acceptable in respect of its design and layout, impact on residential amenity, flood risk and climate change and highways and the character of the Conservation Area and setting of nearby listed buildings.

The Senior Planning Officer reported that given that the development had commenced with the units for sale, it was considered that the extant consent represented a fall-back position and therefore it would be unreasonable to require the applicant to pay the commuted sum required under Policy SP9. Officers considered that the fall-back position was of sufficient weight to outweigh the policy requirement for a commuted sum. The Committee was recommended to approve the application.

The Senior Planning Officer's recommendation to approve the application was moved and seconded.

RESOLVED:

That the Committee was minded to APPROVE the application, subject to the conditions attached in section 3.0 of the report and delegated powers being granted to officers to determine the application on the expiration of the 21 day consultation period, provided no material objections had been raised.

The Chair closed the meeting at 3.08 p.m.

Planning Committee

Venue:	Council Chamber
Date:	8 June 2016
Time:	2.00 pm
Present:	Councillors Cattanach (Chair), D Peart, (Vice Chair) Mrs E Casling, I Chilvers, J Deans, Mrs S Duckett (substitute for P Welch), D Mackay, B Marshall, and C Pearson.
Apologies for Absence:	Councillor P Welch.
Officers Present:	Richard Sunter - Lead Officer, Planning, Ruth Hardingham – Principal Planning Officer, Calum Rowley – Senior Planning Officer, Yvonne Naylor – Principal Planning Officer, Diane Wilson – Planning Officer, Kelly Dawson – Senior Solicitor, and Janine Jenkinson – Democratic Services Officer.

Public: 11

Press: 1

1. DISCLOSURES OF INTEREST

All councillors declared that they had received email representations in relation to application 2015/1198/FUL – Studley, Church Lane, Appleton Roebuck.

2. CHAIR'S ADDRESS TO THE PLANNING COMMITTEE

The Chair announced that it would be the Lead Officer (Planning) - Richard Sunter's last Planning Committee meeting with the Council as he was leaving to take up a new position. The Committee thanked the Lead Officer for his hard work and support over the last 10 years and wished him well in his new role.

The Committee was informed that application 2016/0359/OUT, Land South off Moor Lane, Sherburn In Elmet had been withdrawn from the agenda due to a request for further information by the North Yorkshire County Council (NYCC) Flood Risk Officer relating to run off rates and to enable discussions between the applicant, Yorkshire Water and the Internal Drainage Board prior to determination of the application.

The Chair advised the Committee that the running order of the agenda had been revised to allow those applications with public speakers to be brought forward and considered ahead of the other agenda items.

3. SUSPENSION OF COUNCIL PROCEDURE RULES

The Committee considered the suspension of Council Procedure Rules 15.1 and 15.6 (a) in the Constitution, to allow a more effective discussion on applications.

RESOLVED:

To agree the suspension of Council Procedure Rules 15.1 and 15.6 (a) for the Committee meeting.

4. AFFORDABLE HOUSING AND TARIFF BASED CONTRIBUTIONS – THE DECISION IN SECRETARY OF STATE FOR COMMUNITIES AND LOCAL GOVERNMENT V WEST BERKSHIRE DISTRICT COUNCIL AND READING BOROUGH COUNCIL

The Senior Solicitor introduced the report and explained that on 28 November 2014, the Minister of State for Housing and Planning had issued a Written Ministerial Statement (WMS) to the effect that S106 affordable housing, a tariff style contribution on residential sites of 1 -10 dwellings which have a maximum combined gross floor space of no more than 100 square meters, should not be sought due to the disproportionate effect such contributions had on small development.

The Committee was informed that on 29 November 2014 the National Planning Practice Guidance (PPG) had been amended to incorporate the changes. The change to national policy and the resultant PPG were both material considerations to be weighed in the planning balance against the Development Plan.

The Senior Solicitor explained that in response to the changes, the Council had created a Planning Sub-Committee (Small Developments) as approval contrary to the Development Plan could not be given under delegated powers.

On 31 July 2015 the High Court heard a Judicial Review claim brought by Reading Borough Council and West Berkshire District Council against the change to national policy. The High Court decided that the policy contained in the WMS and PPG was unlawful and accordingly granted a declaration that the WMS did not constitute a material planning consideration and quashed the PPG. As a result, no applications met the criteria to be considered by the Planning Sub-Committee, and it had fallen into abeyance.

The Senior Solicitor explained that on 11 May 2016, the Court of Appeal allowed the Secretary of State's appeal against the High Court decision, and as a result the WMS was once again a material consideration. Government was expected to make revisions to the PPG to reinstate the quashed paragraphs. The Senior Solicitor therefore advised that within this context, it was considered necessary to re-create the Planning Sub-Committee (Small Developments).

The Committee was informed that to manage the number of applications being considered at Planning Committee, it was proposed to re-create the Planning Sub-Committee (Small Developments) to consider those cases where the only reason for referral to Committee was the conflict between the requirements of the Development Plan and the WMS and where there had been less than three letters of representation received.

Councillors were advised that matters where there had been objections on other grounds would continue to be dealt with by the full Planning Committee. The applications referred to the Planning Sub-Committee would consist only of those applications where the sole issue was the conflict between the Development Plan and the WMS of 28 November 2014.

RESOLVED:

- I. To note the Written Ministerial Statement on affordable housing and tariff based s106 contributions on developments of 1-10 dwellings.**
- II. To create a Planning Sub-Committee (Small Developments) with the Terms of Reference set out at Appendix A of the report.**
- III. To delegate power to the Chief Executive to appoint the members of the Planning Sub-Committee.**

5. RECONSIDERATION OF APPLICATIONS PREVIOUSLY APPROVED REQUIRING AFFORDABLE HOUSING AND TARIFF BASED CONTRIBUTIONS

The Senior Solicitor introduced the report and explained that the table set out in Appendix A of the report showed those applications which had been reported to Committee and had been approved subject to a s106 Agreement to secure affordable housing and other contributions, prior to the Secretary of State for Communities and Local Government v West Berkshire District Council and Reading Borough Council appeal decision on 11 May 2016. In each of these cases the decision notice had not yet been issued as legal agreements had not yet been completed.

Councillors were advised that as there had been a change in the material considerations since Committee approved the applications it was now necessary to re-consider the applications. In each case, officers had confirmed that no material changes other than the WMS had taken place since the provisional approval.

RESOLVED:

- I. **To note the Written Ministerial Statement on affordable housing and tariff based s106 contributions on development of 1-10 dwellings.**
- II. **To approve the applications set out in Appendix A of the report, subject to the conditions previous attached and the addition of a condition that contributions be made for waste and recycling in accordance with policy and without an affordable housing requirement.**

6. PLANNING APPLICATIONS RECEIVED

- 6.1 **Application: 2015/1186/FUL**
 Location: Yew Tree House
 Chapel Green
 Appleton Roebuck
 Proposal: Proposed erection of a 3 bedroom
 detached dormer bungalow
 following the demolition of a
 detached garage and stone garden
 wall

The Planning Officer introduced the application and referred the Committee to the additional information provided in the update note.

The application had been brought before the Planning Committee due to the recent Court of Appeal judgement in relation to the West Berkshire case. Prior to the appeal judgement, the Council had been able to seek a contribution for Affordable Housing under SP9 of the Core Strategy and the Affordable Housing SPD from development under 10 residential units. Following the recent Court judgement, the proposal was contrary to the provisions of the Development Plan, however it was considered that there were material considerations which would justify approving the application.

Councillor J Deans left the Council Chamber during consideration of the application.

Stuart Natkus spoke in objection to the application.

John Brookman, the applicant's agent, spoke in support of the application.

Councillors raised concerns in relation to drainage, loss of amenity, inadequate access, car parking and the presence of nearby tree.

Councillor J Deans return to the Council Chamber, however in-line with the Council's procedure, he took no part in the discussion or voting on the application.

A proposal to approve the Planning Officer's recommendation as detailed in the report and update note was moved and seconded. The proposal was not supported by the Committee and fell accordingly.

Council had been able to seek a contribution for Affordable Housing under SP9 of the Core Strategy and the Affordable Housing SPD from development under 10 residential units. Following the recent Court judgement, the proposal was contrary to the provisions of the Development Plan, however it was considered that there were material considerations which would justify approving the application.

In addition, Ward Councillor for Monk Fryston, Councillor John Mackman had requested the application be considered by Committee rather than determined via delegated powers; however it was noted that the request had been made outside the agreed timescale for submission of such a request.

The Principal Planning Officer reported that the recent Court of Appeal decision was a material consideration of substantial weight which outweighed the policy requirement for a commuted sum. Councillors were advised that having had regard to Policy SP9 and the PPG, on balance, the application was considered acceptable without a contribution for affordable housing.

The Principal Planning Officer's recommendation for approval was moved and seconded.

RESOLVED:

To APPROVE the application, subject to conditions detailed in section 2.23 of the report.

- 6.2 Application: 2015/1198/FUL**
- Location: Studley, Church Lane,**
- Appleton Roebuck**
- Proposal: Demolition of existing dwelling and erection of**
- a new dwelling, conversion of existing garage**
- to granny flat and erection of an attached**
- single garage**

The Senior Planning Officer introduced the application and referred the Committee to the additional information provided in the update note.

The application had been brought before the Planning Committee due to the recent Court of Appeal Judgement in relation to the West Berkshire case. Prior to the appeal judgement, the Council had been able to seek a contribution for Affordable Housing under SP9 of the Core Strategy and the Affordable Housing SPD from development under 10 residential units. Following the recent Court judgement, the proposal was contrary to the provisions of the Development Plan, however it was considered that there were material considerations which would justify approving the application.

The Senior Planning Officer advised the Committee that the principle of the development was considered to be acceptable having had regard to Policy SP2A (c) of the Core Strategy Local Plan given the location of the development within the defined development limits of a Designated Service Village. Councillors were therefore recommended to approve the application.

Items for Planning Committee
29 June 2016

Ref	Site Address	Description	Officer	Page
2016/0195/OUT	Hodgson's Lane, Sherburn In Elmet	Outline application for up to 270 residential dwellings including details of vehicular access (all other matters reserved)	DASY	18-78
2015/0544/OUT	Hodgson's Lane, Sherburn In Elmet	Outline application for up to 270 residential dwellings including details of vehicular access (all other matters reserved)	DASY	79-133
2015/0895/OUT	Land at Hodgsons Lane, Sherburn In Elmet	Outline application (with all detailed matters reserved) for residential development	DASY	134-191
2015/0848/OUT	Pinfold Garth, Sherburn In Elmet	Outline application for residential development comprising up to 60 dwellings, areas of open space, landscaping and associated infrastructure with all matters reserved except access on land to north	DASY	192-252



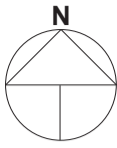
APPLICATION SITE

Item No: 2016/0195/OUT

Address: Hodgsons Gate, Hodgsons Lane, Sherburn in Elmet

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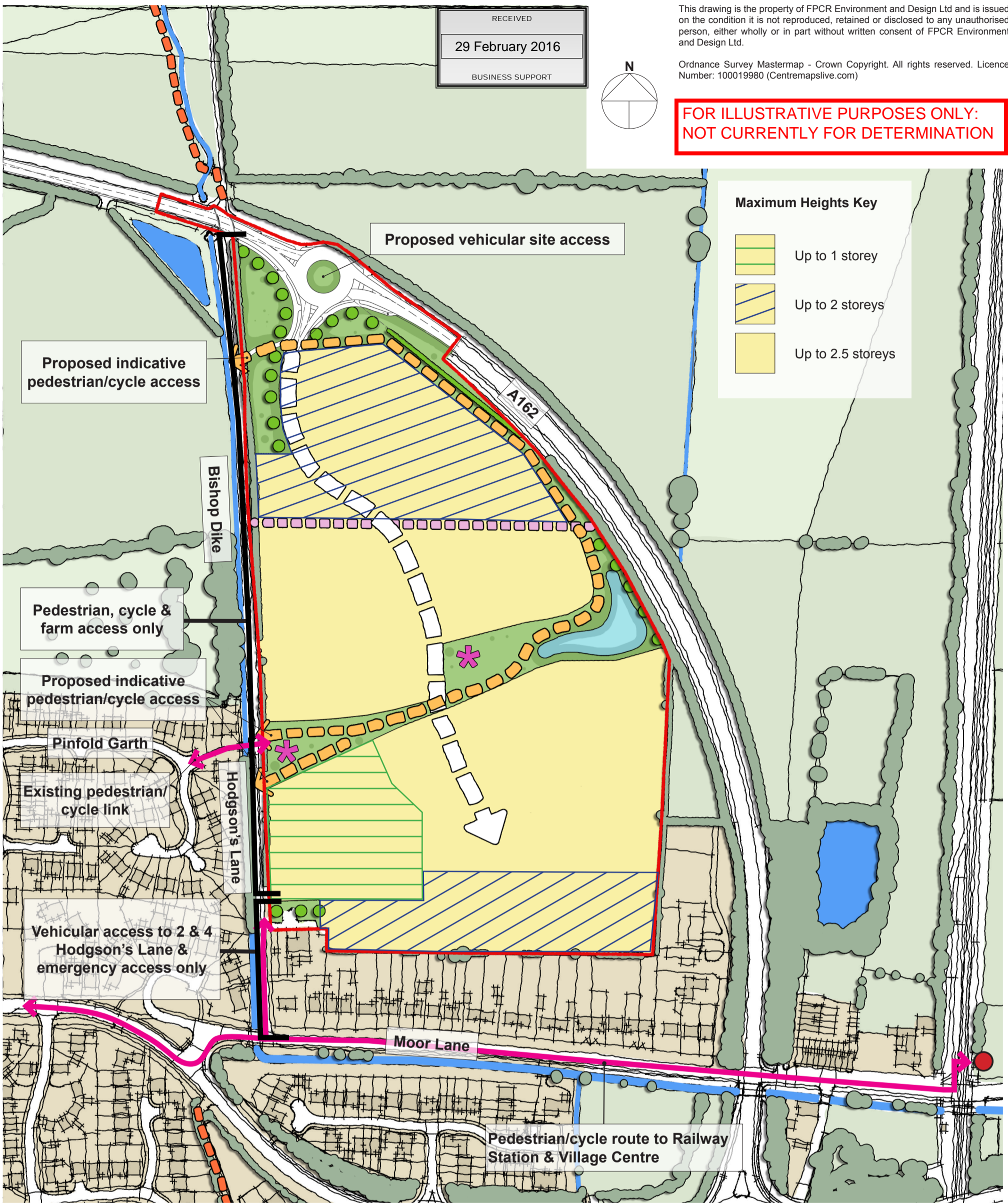
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


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






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**FOR ILLUSTRATIVE PURPOSES ONLY:
NOT CURRENTLY FOR DETERMINATION**



Maximum Heights Key

-  Up to 1 storey
-  Up to 2 storeys
-  Up to 2.5 storeys

- | | | | | | |
|---|------------------------------|---|-------------------------------------|---|--|
|  | Application boundary 10.23ha |  | Potential balancing pond |  | Proposed tree and hedgerow planting |
|  | Potential residential 8.10ha |  | Potential equipped play areas |  | Existing footpath |
|  | Green infrastructure 1.62ha |  | Indicative spine road through site |  | Proposed footpath |
|  | Proposed roundabout |  | Retained tree and hedgerow planting |  | Indicative 6m easement to gas pipeline |
| | |  | Existing water features |  | Railway Station |

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Hodgson's Gate Developments
Land at Hodgson's Gate
Sherburn in Elmet

PARAMETERS PLAN

1:1250@A3
18th May 2015
6723-L-04 rev B

fpcr

 masterplanning
 environmental assessment
 landscape design
 urban design
 ecology
 architecture
 arboriculture

 FPCR Environment and Design Ltd
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Report Reference Number 2016/0195/OUT Agenda Item No: 6.1

(This report is also Appendix 3 to Report Reference Number 2015/0544/OUT)

To: Special Planning Committee
Date: 29 June 2016
Author: David Sykes (Planning Consultant)
Lead Officer: Jonathan Carr (Interim Lead Officer – Planning)

APPLICATION NUMBER:	8/58/1042A/PA 2016/0195/OUT	PARISH:	Sherburn in Elmet Parish
APPLICANT:	Hodgson's Gate Developments	VALID DATE:	29 th February 2016
		EXPIRY DATE:	30 th May 2016
PROPOSAL:	Outline application for up to 270 residential dwellings including details of vehicular access (all other matters reserved)		
LOCATION:	Hodgson's Lane Sherburn In Elmet North Yorkshire		

This application has been brought before Planning Committee due to it being a departure from the development plan and due to more than 10 letters of objection being received. In addition, Councillor Buckle requested that the item be presented to Committee for the following reasons:

- Facilities in Sherburn-in-Elmet are not sufficient to cover our ever increasing population;
- Sherburn-in-Elmet has fulfilled its 5 year housing plan and more

1.0 Introduction and Summary

1.1 Introduction

1.1.2 Members should be aware that an earlier application on this site (2015/0544/OUT), for the same form of development is the subject of an appeal for non-determination to the Planning Inspectorate. Application 2015/0544/OUT was considered by the November 2015 Planning Committee, where Members resolved to grant permission subject to the signing of a S106 Agreement. This legal agreement was not signed

prior to the consideration by the Executive of a report on housing land supply as at 1 October 2015. This report, endorsed by the Executive on 3 December, concluded that the District had a five year housing land supply. Accordingly the Council informed the applicant that the application should be referred back to committee for reconsideration. The applicants sought to protect their position by lodging an appeal within the required deadlines. The appeal was made on the grounds of non-determination by the local planning authority and at the same time this identical application was submitted to the Council. The applicant has advised that this "duplicate application" seeks to curtail the need for the public inquiry if a local resolution can be attained. Nonetheless, the Planning Inspectorate are obliged to programme for a public inquiry on 2015/0544/OUT and a 6 day inquiry over a two week period starting on 18 October 2016 has now been scheduled.

1.2 Changed circumstances: the housing land supply.

- 1.2.1 The National Planning Policy Framework (NPPF) places significant importance on maintaining the delivery of a five year housing land supply to meet housing targets (para 47 bullet 4) and relevant policies for the supply of housing should not be considered up-to-date if the local planning authority cannot demonstrate a five year supply of deliverable housing sites (para 49).
- 1.2.2 When Members considered the identical application to this one in November 2015, the Council could not demonstrate a five year housing land supply across the District. Therefore Members were advised that those relevant development plan policies on the supply of housing were out of date. Instead paragraph 14 of the NPPF required the planning balance to be much more dependent on an assessment of the policies of the NPPF itself. Indeed the planning balance at this time was, effectively, that the Council should grant planning permission unless
- *"Any adverse effects of doing so significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole."*
- 1.2.3 Now that a five year housing land supply can be demonstrated for the District (5.8 years at 1 October 2015), the planning balance has changed to allow the Council to determine the application:
- *"In accordance with the development plan unless material considerations indicate otherwise".*
- 1.2.4 This is a significant difference in the approach to the determination of this application compared to that undertaken in November 2015.
- 1.2.5 Members should be aware that the applicant strongly disagrees with the Council's calculations of the amount of land that can deliver housing across the District over the next five years and considers the actual supply position to be well below 5 years.
- 1.2.6 Officers from the policy section have assessed the objections of the applicant on this matter and remain satisfied that a robust five year housing land supply can be demonstrated for the District. An updated housing land supply position with a base date of 1 April 2016 is to be reported to the Executive in August 2016.

1.3 Changed circumstances: the Community Infrastructure Levy

- 1.3.1 The Community Infrastructure Levy (CIL) is a charge which Local Authorities can charge on most types of new development in their area. CIL charges are based on the size and type of the proposed development, with the money raised used to pay for strategic infrastructure required to support development growth within their area.
- 1.3.2 The Council will use CIL to secure strategic infrastructure, as detailed in the Regulations 123 list, whilst local infrastructure will be secured through planning obligations in line with relevant policies.
- 1.3.3 CIL charging was formally introduced by the Council on 1 January 2016 and given that proposals relate to new housing a CIL contribution would be required for this development. However, this cannot be calculated in detail until a reserved matters application setting out the proposed floor space for the development has been submitted.
- 1.3.4 The introduction of CIL would not impact on the on-site recreational open space provision, affordable housing provision, the waste and recycling contribution and contributions towards off site local transport infrastructure which would still need to be secured through a Section 106 agreement. The contributions towards education, healthcare, off site recreational open space and strategic transport infrastructure are no longer appropriate through a Section 106 agreement as they are covered by the CIL Regulation 123 list.

1.4 Summary

- 1.4.1 The length of this summary is necessitated by the number of relatively complex planning issues raised by the application.
- 1.4.2 The application seeks outline planning consent for the erection of up to 270 no. dwellings with associated vehicular access. All other matters such as design and landscaping are reserved for later determination. The site is located in an area of open countryside currently used for arable farming. To the south of the site is the built up area of the eastern residential parts of Sherburn-in-Elmet. To the west is Hodgson's Lane, part single track road and part pathway owned and maintained by North Yorkshire County Council. To the west of Hodgson's Lane is also open countryside, part arable, part grazing land. The land to the west of the application site is the subject of two planning applications for residential development which are also reported to this Committee. The east and north of the site is bounded by the A162 bypass. The access to the site is proposed from a new roundabout onto the bypass in the north eastern part of the site.
- 1.4.3 In discussions with the applicant on this proposal and formulating recommendations officers have had regard to Policy SP1 of the Core Strategy; the presumption in favour of sustainable development, and the decision taking section of the NPPF.
- 1.4.4 Members' attention is drawn to the following policy context contained within the NPPF (para 187):

“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.”

1.4.5 However since the District has achieved a 5 year housing land supply it has not been possible to find a solution to the ‘in principle’ and significant conflict with the Selby District Local Plan Policy SL1 (Safeguarded Land). Nevertheless, this summary firstly sets out for Members those aspects of this proposal which support an approval of this application.

1.4.6 The approval of this application would provide the following social, economic and environmental benefits and mitigation measures:

- the provision of a source of housing land supply towards the middle of the plan period.
- a contribution to the District's five year housing land supply.
- the provision of additional market, affordable, and high quality housing for the District.
- the provision of housing in close proximity to a major employment base of the District thereby providing opportunities for shorter travel to work distances
- the provision of a local workforce source for the employers of nearby businesses, although this will depend upon potential employee skill matches and vacancy requirements.
- short term employment opportunities for the construction and house sales industry
- additional spending within the District from the future residents
- on site open space provision and on-going maintenance, and a new footpath
- Community Infrastructure Levy (CIL) Fees to be provided on commencement of development.
- waste and recycling bins
- a biodiversity buffer zone along the length of Hodgson's Lane
- a 10% energy supply from decentralised and renewable or low carbon sources.
- the timely implementation of necessary highway works

1.4.7 Taken together these represent significant benefits and are in line with the Government's planning and general policy objective of boosting housing land supply in sustainable locations. They should carry significant weight in the planning balance. A recent letter from the applicant draws the Council's attention to the implications of approving the application.

- circa £1million of infrastructure funding via CIL and Section 106 monies
- 108 affordable homes and bungalows which are in short supply
- New extra household income of circa £4.36 million per annum
- Council Tax receipts of £450k per annum
- New Homes Bonus of £2.2million
- Construction jobs

1.4.8 However, this proposal must be determined in accordance with the development plan, unless material considerations such as the above benefits suggest otherwise. In other words the starting point for the decision making process should be a

decision on whether the proposal is in accordance with the development plan as a whole.

1.4.9 This report identifies that the proposal is in conflict with a number of development plan policies, including

- Policy SL1 of the Selby District Local Plan which protects safeguarded land until its release is required and supported by a Local Plan or land supply review.
- Policy SP2(A)(c) of the Selby District Core Strategy (SDCS) which strictly controls development in the open countryside
- Policies SP2(A)(a), SP5(A)&(D) and SP14(A) of the SDCS which seek to secure an appropriate level of growth for Sherburn-in-Elmet matched with an appropriate provision of community services, infrastructure and shops.

1.4.10 The application proposes development on land which the development plan, through Policy SL1 of the Selby District Local Plan (SDLP), does not intend to release until

- it is required and
- it has been identified for release in a Local Plan or housing land supply review.

1.4.11 This is because the application site forms part of a planning policy designation called 'safeguarded land'. This type of land was often originally part of the Green Belt and then taken out of the Green Belt to provide a long term supply of potential development land. In doing so this avoids the need to change Green Belt boundaries to accommodate development until well beyond the plan period.

1.4.12 The circumstances described in paragraph 1.4.10 do not currently exist and this policy approach to not release safeguarded land apart from within a plan led context is clearly supported by paragraph 85 (bullet 4) of the National Planning Policy Framework (NPPF).

1.4.13 The application proposes residential development on land which is in the open countryside and outside the development limits of Sherburn-in-Elmet. This is not a form of development which is permitted in Policy SP2(A)(c) of the SDCS and there is clear conflict with this policy.

1.4.13 Policies SP2(A)(a), SP5(A)&(D) and SP14(A) of the SDCS seek to secure an appropriate level of growth for Sherburn-in-Elmet matched with an appropriate provision of community services, infrastructure and shops. It is the officer view that, with the minimum housing requirement for Sherburn-in-Elmet up to 2027 already essentially being built out, this proposal and the principle it sets for further release of large tracts of safeguarded land around the town does not represent an appropriate level of growth for the town and risks a deficiency in community facilities, infrastructure and shops which could result in an unsustainable pattern of growth to the town. Appendix 3 to this report provides a map showing the application site, the other application sites referred to in this report and the safeguarded land and other designations around Sherburn-in-Elmet.

1.4.14 Notwithstanding the above conclusion, the officer report draws Member attention to the need to consider that since the Core Strategy was adopted additional employment and retail provision (the 'Proving Ground' and an Aldi food

supermarket) are facilities for the town which have been permitted. These facilities have assisted in the delivery of Policies SP2 and SP5 of the Core Strategy. The Aldi food supermarket has now been built and is open.

- 1.4.15 At paragraphs 4.3.1 to 4.3.27 of this report it is explained in more detail why the proposal is considered to be in conflict with these policies and advises what weight can be given to the conflict with these proposals. Members are advised that they can give significant weight to these conflicts in the planning balance.
- 1.4.16 The applicant argues strongly against giving any more than limited weight to Policy SL1 (SDLP) and Policy SP2(A)(c) and has drawn officers attention to a number of decisions by Inspectors and the Secretary of State to support that view. The main report explains that officers consider the circumstances of the development plan context in Selby District are different to those in these decisions. The applicant argues that the proposal is sustainable development and that its approval supports the Core Strategy's Spatial Development Strategy Policies SP2 and SP5. One of the applicant's main reasons for making this case is that in Policy SP5 housing provision for the town (790 dwellings up to 2027) and the District (7,200 dwellings up to 2027) is a minimum requirement that is expected to be exceeded through the permissions likely to be granted for windfall housing above the minimum. Paragraphs 4.3.17 to 4.3.25 of the main report explain why officers disagree with the applicant on this matter.
- 1.4.17 The report identifies that, whilst there is conflict with the above policies, the proposal is in accordance with a number of important development management policies within the development plan, including affordable housing, residential amenity, drainage, climate change, flooding, archaeology, highways, contamination and protection of biodiversity. This information is set out in paragraphs 4.4.1 to 4.4.62 of the report.
- 1.4.18 Nevertheless, the recommended greater weight to be given to the conflict with the housing supply and spatial development policies compared to the weight to be attached to the conformity with other policies, means it is the officer view that this proposal is not in accordance with the development plan as a whole.
- 1.4.19 If Members agree with this conclusion, the application should be refused unless material considerations indicate otherwise.
- 1.4.20 In this case, there are a number of material considerations which could 'indicate otherwise' and they carry significant weight as stated in paragraphs 1.4.5 and 1.4.6 above. There are also some material considerations which do not support approval of this proposal. These are given in paragraph 4.6.3 of this report.
- 1.4.21 Members are advised that they can give significant weight to these 'non-supporting' material considerations as they relate to the:
- lack of community involvement to shape the future role and character of Sherburn-in-Elmet,
 - conflict of this proposal with the NPPF on safeguarded land, and
 - concerns over the principle set by this proposal's approval for the release of other safeguarded land in Sherburn-in-Elmet.
 - concerns over the loss of land to residential development potentially required for

- future services and infrastructure
- lack of coordinated plan led land use planning to maximise the benefits of new development to the local community.

1.4.22 The report identifies that Sherburn-in-Elmet Parish Council and many local residents are extremely concerned about, and object to, the likely traffic impact of this application. However North Yorkshire County Council Highways have, following a review of the applicant's transport assessment, concluded that the impact on the local highway network from this application itself and in combination with the other two applications on this agenda could not be regarded as "severe". This being the necessary test in the NPPF to determine the acceptability of traffic impact, and with mitigation measures forming part of the proposal, officers recommend that Members consider the traffic impact of the proposal as acceptable.

1.4.23 Taking into account this 'mixed' picture of material considerations both for and against the proposal, it is the officer view that, taken together, material considerations do not suggest a decision other than a refusal in accordance with the development plan.

1.4.24 The planning balance revolves around, the amount of weight given to the conflict with the development plan compared to the weight to be given to other material considerations, which include both significant planning benefits and matters which weigh against approval.

1.4.26 Paragraph 85 of the NPPF is one of those material considerations that weigh against this proposal and it provides an unequivocal and restrictive policy which specifically applies to this application on safeguarded land.

1.4.27 It is the officer view that the change in circumstances on the five year housing land supply since Members made their decision in November 2015 and the analysis above now indicates that this application be refused.

1.4.28 Subject to the results of the assessment currently being completed by the Council's appointed landscape consultant the reasons for refusal below may be added to in an update note at committee.

Recommendation

Reasons for refusal

Subject to the officer's update report which may include additional reasons for refusal, the reasons for refusal are:

- 1. Approval of the application for housing development at this time without the support of a Local Plan Review, and without any overriding need to release safeguarded land for housing in the District and the town of Sherburn-in-Elmet would be in conflict with the protection afforded to safeguarded land by Policy SL1 of the Selby District Local Plan and paragraph 85 of the National Planning Policy Framework.**

- 2. Approval of this application for housing development without any current overriding planning need is contrary to the aims of Policy SL1 of the Selby District Local Plan; paragraph 85 of the National Planning Policy Framework (bullet 4) and paragraph 17 (bullet 1) of the National Planning Policy Framework by preventing i) a plan led approach to the phased release and integrated land use planning of this and all the other safeguarded land in Sherburn-in-Elmet; and ii) the consequential lack of community involvement which empowers local people to shape their surroundings.**
- 3. Approval of this application for housing and the planning principle this would set locally for the potential development of up to about 45 hectares of safeguarded land for housing in Sherburn-in-Elmet in addition to the housing supply already provided in the town, is in conflict with the recently adopted Core Strategy's spatial development strategy for this Local Service Centre and Selby District Core Strategy Policies SP2 (A) (a), SP5 (A) and (D) and SP14 (A).**
- 4. The growth of Sherburn-in-Elmet in a planning application housing led development process presents an unacceptable risk of an unsustainable pattern of growth of the town which, by virtue of a physically constrained town centre, the lack of a Site Allocations Local Plan Community Infrastructure Levy Charging Scheme to guarantee the delivery of local infrastructure, and the loss of land to residential development, could result in the lack of provision of accessible local services that reflect local community need and support the community's health, social and cultural well-being:- inconsistent with the social dimension of sustainable development contained in paragraph 7 of the National Planning Policy Framework and Policy SP5 of the Selby District Core Strategy.**
- 5. The development of this site for housing will result in the loss of countryside and moderately good quality agricultural land beyond the development limits of the Selby District Local Plan Proposals Map and in conflict with Policy SP2 A (c) of the Selby District Core Strategy.**
- 6. Approval of this application and the planning principle this would set locally for the release of further safeguarded land for residential development will prejudice the outcome of the local plan process by making decisions about land use and the scale and location of development that should, as set out in the development plan and the NPPF, be taken as part of the local plan process.**

2. The Planning Application, Consultation and Publicity

2.1 The Site

- 2.1.1 The application site is located in open countryside outside the defined development limits of Sherburn in Elmet, being located to the north east of the existing settlement boundary.
- 2.1.2 In addition the site is on an area designated as safeguarded land within the Local Plan.
- 2.1.3 The proposed access to the site, off the A162, is located within the Green Belt.
- 2.1.4 The site is currently arable agricultural land which is bounded by a combination of mature hedgerow and trees.
- 2.1.5 There are residential properties to the south and south west of the site which are mainly two storey in height. The land to the north and east beyond the A162 is agricultural land.
- 2.1.6 There is a single track pathway running alongside the western boundary of the site running from Hodgson's Lane through to the A162 with a link to Pinfold Garth.
- 2.1.7 There is an existing drainage ditch running through the site from east to west. The site is situated within Flood Zone 1 which is at low probability of flooding.

2.2. The Proposal

- 2.2.1 The application is for outline consent for up to 270 dwellings including details of vehicular access. All other matters are reserved.
- 2.2.2 The proposed vehicular access would be taken from a new roundabout located on the A162 via a spine road through the site.
- 2.2.3 The submitted parameters plan suggests a mixture of dwellings ranging from single storey bungalows to the south west of the site, two storey properties to the north and south and two and a half storey in the central area of the site.
- 2.2.4 The indicative layout plan demonstrates how recreational open space and a balancing pond could be provided on site as well as how the development could link to wider residential developments.

2.3 Planning History

- 2.3.1 An Environmental Impact Assessment was not considered to be required following a Screening Request referenced (SCR/2015/0012).
- 2.3.2 An application (CO/1984/0932) for the renewal of outline planning permission for the erection of a dwelling was refused on 8 March 1985.
- 2.3.3 An outline application (CO/1981/24693) for the erection of a dwelling was granted on 14 October 1981.

- 2.3.4 An outline application (CO/1981/24692) for the erection of a dwelling was refused on 10 October 1981.
- 2.3.5 Application 2015/0554/OUT for the same form of development as the current application is now subject of an Appeal for Non-Determination with the Planning Inspectorate. Application 2015/0544/OUT was considered by the November 2015 Planning Committee, where Members resolved to grant permission subject to the granting of a S106 Agreement. This Legal Agreement was not signed prior to the consideration of the Executive Report on Housing Land Supply and as such the applicants were advised that Committee would need to reconsider the position on 2015/0544/OUT. The applicants sought to protect their position by lodging an appeal within the required deadlines. The appeal was made on the grounds of non-determination by the local planning authority and at the same time this identical application was submitted to the Council. The determination of this appealed application is now for the Planning Inspectorate to make and a report on this matter follows on the agenda.
- 2.3.6 Members should note that there are two further outline applications for residential development under planning application references (2015/0848/OUT and 2015/0895/OUT) which are currently pending consideration on land to the north and west of this application site. They also lie on designated safeguarded land and are on the agenda for this meeting. Due to the likely similarities in how the Council should approach all three applications, it was considered appropriate to bring them all to the same Committee.
- 2.3.7 In terms of Local Plan history, the site was put forward under the Site Allocations Development Plan Document Preferred Options Consultation in 2011 as a preferred site option for land allocation. The site was referenced at the time as SHER003 and it was confirmed that the site had been reclassified as flood zone 1 (formerly flood zone 3) by the Environment Agency which meant that this was no longer a constraint to the site. It was also confirmed that the site may be accessed via Hodgson's Lane with appropriate improvements to the road and its junction with Moor Lane. The Council therefore considered that the site was capable of accommodating 200 dwellings. It should however be noted that the Site Allocations DPD did not proceed to formal adoption and as such can be afforded no weight in this applications decision making process.

2.4 Consultations

2.4.1 Sherburn in Elmet Parish Council:

Based on an argument of a previous application where this council objected to an application due to the 85% capacity on the roundabout. The argument was rejected but since then units on the industrial park not expected to be utilised have come in to use along with a further phase of units to be erected. This Council objects to this application based upon the increase of traffic due all of these factors, we believe, will take the capacity on the roundabout above the accepted 85% threshold.

Sustainability

- 2.4.2 The Council's current position is that there is a five-year supply. The question the

Parish Council ask is if there is a five-year supply, why grant consent for development that clearly is not sustainable.

- 2.4.3 The Parish Council reiterate the comments of the Core Strategy Inspector from June 2013, endorsing Policy SP5 which indicated that new allocations to accommodate 700 houses by 2027 would be required in Sherburn. In reaching this conclusion he further concluded that: "the absence of many key services in the town and the limited opportunities for expanding its small town centre militate against greater housing development unless part of a comprehensive planned expansion."
- 2.4.4 In reaching this conclusion it is clear that the Inspector was not convinced that development over and above the 700 figure would be sustainable unless the "absence of key services" was addressed; the Parish Council agree with this conclusion. This is a part of the very large amount of Safeguarded land referred to in the Selby District Local Plan. In the absence of: a proper review of all of this land; the need to release any of it in the plan period; and of the means to address the Inspector's concerns regarding key services, there is no basis to arbitrarily release the first piece of safeguarded land that happens to be the subject of a speculative planning application.
- 2.4.5 The Parish Council is of the view that these issues, particularly the lack of key services, should be properly considered through the proposed Site Allocations Plan (Plan Selby) and sites should not be released on an ad hoc basis in the absence of such consideration.

Highways

- 2.4.6 Reference is made to the Local Highway Authority Considerations and Recommendation dated 22nd January 2016. The applicants produced a Transport Assessment dated 28th October 2015 which the Parish Council responded to in a detailed note in November 2015.
- 2.4.7 This highlighted a number of significant issues with the Transport Assessment (e.g. the mistaken use of an access only road as a through route).
- 2.4.8 The Parish Council now see that the Local Highway Authority have recommended acceptance following what they describe as "protracted discussions with the applicants". No record of any part of these discussions has been posted on the Planning Portal. If the LHA have had protracted discussions with the applicant's transport consultants then it is essential that those discussions are accessible in a publicly available reference document.
- 2.4.9 The Local Highway Authority Considerations and Recommendation document essentially posts their conclusions as to why they feel this scheme is acceptable. It does not provide any of the background information. For example we are told that "SCP have worked with the LHA's senior signals engineer to provide a computer simulation which best represents the operation of the village centre signals ", but none of the calculations have been provided.
- 2.4.10 The LHA state that "the key improvement to the village centre signals is the installation of the MOVA operating system", but they have not provided any

evidence of the improvements which MOVA will provide. The Parish Council noted in November that if it is suggested that MOVA will bring improvements to the village centre traffic signals, then evidence specific to this junction must be provided. No such evidence has been provided.

2.4.11 At the moment local residents are being presented with the LHA's conclusions, without the supporting evidence. Without that evidence it is impossible for local residents or the Parish Council to make informed comment.

Highways: Unoccupied Units

2.4.12 When the planning application (2013/0467/OUT) for the major expansion of Sherburn Industrial Park was considered in 2014 the developers argued that the traffic implications of existing vacant units should not be considered. This was contrary to both government and NYCC guidelines. They described the former Supercook building and the Sherburn 550 building as "obsolete" and "compromised design".

2.4.13 Despite protests from the Parish Council no account was taken of these vacant units.

2.4.14 The former Supercook building has been taken over by Ultimo Kitchens and is being fitted out prior to full occupation and a planning application (2016/0113/COU) has been submitted for a change of use to facilitate occupation of the Sherburn 550 building by a manufacturer of modular homes.

2.4.15 It is very clear that the description of these units as "obsolete" and "compromised design" was incorrect and the traffic implications of these vacant units should have been considered.

2.4.16 These vacant units are now being brought into use, but this planning application does not follow the guidelines and take account of them. It is irrefutable that the past decision to exclude these buildings was flawed and until the traffic implications of their use are included then the Transport Assessment submitted in support of this application will be incomplete and inaccurate.

2.4.17 Lead Officer – Environmental Health

The proposed development is of a large scale and as such will entail an extended construction phase. This phase of the development may negatively impact upon nearby residential amenity due to the potential for generation of dust, noise & vibration. The Environmental Protection 1990 allows for the abatement of statutory nuisance in relation to noise, dust and vibration. I would however stress that whilst a development may detrimentally impact upon existing residential amenity, it may not be deemed to constitute a statutory nuisance, as such the Officer requests a condition for a Mitigation Statement prior to the commencement of development. The applicant has submitted a noise impact assessment prepared by WSP, report number 62000518-003. The report concludes that noise need not be a determining factor in granting planning consent and that adequate protection of the noise sensitive development can be achieved with appropriate mitigation such as careful consideration of the location and orientation of dwellings together with associated acoustic barriers. The report does not specify any mitigation measures since this is an outline application and the detailed layout is yet to be agreed. The report states

that once plans reach a more detailed stage the assessment should be revisited to specify exact mitigation requirements. In view of the above recommends that should you decide to grant outline consent it is subject to a condition relating to a written scheme for protecting the proposed noise sensitive development.

2.4.18 Yorkshire Water Services Ltd

If planning permission is granted, conditions should be attached in order to protect the local aquatic environment and Yorkshire Water infrastructure. The development of the site should take place with separate systems for foul and surface water drainage. Foul water domestic waste should discharge to the 600mm diameter public/foul combined water sewer recorded at the junction of Hodgson's Lane and Moor Lane at a point approximately 100 metres from the site.

2.4.19 The submitted Geo-Environmental Assessment indicates sub-soil conditions are not viable for soakaways. It is noted that the Flood Risk Assessment (prepared by Weetwood – Report v1.0 dated May 2015) indicates surface water will discharge into the drainage ditch located on site.

2.4.20 Lead Officer - Policy

There are updates to planning policy considerations since the response on this application dated 9th February 2016. (Note to Members: The appendix to this report contains the policy response of 9 February 2016 as well as the policy response to the identical application which is now the subject of an appeal).

2.4.21 There are four areas of planning policy to update in relation to comments on this application, following further investigation and research. These relate to safeguarded land, development limits, environment impact and Green Belt.

Safeguarded Land

2.4.22 The site is located within an area designated as Safeguarded Land (SL) under saved policy SL1 of the 2005 SDLP. The original intention of SL was to provide a 'reserve' of land to meet long term growth requirements post 2006, to be released in a controlled and phased manner – potentially over successive reviews of the Local Plan. This position accords with paragraph 85 of the NPPF which places importance on a plan-led approach to the use of 'safeguarded land' within development plans. The restrictive wording of paragraph 85 in the NPPF qualifies safeguarded land as a NPPF footnote 9 specific policy, referred to at the end of paragraph 14 of the NPPF, which indicates that development should be restricted.

2.4.23 It was noted in our previous response that the SL policy dates from at least 2005, and has not been reviewed since this period. It is considered that full weighting cannot be attached to this policy, but as it is fully and clearly consistent with NPPF it is considered that moderate to significant weight can be afforded to the SL policy.

2.4.24 In the previous Policy response comments were made as to the scale of growth witnessed in Sherburn in Elmet – a settlement which has also seen significant growth prior to this plan period. At 270 units, the scale of this proposal is substantial, consideration needs to be given to the balanced growth of the settlement to ensure that services / facilities keep track with growth and that development occurs through a phased and managed process. Work is progressing at pace on the development of PLAN Selby (site allocations and development

management document), which is scheduled for Preferred Options consultation in September 2016. The review of SL forms part of the evidence base to this publication.

- 2.4.25 With a positive 5 Year Housing Land Supply (5YHLS) and with dwelling growth levels for Sherburn in Elmet forecast to exceed minimum delivery targets within only a few years after the adoption of the Core Strategy, and the weighting attached to policy SL1, it is not considered that there is a need to release SL for housing at this time and outside of the plan-making process. This response provides a firmer steer to the weighting of considerations regarding SL in light of SDLP Policy SL1, the NPPF and follows an additional review of recent appeals / case studies.

Development Limits

- 2.4.26 On a matter of clarity, it was noted in the previous policy response that due to the status of SL adjacent to the development limit in this area, it is unlikely that the development limit will have altered significantly in this area. This would support that position that while development limits are under review (as part of the development of PLAN Selby) they are not necessarily considered out of date. An assessment methodology or criteria was set out in the previous policy response to assist with reviewing the development limit.

Natural and Built Environment

- 2.4.27 It is noted that this large scale proposed development extends extensively into the open countryside, with the main vehicle access point off the A162. Landscape assessment and capacity work for PLAN Selby indicates that the parcel of land associated with this site is of medium sensitivity to development. The Core Strategy Policy SP18 aims to protect the high quality and local distinctiveness of the natural and man-made environment. Furthermore Policy SP19 'Design Quality' indicates that new development will be expected to achieve high quality design and have regard to the local character, identity and wider spatial context and Policy SP12 places an emphasis upon protecting, enhancing and linking Green Infrastructure. In evaluating the application consideration will need to be paid to the impact of the proposal on the open countryside, green corridors and its spatial relationship and integration to the built form of the existing settlement.

Green Belt Impact

- 2.4.28 The application proposes one main vehicular access point off the A162. This access point is partially located within the Green Belt. It is my understanding that the infrastructure associated with this access includes a roundabout with raised hard-surfacing, lighting columns and signage. Policy SP3 of the Core Strategy reinforces the importance of the Green Belt in the NPPF and that planning permission will not be granted for inappropriate development, unless the applicant has demonstrated that very special circumstances exist to justify why permission should be granted. Consideration will need to be made whether the highways infrastructure would preserve the openness of the Green Belt and would not conflict with the purposes of including land in the Green Belt.

2.4.29 Environment Agency

The site lies within flood zone 1 as shown on our flood map. As a result of changes to the Planning Practice Guidance and DMPO which took effect on 15 April 2015,

this proposal now falls outside the scope of matters on which the Environment Agency is a statutory consultee. Therefore we have no comment to make on this application.

2.4.30 North Yorkshire County Council Highways

In commenting on the application NYCC Highways have referenced and attached their comments on 2015/0544/OUT noting that access to the site will be taken from a new roundabout to be constructed on the A162 at the junction with Hodgson's Lane. The proposed roundabout has been assessed in terms of capacity and has been subjected to a Road Safety Audit. The roundabout is considered an appropriate means of access.

2.4.31 It is anticipated that there will be a small number of additional vehicular trips in/out of the village during the AM and PM peak traffic periods and as such the impact on the Low Street/ Kirkgate/ Moor Lane/ Finkle Hill signal controlled junction has been assessed. The modelling of the junction had to take into account the recent planning approvals for residential developments within the village (including the proposed link road between Moor Lane/ Low Street) and the recent permission for the former airfield at Lennerton Lane. As such a number of scenarios were tested. The modelling demonstrates that the development will have a minimal effect on the operation of the signals. It is not considered that the impact could be regarded as "severe" as cited in paragraph 32 of the National Planning Performance Framework as the reason upon which developments should be refused on transport grounds.

2.4.32 Notwithstanding this the Applicant has agreed a contribution to enable the pedestrian crossing on Low Street to be linked to the traffic signals to provide better co-ordination and minimise the cumulative impact of the signals on through traffic. This will enhance the operational improvements which will occur through the installation of MOVA (Microprocessor Optimised Vehicle Actuation) at the Low Street/ Kirkgate/ Moor Lane/ Finkle Hill signals, being delivered through the recent residential planning permissions.

2.4.33 To improve pedestrian/ cycle amenity in the vicinity of Hodgson's Lane/ Moor Lane, new and additional drop kerb crossings will be required together with tactile pavements.

2.4.34 A separate planning permission for the development of the former airfield at Lennerton Lane, Sherburn in Elmet (2013/0467/OUT) identified that an improvement to the A162/ A63 roundabout is required to accommodate that development and other committed developments in the area. It is a condition of that planning permission to deliver the improvement. Similarly a planning application for a residential development in Hambleton (2015/0105/OUT) will require the same roundabout improvement to be undertaken. This proposed development will also have an impact on the A162/ A63 roundabout. Should this development come forward prior to the aforementioned developments it will be required to deliver the roundabout improvement.

2.4.35 Matters to be included in a Section 106 Agreement to which the Local Highway Authority would wish to be a party

1. £7,500 contribution towards the works required to link the pedestrian crossing on Low Street with the traffic signals at the Low Street/ Kirkgate/ Moor Lane/ Finkle Hill junction.
2. £5,000 monitoring fee for the development's Travel Plan

2.4.36 In addition several conditions are recommended to be attached in the initial response and two further conditions on Construction Management Plan and Wheel Washing Facilities are also requested in the response on 2015/0195/OUT.

2.4.37 North Yorkshire Historic Environment Team

In commenting notes that based on the submitted "Archaeological Desk Based Assessment and Geophysical Survey they would advise that a scheme of archaeological mitigation recording is undertaken in response to the ground-disturbing works associated with this development proposal. This should comprise an archaeological strip, map and record to be undertaken in advance of development, including site preparation works, top soil stripping, to be followed by appropriate analyses, reporting and archive preparation. This is in order to ensure that a detailed record is made of any deposits/remains that will be disturbed. This advice is in accordance with the historic environment policies within Section 12 of the National Planning Policy Framework, CLG, 2012 (paragraph 141). In order to secure the implementation of such a scheme of archaeological mitigation recording, it would be advised that a condition be appended to any planning permission granted.

2.4.38 North Yorkshire Education

Should a Section 106 planning obligation be appropriate outside the CIL a developer contribution of £917,730 would be sought for primary education facilities at Sherburn in Elmet, Hungate Community Primary School as a result of this development but no contribution would be sought for secondary school provision at this time. If the density of the site changes, a recalculation would be required.

2.4.39 Update Note: Section 106 planning obligations have now been superseded by the Community Infrastructure Levy for funding this type of infrastructure.

2.4.40 North Yorkshire Police

Specific comments have been made with respect to the permeability, location of windows relative to driveways, parking provision, footpath networks being overlooked, all space being clearly delineated to avoid uncertainty regarding ownership, location of gable ends relative to public areas, rear gardens locking onto each other, boundary treatments, the use of rear alleyways being avoided, street lighting, location of tree planting relative to lighting, security of windows and doors, loose surfacing materials, location of equipped play areas and their maintenance, cycle storage and security during construction.

This advice and recommendations are based on well documented "Designing out Crime" principles (including Building for Life 12) and are intended to ensure that this proposal, if granted planning consent, will provide residents with a safe and secure environment to live, by reducing the opportunities for crime and anti-social behaviour to occur.

2.4.41 North Yorkshire Fire and Rescue Service

At this stage in the planning approval process the fire authority have no objection/observation to the proposed development. The fire authority will make further comment in relation to the suitability of proposed fire safety measures at the time when the building control body submit a statutory Building Regulations consultation to the fire authority.

2.4.42 Yorkshire Wildlife Trust

The Trust has registered a holding objection (dated 21st October) to application ref. 2015/0544/OUT. This application is functionally identical to the previous application and as such a holding objection to this application is provided for the reasons outlined in our previous letter.

2.4.43 In addition the Trust wishes to respond to the letter dated 23rd Oct 15 from Ed Feetham, Senior Ecologist from FPCR regarding the validity of the maternity roost record and the need for a coherent mitigation plan.

Maternity Roost Record

2.4.44 John Drewett of the North Yorkshire Bat Group (NYBG) has responded to the application for the adjacent site 2015/0895/OUT (dated 30th Sept 15). This response contains the NYBG record for the area including the roost at Pinfold Garth as well as one other nearby roost. The Trust have great faith in the records of the NYBG, it has an exemplary reputation for recording and validating bat roost records and John Drewett knows the area well.

Mitigation Plan

2.4.45 Impacts to protected species are a material consideration in the planning process. This means that an effective mitigation plan is required at this stage to guarantee that the development will not impact upon the ecological functionality of the roost. We support the NYBG recommendations for mitigation measures, as well as the measures outlined in the letter from Jake Crompton of Indigo planning (23rd Oct 15) on the previous application 2015/0544/OUT, however these measures must be detailed in an Ecological Mitigation and Enhancement Plan which can be conditioned.

2.4.46 The mitigation plan must contain a 6m buffer along ditches and hedgerows (especially along Bishop Dyke) and a lighting plan which ensures that no light spills onto this buffer. Green areas should be managed for use by foraging bats and bat boxes should be placed on houses. Currently the outline masterplan for the development as found in the design and access statement shows the area of housing extending fully to the western boundary of the site, leaving no buffer adjacent to Bishop Dyke. We advise that this is amended to include an ecological buffer. Connectivity of habitat is vital for commuting bats and so the mitigation plan should make reference to and be developed alongside the mitigation plans for the two adjacent developments (2015/0895/OUT and 2015/0848/OUT) to ensure coherence and ecological connectivity is retained and maximised.

2.4.47 North Yorkshire and York Primary Care Trust

No response received on the application. On previous application 2015/0544/OUT the Trust requested a healthcare contribution of £86,400 for Sherburn Group Practice in relation to the above planning application. This is calculated as 270

(dwellings) x 2.4 (estimated occupancy) divided by 1500 (number of patients per GP) x £200.00 estimated cost of additional consulting room.

2.4.48 Update Note: Section 106 planning obligations have been superseded by the Community Infrastructure Levy for funding this type of infrastructure.

2.4.49 Selby Area Internal Drainage Board

No response received on the application. On previous application 2015/0544/OUT requested noted that they had spoken with the developer consultants some time ago and this is reflected within their FRA Section 5.2 in relation to requirements for consent as described in the attachments for works to divert existing Ordinary Watercourse, any surface water discharge into Ordinary Watercourse and retaining a minimum of 7 metres easement with no obstruction adjacent to Ordinary Watercourses.

2.4.50 North Yorkshire County Council – Flood Risk Management

In responding the FRM Officer, makes the following observations in relation to the application in regard to surface water management:

Runoff Destinations (1)

The application form states that surface water will be disposed of to sustainable drainage system. The Flood Risk Assessment section 6.2 states that surface water will be directed to watercourse.

Flood Risk (2)

The Flood Risk Assessment section 6.5 states the requirements for flood risk management, and the surface water storage necessary to ensure mitigation of this risk.

Peak Flow Control(3)

The Flood Risk Assessment section 6.3 recognises the requirements for peak flow control. The section states “The site has a total area of 10.23 ha. The proposed green spaces will continue to runoff independently of the proposed drainage system, therefore the proposed development platform of 8.10 ha has been assumed in the following calculations.” The green spaces must be included in runoff calculations for the site. Should detailed design progress, calculations must be carried out for the correct site area using recommended methods. Note that an allowance for climate change was not made in this section and will be required as part of any detailed design.

Volume Control (4)

The Flood Risk Assessment section 6.4 recognises the requirements for volume control. Calculations presented suggest that the proposed developed site will generate less surface water runoff than the site in its greenfield state. This is extremely unlikely to be the case and requires consideration as part of any detailed design.

Pollution Control (5)

SuDS design must ensure that the quality of any receiving water body is not adversely affected and preferably enhanced.

Designing for Exceedence (6)

A preliminary site plan showing exceedence flow routes is required.

Highway Drainage (7)

To be agreed with the Highway Authority.

Climate Change (8)

The Flood Risk Assessment section 6.5 states a 30% increase in rainfall intensity to be used for calculations for the 1 in 100 year rainfall event. Note that an allowance for an increase of 30% in rainfall intensity must be used in calculations for all rainfall events.

Urban Creep (9)

Urban Creep describes future expansion within a development and activities such as building extensions and paving gardens. These activities increase the impermeable area of a site and often sit outside of the development control process. As such proposed developments must have an allowance for this increase in impermeable area of 10%.

Maintenance (10)

The Flood Risk Assessment section 6.7 proposes that the conventional elements of SuDS, built to the standards of Sewers for Adoption, will be adopted by Yorkshire Water which is satisfactory. The section goes on to say "Options for maintenance of SuDS facilities in open spaces include adoption by Yorkshire Water, North Yorkshire County Council or by a management company." Note that North Yorkshire County Council does not adopt SuDS with the exception of highway SuDS that can be adopted by the Highway Authority and should it be proposed that SuDS are adopted by a management company, it must be demonstrated to the satisfaction of the planning authority that maintenance arrangements and their funding will be in place for the lifetime of the development. I would recommend that should the proposals progress to detailed design that any above ground SuDS are built to the standards required by Yorkshire Water and adopted by that organisation.

Other (11)

Selby Area Internal Drainage Board did not appear on the list of consultees for this application; they must be consulted as the site lies within their district. The Flood Risk Assessment section 6.5 states that it is expected that a pumping station is expected to be used to transfer water from the detention basin to the watercourse. Note that we would only approve use of a pumping station if all gravity driven methods were proved to be impractical.

Recommends that the applicant attends to items 5, 6 and 9 before any approval of the planning application. This information has now been received and suitable, and it is recommended a planning condition relating to detailed design, associated management and maintenance plan of surface water drainage for the site based on sustainable drainage principles and an assessment of the hydrological and hydrogeological context of the development.

The IDB, Yorkshire Water and the Environment Agency have been consulted on the applicants further information in response to the comments on items 5, 6 and 9 noted above. Committee will be updated on any comments received.

2.4.51 Natural England

No comments to make regarding this application.

2.4.52 North Yorkshire Bat Group

No response received.

2.4.53 Health & Safety Executive

No response received on the application. On the previous application 2015/0544/OUT noted that the HSE is not a statutory consultee in this matter and therefore had no comments to make regarding the application.

2.4.54 Northern Gas Networks

No response received on the application. On previous application 2015/0544/OUT noted "Having checked the Northern Gas Networks records we can confirm that a 12" diameter ductile iron medium pressure gas main crosses this site in an east/west direction. This gas main will be protected by an easement which will restrict the work which may be undertaken within that easement. The developer should consult with Northern Gas Networks over the proposed development".

2.4.55 Contaminated Land Consultant (WPA)

Generally the report addresses geotechnical aspects. The risk, however, from contaminated land appears to be secondary in the report, with much reliance on fully assessing the risk through further investigation.

2.4.56 While the Conceptual Site Model and Risk Assessment are not detailed enough and therefore not strictly compliant with technical guidance, the initial walkover and characterisation of the site is very thorough and provides enough information to justify the conclusion and recommendations. Therefore, there would be little practical value in insisting that the applicants resubmit a revised report as the conclusions and recommendations would likely be the same. However, some refinement of the CSM would enable a more efficient and effective Phase 2 investigation.

2.4.57 In light of the recommendations in the Phase 1 report, the conditions would be appropriate.

2.4.58 Also due to the limited detail contained in the recommendations, we would advise that whoever undertakes the Phase 2, supplies Selby District Council with their site investigation plan for comment before undertaking any works.

2.5 Publicity

2.5.1 The application was advertised as a departure from the Development Plan by site notice, neighbour notification letter and advertisement in the local newspaper resulting in 33 properties submitting comments. 4 properties were in support, with 29 objecting.

2.5.2 Those supporting raised the following points:

- The development is well planned
- A good mix of housing is needed
- The site is flood free
- The site has good access to the bypass
- The new roundabout on the by-pass would be good for traffic calming
- The site would have good links to the trading estate
- Housing here would take pressure off further development in the south of the town close to South Milford
- The Bypass is a natural boundary to the growth of the town.

2.5.3 Those objecting raised the following issues:

2.5.4 Principle of Development

- Loss of greenfield land, greenspace and should be kept as farmland
- Selby now have a 5 year housing plan which clearly shows that Sherburn has fulfilled its allocation – this is not about providing necessary housing this is about squeezing every last pound out of any piece of land without considering the impact on the area.
- Why do we need more housing in Sherburn we have met our quota
- The 5 year housing plan should be used to restrict further unnecessary development and unsustainable housing development within the District
- The land is subject to Policy SL1
- Development already consented is turning the village into a town

2.5.5 Highways Issues

- Sherburn crossroads is already congested introducing more traffic to area would only escalate the congestion at this junction in rush hour and when traffic trying to get to the Industrial estates
- The proposed roundabout on the A162 is poorly positioned, inadequate in design terms and there will be an increased accident risk with vehicles leaving via this route
- Speeds on the bypass are high and access onto this road will cause safety issues
- Further development and units on the trading estate will lead to more traffic which will impact on this development
- This will increase rat running and dangerous traffic movements at the centre's traffic lights.

2.5.6 Drainage and Flooding

- The site has a high water table with some properties / residents already having issues with flooding including those on Moor Lane.

- Sewerage is at full capacity and periodically the existing Moor Lane pumping station has to be pumped out resulting in a stench, public health issues and sewerage backing up into gardens on Moor Lane.
- The site floods - its development will lead to increased issues on flooding including impacting on adjoining properties in terms of flooding and structural damage
- Open water areas for water storage should not be supported as they are a risk to children and pets

2.5.7 Impact on residential amenity

- Loss of greenfield land will impact on amenity of residents who enjoy these areas
- Noise pollution during construction will impact on residents including shift workers living in the area – they won't be able to sleep in daytime while work underway on the site
- Amenity will be impacted by pile driving works
- Construction traffic already an issue in the area with all the development being undertaken

2.5.8 Impact on services/facilities

- Facilities already stretched in the settlement
- There are no facilities for younger residents
- There are capacity issues at the Doctors and Dentists and have to wait significant timescale for appointments
- Schools are overstretched and children from the village already having to go to other schools in areas such as South Milford
- The development should fund improvements to secondary schools as well as primary schools
- Bus services have been reduced so more people depending on car – more people means more demand for public transport
- Insufficient nursery spaces and crèche facilities for children
- No car parking in the town centre for more residents
- Leisure facilities need to be increased if having more development in the settlement
- Loss of view as a result of the development
- Impact on house value if development goes ahead
- No public toilets in the settlement

2.5.9 Ecology

- Loss of habitat for wildlife which will be destroyed by the development of the land to the detriment of residents and wildlife

2.5.10 Other issues

- Piling to implement the development will lead to damage to existing properties in the vicinity of the site
- There is a gas main which crosses the site and leaks regularly
- Crime has increased dramatically with each new housing development and police already unable to cope - more low budget housing is the last thing Sherburn needs

- This is a popular area for dog walkers / cyclists, providing social interaction for residents, which would be lost if the development goes ahead.
- Development will increase anti-social behaviour in the area

2.5.11 An online petition with 685 objectors has also been presented with concerns raised in regards to the number of applications within Sherburn for housing developments both approved and ones submitted which would:

- Increase traffic with the crossroads already being congested in rush hour. Introducing more traffic to the area would only escalate the situation.
- Parking is not adequate in the village especially at school times and weekends.
- South Milford Petrol Station is the only petrol station in the vicinity to the local residents without driving to Tadcaster. Not only is the petrol station used by residents in surrounding villages, it is also used by commuters and vehicles from the Sherburn Industrial Estate. It would cause chaos if hundreds of additional vehicles began using the Petrol Station especially in busy periods. The Station has already had an increase in shoppers due to the Marks and Spencer's food chain opening.
- As population is ever increasing in the village no more doctors surgeries have been built. An increase in numbers to this service is not viable at its current capacity.
- Although there are two primary schools in Sherburn in Elmet and one high school an increase in population would have a detrimental effect on local parents and children with the schools already being at a near full capacity.
- Residents of this village enjoy living in Sherburn in Elmet because of the surroundings and value the area greatly. Consistent building is resulting in Greenfield Land being lost to accommodate for more housing. On speaking to many residents people are saddened by this and do not want to see anymore building on our precious Greenfield Sites.
- Many of the sites chosen for development are and have been inhabited by wildlife. This needs to be taken into consideration when destroying such habitats so future generations can enjoy the same as we have.

3. Policy Context

3.1 Introduction

3.1.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 states "if regard is to be had to the development plan for the purpose of any determination to be made under the planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise". This is recognised in paragraph 11 of the NPPF, with paragraph 12 stating that the framework does not change the statutory status of the development plan as the starting point for decision making. The development plan for the Selby District comprises the Selby District Core Strategy Local Plan (adopted 22nd October 2013) and those policies in the Selby District Local Plan (adopted on 8 February 2005) which were saved by the direction of the Secretary of State in 2008 and which have not been superseded by the Core Strategy.

3.2 Selby District Core Strategy Local Plan

3.2.1 The Selby District Core Strategy was adopted on 22 October 2013 in accordance with the NPPF, its policies are up to date and can in general be given full weight in the determination of planning applications. A challenge to the Core Strategy was made in December 2013 and sought to have the plan quashed based on ten grounds of challenge. The case was heard in the High Court in July 2014 and Judgement was given in October 2014 dismissing all ten grounds. Permission to appeal was granted on one ground – duty to co-operate. The case was heard by the Court of Appeal in October 2015 and judgement was given that same month which dismissed the appeal and upheld the High Court decision. The appellant then sought leave to appeal that decision. On 22 March 2016 the Supreme Court refused permission to appeal as there was no arguable point of law and that the Court of appeal was correct in its decision for the reasons given. There is no further potential for the Core Strategy to be challenged through the Court process and no additional right of appeal against the refusal to further entertain the challenge. Relevant policies here are:

- SP1 Presumption in Favour of Sustainable Development
- SP2 Spatial Development Strategy
- SP3 Green Belt
- SP5 Scale and Distribution of Housing
- SP8 Housing Mix
- SP9 Affordable Housing
- SP12 Access to Services, Community Facilities and Infrastructure
- SP14 Town Centres and Local Services
- SP15 Sustainable Development and Climate Change
- SP16 Improving Resource Efficiency
- SP18 Protecting and Enhancing the Environment
- SP19 Design Quality

3.3 Selby District Local Plan

3.3.1 Annex 1 of the National Planning Policy Framework (NPPF) outlines the implementation of the Framework. As the Local Plan was not adopted in accordance with the Planning and Compulsory Purchase Act 2004, applications should be determined in accordance with the guidance in Paragraph 215 of the NPPF which states

" In other cases and following this 12-month period, due weight should be given to relevant policies in existing plans according to their degree of consistency with this framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given)".

3.3.2 The relevant Selby District Local Plan Policies are:

- SL1: Safeguarded Land
- ENV1: Control of Development
- ENV2: Environmental Pollution and Contaminated Land
- ENV3: Light Pollution
- ENV28: Archaeology
- T1: Development in Relation to Highway

T2:	Access to Roads
T7	Cyclists
T8	Public Rights of Way
RT2:	Recreational Open Space
CS6:	Infrastructure and Community facilities

3.4 National Policy

- 3.4.1 On the 27th March 2012 the Government published the National Planning Policy Framework (NPPF). The NPPF replaced the suite of Planning Policy Statements (PPS's) and Planning Policy Guidance Notes (PPG's) and now, along with the guidance in the Technical Guidance Note, and Policy for Traveller Sites, provides the national guidance on planning.
- 3.4.2 The NPPF introduces, in paragraph 14, a presumption in favour of sustainable development. Paragraph 14 of the NPPF states "At the heart of the National Planning Policy Framework is a presumption in favour of sustainable development, which should be seen as a golden thread running through both plan-making and decision-taking".
- 3.4.3 The NPPF and the accompanying PPG provides guidance on wide variety of planning issues. This report has been prepared having regard to this guidance.

3.5 Other Policies/Guidance

- 3.5.1 Other policies and guidance include

Affordable Housing Supplementary Planning Document, 2013
 Developer Contributions Supplementary Planning Document March 2007
 Sherburn in Elmet Village Design Statement, December 2009
 North Yorkshire County Council SuDs Design Guidance, 2015

4.0 Key Issues and the Decision Making Process

4.1 Introduction

4.1.1 The main issues and decision making process when assessing this application are:

- 1. Are there any relevant changed circumstances since the Council was minded to approve an identical application in November 2015?**
- 2. What does the development plan say about the principle of development on the application site and the spatial development strategy for Sherburn-in-Elmet?**
- 3. What are the site specific impacts and how do they relate to planning policy.**
 1. Design and impact on the character of the area
 2. Flood risk, drainage and climate change
 3. Impact on highways
 4. Residential amenity
 5. Nature conservation and protected species
 6. Affordable housing
 7. Recreational open space
 8. Education, healthcare, waste and recycling
 9. Contamination
 10. Impact on heritage assets
 11. Education, healthcare, waste and recycling
 12. Impact on the Green Belt
 13. Other issues
- 4. Does the development plan point in favour of, or against, an approval of the application?**
- 5. Do material considerations suggest a decision other than in accordance with the development plan?**

4.2 Are there any relevant changes in circumstances since the Council was minded to approve an identical application in November 2015?

4.2.1 Housing Land Supply

The National Planning Policy Framework (NPPF) places significant importance on maintaining the delivery of a five year housing land supply to meet housing targets (para 47 bullet 4) and relevant policies for the supply of housing should not be considered up-to-date if the local planning authority cannot demonstrate a five year supply of deliverable housing sites (para 49).

4.2.2 When Members considered the identical application to this one in November 2015, the Council could not demonstrate a five year housing land supply across the District. Therefore Members were advised that the Council's own development plan policies on the supply of housing were out of date. Instead paragraph 14 of the

NPPF required the planning balance to be much more dependent on an assessment of the policies of the NPPF itself. Indeed the planning balance at this time was, effectively, that the Council should grant planning permission unless

- *“Any adverse effects of doing so significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.”*

4.2.3 Now that a five year housing land supply can be demonstrated for the District (5.8 years at 1 October 2015), the planning balance has changed to allow the Council to determine the application:

- *“In accordance with the development plan unless material considerations indicate otherwise”.*

4.2.4 This is a significant difference in the approach to the determination of this application compared to that undertaken in November 2015.

4.2.5 Members should be aware that the applicant strongly disagrees with the Council’s calculations of the amount of land that can deliver housing across the District over the next five years and consider the actual supply position is well below 5 years.

4.2.6 Officers from the policy section have assessed the objections of the applicant on this matter and remain satisfied that a robust five year housing land supply can be demonstrated for the District. An updated housing land supply position with a base date of 1 April 2016 is to be reported to the Executive in August 2016.

4.2.7 The Community Infrastructure Levy

The Community Infrastructure Levy (CIL) is a charge which Local Authorities can charge on most types of new development in their area. CIL charges are based on the size and type of the proposed development, with the money raised used to pay for strategic infrastructure required to support development growth within their area.

4.2.8 The Council will use CIL to secure strategic infrastructure, as detailed in the Regulations 123 list, whilst local infrastructure will be secured through planning obligations in line with relevant policies.

4.2.9 CIL charging was formally introduced by the Council on 1 January 2016 and given that proposals relate to new housing a CIL contribution would be required for this development. However, this cannot be calculated in detail until a reserved matters application setting out the proposed floor space for the development has been submitted.

4.2.10 The introduction of CIL would not impact on the on-site recreational open space provision, affordable housing provision, the waste and recycling contribution and contributions to off-site local transport infrastructure which would still need to be secured through a Section 106 agreement. The contributions towards education, healthcare, off site recreational open space and strategic transport infrastructure are no longer appropriate within a Section 106 agreement as they are covered by the CIL payment.

4.3 What does the development plan say about the principle of development on the application site and the spatial development strategy for Sherburn-in-Elmet?

4.3.1 Policy SP1 of the Core Strategy outlines that

"when considering development proposals the Council will take a positive approach that reflects the presumption in favour of sustainable development contained in the National Planning Policy Framework"

More detailed policies in the development plan regarding the principle of development on this site include Policy SL1 Safeguarded Land of the Selby District Local Plan and Core Strategy Policies SP2 "Spatial Development Strategy" and Policy SP5 "The Scale and Distribution of Housing" of the Core Strategy.

4.3.2 Policy SL1 of the Selby District Local Plan (SDLP) states that:

"Within areas of safeguarded land as defined on the proposals map, proposals for development which would prejudice long term growth beyond 2006 will not be permitted. It is intended that the release of safeguarded land, if required, will be carried out in a controlled and phased manner extending over successive reviews of the Local Plan."

4.3.3 The first part of the policy is out of date because it applies to proposals submitted before 2006 that would prejudice long term growth after 2006. However the second part of the policy is process rather than time limited.

4.3.4 As explained in paragraph 3.48 of the SDLP

"The release of Safeguarded Land, if required, to meet long term development needs would only be made in a controlled and phased manner through future Local Plan or land supply reviews, possibly extending over successive review periods"

4.3.5 Hence the application is in conflict with this policy because it will result in the release of safeguarded land without the endorsement of a Local Plan or land supply review to do so.

4.3.6 The policy itself was adopted in 2005, and the evidence which supported it would date back several years earlier. However that does not necessarily mean:

- it is out of date or
- should not be considered up to date (the terminology used in paragraph 49 of the NPPF) or
- carry limited weight

4.3.7 If the policy remains consistent with the NPPF and still provides a relevant approach to safeguarded land having taken into account the current land supply position and any changes in circumstances since 2005, it can be considered up to date or at least not out of date and carry due weight. Paragraph 215 of the NPPF states that:

"the closer the policies in the plan to the policies in the framework, the greater the weight that may be given"

4.3.8 Paragraph 85 of the NPPF states that
“Planning permission for the permanent development of safeguarded land should only be granted following a Local Plan review which proposes the development”

4.3.9 SDLP Policy SL1 is fully consistent with the NPPF.

4.3.10 As regards the relevance of the policy in 2016, it is important to note that:

- the minimum housing requirements for Sherburn-in-Elmet in the current plan period up to 2027 have essentially already been met when current commitments are built out
- the policy team’s view is that
 - the Council has now and should, through windfall housing, maintain a ‘positive’ five year housing land supply position at least in the short term.
 - there is no need to release this safeguarded land for development at this present time.
- the large amount of safeguarded land (about 45 hectares with the loss of some of this land for recreational open space) on five parcels of land to the north east, south and west of the town remain undeveloped. Based on the Core Strategy’s spatial development strategy and policies this amount of land still offers a long term supply and choice of land for the town’s growth requirements well beyond the current plan period up to 2027.

4.3.11 The SDCS Policy SP3 confirms the relevance and importance of a policy to safeguard land for the long term and to only release that land through the Local Plan in its criterion D. This states that:

“To ensure that the Green Belt boundaries endure in the long term, any Green Belt review through the Local Plan will:

- *ensure that there is sufficient land to meet development requirements throughout the Plan period and identify safeguarded land to facilitate development beyond the Plan period.”*

4.3.12 The SDLP was adopted in 2005 and provided for housing growth up to 2006. This dates the plan and a number of policies in the adopted plan have either been withdrawn (by the Secretary of State in 2007) or replaced by the recently adopted Core Strategy. Nevertheless there are many policies in the SDLP that have been ‘saved’ for use in the determination of planning applications. Policy SL1 is one of these policies. There are recent Inspector’s and Secretary of State decisions on planning appeals which conclude that this type of policy is out of date beyond the end of the plan period or when a Council has decided to release some of its safeguarded land as an interim measure to ‘maintain’ a five year housing land supply. This Council has not sought to amend its policy on safeguarded land and hence the latter circumstance does not apply here.

4.3.13 Clearly in 2016 we are well beyond the end of the plan period of 2006 and the planning agents for the applicant argue strongly that this means the policy is out of date and should carry little or no weight.

4.3.14 Nevertheless, it is the officer view that, there are differences between the cases put to the Council by the applicant's agents on this time expiry issue compared to Policy SL1 in the Selby District Local Plan and that members, can consider the policy as not out of date.. This is because

- the clarity of the policy and explanatory text identifies that it should only be released under the circumstances stated in paragraph 1.4.9 above, (These circumstances do not apply here)
- The policy clearly indicates that the release of safeguarded land might be spread over successive plan reviews (The housing levels, already established in Sherburn-in-Elmet, may point to the release of land only in the next Local Plan Review)
- the policy remains relevant today as safeguarded land is currently not required to meet the minimum housing requirement for Sherburn-in-Elmet in the adopted Core Strategy, and the District's housing supply as a whole at 1 April 2016 is likely to show the District as already having provision well above the Core Strategy's minimum target level of 7,200 dwellings by 2027.
- it is consistent with paragraph 85 of the NPPF.

4.3.15 A decision on which tracts of safeguarded land, if any, are to be released is currently the subject of a Local Plan Review. The Core Strategy has set the strategic approach in this review and the Sites and Policies Local Plan, 'PLAN Selby' will determine what parcels of land should be released for development through site allocations. A 'PLAN Selby' Preferred Options consultation is due out in the autumn 2016.

4.3.16 The above analysis means that Members can under the terms of the NPPF (para 215) give between moderate and significant weight to this proposal's conflict with SDLP Policy SL1 in the planning balance. (This weight is however not the full weight that can be attributed to a post NPPF up to date development plan policy such as within the Core Strategy) It is the officer view that significant weight should be given to the conflict because of the current circumstances on housing land supply and the adverse consequences for plan making in Sherburn-in-Elmet were the proposal to be approved. These consequences are described below.

4.3.17 Policies SP2 and SP5 of the Core Strategy set out some of the main elements of the development plan's spatial development strategy and its objective of creating sustainable communities. SDLP Policy SP2 identifies Sherburn-in-Elmet as a sustainable Local Service Centre which should accommodate residential and potentially employment growth between the years 2011 and 2027.

4.3.18 SDCS Policy SP5 seeks to provide a minimum of 790 dwellings in Sherburn-in-Elmet between these years. This represents 11% of the whole District's housing requirement of a minimum of 450 dwellings per annum during the plan period. Taking into account existing completions since the start of the plan period (2011), planning permissions and the delivery associated with this application, Sherburn-in-Elmet is likely to see some 1072 new dwellings completed before 2027. This does not take account of windfall residential development within the town's development limits.

4.3.19 Behind the policy wording of the Core Strategy, the reasoned justification of the plan refers to the possibility of an overall District wide housing supply which could include between 105 and 170 dwellings per annum from windfall sites above the

450 dwellings per annum, from around 2016. A windfall figure for Sherburn-in-Elmet is not provided. This shows that the Core Strategy has been adopted with an expectation that a significant number of dwellings above the minimum housing target could, in principle, be accommodated in the District.

4.3.20 However, there is about 45 hectares of safeguarded land designated around the town and not developed. There are currently two other planning applications with the Council for residential development on safeguarded land which, if approved, would add some 135 and 60 dwellings to the town's housing numbers. This would take the total dwelling commitment to 1267 for Sherburn-in Elmet. At 60% higher than the Core Strategy minimum housing target, without taking account of any windfall housing within the town's development limits, this clearly represents a significant departure from the Core Strategy's housing growth levels for the town and the spatial development strategy as it applies to Sherburn-in-Elmet. Appendix 3 to this report provides a map showing the application site, the other application sites referred to in this report and the safeguarded land and other designations around Sherburn-in-Elmet.

4.3.21 In the particular circumstances in Sherburn, this raises concerns over:

- the lack of a strategic and integrated land use approach to the town's growth, including concerns over the need for a Sites and Policies Local Plan update of the Council's Community Infrastructure Levy charging policy to ensure that local services and infrastructure can be delivered in the town. .
- the 'bypassing' of the local community's desire and ability to shape the town's growth and to influence the delivery of appropriate new and improved facilities and services, and
- a potentially inappropriate increase in travel to work by car to West Yorkshire, contrary to the Core Strategy objective of minimising travel by car.
- an inappropriate scale of residential growth for the town compared to that envisaged by the Core Strategy.
- the earlier than necessary call for further changes to the Green Belt.

4.3.22 Some of these concerns were raised by the Inspector in his report on the examination of the Core Strategy (June 2013). He stated about the town, in paragraph 83 of his report, that:

"...the absence of many key services in the town and the limited opportunities for expanding its small town centre militate against greater housing growth unless part of a comprehensive planned expansion"

4.3.23 In addition paragraph 4.23 of the SDCS states, in relation to Sherburn-in-Elmet, that:

"The level of services and facilities available however, has not kept pace with growth. In these circumstances the Core Strategy aims to facilitate some growth in market housing with a strong emphasis on provision of accompanying affordable housing, but priority will be given to improving existing services and expanding the range of local employment opportunities, in order to help counter the strong commuting movements to Leeds."

- 4.3.24 It is important at this point to draw Members attention to the need to consider as a changed circumstance since the adoption of the Core Strategy that approval has been given to a large employment development at the 'Proving Ground' and an Aldi food supermarket respectively near and within the town. The Aldi food supermarket is now built and open.
- 4.3.25 Nevertheless the above concerns; the precedent that is likely to be set by the approval of any substantial tract of safeguarded land for residential development; the healthy housing land supply already in in the town, result in an officer conclusion that this application is in conflict with the Core Strategy's spatial development strategy, in particular Policies SP2A, SP5 and SP14. These are up to date policies within a post NPPF adopted plan and therefore full weight can be given to them in the planning balance. The Council's draft Strategic Housing Market Assessment broadly supports the overall scale of housing development proposed in the Core Strategy.
- 4.3.26 SDCS Policy SP2A,c This element of the Core Strategy policy cross references to development limits around settlements. A development limit draws a line on the policies map of the Local Plan and seeks to strictly control the type of development on one side of the line in order to protect the integrity of the countryside. The development limits are shown on the Selby District Local Plan policies map. These development limits are under review in the work on the Sites and Policies Local Plan 'PLAN Selby'. This proposal would result in the loss of about 9 hectares of countryside and good quality agricultural land for a type of development not permitted by this policy. There is a close relationship between this policy and that of SDLP Policy SL1. One reinforces the other. At least moderate weight should be given to this conflict with development plan policy.
- 4.3.27 The applicant strongly disagrees with the Council's approach to the use of development limits in determining planning applications in 2016 from a plan adopted in 2005 and only planning for housing up to 2006. They consider this policy is out of date. It is the officer's view that Members can continue to give weight to the development limits of the Selby District Local Plan where they provide an appropriate distinction between countryside and a main built up area; where growth in line with the Core Strategy is being accommodated and where the focus of growth should be within the development limits of the settlement. This is the position here. The applicant has drawn the Council's attention to a number of Inspectors' and Secretary of State's decisions whereby development limit policies have been deemed out of date. These decisions do not reflect a recent Inspector's decision for residential development at North Duffield taking into account the specific circumstances of Selby District. The Inspector here concluded that with the five year housing land supply in the District and the Core Strategy setting up the process by which additional housing will be brought forward, the development plan policies on the supply of housing should be regarded as up to date.
- 4.3.28 SDCS Policy GB3. At the time of writing information provided by the applicant is being assessed to determine whether the proposed construction of a roundabout on the A162 and its associated lighting and signage would preserve the openness of the Green Belt. If the openness of the Green Belt is not preserved then the proposal is considered to be inappropriate development which should only be approved if very special circumstances can be demonstrated. This proposal could therefore be in conflict with SDCS Policy SP3 on Green Belt. (see detail below)

4.4 Site specific impacts and planning policy.

Design and impact on the character of the area

- 4.4.1 Relevant policies in respect to design and the impacts on the character of the area include Policy ENV1 (1) and (4), ENV3 of the Selby District Local Plan, and Core Strategy Policy SP12 Access to Services, Community Facilities and Infrastructure and Policy SP19 “Design Quality” of the Core Strategy.
- 4.4.2 Considerable weight should be attached to the Local Plan Policy ENV1 as it is broadly consistent with the aims of the NPPF.
- 4.4.3 Relevant policies within the NPPF, which relate to design include paragraphs 56, 60, 61, 65 and 200.
- 4.4.4 The application proposes outline consent for up to 270 dwellings with access for consideration and all other matters reserved. An indicative illustrative masterplan has been submitted which demonstrates how the site could accommodate 270 dwellings, allowing for internal road networks, areas of recreational open space, a balancing pond, pumping station and footpath links. The submitted Design and Access Statement confirms that the site would achieve a density of approximately 33.5 dwellings per hectare which is considered to be medium density and as such would appear to be a reasonable density having had regard to the surrounding context. Having taken into account the indicative layout submitted and the context of the site it is considered that an appropriate layout could be achieved at reserved matters stage.
- 4.4.5 With respect to the appearance of the proposals the submitted Design and Access Statement provides examples of how the development could appear, having had regard to the Sherburn in Elmet Village Design Statement. Having had regard to the contents of the Design and Access Statement and taking into account the surrounding context of the site there is nothing to suggest that an appropriate appearance could not be achieved at reserved matters stage. The Design and Access Statement and Parameters Plan suggests that there could be a mix of properties with single storey bungalows to the south west, with the majority of properties being two storey with some two and a half storey properties interspersed in the central area of the site. Providing that the scale of the properties proposed takes account of the surrounding context and in particular the inter-relationship with existing properties along the southern boundaries, it appears that an appropriate scheme could be achieved at reserved matters stage.
- 4.4.6 In terms of landscaping, this is reserved for future consideration; however it is noted that the site is generally open in character with trees and hedgerows located on the site boundaries. The application is accompanied by an Arboricultural Assessment which assesses the value of the existing trees based on their current condition and

quality and provides an assessment of the impacts arising from the proposed development of the site.

- 4.4.7 The report confirms that a total of nineteen individual trees, six groups of trees and seven hedgerows were surveyed. Three trees were categorised as unsuitable with no trees of high value, one tree of moderate value and the remaining trees and hedgerows low value. The report states that through good design and by virtue of existing tree cover being positioned around the extents of the site the proposed development has allowed for the retention of much of the existing tree cover. To facilitate the proposed main vehicle access to the site from the north and to facilitate a balancing pond would result in some tree and hedgerow loss, with the report suggesting that this should not present a constraint to development provided that an appropriate amount of new tree planting is proposed to mitigate for its loss. The report suggests that one of the hedgerows could be re-located to run around the proposed roundabout, which would both reduce the amount of hedgerow material being lost and would also provide immediate maturity to the landscaping around the new roundabout. The report goes on to recommend new tree planting species, tree management arrangements and tree protection measures and these measures should be taken into account within the reserved matters scheme. The contents of the report are noted and it is considered that an appropriate landscaping scheme can be achieved at reserved matters stage.
- 4.4.8 Policy ENV3 of the Local Plan requires consideration be given to external lighting and it is considered that an appropriate lighting scheme can be achieved at reserved matters stage for the residential area itself. However approval for the details of access is sought at this outline approval stage and the Council has requested details of the construction, signage and lighting for the roundabout on the bypass. These details and the officers response to the resultant impact will be reported at the meeting.
- 4.4.9 Core Strategy Policy SP8 states that proposals must ensure that the types and sizes of dwellings reflect the demand and profile of households evidenced from the most recent Strategic Housing Market Assessment. As this is an outline scheme there is no detail as to the proposed housing mix, however an appropriate mix could be achieved at reserved matters stage taking into account the housing needs identified in the Strategic Housing Market Assessment.
- 4.4.10 The Police Architectural Liaison Officer has commented on the proposed indicative layout and has made a series of recommendations which the developers should take account of within the design of a detailed reserved matters scheme.
- 4.4.11 Landscape and Visual Impact: The Applicants Position. With respect to the impacts of the development on the character of the area and landscape character, the application is accompanied by a Landscape and Visual Impact Appraisal. With respect to the impact on the landscape the report concludes that the proposals would have moderate adverse effect on the immediate site's surroundings. The report states that within the site itself the development would change the existing agricultural use to that of an urban nature. However the development would retain the most valuable landscape features along the periphery of the site, such as hedgerows and hedgerow trees. The report suggests this would maintain the connection to the countryside, and concludes that the overall impact would be no greater than having a moderate adverse impact.

- 4.4.12 With respect to visual impacts, the dwellings looking onto the site would be most affected and for properties with open views this would initially result in moderate/major adverse visual effects, however properties with more extensive garden planting would have a reduced degree of visual change and reinforced planting along Hodgson's Lane would reduce these impacts. Whilst there would inevitably be some adverse landscape and visual effects at the outset, the impact of the development and consequential effects would be localised and limited in their extent and the impacts would be diminished over time as the Green Infrastructure would soften the built form in the longer term.
- 4.4.13 The report concludes that the site's landscape character has the ability to absorb change through the introduction of the development as presented through the masterplan and would not give rise to any unacceptable landscape and visual harm.
- 4.4.14 Landscape and Visual Impact: The Council's position. The applicant's own LVIA accepts that there is an overall moderate adverse impact on the landscape. This harm is a negative impact on the sustainability of this proposal. Hodgson's Lane forms the western boundary of the site. With its boundary hedgerows and trees it forms an important feature in the landscape of this area and provides walkers and cyclists with an attractive linear walk through open countryside and onto a public footpath beyond the bypass. It forms an important amenity for local residents and provides easy access to the open countryside from the built up area. It provides views of the countryside up to and beyond the bypass. Hodgson's Lane is not a designated public right of way, but it is owned and maintained by the Highway Authority, North Yorkshire County Council. Whilst the proposal would retain Hodgson's Lane and its associated landscape features, the building of 270 dwellings in close proximity to the lane is likely to have a major adverse impact on its amenity value. There are few such accessible green corridors and few public rights of way that give access to the countryside in this part of the town.
- 4.4.15 The application site would result in the built form of the town extending right up to the bypass rather than leave a countryside buffer between the town and bypass. This type of countryside buffer forms part of the character of the town to the south where new residential developments will retain a significant gap between the future built up area and the bypass.
- 4.4.16 The importance of all the above to the form, character and amenity of the town and this area of countryside is currently being investigated by a landscape architect who has been commissioned on this matter. The results of this work will be reported to Planning Committee at the meeting.
- 4.4.17 Notwithstanding this further specialist work to be reported at Committee, it is considered that there is clearly some harm to the environmental dimensions of sustainable development and that the choice of whether to accept this harm should form part of decision making in a Local Plan process. The application is therefore in conflict with Policy ENV1 of the Selby District Local Plan and Policies SP12 and SP 18 of the Core Strategy.
- 4.4.18 The Council's position on the significance of this harm will be clarified when Members are updated on the Council's landscape architects assessment. Members should be aware that the above conclusion represents a difference in

planning judgement to that reported in the November 2015 report. At para 2.9.12 of this earlier report, officers conclusion in referring to the applicant's LVIA, was that *"the contents of the report are noted and having regard to the context of the site it is agreed that the proposals would not result in a significant detrimental impact on the landscape character so as to warrant refusal"*

4.4.19 Comments have been made by local residents with respect to the impacts on visual amenity, the fact that they consider the siting of the development to be ill-considered, the proposals being on a greenfield site, it being overdevelopment and damaging the character and charm of Sherburn in Elmet.

Flood Risk, Drainage and Climate Change

4.4.20 Policies SP15, SP16 and SP19 of the Core Strategy require proposals to take account of flood risk, drainage, climate change and energy efficiency within the design.

4.4.21 The application site is located in Flood Zone 1 (low probability of flooding). Local residents have expressed concern that the site was within Flood Zone 3 and that they were not notified that the flood zone had been altered. For clarity the flood zones are set by the Environment Agency and as such any issues regarding the flood designation for this site should be taken up directly with them. The Council therefore need to consider the application on the basis of the Flood Zone allocated by the Environment Agency, this being Flood Zone 1. The applicants have submitted a Flood Risk Assessment which establishes the sources of flooding and taking into account climate change sets out mitigation measures in accordance with the requirements of the NPPF.

4.4.22 The Flood Risk Assessment sets out the drainage strategy for the site and this confirms that the site is underlain by soils with impeded drainage and is therefore not suitable for infiltration (drainage into the ground). The report states that the risk of groundwater flooding or flood risk from surface water is assessed as being very low. Given this, it is proposed to direct all runoff from the developed site to the drainage channel. The report sets out detailed calculations for the volume of surface water storage facilities on site and states that this could be accommodated within a detention basin. In addition it is stated that the flat nature of the site and relatively high invert level of the culvert beneath the A162, an on-site pumping station is expected to be required to transfer water from the detention basin to the culvert. The development proposals show an indicative surface water drainage layout for the site, additional SuDS features such as rainwater harvesting, permeable paving, filter strips, swales, filter drains or infiltration trenches may also be incorporated into the drainage strategy at reserved matters stage. The report concludes that a surface water drainage strategy is feasible for the site, given the development proposals and land available. The proposals provide the opportunity for the inclusion of SuDS elements ensuring that there would be no increase in surface water run-off and volume from the proposed development.

4.4.23 Local residents have made numerous comments regarding drainage and flooding both on and off site and these have been taken into account. The Environment Agency has stated that it has no comment to make on the application. The NYCC Flood Risk Management Officer raises no objection to the suggested drainage proposals and suggests one condition is attached in regards to the proposed

drainage of the site. The Selby Area Internal Drainage Board, although they haven't commented on this application noted on the earlier identical application that they have no objections to the drainage proposals.

- 4.4.24 Yorkshire Water have stated that the development of the site should take place with separate systems for foul and surface water drainage and foul water domestic waste should discharge to the 600mm diameter public/foul combined water sewer recorded at the junction of Hodgson's Lane and Moor Lane at a point approximately 100 metres from the site. Yorkshire Water has therefore raised no objections to the application and has requested that conditions should be attached in order to protect the local aquatic environment and Yorkshire Water infrastructure.
- 4.4.25 With respect to energy efficiency, the dwellings would be constructed to Building Regulations requirements which meet the Code for Sustainable Homes Level 3. In order to comply with the specific requirements of Policy SP16 which requires that 10% of total predicted energy should be from renewable, low carbon or decentralised energy sources a condition should be imposed in order to ensure compliance with Policies SP15 and SP16 of the Core Strategy. Compliance with other parts of Policy SP15 and SP19 would be more appropriately considered under the reserved matters as they relate to details of design.
- 4.4.26 Having taken the above into account the proposed scheme can adequately address flood risk and drainage subject to appropriate conditions. In addition climate change and energy efficiency measures can be secured via condition to ensure that these are incorporated at reserved matters stage in accordance with Policies SP15, SP16 and SP19 of the Core Strategy and the NPPF.

Impacts on Highway Safety

- 4.4.27 Policy in respect of highway safety and capacity is provided by Policies ENV1(2), T1 and T2 of the Selby District Local Plan, Policy SP19 of the Core Strategy and paragraphs 34, 35 and 39 of the NPPF. In addition Policies T7 and T8 of the Local Plan set out requirements for cycling and public rights of way.
- 4.4.28 The Applicant's Transport Assessment by SK Transport Planning Ltd together with updated technical notes which examine the existing highway network, traffic flows and accident levels and presents the anticipated traffic generation and highway impacts as a result of the development having also taken into account other permissions within Sherburn in Elmet. The report concludes that the proposal is underpinned by a travel plan to promote accessibility of the site and reduce day-to-day car trips. Measures are also proposed to assist with influencing travel behaviour, particularly car route choice and sustainable connections to local amenities. Detailed traffic assessments have been undertaken in line with NYCC requirements and to allow consistency with other applications in the area. The assessments conclude that the proposal will not have a severe impact on the local highway network and the proposal provides an opportunity to deliver a sustainable residential development that integrates well with the existing community and that will result in acceptable residual effects on the transport network.
- 4.4.29 North Yorkshire County Council's Review of the applicant's transport assessment and comments from local residents and the Parish Council regarding the impact on the highway network have been undertaken. NYCC Highways have confirmed

that the proposed roundabout has been assessed in terms of capacity and has been subjected to a Road Safety Audit and it is considered to be an appropriate means of access. The impact on the Low Street/ Kirkgate/ Moor Lane/ Finkle Hill signal controlled junction has also been assessed and the modelling demonstrates that the development will have a minimal effect on the operation of the signals. NYCC Highways have also stated that in order to improve pedestrian/cycle amenity in the vicinity of Hodgson's Lane/ Moor Lane, new and additional drop kerb crossings will be required together with tactile pavements and this should be conditioned. See earlier references in this report summary of

4.4.30 With respect to encouraging more sustainable modes of transport, the applicant's Transport Assessment establishes the accessibility of the site to local facilities through walking, cycling or public transport. In terms of walking, the centre of Sherburn in Elmet is accessible from the site on foot (approximately 20 minutes at normal walking pace) and the whole of the settlement is accessible within a walking distance of 2km. With respect to cycling, the report indicates that local services and employment areas are within a reasonable cycling distance of the site. There are two bus stops within walking distance of the site located along the A162 and Moor Lane allowing access to Pontefract, Monk Fryston and Tadcaster. The bus stops located within the centre of Sherburn provide access to Selby and Leeds. There are two train services per day between Sheffield at York from Sherburn train station which is approximately 600 metres from the site with hourly services from South Milford train station between York, Selby and Leeds.

4.4.31 It is accepted by officers that Sherburn-in-Elmet is designated as a Local Service Centre in the adopted Core Strategy and that the settlement represents a generally sustainable location in terms of access to jobs, local schools and services by a choice of transport modes. As with many settlements within the District there will be some reliance on the private motor vehicle to access employment and wider services and facilities. Nevertheless, the lack of the provision local shopping facilities within this site, especially if combined with approval for the two other adjacent sites for residential development and the lack of penetration of public transport into the site is of concern in terms of the site's detailed accessibility credentials. North Yorkshire County Council Highways do not consider that the impact of the local highway network from this application and in combination with the other two applications on this agenda could not be regarded as "severe" as cited in paragraph 32 of the National Planning Policy Framework. The County Highways will secure measures to mitigate the local traffic impact from the developer and have no objection to this proposal or the cumulative impact of all three residential proposals on the agenda. Members are therefore recommended to consider this scheme as acceptable in terms of traffic impact and in accordance with Policies ENV1 (2), T1, T2, T7 and T8 of the Local Plan, Policy SP10 of the Core Strategy and paragraph 32 of the NPPF, subject to conditions and contributions to highway improvements.

Residential Amenity

4.4.32 Policy in respect to impacts on residential amenity and securing a good standard of residential amenity is provided by ENV1(1) of the Local Plan, as part of the Core Principles of the NPPF and within Paragraph 200 of the NPPF.

- 4.4.33 The detailed design of the properties, orientation and relationship of windows to other properties would be fully established at reserved matters stage so as to ensure that no significant detriment is caused through overlooking, overshadowing or creating an oppressive outlook. The submitted parameters plan suggests two storey properties would be located adjacent to the A162 and behind the properties along Moor Lane with single storey properties adjacent to Hodgson's Lane which would ensure that an appropriate relationship was achieved.
- 4.4.34 Residents have expressed concerns regarding noise pollution during the construction process and having consulted the Lead Officer for Environmental Health they have confirmed that this can be dealt with by virtue of a planning condition requiring a scheme to control, noise, vibration and dust to be submitted.
- 4.4.35 The application is accompanied by a Noise Impact Assessment to assess the impacts on potential occupiers arising by reason of noise from the A162 and the railway line. The report states that it was noted that during the noise readings undertaken the dominant source of noise was the A162 with further contribution from road traffic noise on the wider road network. The report however concludes that noise need not be a determining factor in granting planning consent and that adequate protection of noise sensitive development can be achieved through appropriate mitigation such as careful consideration of the location and orientation of dwellings together with associated acoustic barriers. The report does not specify any mitigation measures as this will be determined at reserved matters stage. The Lead Officer – Environmental Health has recommended that a condition be imposed with respect to noise levels.
- 4.4.36 Having taken into account the matters discussed above it is considered that an appropriate scheme could be designed at reserved matters stage which should not cause significant detrimental impact on the residential amenities of either existing or future occupants in accordance with policy ENV1(1) of the Local Plan and the NPPF.

Impact on Nature Conservation and Protected Species

- 4.4.37 Policy in respect to impacts on nature conservation interests and protected species is provided by Policy ENV1(5) of the Local Plan, Policy SP18 of the Core Strategy and paragraphs 109 to 125 of the NPPF.
- 4.4.38 With respect to impacts of development proposals on protected species planning policy and guidance is provided by the NPPF and accompanying PPG in addition to the Habitat Regulations and Bat/ Great Crested Newt Mitigation Guidelines published by Natural England.
- 4.4.39 The application is accompanied by an Ecological Appraisal by FPCR Environmental and Design Ltd which establishes the impacts of the development and sets out recommendations for the development.

Nature Conservation Sites

- 4.4.40 The submitted report notes that there are no international sites of nature conservation interest within 5km of the site. One statutorily designated site, Sherburn Willows Site of Scientific Interest (SSSI) is present approximately 1.9km

to the south west. The desktop data indicates the presence of 2 non-statutorily designated sites within 1km, both of which are Sites of Interest for Nature Conservation (SINC). Due to the separation distances involved it is not considered that the proposals would result in any significant adverse impacts on these sites.

Protected Species

4.4.41 The report establishes that there are no constraints to development from the presence of protected species such as badger, great crested newts, reptiles, water vole, otters, bats and birds. The report does however recommend precautions and mitigation measures to ensure that should protected species be present they are adequately protected. In this respect officers note that although there is no evidence that protected species were present at the time of the surveys and therefore currently occupying the site, nature is in a constant dynamic state of flux and species can colonise sites between surveys and the commencement of development. As such these precautions are accepted.

Habitats

4.4.42 The report confirms that the site comprises generally species-poor habitats, of intrinsically low conservation value, aside from hedgerows no habitats of Principal Importance or local BAP habitats were recorded on site. The report therefore considers that the presence of these habitats would not be a statutory constraint to works and their loss would have a negligible impact on the biodiversity value of the local area. The hedgerows within the site are dominated by native species and qualify as habitats of principle importance. Some are also likely to qualify as important under the Hedgerow Regulation or be valued highly. For the most part these features are to be retained; however removal of some sections will be required. The report recommends that where loss is incurred consideration should be given to their replacement elsewhere within the site. The report also recommends that the replacement and buffer planting along the north should utilise native species of local provenance. As such the report sets out a series of recommendations to protect the habitats of ecological value.

4.4.43 Natural England has not objected to the proposal. Yorkshire Wildlife Trust have objected to the proposals due to the lack of information on bat roosts close to the site and that they wish to see a thorough mitigation plan involving all the proposed developments in the area. For clarity, the Ecological Appraisal confirms that there are no bat roosts within the application site and the site has limited value for bats with respect to foraging in hedgerows. The report states that some sections of hedge will be removed which could result in impacts to foraging routes, however enhancement measures such as the central green corridor and new planting to the north should retain the site's value for connectivity. Furthermore, whilst a resident of Pinfold Garth has stated that they have a bat roost in their property, there would be no direct impact to this roost, there would be no disturbance to this roost and given the site's location and the comments made within the Ecological Appraisal confirm that there would be no shortage of foraging habitat in order to retain the bat population in a favourable conservation status. Appropriate mitigation measures have been suggested and these can be conditioned. It is also considered that as gardens, landscaping features and the balancing pond mature the site's value as a bat foraging area would be enhanced.

4.4.44 Therefore, in the absence of any evidence to suggest contrary to the findings of the ecology report, and having had regard to standing advice from Natural England the findings of the report are accepted.

4.4.45 Having had regard to all of the above it is considered that the proposal would accord with Policy ENV1(5) of the Local Plan, Policy SP18 of the Core Strategy and the NPPF with respect to nature conservation subject to a condition that the proposals be carried out in accordance with the recommendations set out in the Ecological Appraisal.

Affordable Housing

4.4.46 Policy SP9 of the Core Strategy states that the Council will seek to achieve a 40/60% affordable/general market housing ratio within overall housing delivery. In pursuit of this aim, the Council will negotiate for on-site provision of affordable housing up to a maximum of 40% of the total new dwellings on all market housing sites at or above the threshold of 10 dwellings.

4.4.47 The applicant has confirmed that they are prepared to provide 40% affordable units on site and that this would be secured via a Section 106 agreement. The Council's Lead Officer-Policy supports the provision of 108 affordable units and has provided guidance to the developers with respect to the tenure of any affordable units to be secured so that this can be considered for inclusion in any Section 106 agreement.

4.4.48 The proposals are therefore considered acceptable with respect to affordable housing provision having had regard to Policy SP9 subject to the completion of a Section 106 agreement.

Recreational Open Space

4.4.49 Policy in respect of the provision of recreational open space is provided by Policy RT2 of the Local Plan, the Council's Developer Contributions Supplementary Planning Document, Policy SP19 of the Core Strategy and paragraphs 70 and 73 of the NPPF.

4.4.50 The applicant's parameters plan demonstrates that the site could incorporate on-site recreational open space (potential equipped play areas) and the developer has accepted that all provision required under RT2 would be provided on site and its provision and management would be covered by the S106.

4.4.51 It is therefore considered that the proposals, subject to a Section 106 agreement, are appropriate and accord with Policies RT2 of the Local Plan, Policy SP19 of the Core Strategy and the NPPF.

Education, Healthcare, Waste and Recycling

4.4.52 ENV1 and CS6 of the Local Plan and the Council's Developer Contributions Supplementary Planning Document set out the criteria for when contributions towards education, healthcare and waste and recycling are required. These policies should be afforded significant weight.

4.4.53 Having consulted North Yorkshire County Council Education and the Primary Care

Trust, a contribution towards education facilities and for an additional consultation room at the Sherburn-in-Elmet medical practice would be required were these still suitable for inclusion with a Section 106 agreement. However this type of infrastructure is now funded from the Community Infrastructure Levy to which this development would contribute.

4.4.54 With respect to Waste and Recycling, a contribution of £65 per dwelling would be required and this would therefore be secured via Section 106 agreement.

Contamination

4.4.55 Policies ENV2 of the Local Plan and SP19 of the Core Strategy relate to contamination.

4.4.56 The application is accompanied by a Geo-environmental Appraisal by WSP Parsons Brinckerhoff. The appraisal states that the site has been primarily used for agricultural purposes including pig farming and there are limited potential sources of contamination. The south-western corner of the site, containing former farm structures, is the main area of potential concern, particularly with regard to asbestos containing materials. A number of potential pollutant linkages have been identified which will require further assessment. The report also states that on the basis of the data presented within the report further intrusive ground investigation should be completed to provide information for foundation design and to confirm the presence/absence of localised contamination.

4.4.57 The Council's Contaminated Land Consultant has advised that conditions should be placed on any consent accordingly. As such the scheme is considered to accord with Policy ENV2 of the Local Plan and SP19 of the Core Strategy.

Impact on Heritage Assets

4.4.58 Policies ENV1 and ENV28 of the Local Plan, Policies SP18 and SP19 of the Core Strategy and the NPPF require proposals to take account of their impacts on heritage assets and in particular in relation to this site, archaeology.

4.4.59 The NPPF paragraph 128 states Local Planning Authorities should require an applicant to describe the significance of any heritage assets affected, including any contribution made by their setting. The level of detail should be proportionate to the assets' importance and no more than is sufficient to understand the potential impact of the proposal on their significance. Where a site on which development is proposed includes or has the potential to include heritage assets with archaeological interest, local planning authorities should require developers to submit an appropriate desk-based assessment and, where necessary, a field evaluation.

4.4.60 The applicants have complied with the requirements of the NPPF in so far as the application is accompanied by an Archaeological Desk Based Assessment and a Geophysical Survey. The assessments conclude that the development of the site would not have any impact on designated assets and development has the potential to impact on a non-designated archaeological asset of unknown date within the south of the site. The assessment has considered the potential for unknown archaeological assets, however considers that the site has low potential.

- 4.4.61 The report has been reviewed by North Yorkshire Council Heritage Officer who has advised that whilst the Desk Based Assessment has not identified heritage assets within the red line boundary, there are known remains within the vicinity and it would be considered that the application area of interest as having archaeological potential. They therefore advise that a scheme of archaeological evaluation should be undertaken to identify and describe the nature and significance of any surviving archaeological remains within the proposed development area, and enable an understanding of the potential impact of the development proposal upon their significance.
- 4.4.62 NYCC therefore, advises that a scheme of archaeological mitigation recording is undertaken in response to the ground-disturbing works associated with this development proposal. This should comprise an archaeological strip, map and record to be undertaken in advance of development, including site preparation works, top soil stripping, to be followed by appropriate analyses, reporting and archive preparation. This is in order to ensure that a detailed record is made of any deposits/remains that will be disturbed. In order to secure the implementation of such a scheme of archaeological mitigation recording, NYCC advise that a condition be appended to any planning permission granted.
- 4.4.63 The proposals are therefore considered acceptable with respect to archaeology in accordance with Policies ENV1 and ENV28, of the Local Plan, Policies SP18 and SP19 of the Core Strategy and the NPPF.

Impact on the Green Belt

- 4.4.64 Part of the application site which includes the access and proposed new roundabout would lie within the West Yorkshire Green Belt and this part of the proposal must therefore be assessed against Green Belt policy.
- 4.4.65 Relevant policies in respect to the principle of the development in the Green Belt include Policies SP2A(d) and SP3 of the Core Strategy and paragraphs 87-90 of the NPPF.
- 4.4.66 The decision making process when considering proposals for development in the Green Belt is in three stages, and is as follows: -
- (a) It must be determined whether the development is appropriate or inappropriate development in the Green Belt.
 - (b) If the development is not inappropriate, the application should be determined on its own merits.
 - (c) If the development is inappropriate, the presumption against inappropriate development in the Green belt applies and the development should not be permitted unless there are very special circumstances which clearly outweigh the presumption.
- 4.4.67 Paragraph 87 of the NPPF makes it clear that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.
- 4.4.68 Paragraph 90 of the NPPF deals with development proposals which do not relate to buildings and states

“Certain other forms of development are also not inappropriate in Green Belt provided they preserve the openness of the Green Belt and do not conflict with the purposes of including land in the Green Belt. These [include]:

Engineering operations;

Local transport infrastructure which can demonstrate a requirement for a Green Belt location.”

4.4.69 With regard to the above officers note that the part of the proposal that lies within the Green Belt constitutes both an “engineering operation” and an example of “local transport infrastructure”. Therefore the proposal need not be inappropriate provided that it preserves the openness of the Green Belt and does not conflict with the purposes of including land in the Green Belt.

Preservation of the openness of the Green Belt and conflict with the purposes of Including land within the Green Belt

4.4.70 Paragraphs 79 and 80 of the NPPF states that “the Government attach great importance to Green Belts. The fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts are their openness and their permanence.”

4.4.71 Green Belt serves five purposes, namely

- To check the unrestricted sprawl of large built up areas;
- To prevent neighbouring towns merging into one another;
- To assist in safeguarding the countryside from encroachment;
- To preserve the setting and special character of historic towns; and
- To assist in urban regeneration, by encouraging the recycling of derelict and other urban land.

4.4.72 Having had regard to the above it is noted that the area of Green Belt that would be directly affected by the proposal constitutes the existing A162, its verges and immediate environs.

4.4.73 Further work has been commissioned by the Council to determine whether the proposed roundabout is inappropriate development and this will be reported at the Committee meeting.

Other Issues

4.4.74 Residents have stated that there are gas leak problems at the site. Northern Gas Networks have been consulted on the application but they commented on Application 2015/0544/OUT and confirmed that a 12” diameter ductile iron medium pressure gas main crosses the site in an east/west direction. They confirm that the gas main will be protected by an easement which will restrict the work which can be undertaken within the easement. In addition the application is accompanied by a Utilities Assessment which establishes where the nearest utility connections are and to establish whether they pose any constraints to development. The report concludes that these do not pose a constraint to the development.

- 4.4.75 Objectors have raised concern with respect to the impacts of pile driving. However, this can be dealt with through a planning condition, given that the type of foundations to be installed have not been confirmed as yet.
- 4.4.76 Objectors have made numerous comments regarding the impact of the proposals on the local infrastructure such as gyms, schools, doctor's surgery, play areas, dentists, lack of shopping facilities, public toilets, banking facilities, post boxes, telephone kiosks, petrol station, ambulance service and entertainment facilities.
- 4.4.77 Funding from the development via the Community Infrastructure Levy will allow the Council to spend monies on those community facilities which are contained in the Regulation 123 list, such as improvements to primary health care and extensions to schools. The provision of a play area is provided for within the development. Nevertheless, concerns have been expressed in this report on the principle set by approval of this application for additional housing in the town and the potential need for new or expanded services within a constrained town centre.
- 4.4.78 Residents have expressed concern regarding the loss of a view and devaluation of property. However these are not material planning considerations.
- 4.4.79 Comments have been received with respect to the lack of community consultation and publicity. The Developers undertook community consultation prior to submitting the application and the application has been subject to appropriate advertisement during the consideration of the application.
- 4.4.80 Local residents have expressed concern that there are other brownfield sites which should be developed within Selby before considering sites such as the application site. Members are advised that whilst the development of brownfield sites is encouraged by the Council this is not here a reason to reject this proposal.

4.5 Does the development plan point in favour of, or against, an approval of the application?

- 4.5.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 and section 70(2) of the Town and Country Planning Act 1990 requires that

"...applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise"

- 4.5.2 There are relevant policies in the development plan against which to assess this application and these are considered to be up to date or not out of date. Hence due weight can be given to these relevant policies and the NPPF paragraph 14 test applied to the identical application reported to the November 2015 Planning Committee does not apply.
- 4.5.3 This report must consider whether the application is in accordance with the development plan as a whole. The application accords with a number of development management policies of the development plan such as affordable housing, residential amenity, drainage, climate change, flooding, archaeology, highways, contamination and protection of biodiversity.

4.5.4 The highways authority is not objecting to the proposal on the traffic impact of this proposal, nor on the cumulative impact of all three applications on this agenda. The highways authority is bound by the terms of the NPPF (paragraph 32) where it states that

“Development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe”.

4.5.5 Furthermore if approved this application and the other two applications on the agenda would make contributions to transport improvements and other infrastructure through a Section 106 agreement (local transport mitigation) and the Community Infrastructure Levy (Monies to be spent at the discretion of the Council on strategic infrastructure).

4.5.6 The conformity of the proposal with the above development plan policies support the approval of the application. However this conformity is considered to be clearly outweighed by the conflict with the spatial development strategy plan policies referred to in this report, including Policy SL1 of the Selby District Local Plan.

4.5.7 Hence Members are advised to refuse the application in accordance with the development plan unless material considerations suggest otherwise

4.6 Do material considerations indicate a decision not in accordance with the development plan?

4.6.1 The approval of this application would provide the following social, economic and environmental benefits and mitigation measures:

- the provision of a source of housing land supply towards the middle of the plan period.
- a contribution to the District’s five year housing land supply.
- the provision of additional market, affordable and high quality housing in the District.
- the provision of housing in close proximity to a major employment base of the District thereby providing opportunities for shorter travel to work distances
- the provision of a local workforce source for the employers of the nearby businesses, although this will depend upon potential employee skill matches and vacancy requirements.
- short term employment opportunities for the construction and house sales industry
- additional spending within the District from the future residents
- on site open space provision and on going maintenance, and a new footpath.
- Community Infrastructure Levy Fees
- waste and recycling bins
- a biodiversity buffer zone along the length of Hodgson’s Lane
- 10% energy supply from decentralised and renewable or low carbon sources.
- timely implementation of necessary highway works

4.6.2 Taken together these would represent significant benefits for the District and are in line with the Government’s planning and general policy objective of boosting housing land supply in sustainable locations. They should carry significant weight in

the planning balance. A recent letter from the applicant draws the Council's attention to the implications of its approval

- circa £1million of infrastructure funding via CIL and Section 106 monies
- 108 affordable homes and bungalows which are in short supply
- New extra household income of circa £4.36 million per annum
- Council Tax receipts of £450k per annum
- New Homes Bonus of £2.2million
- Construction jobs

4.6.3 Other material considerations which are relevant are:

- The approval of the 'Proving Ground' (former airfield at Lennerton Lane) since the adoption of the Core Strategy will contribute to a wider range of employment opportunities in the area. Retail provision, through the opening of a new Aldi supermarket has improved local convenience shopping facilities in the town. Both these developments have contributed positively to the Core Strategy's Spatial Development Strategy for Sherburn-in-Elmet
- Paragraph 85 of the NPPF regarding when planning permission should be granted on safeguarded land.
- Concerns that planning permission for housing on this safeguarded land deprives the local community of what they could reasonably expect from that designation in the SDLP. This expectation would be that the community would be able to contribute to the plan making process on where, when and what growth of the settlement should take place. The importance of local communities shaping the growth and planning of their areas is one of core principles for planning in the NPPF (paragraph 17). The local community discussed options for growth in the town last summer in the 'Lets Talk' PLAN Selby community engagement.
- Concerns of Sherburn Parish Council, of the scope and robustness of the traffic data that has been used to assess the impact of traffic on the local highway network. However, North Yorkshire County Council, the highway authority, have reviewed its initial comments made on the application, but retain its view that the impact of this development would not have a severe impact on the local highway network.
- Concerns over the lack of any shopping facilities for future residents within easy walking distance.
- Whether the only vehicular access of the development directly onto the bypass, and the consequential 'turning of the development's back' on Sherburn-in-Elmet is an appropriate form of development for the area and would perpetuate the perception of the local community that developments around the bypass represent a separate 'community' to Sherburn-in-Elmet.

4.6.4 Hence, there are clearly material considerations here that could suggest approval of the proposal despite the conflict with the development plan and they do carry significant weight. These are summarised in paragraph 4.6.1. Furthermore the first bullet point of paragraph 4.6.3 indicates that additional housing in the town has the benefit of being located in close proximity to a large employment area and a new food supermarket. There are also material considerations which do not support this proposal and these are included in paragraph 4.6.3

4.6.5 Members are advised that they can give significant weight to these 'non-supporting' material considerations as they relate to the:

- lack of community involvement to shape the future role and character of Sherburn-in-Elmet,
- conflict of this proposal with the NPPF on safeguarded land, and
- concerns over the principle set by this proposal's approval for the release of other safeguarded land in Sherburn-in-Elmet.
- concerns over the loss of land to residential development potentially required for future services and infrastructure
- lack of coordinated plan led land use planning to maximise the benefits of new development to the local community.

4.6.6 It is the officer view that, taken together, these material considerations do not suggest a decision other than in accordance with the development plan. Hence as concluded above a decision in accordance with the development plan points to a refusal of planning permission here.

4.6.7 The planning balance revolves around, the amount of weight given to the conflict with the development plan compared to the weight to be given to other material considerations, which include both significant planning benefits and matters which weigh against approval.

4.6.8 Paragraph 85 of the NPPF is one of those material considerations that weigh against this proposal and it provides an unequivocal and restrictive policy which specifically applies to this application. This states that:

“Planning permission for the permanent development of safeguarded land should only be granted following a Local Plan review which proposes the development.”

4.6.9 It is the officer view that the change in circumstances on the five year housing land supply since Members made their decision in November 2015 and the analysis above now indicates that this application be refused in accordance with the development plan.

4.7 Would the circumstances of this application justify a reason for refusal on the grounds of prematurity to the outcome of the Sites and Policies Local Plan, ‘PLAN Selby’?

4.7.1 The National Planning Policy Guidance at paragraph 14 provides guidance on this matter. This states that:

Annex 1 of the National Planning Policy Framework explains how weight may be given to policies in emerging plans. However in the context of the Framework and in particular the presumption in favour of sustainable development – arguments that an application is premature are unlikely to justify a refusal of planning permission other than where it is clear that the adverse impacts of granting permission would significantly and demonstrably outweigh the benefits, taking the policies in the Framework and any other material considerations into account.

Such circumstances are likely, but not exclusively, to be limited to situations where both:

a) the development proposed is so substantial, or its cumulative effect would be so significant, that to grant permission would undermine the plan-making process by predetermining decisions about the scale, location or phasing of new development that are central to an emerging Local Plan or Neighbourhood Planning; and
b) the emerging plan is at an advanced stage but is not yet formally part of the development plan for the area.

Refusal of planning permission on grounds of prematurity will seldom be justified where a draft Local Plan has yet to be submitted for examination, or in the case of a Neighbourhood Plan, before the end of the local planning authority publicity period. Where planning permission is refused on grounds of prematurity, the local planning authority will need to indicate clearly how the grant of permission for the development concerned would prejudice the outcome of the plan-making process

4.7.2 The normal parameters for justifying a reason for refusal on prematurity are underlined above (These underlines are not part of the PPG). Criterion b) above does not apply here, and criterion a) is likely to refer to a scale of development which is more 'central' to the overall spatial distribution of housing across the District and which would potentially undermine growth in Tadcaster and Selby. Nevertheless, approval of both this application on its own and in combination with other safeguarded land in Sherburn-in Elmet would prejudice the outcome of the plan making process by

- i. releasing land that may not be required for development during the plan period and may be better retained as safeguarded land
- ii. releasing land prior to a Local Plan Review of safeguarded land as required by the development plan and the NPPF.
- iii. developing land that may be less sustainable in terms of accessibility and impact on the character and amenity of the area than other safeguarded land, the latter which should be the first choice for release during the plan period.
- iv. The development of land for residential use could prejudice the appropriate siting of community and other facilities/land uses to serve the increased/unplanned population.

4.7.3 Therefore, on balance, officers consider that a reason for refusal on prematurity grounds is justified.

5.0 Recommendations

Reasons for refusal

Subject to the officer's update report which may include additional reasons for refusal, the reasons for refusal are:

- 1. Approval of the application for housing development at this time without the support of a Local Plan Review, and without any overriding need to release safeguarded land for housing in the District and the town of Sherburn-in-Elmet would be in conflict with the protection afforded to safeguarded land by Policy SL1 of the Selby District Local Plan and paragraph 85 of the National Planning Policy Framework.**

2. **Approval of the application for housing development without any current overriding planning need is contrary to the aims of Policy SL1 of the Selby District Local Plan; paragraph 85 of the National Planning Policy Framework (bullet 4) and paragraph 17 (bullet 1) of the National Planning Policy Framework by preventing i) a plan led approach to the phased release and integrated land use planning of this and all the other safeguarded land in Sherburn-in-Elmet; and ii) the consequential lack of community involvement which empowers local people to shape their surroundings.**
3. **Approval of the application for housing and the planning principle this would set locally for the potential development of up to about 45 hectares of safeguarded land for housing in Sherburn-in-Elmet in addition to the housing supply already provided in the town, is in conflict with the recently adopted Core Strategy's spatial development strategy for this Local Service Centre and Selby District Core Strategy Policies SP2 (A) (a), SP5 (A) and (D) and SP14 (A).**
4. **The growth of Sherburn-in-Elmet in a planning application housing led development process presents an unacceptable risk of an unsustainable pattern of growth of the town which, by virtue of a physically constrained town centre, the lack of a Site Allocations Local Plan Community Infrastructure Levy Charging Scheme to guarantee the delivery of local infrastructure, and the loss of land to residential development, could result in the lack of provision of accessible local services that reflect local community need and support the community's health, social and cultural well-being:- inconsistent with the social dimension of sustainable development contained in paragraph 7 of the National Planning Policy Framework and Policy SP5 of the Selby District Core Strategy.**
5. **The development of this site for housing will result in the loss of countryside and moderately good quality agricultural land beyond the development limits of the Selby District Local Plan Proposals Map and in conflict with Policy SP2 A (c) of the Selby District Core Strategy**
6. **Approval of this application and the planning principle this would set locally for the release of further safeguarded land for residential development will prejudice the outcome of the local plan process by making decisions about land use and the scale and location of development that should, as set out in the development plan and the NPPF, be taken as part of the local plan process.**

6.0 Legal Issues

6.0.1 Planning Acts

This application has been determined in accordance with the relevant planning acts.

6.0.2 Human Rights Act 1998

It is considered that a decision made in accordance with this recommendation would not result in any breach of convention rights.

6.0.3 Equality Act 2010

This application has been determined with regard to the Council's duties and obligations under the Equality Act 2010. However it is considered that the recommendation made in this report is proportionate taking into account the conflicting matters of the public and private interest so that there is no violation of those rights.

7.0 Financial Issues

7.0.1 The outcome of this decision is likely to be that the Council will have to argue its case at a public inquiry in October 2016. In the absence of sufficient resources 'in house' to work on the appeal in addition to the already busy workload and the need to bring in expert witnesses this will require the Council to appoint a number of witnesses. This will require a substantial financial commitment.

8.0 Conclusion

8.0.1 See sections 4.5, 4.6 and 4.7 of the report.

9.0 Background Documents

9.0.1 Planning application file reference 2016/0195/OUT and associated documents.

9.0.2 Planning application file reference 2015/0544/OUT and associated documents.

Contact Officer: David Sykes (Planning Consultant)

Appendices:

Appendix 1: Lead Officer Policy Comments on 2 July 2015

Appendix 2: Lead Officer Policy Comments on 8 February 2016

Appendix 3: Application Site Context

APPENDIX 1

INTERNAL MEMO

To: Louise Milnes
From: Richard Welch
Policy and Strategy Team
Date: 02/07/2015
Our Ref: 2015/0544/OUT
Your Ref: 2015/0544/OUT
Ext: 5101
2117

CONSULTATION ON PLANNING APPLICATION

PROPOSAL: Outline application for up to 270 residential dwellings including details of vehicular access (all other matters reserved)

LOCATION: Hodgson's Lane, Sherburn In Elmet

Thank you for your consultation regarding the above planning application. The application should be considered against both the saved policies in the adopted 2005 Selby District Local Plan (SDLP) and the 2013 Selby District Core Strategy (CS).

The key issues which should be addressed are:

1. The principle of development outside adopted Development Limits and the 'presumption in favour of sustainable development'
2. Impact on the Council's housing land strategy
3. Affordable Housing
4. Safeguarded Land

1. The principle of development

Paragraph 11 of the NPPF requires that development is determined in accordance with up-to-date plans, and Paragraph 12 re-emphasises that the Development Plan is the starting point for decision-making. The policies in the SDLP and CS are broadly consistent with the NPPF.

CS Policies SP2 and SP4 focus new development in the market towns and Designated Service Villages (DSVs), restricting development in the open countryside. Sherburn in Elmet is defined in the Core Strategy as a Local Service Centre where further housing, employment, retail, commercial and leisure growth will take place appropriate to the size and role of each settlement.

This outline proposal for 270 dwellings is on land that is adjacent to, but outside of, the defined Development Limits of Selby as marked on the Policies Map of the Local Plan. Hence the proposal is contrary to Policy SP2 in the Core Strategy Local Plan.

2. Impact on the Council's Housing Land Strategy

The Council intends to allocate sufficient land in PLAN Selby, (the Sites and Policies Local Plan) to accommodate the housing target identified in the CS. The Council cannot reasonably delay all new development proposals while it prepares the Local Plan, but it must continue to exercise its proper planning functions using existing and emerging

policies as appropriate. One such way that it may exercise its proper planning functions is through maintaining an up to date five year housing land supply.

The Councils 2013-14 Five Year Housing Land Supply report establishes that the authority has less than a 5 year supply of deliverable housing land and that it has a 4.3 year supply of housing approximately. This means that in accordance with paragraph 49 of the NPPF the Council's policies designed to constrain housing supply cannot be considered up to date. An approval on this site would help the Council to restore its 5 year supply of housing land.

3. Affordable Housing

CS Policy SP9 establishes that up to 40% is the justified target for affordable housing. Policy SP9 also states that the actual amount of affordable housing to be provided is a matter for negotiation having regard to any abnormal costs, economic viability and other requirements associated with the development.

The planning statement for the application states that the proposal also includes provision of up to 40% affordable housing, albeit the precise amount and proposed tenure mix will need to be agreed during the course of the application.

It is important to ensure that any planning permission, if granted, secures this level of affordable housing subject to development viability and reference should be made to the guidance contained in the Council's Affordable Housing Supplementary Planning Document (AHSPD) that was agreed by The Executive on 7 November 2013.

Safeguarded Land

Safeguarded land is not specifically allocated for development but forms a long term resource which may be required for housing or employment growth after 2006. The release of safeguarded land was intended to be done in a controlled and phased manner through future Local Plan reviews. The Council are currently in the early stages of plan preparation in respect of PLAN Selby which will include allocation of land in respect of residential development. In this context policy SL1 of the Local Plan is considered to have little weight.

Conclusion

This proposal is outside the Development Limits of the Local Service Centre and is therefore contrary to the adopted Selby District Core Strategy Local Plan. However as the Council currently has less than a 5 year supply of housing land, relevant policies for the supply of housing should not be considered up-to-date. Therefore this proposal must be considered against the NPPF's presumption in favour of sustainable development and paragraph 14.

The relevant part of paragraph 14 of the NPPF in this case is that local planning authorities should:

“grant permission unless

- Any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole; or
- Specific policies in this Framework indicate development should be restricted”

Therefore the acceptability of the development should be considered in the context of whether there are any adverse impacts of granting consent that would significantly and demonstrably outweigh the benefits of the proposed development.

The adverse impacts of approving this development in the open countryside in this location are not considered to significantly outweigh the benefits of the provision of market and affordable housing for the Local Service Centre of Sherburn in Elmet which has been identified as a focus for growth in the Council's adopted Core Strategy Local Plan.

Provided there are no other adverse impacts identified by the case officer and provided any infrastructure capacity issues can be dealt with through conditions and/or legal agreements, the Policy and Strategy team raise no objections to the scheme.

If you wish to discuss any of the above points in more detail please contact the Policy and Strategy Team.

APPENDIX 2

INTERNAL MEMO

To: Louise Milnes
From: Richard Welch
Policy and Strategy Team
Date: 8/2/2016
Our Ref: 2015/0544/OUT
Your Ref: 2015/0544/OUT

(Post publication correction: this internal memo applies to app ref 2016/0195/OUT)

CONSULTATION ON PLANNING APPLICATION

PROPOSAL: Outline application for up to 270 residential dwellings including details of vehicular access (all other matters reserved)

LOCATION: Hodgsons Lane, Sherburn in Elmet

Thank you for your consultation regarding the above planning application. The application should be considered against both the saved policies in the adopted 2005 Selby District Local Plan (SDLP) and the 2013 Selby District Core Strategy (CS).

The key issues which should be addressed are:

5. The Principle of Development
6. Impact on the Council's Housing Land Strategy
7. Safeguarded Land
8. Previous Levels of Growth and the Scale of the Proposal
9. Relation of the Proposal to the Development Limit

1. The Principle of Development

Paragraph 11 of the NPPF restates planning law that requires planning permission to be determined in accordance with the development plan unless material considerations indicate otherwise. Paragraph 12 of the NPPF re-emphasises that an up-to-date Development Plan is the starting point for decision-making, adding that development that accords with an up-to-date Local Plan should be approved, and proposed development that conflicts should be refused unless other material considerations indicate otherwise. The policies in the SDLP and Adopted CS are consistent with the NPPF.

It is noted also that under para 14 of the NPPF that the presumption in favour of sustainable development should be seen as a golden thread running through decision-taking. Para 49 of the NPPF also states that housing applications should also be considered in the context of the presumption in favour of sustainable development.

CS Policies SP2 and SP4 direct the majority of new development to the Market Towns and Designated Service Villages (DSVs), restricting development in the open countryside. Sherburn is defined in the Core Strategy as a Local Service Centre, where further housing, employment, retail, commercial and leisure growth will take place appropriate to the size and role of each settlement.

This outline proposal for 270 dwellings is on land that is adjacent to, but outside of, the defined Development Limits of Sherburn in Elmet as defined on the Policies Map of the SDLP. The proposal is therefore contrary to Policy SP2A(c) of the Core Strategy. However, Development Limits are currently under review as part of the PLAN Selby sites and allocations document, in line with commentary detailed in the Core Strategy. In evaluating the application, the relationship of the proposal to the edge of the settlement and defined Development Limit (as set out on the Policies Map) should be given due consideration as detailed under Section 5 of this response.

2. Impact on the Council's Housing Land Strategy

On the 3 December 2015, the Council's Executive formally endorsed an updated five year housing land supply Methodology and resultant housing land supply figure of 5.8 years, as set out in the Five Year Housing Land Supply Statement. The fact of having a five year land supply cannot be a reason in itself for refusing a planning application. The broad implications of a positive five year housing land supply position are that the relevant policies for the supply of housing in the Core Strategy can be considered up to date.

3. Safeguarded Land

The site is located within an area designated as Safeguarded Land (SL) under saved policy SL1 of the 2005 SDLP. The original intention of SL was to provide a 'reserve' of land to meet long term growth requirements post 2006. The release of SL was intended to be done in a controlled and phased manner through future Local Plan reviews and based upon the principles of well integrated sustainable development. Policy SL1 is considered to have some weighting as a material consideration when there is a 5 year supply of housing, as there is a need to maintain a reserve of land to meet long term growth needs.

From a review of the history of SL in Sherburn in Elmet, the SDLP Inquiry Inspector highlighted a number of issues of relevance:

- The SDLP site allocation - SHB/1 was considered sufficient development for the plan period beyond 2006 and that this was a level of growth which could be effectively assimilated into the wider Sherburn in Elmet area.
- The Inspector did not consider the use of the then proposed SL which relates to part of the applicant's site as a suitable housing allocation in the plan period.
- There was strong local opposition to the original SDLP site allocation.

There is a complex history to the extent and scale of potential development at Sherburn in Elmet.

While the principle of SL was supported through the examination by the Inspector, the SL policy dates from at least 2005, and has not been reviewed since this period. Given these issues, full weighting cannot be given to Policy SL1. In practical terms when considering and reviewing the spatial aspects of the policy as it applies to Sherburn in Elmet, this means evaluating the extent to which:

- The settlement remains a suitable location for SL;
- The individual SL1 policy area for Sherburn in Elmet remains a valid location for future development ;
- The scale of SL is appropriate to the location;
- The SL area is deliverable for development;
- The SL1 area plays a positive 'Green Belt' function, and

- The assessment of Development Limits and Green Belt Boundary indicates a positive case to establish a robust development limit while maintaining a Green Belt boundary which is likely to endure.

Work is progressing on PLAN Selby - the site allocation and development management plan, which together with the adopted Core Strategy will form the Local Plan for the District. The current scale and extent of safeguarded land is under review as part of this emerging document, which includes the current large-scale and strategically important safeguarded land allocations at Sherburn in Elmet. The original work on the extent and scale of safeguarded land linked to this settlement dates from at least 2005, and it is yet to be fully determined whether the overall quantum of 22.8ha remains proportional or appropriate at this settlement location.

Without the outcome of this review having been completed, in technical terms as the settlement is a Local Service Centre, the principal of safeguarded land at Sherburn in Elmet would align with its status within the settlement hierarchy as detailed in the Core Strategy. In relation to the SL area to which the application relates, it is strongly defined with a long-standing history. The SL has an eastern and northern edge that is clearly defined by the A162 and is bounded to the south and west by residential development. The strongly defined road feature along the eastern edge of the site would appear to suggest that the current Green Belt boundary is likely to endure.

While this review has not covered all the issues that would need to be undertaken as part of a full evaluation, it indicates on balance that some, but not full, weighting can be attached to the original SL1 policy designation at Sherburn in Elmet, in terms of suitability as a reserve of land for future development.

One of the critical issues relating to this application is whether there is a housing need to release safeguarded land of the scale indicated through this application at this moment in time and the implications of further development in Sherburn in Elmet in relation to the settlement hierarchy. Further comments on this matter are detailed below under Section 4. When evaluating the Development Limit in detail consideration should be given to the range of issues detailed below in Section 5.

4. Previous Levels of Growth and the Scale of the Proposal

CS policy SP5 designates levels of growth to settlements based on their infrastructure capacity and sustainability, it is important to determine in housing applications the impact a proposed scheme has on this level of growth, taking into account previous levels of growth since the start of the plan period and the scale of the proposal itself. Sherburn in Elmet has seen 816 dwellings built or approved in the settlement since the start of the Plan Period in April 2011; CS policy SP5 sets a minimum dwelling target for Sherburn in Elmet of 790 dwellings (2011 to 2027), therefore the settlement has exceeded its minimum target at a relatively early stage in the plan period.

The scale (270 dwellings) of the potential release of Safeguarded Land at Sherburn in Elmet through this application is considered to be of a strategic scale of development - 34% of the total original minimum requirement for the settlement (790 units). This application would take Sherburn in Elmet's total percentage delivery from 11% to 15% of the original minimum requirement (from 2011-2017), by only 2016.

Attention needs to be paid in avoiding distorting and undermining the delivery of the settlement hierarchy through unallocated development. Strategic developments of this

scale may undermine efforts to support housing development at Tadcaster and Selby, which are important locations for housing growth in the Core strategy, by potentially offsetting the amount of development required by these towns. Selby has built or has permission for 3,281 out the 3,700 minimum target set in SP5 and Tadcaster has built or has permission for 77 out the 500 minimum target set in SP5. Neither of these settlements have achieved their minimum housing delivery targets as set out on the Core Strategy.

Now that policies SP2 and SP5 have full weight, and prior to the publication of PLAN Selby, it is important to direct the correct quantum of unallocated development to the appropriate places in the settlement hierarchy, in order to ensure, as per policy CS SP2, that Selby remains the principal focus for new housing development and that Tadcaster is a location where further housing growth will take place appropriate to the size and role of the settlement.

Given that there is a positive 5 year housing land supply in the District and the high level of growth forecast for Sherburn in Elmet there is no immediate housing need to release this scale of SL for housing in Sherburn in Elmet.

5. Relationship of the Proposal to the Development Limit

Core Strategy Policy SP18 aims to protect the high quality and local distinctiveness of the natural and man-made environment; therefore it is important to determine the impact the proposed scheme has on its surroundings. The site is located in the countryside and outside of Development Limits. From emerging PLAN Selby evidence on the sensitivity of the landscape to development it is considered that the overall landscape assessment parcel for the area to which the application relates is of low sensitivity to development, with the settlement fringe considered of medium quality. The proposal extends significantly into the countryside and in determining the application, thought will need to be applied as to:

- the overall impact of the proposed development on the countryside;
- whether the current Development Limit as defined in the Policies Map remains robustly defined, or has changed and,
- whether the proposed development would set a new clearly defensible boundary.

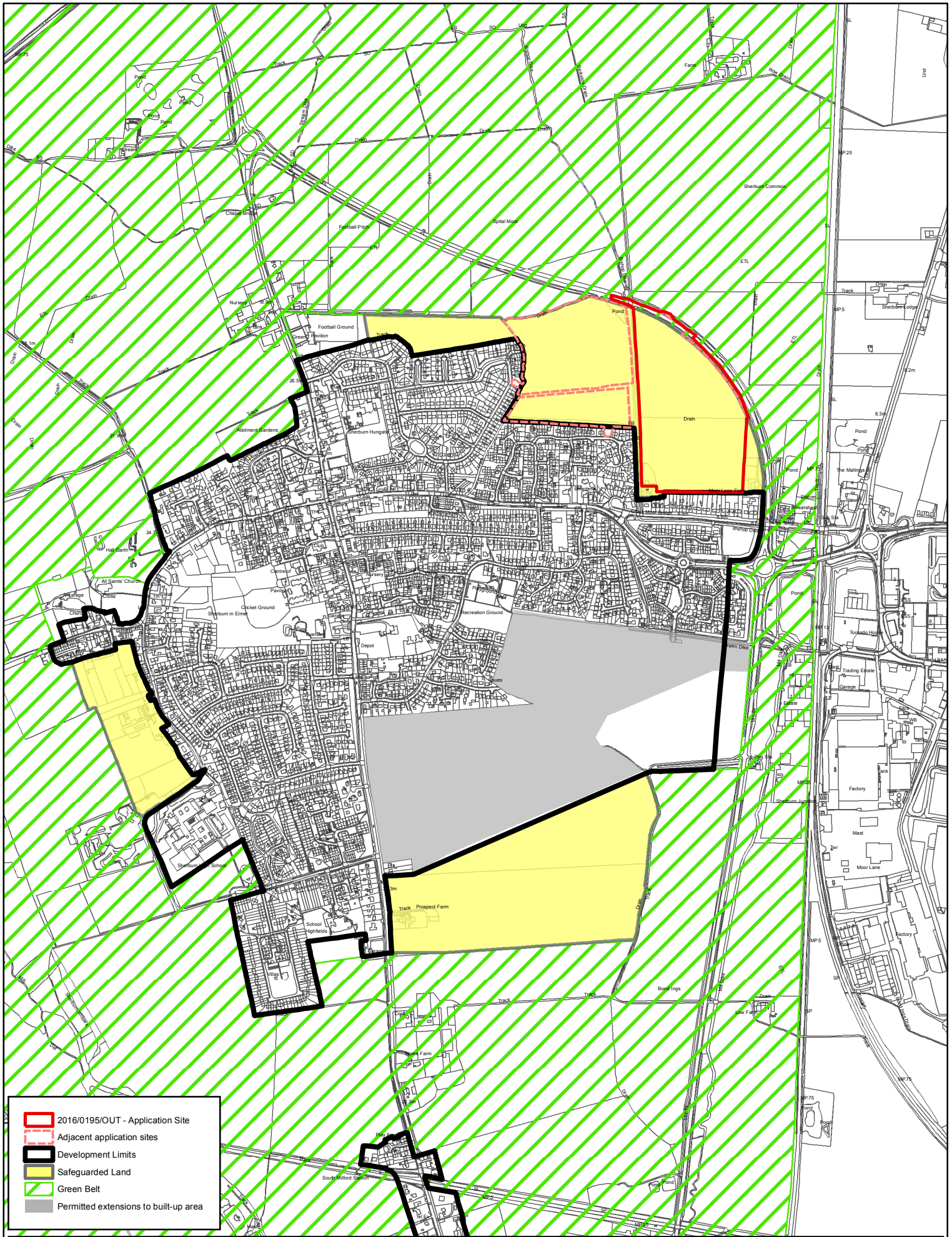
Due to the Safeguarded Land status of the land it is unlikely that the Settlement Limit will have altered significantly over the recent past.

Detailed issues to consider when reviewing the Development Limit and the potential impact of the development, include:

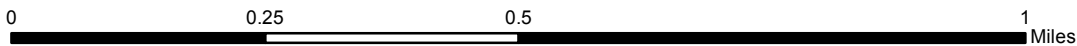
- planning history;
- physical extent of existing settlement;
- settlement form and character;
- the type, function and range of buildings on the edge of the settlement;
- impact of the development on the countryside, environment and amenity, and
- the extent of current defensible boundaries, which are durable and likely to be permanent, and whether the development would erode or contribute towards maintaining a clear defensible boundary

Further Information

If you wish to discuss any of the above points in more detail please contact the Policy and Strategy Team.



Application Site Context - 2016/0195/OUT





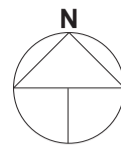
APPLICATION SITE

Item No: 2015/0544/OUT

Address: Hodgsons Lane, Sherburn in Elmet

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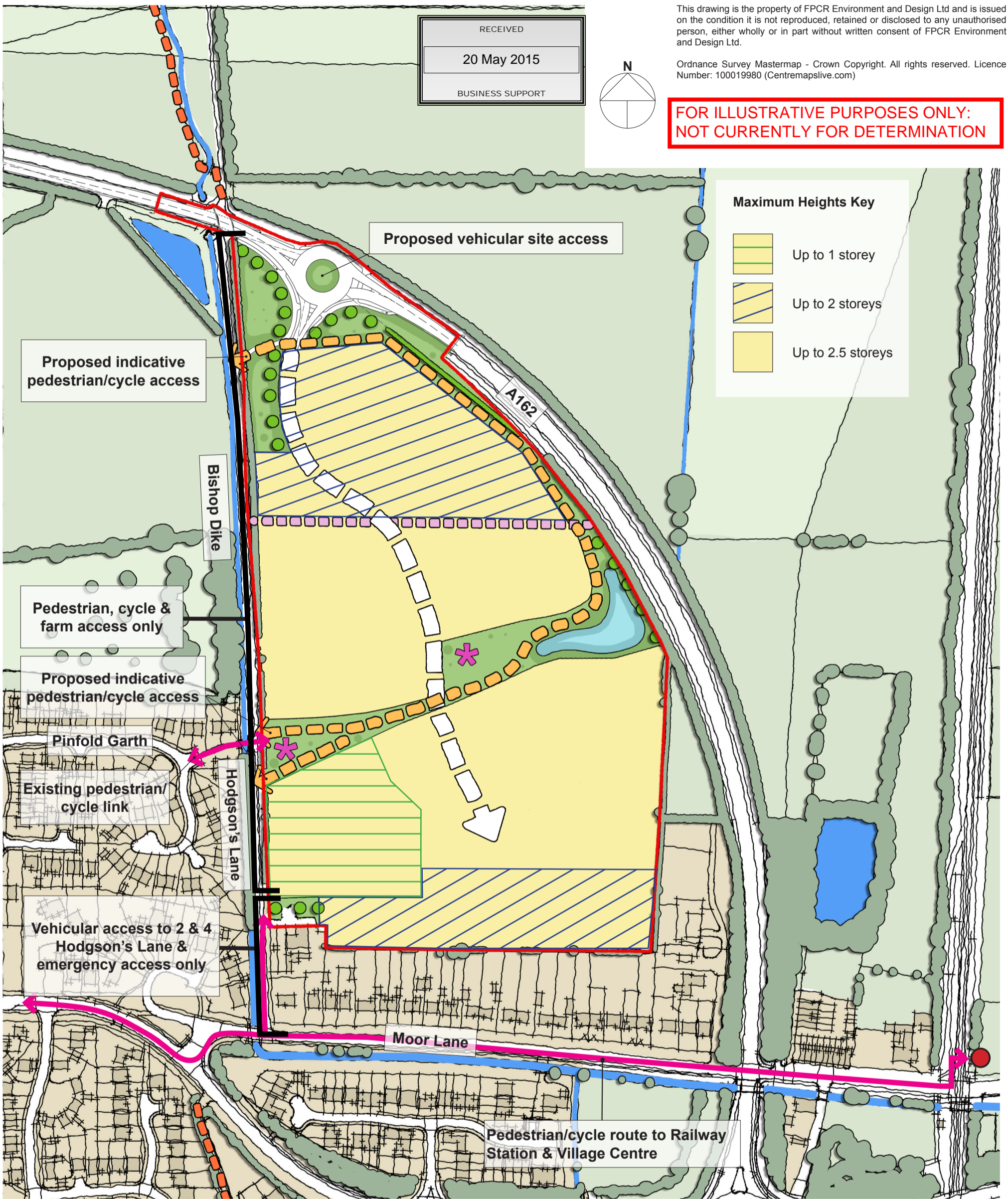
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


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










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**FOR ILLUSTRATIVE PURPOSES ONLY:
NOT CURRENTLY FOR DETERMINATION**



Maximum Heights Key

-  Up to 1 storey
-  Up to 2 storeys
-  Up to 2.5 storeys

- | | | | | | |
|---|------------------------------|---|-------------------------------------|---|--|
|  | Application boundary 10.23ha |  | Potential balancing pond |  | Proposed tree and hedgerow planting |
|  | Potential residential 8.10ha |  | Potential equipped play areas |  | Existing footpath |
|  | Green infrastructure 1.62ha |  | Indicative spine road through site |  | Proposed footpath |
|  | Proposed roundabout |  | Retained tree and hedgerow planting |  | Indicative 6m easement to gas pipeline |
| | |  | Existing water features |  | Railway Station |

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Hodgson's Gate Developments
Land at Hodgson's Gate
Sherburn in Elmet

PARAMETERS PLAN

1:1250@A3
18th May 2015
6723-L-04 rev B

fpcr

 masterplanning
 environmental assessment
 landscape design
 urban design
 ecology
 architecture
 arboriculture

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Report Reference Number 2015/0544/OUT

Agenda Item No: 6.2

NOT FOR DETERMINATION

To: Special Planning Committee
Date: 29 June 2016
Author: David Sykes (Planning Consultant)
Lead Officer: Johnathan Carr (Lead Officer – Planning)

APPLICATION NUMBER:	8/58/1042/PA 2015/0544/OUT	PARISH:	Sherburn in Elmet Parish
APPLICANT:	Hodgson's Gate Developments	VALID DATE:	20 May 2015
		EXPIRY DATE:	19 August 2015
PROPOSAL:	Outline application for up to 270 residential dwellings including details of vehicular access (all other matters reserved)		
LOCATION:	Hodgsons Lane Sherburn In Elmet North Yorkshire		

1.0 The Report

This report provides an update on the above application, including the position with regard to the appeal that has been lodged with the Planning Inspectorate and seeks the Committee's view on how it would have determined the application for the purposes of dealing with this appeal.

Members will recall that this application was reported to the Planning Committee on 11 November 2015. Appendix 1 to this report provides a copy of the officer report. Appendix 2 provides a copy of the minutes of the Committee. The Committee was minded to approve the application, subject to the signing of a Section 106 agreement.

After the committee, this Council, the County Council and the applicant sought to prepare, complete and sign the Section 106 agreement. On 3 December 2015 a report was submitted to the Council's Executive on the District's five year housing land supply. This report established that as at 1 October 2015 the District had a 5.8 year housing land supply and the report was endorsed by the Executive.

The Executive decision was made prior to the Section 106 agreement being signed on this application. At this point the applicant was informed that the Council could not sign the Section 106 agreement because it had to reconsider the proposal in the light of the changed circumstance with regard to the housing land supply position. This would involve reporting back the application to the Planning Committee.

The applicant decided to protect its position, with time running out on the ability to appeal the application, and an appeal was lodged with the Planning Inspectorate. The grounds for the appeal were based on the Council's non determination of the application within the agreed timescale.

At the same time an identical application was submitted with the applicant informing the Council that this "duplicate application" sought to curtail the need for the public inquiry if a local resolution can be attained.

Nonetheless, the Planning Inspectorate are obliged to programme for a public inquiry on 2015/0544/OUT and a 6 day inquiry over a two week period starting on 18 October 2016 has now been scheduled.

The duplicate application is on this Committee's agenda. This is for determination at this Committee.

The appealed application, the subject of this report, is not for determination. The appeal means that the decision on the proposal now falls to the Planning Inspectorate. Instead, this report seeks the Committee's views on how the application would have been determined for the purpose of agreeing the Council's case at the appeal

Appendix 3 to this report is the agenda item on the duplicate application nos. 2016/0195/OUT.

This appendix/report provides Members with officers views on how this appealed application should be dealt with in the light of the changed circumstances since 11 November 2015.

2.0 Recommendation

That this application is now to be determined at appeal and the Planning Inspectorate be notified that the local planning authority were minded to refuse for the following reasons:

- 1. Approval of the application for housing development at this time without the support of a Local Plan Review, and without any overriding need to release safeguarded land for housing in the District and the town of Sherburn-in-Elmet would be in conflict with the protection afforded to safeguarded land by Policy SL1 of the Selby District Local Plan and paragraph 85 of the National Planning Policy Framework.**
- 2. Approval of the application for housing development without any current overriding planning need is contrary to the aims of Policy SL1 of the Selby District Local Plan; paragraph 85 of the National Planning Policy Framework (bullet 4) and paragraph 17 (bullet 1) of the National Planning Policy Framework by preventing i) a plan led approach to the phased release and**

integrated land use planning of this and all the other safeguarded land in Sherburn-in-Elmet; and ii) the consequential lack of community involvement which empowers local people to shape their surroundings.

3. Approval of the application for housing and the planning principle this would set locally for the potential development of up to about 45 hectares of safeguarded land for housing in Sherburn-in-Elmet in addition to the housing supply already provided in the town, is in conflict with the recently adopted Core Strategy's spatial development strategy for this Local Service Centre and Selby District Core Strategy Policies SP2 (A) (a), SP5 (A) and (D) and SP14 (A).
4. The growth of Sherburn-in-Elmet in a planning application housing led development process presents an unacceptable risk of an unsustainable pattern of growth of the town which, by virtue of a physically constrained town centre, the lack of a Site Allocations Local Plan Community Infrastructure Levy Charging Scheme to guarantee the delivery of local infrastructure, and the loss of land to residential development, could result in the lack of provision of accessible local services that reflect local community need and support the community's health, social and cultural well-being:- inconsistent with the social dimension of sustainable development contained in paragraph 7 of the National Planning Policy Framework and Policy SP5 of the Selby District Core Strategy.
5. The development of this site for housing will result in the loss of countryside and good quality agricultural land beyond the development limits of the Selby District Local Plan Proposals Map and in conflict with Policy SP2 A (c) of the Selby District Core Strategy.
6. Approval of this application and the planning principle this would set locally for the release of further safeguarded land for residential development will prejudice the outcome of the local plan process by making decisions about land use and the scale and location of development that should, as set out in the development plan and the NPPF, be taken as part of the local plan process.

3.0 Legal Issues

3.0.1 Planning Acts

This application has been determined in accordance with the relevant planning acts.

3.0.2 Human Rights Act 1998

It is considered that a decision made in accordance with this recommendation would not result in any breach of convention rights.

3.0.3 Equality Act 2010

This application has been determined with regard to the Council's duties and obligations under the Equality Act 2010. However it is considered that the recommendation made in this report is proportionate taking into account the conflicting matters of the public and private interest so that there is no violation of those rights.

4.0 Financial Issues

- 4.0.1 The outcome of this decision is likely to be that the Council will have to argue its case at a public inquiry in October 2016. In the absence of sufficient resources 'in house' to work on the appeal in addition to the already busy workload and the need to bring in expert witnesses this will require the Council to appoint a number of witnesses. This will require a substantial financial commitment.

5.0 Conclusion

- 5.0.1 See report

6.0 Background Documents

- 6.0.1 Planning application file reference 2016/0195/OUT and associated documents.
- 6.0.2 Planning application file reference 2015/0544/OUT and associated documents.

Contact Officer: David Sykes (Planning Consultant)

Appendices:

Appendix 1: Selby District Council Planning Committee Report: App 2015/0544/OUT 11 November 2015

Appendix 2: Selby District Council Planning Committee Report: App 2015/0544/OUT: Minutes, 11 November 2015

Appendix 3: Selby District Council Planning Committee Report: App 2016/0195/OUT: 29 June 2016 (See report elsewhere on the agenda)

APPENDIX 1



Report Reference Number 2015/0544/OUT

Agenda Item No:

To: Planning Committee
Date: 11th November 2015
Author: Louise Milnes (Principal Planning Officer)
Lead Officer: Richard Sunter (Lead Officer – Planning)

APPLICATION NUMBER:	8/58/1042/PA 2015/0544/OUT	PARISH:	Sherburn in Elmet Parish
APPLICANT:	Hodgson's Gate Developments	VALID DATE:	20 May 2015
		EXPIRY DATE:	19 August 2015
PROPOSAL:	Outline application for up to 270 residential dwellings including details of vehicular access (all other matters reserved)		
LOCATION:	Hodgsons Lane Sherburn In Elmet North Yorkshire		

This application has been brought before Planning Committee due to it being a departure from the Development Plan and due to more than 10 letters of objection being received. In addition, Councillor Buckle requested that the item be presented to Committee for the following reasons:

- Facilities in Sherburn are not sufficient to cover our ever increasing population (planning for 450 houses already passed);
- New roundabout planned on bypass will be in a dangerous position just after bend, possible accident risk;
- Proposed site already has problems with flooding, and running sand so future problems possible with structural damage, and nearby properties flooding;
- Drainage/sewage problems already existing so this could add to the problems;
- Traffic congestion in and around village both during the building and as further increase in population;
- Noise pollution during building.

Summary:

The application proposes outline planning consent for the erection of up to 270no. dwellings with associated vehicular access (all other matters are reserved). The site is located in an area of open countryside immediately adjacent to the defined development limits of Sherburn and is on an area of land designated as safeguarded land. Part of the access and proposed roundabout serving the site are located within the Green Belt.

Whilst it is noted that the proposed scheme fails to comply with Policy SP2A(c) of the Core Strategy and Policy SL1, these policies are out of date in so far as they relate to housing supply due to the fact that the Council does not have a 5 year housing land supply.

As such the proposals for residential development on this site should be considered in the context of the presumption in favour of sustainable development and paragraphs 14 and 49 of the NPPF. In assessing the proposal against the three dimensions of sustainable development set out within the NPPF, the development would bring economic benefits as it would generate employment opportunities in both the construction and other sectors linked to the construction market. The proposals would also bring additional residents to the area who in turn would contribute to the local economy through supporting local facilities.

The proposals would achieve a social role in that it would deliver levels of both open market and affordable housing in Sherburn, promoting sustainable and balanced communities and would assist the Council in meeting the objectively assessed housing needs of the District and would contribute to achieving a 5 year supply of housing land. The proposals would provide 40% on-site provision of affordable housing which would improve the tenure mix in this location.

The proposals would have an environmental role in that it would deliver high quality homes for local people and the proposals take into account environmental issues such as ecology and biodiversity, flooding and impacts on climate change. Due to its proximity to local services and its access to public transport it would also reduce the need to travel by car and would provide highway improvements.

The proposals could achieve an appropriate layout, appearance, landscaping and scale so as to respect the character of the area. The proposals are also considered to be acceptable in respect of the impact upon residential amenity, highways, flooding, drainage and climate change, protected species, archaeology and contamination in accordance with policy.

With respect to the proposed access, although it falls within the Green Belt, it constitutes an engineering operation and as such does not constitute inappropriate development within the Green Belt.

Having had regard to all of the above, it is considered that there are no adverse impacts of granting planning permission that would significantly and demonstrably outweigh the substantial benefits. The proposal is therefore considered acceptable when assessed against the policies in the NPPF, in particular Paragraph 14, the Selby District Local Plan and the Core Strategy. It is on this basis that permission is recommended to be granted subject to the conditions and Section 106 agreement.

Recommendation

This planning application is recommended to be APPROVED subject to delegation being given to Officers to complete the Section 106 agreement to secure 40% on site provision for affordable housing, an education contribution towards Hungate Community Primary School , on-site recreational open space provision or an off-site recreational open space contribution, contributions towards highway improvements, a Travel Plan, a Healthcare contribution and a waste and recycling contribution and subject to the conditions detailed in paragraph 3.0 of the Report.

1. Introduction and background

1.1 The Site

- 1.1.1 The application site is located outside the defined development limits of Sherburn in Elmet, being located to the north east of the existing settlement boundary.
- 1.1.2 In addition the site is on an area designated as safeguarded land within the Local Plan.
- 1.1.3 The proposed access to the site, off the A162, is located within the Green Belt.
- 1.1.4 The site is currently arable agricultural land which is bounded by a combination of mature hedgerow and trees.
- 1.1.5 There are residential properties to the south and west of the site which are mainly two storey in height. The land to the north and east beyond the A162 is agricultural land.
- 1.1.6 There is a single track pathway running alongside the western boundary of the site running from Hodgsons Lane through to the A162 with a link to Pinfold Garth.
- 1.1.7 There is an existing drainage ditch running through the site from east to west. The site is situated within Flood Zone 1 which is at low probability of flooding.

1.2. The Proposal

- 1.2.1 The application is for outline consent for up to 270 dwellings including details of vehicular access. All other matters are reserved.
- 1.2.2 The proposed vehicular access would be taken from a new roundabout located on the A162 via a spine road through the site.
- 1.2.3 The submitted parameters plan suggests a mixture of dwellings ranging from single storey bungalows to the south west of the site, two storey properties to the north and south and two and a half storey in the central area of the site.
- 1.2.4 The indicative layout plan demonstrates how recreational open space and a balancing pond could be provided on site as well as how the development could link to wider residential developments.

1.3 Planning History

- 1.3.1 An Environmental Impact Assessment was not considered to be required following a Screening Request referenced (SCR/2015/0012).
- 1.3.2 An application (CO/1984/0932) for the renewal of outline planning permission for the erection of a dwelling was refused on 8 March 1985.
- 1.3.3 An outline application (CO/1981/24693) for the erection of a dwelling was granted on 14 October 1981.
- 1.3.4 An outline application (CO/1981/24692) for the erection of a dwelling was refused on 10 October 1981.
- 1.3.5 Members should note that there are two further outline applications for residential development under planning application references (2015/0848/OUT and 2015/0895/OUT) which are currently pending consideration on land to the north-west of the application site.

1.4 Consultations

1.4.1 Sherburn in Elmet Parish Council

The Parish Council is of the view that no further planning permissions for housing will be required prior to 2027 on the basis that the Core Strategy figure has already been met by granting consent for 718 houses. The Council opposes discounting of all planning permissions by 10% in Sherburn, where three large sites have detailed planning permission, it is very unlikely that there will be a 10% shortfall- the whole of each site is likely to be developed with the specified number of houses within the plan period. Additional consents will mean that these developments take place at a slower rate with increased disruption to the lives of residents and local infrastructure.

Even if the 10% "discount" were to be accepted this would generate a requirement for a further allocation of 60 dwellings. This is likely to come forward on smaller sites and granting permission for a further 270 houses is therefore not justified in the plan period.

The District Council must now recognise that simply building houses and providing employment without appropriate infrastructure (including roads as well as services and facilities) is not sustainable development. In addition, whilst our schools can accommodate the current increase in pupil numbers from existing permissions (with the planned growth of Athelstan and Hungate Schools) any larger increase in population in the plan period will result in insufficient capacity at Sherburn and South Milford for primary school children.

The Parish Council share the concerns of local residents regarding the flood risk and site conditions and note that pumps have had to be installed and water drained at a substantial rate from the nearby site off Fairfield Link.

Our main concern regarding Highways is that the Transport Assessment produced in support of this application overestimates the capacity of the crossroads in the village centre. This is not a claim - we have demonstrated this using the applicant's own video footage as evidence.

The Local Highways Authority commented:

"The Parish Council have done some excellent work in determining the saturation flows that clearly contradict those used in the traffic model by the consultant and also contradicts the data supplied in Transport Assessment Volume 2. We already identified that the saturation flows used by the developer appear to be high."

The consultant's figures suggest that in 2020 the village centre traffic signals will be running at 95.5% of capacity. However this is using the inaccurate saturation flows mentioned above and it does not take account of the traffic that will be generated by planning applications 2015/0895/OUT and 2015/0848/OUT. When this is factored in the village centre traffic signals will be running at 107.8% of capacity (i.e. very significantly over capacity).

We must stress that our calculations are not theoretical ones based on computer modelling, but are based on analysis of video footage supplied by the applicants and which shows the actual conditions applying at this junction.

We would draw your attention to comments by Transport for London which clearly indicate the situation in Sherburn will not be a sustainable one:-

"At junctions operating close to zero Practical Reserve Capacity (PRC), corresponding to approximately 90% DoS, small reductions in capacity can result in a significant increase in delay. For this reason a DoS of 90% represents an upper limit of practical capacity for signalised junctions." (Transport for London, Modelling Guidelines 3.0).

It could be argued that some of these applications will not be a significant contributor to the overcapacity at the village centre traffic signals. We disagree and would quote the Inspector's comments in Planning Appeal Ref. APP/Z4718/A/13/2191213:-

"It is argued that traffic generated by the proposed supermarket would worsen the situation at the junction by only a very small amount. That is not a compelling argument. If the existing situation is technically inadequate, something that would make matters worse cannot be considered acceptable in the absence of any proposal that could provide a satisfactory resolution."

The village centre crossroads are the key junction in the village and we believe that these developments would harm the vitality of the village centre and lead to further operational and safety implications not only at the junction itself but throughout the whole village as traffic seeks alternative routes by rat-running through residential streets which are wholly unsuitable for such traffic (e.g. through the Eversley Park estate and along The Fairway/Pasture Way).

Additional Points

1. The distribution assumptions are based on journey to work data from the census, but this ignores local trips. Trips to primary and secondary schools and the town centre (retail, health etc) will travel through this junction, but they are not considered at all in the assessment.

2. MOVA (an upgrade to the traffic signals) is to be installed at the village centre crossroads, but the consultants seem to use this as a catch-all "there is an improvement coming" statement. It is our understanding that MOVA will not assist with congestion here as if a junction overloads without it will probably still be overloaded with it. The consultants claim a 13% improvement, but this is a generic figure which has been bandied about for years and cannot be taken as applying to a specific junction.
3. The modelling results for the A162/ Moor Lane junction shows it close to capacity (maximum RFC of 0.833, just short of the maximum recommended 0.85... but we are advised that it has been modelled incorrectly. There's a short distance of two approach lanes on the B1222 (E) approach, and the software assumes traffic uses all available lanes. However, only about 10% of traffic will use the second lane (right-turners), meaning the actual RFC (and hence queues and delays at the junction) will be much higher. This junction would therefore likely require improvement. (JCT Consultancy note 'ARCADY Health Warning' refers).
4. A future assessment year of 2020 (five years hence) is inadequate, a 270 dwelling development would typically build at around 30-50 houses a year, so it would take more than five years from starting to build the whole thing. These are outline planning applications and it will take at least another year or two before they can produce final designs and actually start building. The Guidance on Transport Assessment from the DfT notes that future year assessments should be "consistent with the size, scale and completion schedule of the proposed development".

1.4.2 Lead Officer – Environmental Health

The proposed development is of a large scale and as such will entail an extended construction phase. This phase of the development may negatively impact upon nearby residential amenity due to the potential for generation of dust, noise and vibration. The Environmental Protection Act 1990 allows for the abatement of statutory nuisance in relation to noise, dust and vibration. It would however be stressed that whilst a development may detrimentally impact upon existing residential amenity, it may not be deemed to constitute a statutory nuisance.

Section 23 of Circular 11/95: Use of conditions in planning permission states 'Where other controls are also available, a condition may, however, be needed when the considerations material to the exercise of the two systems of control are substantially different, since it might be unwise in these circumstances to rely on the alternative control being exercised in the manner or to the degree needed to secure planning objectives.' I would therefore recommend a condition be applied.

The applicant has submitted a noise impact assessment prepared by WSP, report number 62000518-003. The report concludes that noise need not be a determining factor in granting planning consent and that adequate protection of the noise sensitive development can be achieved with appropriate mitigation such as careful consideration of the location and orientation of dwellings together with associated acoustic barriers. The report does not specify any mitigation measures since this is an outline application and the detailed layout is yet to be agreed. The report states that once plans reach a more detailed stage, the assessment should be revisited to specify exact mitigation requirements. In view of the above, it would be therefore recommended that a condition be applied.

1.4.3 Yorkshire Water Services Ltd

If planning permission is granted, conditions should be attached in order to protect the local aquatic environment and Yorkshire Water infrastructure.

The development of the site should take place with separate systems for foul and surface water drainage. Foul water domestic waste should discharge to the 600mm diameter public/foul combined water sewer recorded at the junction of Hodgsons Lane and Moor Lane at a point approximately 100 metres from the site.

The submitted Geo-Environmental Assessment indicates sub-soil conditions are not viable for soakaways.

It is noted that the Flood Risk Assessment (prepared by Weetwood – Report v1.0 dated May 2015) indicates surface water will discharge into the drainage ditch located on site.

1.4.4 Lead Officer - Policy

The Principle of Development

Paragraph 11 of the NPPF requires that development is determined in accordance with up-to-date plans, and Paragraph 12 re-emphasises that the Development Plan is the starting point for decision-making. The policies in the Selby District Local Plan (SDLP) and Core Strategy (CS) are broadly consistent with the NPPF.

CS Policies SP2 and SP4 focus new development in the market towns and Designated Service Villages (DSVs), restricting development in the open countryside. Sherburn in Elmet is defined in the Core Strategy as a Local Service Centre where further housing, employment, retail, commercial and leisure growth will take place appropriate to the size and role of each settlement.

This outline proposal for 270 dwellings is on land that is adjacent to, but outside of, the defined Development Limits of Sherburn in Elmet as marked on the Policies Map of the Local Plan. Hence the proposal is contrary to Policy SP2 in the Core Strategy Local Plan.

Impact on the Council's Housing Land Strategy

The Council intends to allocate sufficient land in PLAN Selby, (the Sites and Policies Local Plan) to accommodate the housing target identified in the CS. The Council cannot reasonably delay all new development proposals while it prepares the Local Plan, but it must continue to exercise its proper planning functions using existing and emerging policies as appropriate. One such way that it may exercise its proper planning functions is through maintaining an up to date five year housing land supply.

The Council's 2013-14 Five Year Housing Land Supply report establishes that the authority has less than a 5 year supply of deliverable housing land and that it has a 4.3 year supply of housing approximately. This means that in accordance with paragraph 49 of the NPPF the Council's policies designed to constrain housing supply cannot be considered up to date. An approval on this site would help the Council to restore its 5 year supply of housing land.

Affordable Housing

CS Policy SP9 establishes that up to 40% is the justified target for affordable housing. Policy SP9 also states that the actual amount of affordable housing to be provided is a matter for negotiation having regard to any abnormal costs, economic viability and other requirements associated with the development.

The Council's Strategic Housing Market Assessment 2009 found a gross annual shortfall of 409 affordable dwellings (net 378), and stated that a variety of affordable housing should be provided with particular emphasis on 2 and 3 bed homes, and bungalows for older people. In terms of tenure, a split of 30-50% intermediate (shared ownership/shared equity) and 50-70% rented (affordable and social) units should be a start point for negotiation.

This position is also supported in the latest Draft SHMA 2015, finalised in September 2015, which states that there remains a significant affordable housing need across the District and supports the Council's adopted policy position. This outline scheme proposes a total of 270 units, which would deliver 108 affordable units at 40% provision.

Affordable housing delivered as part of a market scheme is intended to meet need identified across Selby district, rather than the specific need relating to a particular locality. Need identified in the sub areas indicated within the SHMA 2009, fed up into the overall target for the district rather than providing a target for each of the sub areas themselves. Accordingly, we would be seeking a 40% contribution on this site.

However, a number of schemes have come forward recently in Sherburn, none of which have addressed the requirement for affordable (2 bed) bungalows, and this is a shortfall we would seek to address together with a range of general needs provision with a focus on 2 and 3 bed homes, and a small number of 1 and 4 bed units (maximum 2 storey units), subject to viability. In accordance with the Council's Affordable Housing SPD 2014, the Council's strong preference is for on-site affordable provision rather than taking any element of off-site/commuted sum contribution.

At this stage we would open discussion with a split of 70% rented and 30% intermediate purchase, as there are growing opportunities for purchase at the lower end of the market. We would be willing to consider a mix which has been agreed in principle with an identified Registered Provider (RP) partner, and would strongly suggest that the developer makes early contact to identify a partner RP for the affordable homes in order to confirm that the number, size and type of units are acceptable to them; they will have different preferences regarding both unit size and type, and tenure split.

Safeguarded Land

Safeguarded land is not specifically allocated for development but forms a long term resource which may be required for housing or employment growth after 2006. The release of safeguarded land was intended to be done in a controlled and phased manner through future Local Plan reviews. The Council are currently in the early stages of plan preparation in respect of PLAN Selby which will include allocation of land in respect of residential development. In this context policy SL1 of the Local Plan is considered to have little weight.

Conclusion

This proposal is outside the Development Limits of the Local Service Centre and is therefore contrary to the adopted Selby District Core Strategy Local Plan. However as the Council currently has less than a 5 year supply of housing land, relevant policies for the supply of housing should not be considered up-to-date. Therefore this proposal must be considered against the NPPF's presumption in favour of sustainable development and paragraph 14.

The relevant part of paragraph 14 of the NPPF in this case is that local planning authorities should:

“grant permission unless

- Any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole; or
- Specific policies in this Framework indicate development should be restricted”

Therefore the acceptability of the development should be considered in the context of whether there are any adverse impacts of granting consent that would significantly and demonstrably outweigh the benefits of the proposed development. The adverse impacts of approving this development in the open countryside in this location are not considered to significantly outweigh the benefits of the provision of market and affordable housing for the Local Service Centre of Sherburn in Elmet which has been identified as a focus for growth in the Council's adopted Core Strategy Local Plan.

Provided there are no other adverse impacts identified by the case officer and provided any infrastructure capacity issues can be dealt with through conditions and/or legal agreements, the Policy and Strategy team raise no objections to the scheme.

1.4.5 Environment Agency

The site lies within flood zone 1 as shown on our flood map. As a result of changes to the Planning Practice Guidance and DMPO which took effect on 15 April 2015, this proposal now falls outside the scope of matters on which the Environment Agency is a statutory consultee. Therefore we have no comment to make on this application.

1.4.6 North Yorkshire County Council Highways

Access to the site will be taken from a new roundabout to be constructed on the A162 at the junction with Hodgsons Lane. The proposed roundabout has been assessed in terms of capacity and has been subjected to a Road Safety Audit. The roundabout is considered an appropriate means of access.

It is anticipated that there will be a small number of additional vehicular trips in/out of the village during the AM and PM peak traffic periods and as such the impact on the Low Street/ Kirkgate/ Moor Lane/ Finkle Hill signal controlled junction has been assessed. The modelling of the junction had to take into account the recent planning approvals for residential developments within the village (including the

proposed link road between Moor Lane/ Low Street) and the recent permission for the former airfield at Lennerton Lane. As such a number of scenarios were tested. The modelling demonstrates that the development will have a minimal effect on the operation of the signals. It is not considered that the impact could be regarded as "severe" as cited in paragraph 32 of the National Planning Performance Framework as the reason upon which developments should be refused on transport grounds.

Notwithstanding this the Applicant has agreed a contribution to enable the pedestrian crossing on Low Street to be linked to the traffic signals to provide better co-ordination and minimise the cumulative impact of the signals on through traffic. This will enhance the operational improvements which will occur through the installation of MOVA (Microprocessor Optimised Vehicle Actuation) at the Low Street/ Kirkgate/ Moor Lane/ Finkle Hill signals, being delivered through the recent residential planning permissions.

To improve pedestrian/ cycle amenity in the vicinity of Hodgsons Lane/ Moor Lane, new and additional drop kerb crossings will be required together with tactile pavements.

A separate planning permission for the development of the former airfield at Lennerton Lane, Sherburn in Elmet (2013/0467/OUT) identified that an improvement to the A162/ A63 roundabout is required to accommodate that development and other committed developments in the area. It is a condition of that planning permission to deliver the improvement. Similarly a planning application for a residential development in Hambleton (2015/0105/OUT) will require the same roundabout improvement to be undertaken. This proposed development will also have an impact on the A162/ A63 roundabout. Should this development come forward prior to the aforementioned developments it will be required to deliver the roundabout improvement.

Matters to be included in a Section 106 Agreement to which the Local Highway Authority would wish to be a party:

1. £7,500 contribution towards the works required to link the pedestrian crossing on Low Street with the traffic signals at the Low Street/ Kirkgate/ Moor Lane/ Finkle Hill junction.
2. £5,000 monitoring fee for the development's Travel Plan

In addition several conditions are recommended to be attached.

1.4.7 North Yorkshire Historic Environment Team

The proposed development area sits within a wider archaeologically rich landscape.

Whilst the Desk Based Assessment has not identified heritage assets within the red line boundary, there are known remains within the vicinity and it would be considered that the application area would be of interest as having archaeological potential.

It would therefore be advised that a scheme of archaeological evaluation should be undertaken to identify and describe the nature and significance of any surviving archaeological remains within the proposed development area, and enable an

understanding of the potential impact of the development proposal upon their significance.

Therefore, it would be advised that a scheme of archaeological mitigation recording is undertaken in response to the ground-disturbing works associated with this development proposal. This should comprise an archaeological strip, map and record to be undertaken in advance of development, including site preparation works, top soil stripping, to be followed by appropriate analyses, reporting and archive preparation. This is in order to ensure that a detailed record is made of any deposits/remains that will be disturbed. This advice is in accordance with the historic environment policies within Section 12 of the National Planning Policy Framework, CLG, 2012 (paragraph 141).

In order to secure the implementation of such a scheme of archaeological mitigation recording, it would be advised that a condition be appended to any planning permission granted.

1.4.8 North Yorkshire Education

Based on the proposed development, a developer contribution of £917,730 would be sought for primary education facilities at Sherburn in Elmet, Hungate Community Primary School as a result of this development but no contribution would be sought for secondary school provision at this time. However, should the density of the site change, we would need to recalculate this.

1.4.9 North Yorkshire Police

Specific comments have been made with respect to the permeability, location of windows relative to driveways, parking provision, footpath networks being overlooked, all space being clearly delineated to avoid uncertainty regarding ownership, location of gable ends relative to public areas, rear gardens locking onto each other, boundary treatments, the use of rear alleyways being avoided, street lighting, location of tree planting relative to lighting, security of windows and doors, loose surfacing materials, location of equipped play areas and their maintenance, cycle storage and security during construction.

This advice and recommendations are based on well documented “Designing out Crime” principles (including Building for Life 12) and are intended to ensure that this proposal, if granted planning consent, will provide residents with a safe and secure environment to live, by reducing the opportunities for crime and anti-social behaviour to occur.

1.4.10 North Yorkshire Fire and Rescue Service

No response received.

1.4.11 Yorkshire Wildlife Trust

We have checked the surveys by FPCR Environment and Design Ltd which are good quality and cover habitats and protected species on the proposed development site, but not the adjoining areas. However at the time the surveys were carried out there was a lack of information on bat roosts close to the site. The Trust would therefore like to record a holding objection to the application until a thorough mitigation plan involving all the proposed developments in the area is in place.

The Trust were contacted by a member of the public living close to the proposed development site who informed the Trust of a substantial maternity roost (less than 80 bats) in a private property located in Pinfold Garth. The North Yorkshire Bat Group and the North and East Yorkshire Ecological Data Centre have recently been informed and have updated their records. Unfortunately this was after the ecological assessment for the sites were undertaken and the roost could not be identified during the extended Phase 1 habitat desk survey.

This application has the potential to have a cumulative effect combined with 2015/0895/OUT and 2015/0848/OUT on a significant bat maternity roost. The proposed locations of the developments will result in the roost being completely surrounded by housing. This will cause disturbance to the roost due the loss of important foraging habitat, isolation of the bat roost from the wider landscape and lighting impacts.

A member of the public has observed the bats foraging in the fields and tree line directly behind Pinfold Garth, proposed for development under number 2015/0848/OUT. The other foraging opportunities for the bats in the immediate vicinity of the site, such as along Bishop Dike and the hedgerows in the arable fields will be hard to access from the roost once developments are in place. Females during the maternity period whilst pregnant or nursing cannot lower their body temperature to slow their metabolism to compensate for diminished food supplies. For these reasons, bat maternity roosts are long lived and only give birth to one young in a year so maternity roosts are crucial to the survival of bat populations.

All UK bat species were identified by the UK Biodiversity Action Plan (UK BAP) as needing conservation and greater protection. Additionally, all bats and their roosts are fully protected under the Wildlife and Countryside Act 1981 (as amended) and are further protected under the Conservation of Habitats and Species Regulations 2010 (as amended). A person commits an offence if he deliberately disturbs a European Protected Species in a way that is likely to impair ability to survive, breed or reproduce/rear/nurture young.

Under the Habitats Regulations, it is an offence 'to damage or destroy a breeding site or resting place of such an animal, referring to Annex IV species. This is a transposition of the Habitats Directive which states that the deterioration or destruction of breeding sites or resting places of an Annex IV species is prohibited. As the Habitats Directive does not provide a specific definition of a breeding site or resting place, the Environment Directive –General of the European Commission states there is room for different interpretations, due to the wide range of species listed in Annex IV. The EDGEC goes on to advise that the Habitats Regulations should be understood as aiming to safeguard the ecological functionality of breeding sites and resting places.

Connectivity to foraging grounds and the wider landscape is essential for the continuous ecological functionality of a maternity roost. The combined effect of increased disturbance and lighting, diminished foraging areas and a complete lack of connectivity to foraging grounds caused by the proposed developments could result in the destruction of a significant maternity roost.

Damage or destruction of the roost would be in direct contradiction of the aims of the National Planning Policy Framework (NPPF) Paragraph 109 of the NPPF states

that 'the planning system should contribute to and enhance the natural and local environment by minimising impacts on biodiversity and providing net gains in biodiversity where possible, contributing to the Government's commitment to halt the overall decline in biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressure.

The NPPF then goes on to state in paragraph 118 'when determining planning applications, local planning authorities should aim to conserve and enhance biodiversity by applying the following principles:

- If significant harm resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused.
- Planning permission should be refused for development resulting in the loss or deterioration of irreplaceable habitats, including ancient woodland.

In order to prevent the destruction of the roost, significant mitigation is required in a co-ordinated effort from the three developers. It will be necessary to compensate for the loss of foraging grounds and to provide connectivity via linear features, such as hedgerows and waterways, to the surrounding landscape this will ensure the ecological functionality of the roost.

To date the roost has never been surveyed and it is the opinion of the Trust that, at present, too little is known about the roost to allow informed decisions regarding planning permission or potential mitigation strategies.

1.4.12 North Yorkshire and York Primary Care Trust

Would request a healthcare contribution of £86,400 for Sherburn Group Practice in relation to the above planning application. This is calculated as 270 (dwellings) x 2.4 (estimated occupancy) divided by 1500 (number of patients per GP) x £200.00 estimated cost of additional consulting room.

1.4.13 Selby Area Internal Drainage Board

We have spoken with the developer consultants some time ago and this is reflected within their FRA Section 5.2 in relation to requirements for consent as described in the attachments for works to divert existing Ordinary Watercourse, any surface water discharge into Ordinary Watercourse and retaining a minimum of 7 metres easement with no obstruction adjacent to Ordinary Watercourses.

1.4.14 North Yorkshire County Council – Flood Risk Management

The site falls within Flood Zone 1 so there are no fluvial flood risk concerns. Surface water flood mapping shows minor 1 in 1000 year surface water flooding. We have no concerns with the outline proposals in principle and would suggest a condition is attached.

1.4.15 Natural England

No comments to make regarding this application.

1.4.16 North Yorkshire Bat Group

No response received.

1.4.17 Health & Safety Executive

HSE is not a statutory consultee in this matter and therefore has no comments to make regarding the application.

1.4.18 Northern Gas Networks

Having checked the Northern Gas Networks records we can confirm that a 12" diameter ductile iron medium pressure gas main crosses this site in an east/ west direction. This gas main will be protected by an easement which will restrict the work which may be undertaken within that easement. The developer should consult with Northern Gas Networks over the proposed development.

1.4.19 Contaminated Land Consultant (WPA)

No response at the time of compilation of this report. Members will be updated at Committee.

1.5.1 Publicity

1.5.1 The application was advertised as a departure by site notice, neighbour notification letter and advertisement in the local newspaper resulting in 32 objections being received and one comment neither objecting or supporting the application. The issues raised can be summarised as follows:

Principle of Development

- The supporting Planning Statement at paragraph 5.16 refers to extant permission for 718 dwellings and states that these have yet to yield new homes at a consistent rate and goes on to state that it is also uncertain that all these dwellings will be delivered during the plan period.
- Redrow and Persimmon confirm that both schemes have now commenced and it is envisaged that each house builder will complete 10 dwellings each in this financial year. From 2016 onwards it is expected that 40 dwellings per annum per builder (80 dwellings per annum) will be completed. This construction rate will result in 340 dwellings being completed by the end of 2019 in the current 5 year period, and the completion of the full 598 dwellings by 2023.
- It is also understood that construction is underway for the other consent for 120 dwellings which complete the 718 extant dwellings in Sherburn.
- There are therefore three house builders currently active in Sherburn. In relation to additional sites coming forward such as the application site east of Hodgsons Lane, there should be a comparison and assessment of all suitable, appropriate sites in Sherburn which should be undertaken via the Local Plan process, rather than a first come, first serve approach that has been undertaken by the applicant in this instance. The draft 'Site Allocations – A Frameworks for Site Selection' is the obvious starting point for assessing potential allocations in Sherburn.
- We have no particular issue with the layout of the homes, however we do question the need for the homes and strongly feel that the infrastructure is not there in Sherburn in Elmet to support the volume of additional homes that are being proposed. It is accepted that this is not necessarily an issue but is something that Selby Council has to consider.
- There is no need for this kind of open market housing in the village.
- Looking at the Selby SHLAA the land along Milford Road is a priority for the next few years and it is policy that housing in Sherburn should be phased over the next 20 years.

- The land has been safeguarded for many years and the expectation has always been that it would eventually be used for housing.
- The minimum housing requirement for Sherburn in Elmet for the period 2011 to 2027 is 790 dwellings. It is understood that existing commitments now total 730 dwellings which leaves a further 60 dwellings to be permitted up to the period 2027.

Design and Impact on the Character of the Area

- Infilling could ruin the character of the village, while the estate would overwhelm it.
- The protection of Sherburn in Elmet's visual, historical and archaeological qualities should be considered.
- Paragraph 64 of the NPPF states that permission should be refused for development of poor design that fails to take opportunities available for improving the character and quality of an area and the way it functions.
- The proposed siting of the development is ill-considered, it is on a greenfield site used by many villagers and tourists for recreation and walking dogs and building here would diminish the striking view of the countryside within the village.
- Overdevelopment of the village.
- The further growth will damage the character and charm and its current pleasant size lends to everyday life.
- The fields offer a green and pleasant boundary and there will be heavy and permanent cost to the environment.

Highways Issues

- Dislike the proposed new access to this development.
- It is realistic to assume that each new home built would have a minimum of two cars per household.
- The road leading out to Pinfold Avenue is not capable of handling another 140 cars and the blind bend at the end is a hazard.
- The access that is proposed is on a site that was designated for two homes as part of the original Wheatley build.
- The land was sold back to Selby Council so that the council could honour its obligations to the farmer who owns/owned the land.
- The obligation was to provide the farmer with access to enable him to maintain his land for agricultural purposes.
- Hodgsons Lane is no longer a through road.
- The proposed new roundabout will be sited on a dangerous part of the bypass, close to a bend and will cause accidents.
- There are not sufficient parking spaces in the village with the ever increasing number of vehicles driven by residents.
- Traffic congestion is already apparent in Sherburn in Elmet this will only get worse once another housing estate is built.
- Inadequate public transport for the size of the population of Sherburn in Elmet. No trains run to Leeds from Sherburn in Elmet only York. Buses take nearly an hour to get to Leeds.
- The speed limit will be lowered to 40mph tempting through traffic back into Sherburn and South Milford rather than using the bypass.
- Hodgsons Lane is not wide enough for the traffic involved.
- The traffic lights in the village have massive tail backs at the moment.

- The last time planning passed housing estates, within a couple of months the bus services to and from the village were cut.
- According to official statistics for North Yorkshire, in 2013 there was a 220% increase in accidents involving motor cycles and 65% increase in fatalities.
- Sherburn area is a mecca for bikers who descend on the area in great number.
- Access to facilities for those who are not mobile will be difficult.
- Visibility would be very poor.

Drainage and Flooding

- There is drainage, sewage and gas leak problems existing at this site already, building will increase these problems. Drainage problems were apparent on the new estate at the end of Moor Lane.
- Drainage will be pumped directly into the adjacent dyke causing more flooding to developed housing estates for example, the Pasture Estate.
- The rain falling on the site finds its own level in the south (neighbours back gardens) and takes some considerable time to drain through the under laying thick clay.
- There will be a lot of impermeable surfaces covering the site all shedding surface water into neighbours' direction.
- Possible solutions like attenuation tanks, would be very expensive and could not be built on so the builder would want to pass the cost onto the Council or site owner.
- Due to drainage issues pile drivers had to run all day to form bore holes on neighbouring site.
- The small pumping station on Moor Lane is overworked and overflow tanks have been installed within the recent building south of Moor Lane to try and alleviate the pressure to the station.
- The whole of the site was previously classified as flood zone 3.
- Residents were not informed of the change in flood zones.

Impact on residential amenity

- Noise pollution during the day whilst building works is completed. Many residents in Sherburn in Elmet work nights.
- Air pollution, dust and debris will be a problem during the build.
- Overlooking by new properties.

Impact on services/facilities

- The infrastructure needs to keep up with a growing population.
- The gym is starting to become overcrowded and residents currently have to travel to Garforth, Tadcaster or Selby to go swimming and would prefer to see new leisure facilities before dwellings.
- The doctors surgery is still accepting patients as it is difficult to close the list for patients as it would have repercussions on the services provided to patients, however the doctor's would need to be able to accommodate the possible 1000+ extra patients.
- There is a long waiting list to get an appointment at the doctor's surgery.
- The secondary school in Sherburn is inadequate for teaching and was presented with Grade 3 in the Ofstead report in April this year.
- The plans show no sign of a school or other amenities other than a couple of small play areas near Bishop Dike and a 'potential balancing pond'. Surely play areas near a dike are not safe.

- The dentists are full.
- Are aware that there are plans to extend Athelstan Primary School, but not to accommodate the amount of children that could be living in the village.
- There is a lack of shopping facilities in the village.
- There are no public toilet facilities.
- Banking facilities have halved.
- There is already a shortage of post boxes and telephone kiosks in the village as none at all were provided for in the recent estates built.
- How much money will be spent on Sherburn, note with interest that Selby has had a new Leisure Centre built.
- The Core Strategy requires priority to be given to improving existing services in the village.
- Entertainment facilities for the younger end is nil.

Ecology

- The lapwings, nesting on the waterlogged ground and the skylarks, the water voles and eels in the Dike will suffer, the newts, toads and frogs regularly use neighbouring pond.
- There is a colony of bats in the area, with frequent sightings in the Pinfold Garth area.
- Hope that an environmental/ habitat survey is conducted prior to this consideration.
- There are hedgerows along the river which contain water voles, kingfishers and owls.
- If this site is to be used it would be 'greener' to use its attributes for the benefits of wildlife.

Other issues

- Crime rates soared when new housing estates were built at the end of Moor Lane. Police were constantly seen on the estate.
- Many non-reported crimes were also apparent and anti-social behaviour in Sherburn in Elmet is also particularly high already.
- Price of housing in the area will decrease due to development of large housing estates now encroaching into the Pinfolds Estate.
- Lack of community consultation and publicity.
- There is no demand for these houses, as demonstrated by the last round of building on fields opposite as the unsold ones were offered to a housing association.
- If the houses are taken over by West Yorkshire residents, how does this help the North Yorkshire Plan.
- The current plan will provide a pedestrian and bicycle access to the new houses, this is a potential rat run that will promote anti-social behaviour.
- Believe that there is a large bore gas pipe that runs across the land presently.
- Insufficient land has been set aside for family recreation/pastimes, for example garden allotment, safe play areas etc.
- The presentation by developers to residents was poorly presented and uninformative.
- Feel that Sherburn in Elmet is a dumping ground, what is wrong with Tadcaster?
- Sherburn in Elmet is morphing from a large village into a small town.
- The ambulance station has 1 crew who often spend their time several miles from the site with the nearest cover being Selby or Castleford.

An online petition with 564 objectors has also been presented with concerns raised in regards to the number of applications within Sherburn for housing developments both approved and ones submitted which would:

- Increase traffic with the crossroads already being congested in rush hour. Introducing more traffic to the area would only escalate the situation.
- Parking is not adequate in the village especially at school times and weekends.
- South Milford Petrol Station is the only petrol station in the vicinity to the local residents without driving to Tadcaster. Not only is the petrol station used by residents in surrounding villages, it is also used by commuters and vehicles from the Sherburn Industrial Estate. It would cause chaos if hundreds of additional vehicles began using the Petrol Station especially in busy periods. The Station has already had an increase in shoppers due to the Marks and Spencer's food chain opening.
- As population is ever increasing in the village no more doctors surgeries have been built. An increase in numbers to this service is not viable at its current capacity.
- Although there are two primary schools in Sherburn in Elmet and one high school an increase in population would have a detrimental effect on local parents and children with the schools already being at a near full capacity.
- Residents of this village enjoy living in Sherburn in Elmet because of the surroundings and value the area greatly. Consistent building is resulting in Greenfield Land being lost to accommodate for more housing. On speaking to many residents people are saddened by this and do not want to see anymore building on our precious Greenfield Sites.
- Many of the sites chosen for development are and have been inhabited by wildlife. This needs to be taken into consideration when destroying such habitats so future generations can enjoy the same as we have.

2. Report

2.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 states "if regard is to be had to the development plan for the purpose of any determination to be made under the planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise". This is recognised in paragraph 11 of the NPPF, with paragraph 12 stating that the framework does not change the statutory status of the development plan as the starting point for decision making. The development plan for the Selby District comprises the Selby District Core Strategy Local Plan (adopted 22nd October 2013) and those policies in the Selby District Local Plan (adopted on 8 February 2005) which were saved by the direction of the Secretary of State and which have not been superseded by the Core Strategy.

2.2 Selby District Core Strategy Local Plan

2.2.1 The relevant Core Strategy Policies are as follows:

- SP1 Presumption in Favour of Sustainable Development
- SP2 Spatial Development Strategy
- SP5 Scale and Distribution of Housing
- SP8 Housing Mix

- SP9 Affordable Housing
- SP15 Sustainable Development and Climate Change
- SP16 Improving Resource Efficiency
- SP18 Protecting and Enhancing the Environment
- SP19 Design Quality

Legal Challenge to the Selby District Core Strategy Local Plan

Sam Smith's Old Brewery has been granted leave to appeal the decision of the High Court to dismiss the Core Strategy Legal Challenge. Leave has been given on only one ground, whether the Duty to Co-operate (introduced by the Localism Act 2011) applied to work done during the suspension of the Examination in Public.

The Court of Appeal heard the case on 22 October 2015 and the Council has defended the appeal.

The Appeal is a material consideration, however the outcome of the challenge is uncertain. The Council has successfully defended its position already before the Inspector and the High Court. As such the challenge should be given little or no weight whilst the Core Strategy as the adopted Development Plan should be given substantial weight.

2.3 Selby District Local Plan

Annex 1 of the National Planning Policy Framework (NPPF) outlines the implementation of the Framework. As the Local Plan was not adopted in accordance with the Planning and Compulsory Purchase Act 2004, the guidance in paragraph 214 of the NPPF does not apply and therefore applications should be determined in accordance with the guidance in Paragraph 215 of the NPPF which states " In other cases and following this 12-month period, due weight should be given to relevant policies in existing plans according to their degree of consistency with this framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given)".

The relevant Selby District Local Plan Policies are:

SL1:	Safeguarded Land
ENV1:	Control of Development
ENV2:	Environmental Pollution and Contaminated Land
ENV28:	Archaeology
T1:	Development in Relation to Highway
T2:	Access to Roads
RT2:	Recreational Open Space
CS6:	Community facilities

2.4 National Policy

On the 27th March 2012 the Government published the National Planning Policy Framework (NPPF). The NPPF replaced the suite of Planning Policy Statements (PPS's) and Planning Policy Guidance Notes (PPG's) and now, along with the

guidance in the Technical Guidance Note, and Policy for Traveller Sites, provides the national guidance on planning.

The NPPF introduces, in paragraph 14, a presumption in favour of sustainable development. Paragraph 14 of the NPPF states "At the heart of the National Planning Policy Framework is a presumption in favour of sustainable development, which should be seen as a golden thread running through both plan-making and decision-taking".

The NPPF and the accompanying PPG provides guidance on wide variety of planning issues the following report is made in light of the guidance of the NPPF.

Other Policies/Guidance

Affordable Housing Supplementary Planning Document, 2013
Developer Contributions Supplementary Planning Document March 2007
Sherburn in Elmet Village Design Statement, December 2009
North Yorkshire County Council SuDs Design Guidance, 2015

2.5 Key Issues

2.5.1 The main issues to be taken into account when assessing this application are:

1. The appropriateness of the location of the application site for residential development in respect of current housing policy and guidance on sustainability contained within the Development Plan and the NPPF.
2. Whether any policies in the NPPF indicate the development should be restricted.
 - (i) Presumption against inappropriate development in the Green Belt.
 - (a) Principle of development in the Green Belt.
 - (b) Impact on the openness of the Green Belt.
 - (c) Impact on the purposes of including land within the Green Belt.
3. Identifying the potential impacts of the proposal.
 1. Layout, and impacts on the character and form of the landscaping
 2. Flood risk, drainage and climate change
 3. Impact on highways
 4. Residential amenity
 5. Nature conservation and protected species
 6. Affordable housing
 7. Recreational open space
 8. Education, healthcare, waste and recycling
 9. Contamination
 10. Impact on heritage assets
 11. Education, healthcare, waste and recycling
 12. Other issues

4. Taking into account the presumption in favour of sustainable development determining whether the adverse impacts of the development significantly and demonstrably outweigh the benefits when assessed against the policies in the NPPF taken as a whole.

2.6 The Appropriateness of the Location of the Application site for Residential Development in Respect of Current Housing Policy and Guidance on Sustainability Contained within the Development Plan and the NPPF.

- 2.6.1 Policy SP1 of the Core Strategy outlines that "when considering development proposals the Council will take a positive approach that reflects the presumption in favour of sustainable development contained in the National Planning Policy Framework" and sets out how this will be undertaken.
- 2.6.2 The site lies outside the defined development limits of Sherburn in Elmet and therefore is located in open countryside.
- 2.6.3 Relevant policies in respect of the principle of this proposal include Policy SP2 "Spatial Development Strategy" and Policy SP5 "The Scale and Distribution of Housing" of the Core Strategy.
- 2.6.4 Policy SP2A(c) states that development in the countryside (outside Development Limits) will be limited to the replacement or extension of existing buildings, the re-use of buildings preferably for employment purposes, and well-designed new buildings of an appropriate scale which would contribute towards and improve the local economy and where it will enhance or maintain the vitality of rural communities, in accordance with Policy SP13 or meet rural affordable housing need (which meets the provisions of Policy SP10), or other special circumstances.
- 2.6.5 In light of the above policy context the proposals to develop this agricultural land for residential purposes are contrary to policy SP2A(c) of the Core Strategy. The proposal should therefore be refused unless material considerations indicate otherwise.
- 2.6.6 It should be noted that the site was put forward under the Site Allocations DPD (Preferred Options) (2011) under reference SHER003 where it was confirmed that the site had been reclassified as flood zone 1 (formerly flood zone 3) by the Environment Agency which meant that this was no longer a constraint to the site. It was also confirmed that the site may be accessed via Hodgsons Lane with appropriate improvements to the road and its junction with Moor Lane, therefore the Council considered that this would be the most likely of the three northern sites to be achievable. The Council therefore considered that the site was capable of accommodating 200 dwellings. It should however be noted that the Site Allocations DPD (Preferred Options) did not proceed to formal adoption and as such can be afforded little weight in the decision making process. The application site is therefore assessed on its own merits having had regard to the current policy position.
- 2.6.7 It is also noted that the site is designated as "Safeguarded Land" within the Selby District Local Plan 2005. The Local Plan states that land excluded from the Green Belt outside Development Limits, but not allocated for development, will be safeguarded as part of a potential long-term reserve beyond 2006, in accordance

with policy SL1. The release of the “safeguarded land”, if required to meet long-term development needs, would only be made in a controlled and phased manner through future Local Plan or land supply reviews, possibly extending over successive review periods. Officers note that the proposal is contrary to Policy SL1 and should therefore be refused unless material considerations indicate otherwise. One such material consideration is the National Planning Policy Framework.

2.6.8 The Local Planning Authority, by reason of paragraph 47 of the NPPF, is required to identify a supply of specific deliverable sites sufficient to provide 5 years' worth of housing against its policy requirements with an additional buffer of 5% (moved forward from later in the plan period) to ensure choice and competition in the market for housing land. Furthermore where, as in the case of Selby District, there has been a record of persistent under delivery of housing, the LPA is required to increase the buffer to 20%. The Council accepts that on this basis it does not have a 5 year supply of housing land and that policies SP2, SP5 of the Core Strategy and SL1 of the Local Plan are out of date in so far as they relate to the supply of housing land.

2.6.9 Given the above, the principle of residential development on the site must be assessed against paragraph 49 of the NPPF which states that: -

“Housing applications should be considered in the context of the presumption in favour of sustainable development. Relevant policies for the supply of housing should not be considered up-to-date if the local planning authority cannot demonstrate a five-year supply of deliverable housing sites.”

2.6.10 Paragraph 14 is therefore relevant to the assessment of these proposals and states that

“at the heart of the framework is a presumption in favour of sustainable development”, and for decision taking this means, unless material considerations indicate otherwise,

Approving development proposals that accord with the development plan without delay; and

Where the development plan is absent, silent or relevant policies are out-of-date, granting permission unless:

Any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this framework taken as a whole; or

Specific policies in this framework indicate development should be restricted.

2.6.11 As set out above the development plan policies with respect to housing supply (SP2 and SP5) are out of date so far as they relate to housing supply therefore the proposals should be assessed against the criteria set out above.

2.6.12 The examples given of specific policies in the footnote to paragraph 14 indicate that the reference to specific policies is a reference to area specific designations including those policies relating to sites protected under the Birds and Habitats

Directives and/or designated as Sites of Special Scientific Interest; land designated as Green Belt, Local Green Space, an Area of Outstanding Natural Beauty, Heritage Coast or within a National Park (or the Broads Authority); designated heritage assets; and locations at risk of flooding or coastal erosion.

2.6.13 The access to the site and the proposed roundabout is located within the West Yorkshire Green Belt and therefore is subject to the policies in Section 9 “Protecting the Green Belt” of the NPPF which indicate that development should be restricted. This issue is dealt with in Section 2.7 of this report.

2.6.14 It is noted that the settlement is well served by local services and is a sustainable location.

2.6.15 Paragraph 7 of the NPPF, states that there are three dimensions to sustainable development, these being of an economic, social and environmental nature. These dimensions give rise to the need for the planning system to perform a number of roles. In response to this the applicant has commented as follows: -

Economic

The proposal would generate employment opportunities in both the construction and other sectors linked to the construction market. The proposals would bring additional residents to the area who in turn would contribute to the local economy through supporting local facilities.

Social

The proposal would deliver levels of both open market and affordable housing in Sherburn in Elmet and hence would promote sustainable and balanced communities and would assist in the Council meeting the objectively assessed need for housing in the district. The proposals would also provide a level of affordable housing which would improve the tenure mix in this location. In addition the scheme would include provision for recreational open space and would improve existing community facilities as well as provide a contribution towards education facilities at the local Schools.

Environmental

The proposal would deliver high quality homes for local people and take into account environmental issues such as flooding and impacts on climate change, biodiversity and results in the loss of agricultural land which is of a moderate value. The proposal will also deliver environmental benefits in the form of public open space provision.

2.6.16 These considerations weigh substantially in favour of the proposal.

2.7 Principle of Development within the Green Belt

2.7.1 Part of the application site which includes the access and proposed new roundabout would lie within the West Yorkshire Green Belt and this part of the proposal must therefore be assessed against appropriate Green Belt policy.

2.7.2 Relevant policies in respect to the principle of the development in the Green Belt include Policies SP2A(d) and SP3 of the Core Strategy and paragraphs 87-90 of the NPPF.

2.7.3 The decision making process when considering proposals for development in the Green Belt is in three stages, and is as follows: -

- (a) It must be determined whether the development is appropriate or inappropriate development in the Green Belt.
- (b) If the development is not inappropriate, the application should be determined on its own merits.
- (c) If the development is inappropriate, the presumption against inappropriate development in the Green belt applies and the development should not be permitted unless there are very special circumstances which clearly outweigh the presumption.

2.7.4 Paragraph 87 of the NPPF makes it clear that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.

2.7.5 Paragraph 90 of the NPPF deals with development proposals which do not relate to buildings and states

“Certain other forms of development are also not inappropriate in Green Belt provided they preserve the openness of the Green Belt and do not conflict with the purposes of including land in the Green Belt. These [include]:

Engineering operations;

Local transport infrastructure which can demonstrate a requirement for a Green Belt location.”

2.7.6 With regard to the above officers note that the part of the proposal that lies within the Green Belt constitutes both an “engineering operation” and an example of “local transport infrastructure”. Therefore the proposal need not be inappropriate provided that it preserves the openness of the Green Belt and does not conflict with the purposes of including land in the Green Belt.

2.7.7 Harm to the Purposes of Including Land within the Green Belt

2.7.8 Paragraphs 79 and 80 of the NPPF states that “the Government attach great importance to Green Belts. The fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts are their openness and their permanence.”

2.7.9 Green Belt serves five purposes, namely

- To check the unrestricted sprawl of large built up areas;
- To prevent neighbouring towns merging into one another;
- To assist in safeguarding the countryside from encroachment;
- To preserve the setting and special character of historic towns; and
- To assist in urban regeneration, by encouraging the recycling of derelict and other urban land.

- 2.7.10 Having had regard to the above it is noted that the area of Green Belt that would be directly affected by the proposal constitutes the existing A162, its verges and immediate environs. This part would be affected by the proposed roundabout which would be seen in the context of the existing highway and from the east against the background of the proposed housing estate. As such it is considered that the proposal would not significantly and demonstrably conflict with the purposes of including land within the Green Belt.
- 2.7.11 It is also noted that the proposed roundabout and access would largely take place within the confines of the existing road and would be seen within the context of this main road. As such it is considered that the impact of the proposal on the openness and visual amenity of the Green Belt would be negligible.
- 2.7.12 As such the new access and roundabout would not constitute inappropriate development within the Green Belt. There are no specific policies within the NPPF that indicate that this particular development should be restricted and the proposal should be determined against whether any harm of approving the proposal would significantly and demonstrably outweigh the benefits when considered against the NPPF taken as a whole.

2.8 Identifying the Impacts of the Proposal

- 2.8.1 Paragraph 14 of the NPPF requires the decision taker to determine whether any adverse impact of granting planning permission significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole. This sections looks at the impacts arising from the proposal.

2.9 Design and Impact on the Character of the Area

- 2.9.1 Relevant policies in respect to design and the impacts on the character of the area include Policy ENV1 (1) and (4) of the Selby District Local Plan, and Policy SP19 "Design Quality" of the Core Strategy. In addition Policy SP8 of the Core Strategy requires an appropriate housing mix to be achieved.
- 2.9.2 Significant weight should be attached to the Local Plan policy ENV1 as it is broadly consistent with the aims of the NPPF.
- 2.9.3 Relevant policies within the NPPF, which relate to design include paragraphs 56, 60, 61, 65 and 200.
- 2.9.4 The application proposes outline consent for up to 270 dwellings with access for consideration and all other matters reserved. An indicative illustrative masterplan has been submitted which demonstrates how the site could accommodate 270 dwellings, allowing for internal road networks, areas of recreational open space, a balancing pond, pumping station and footpath links. The submitted Design and Access Statement confirms that the site would achieve a density of approximately 33.5 dwellings per hectare which is considered to be medium density and as such would appear to be a reasonable density having had regard to the surrounding context. Having taken into account the indicative layout submitted and the context of the site it is considered that an appropriate layout could be achieved at reserved matters stage.

- 2.9.5 With respect to the appearance of the proposals the submitted Design and Access Statement provides examples of how the development could appear, having had regard to the Sherburn in Elmet Village Design Statement. Having had regard to the contents of the Design and Access Statement and taking into account the surrounding context of the site there is nothing to suggest that an appropriate appearance could not be achieved at reserved matters stage. The Design and Access Statement and Parameters Plan suggests that there could be a mix of properties with single storey bungalows to the south west, with the majority of properties being two storey with some two and a half storey properties interspersed in the central area of the site. Providing that the scale of the properties proposed takes account of the surrounding context and in particular the inter-relationship with existing properties along the southern boundaries there is nothing to suggest that an appropriate scale cannot be achieved at reserved matters stage.
- 2.9.6 In terms of landscaping, this is reserved for future consideration, however it is noted that the site is generally open in character with trees and hedgerows located on the site boundaries. The application is accompanied by an Arboricultural Assessment which assesses the value of the existing trees based on their current condition and quality and provides an assessment of the impacts arising from the proposed development of the site.
- 2.9.7 The report confirms that a total of nineteen individual trees, six groups of trees and seven hedgerows were surveyed. Three trees were categorised as unsuitable with no trees of high value, one tree of moderate value and the remaining trees and hedgerows low value. Notwithstanding this the report states that through good design and by virtue of existing tree cover being positioned around the extents of the site the proposed development has allowed for the retention of much of the existing tree cover. To facilitate the proposed main vehicle access to the site from the north and to facilitate a balancing pond would result in some tree and hedgerow loss, however the report considers that this should not present a constraint to development provided that an appropriate amount of new tree planting is proposed to mitigate for its loss. The report suggests that one of the hedgerows could be re-located to run around the proposed roundabout, which would both reduce the amount of hedgerow material being lost and would also provide immediate maturity to the landscaping around the new roundabout. The report goes on to recommend new tree planting species, tree management arrangements and tree protection measures and these measures should be taken into account within the reserved matters scheme. The contents of the report are agreed and noted and it is considered that an appropriate landscaping scheme can be achieved at reserved matters stage.
- 2.9.8 Policy ENV3 of the Local Plan requires consideration be given to external lighting and it is considered that an appropriate lighting scheme can be achieved at reserved matters stage.
- 2.9.9 Policy SP8 states that proposals must ensure that the types and sizes of dwellings reflect the demand and profile of households evidenced from the most recent Strategic Housing Market Assessment. As this is an outline scheme there is no detail as to the proposed housing mix, however an appropriate mix could be achieved at reserved matters stage taking into account the housing needs identified in the Strategic Housing Market Assessment.

- 2.9.10 The Police Architectural Liaison Officer has commented on the proposed indicative layout and has made a series of recommendations which the developers should take account of within the design of a detailed reserved matters scheme.
- 2.9.11 With respect to the impacts of the development on the character of the area and landscape character, the application is accompanied by a Landscape and Visual Impact Appraisal. With respect to the impact on the landscape the report concludes that the proposals would have moderate adverse effect on the immediate site's surroundings. The report states that within the site itself the development would change the existing agricultural use to that of an urban nature, however the development would retain the most valuable landscape features along the periphery of the site, such as hedgerows and hedgerow trees, and thus maintaining the connection to the countryside, the effects at therefore no greater than moderate
- 2.9.12 With respect to visual impacts, the dwellings looking onto the site would be most affected and for properties with open views this would initially result in moderate/major adverse visual effects, however properties with more extensive garden planting would have a reduced degree of visual change and reinforced planting along Hodgsons Lane would reduce these impacts. Whilst there would inevitably be some adverse landscape and visual effects at the outset, the impact of the development and consequential effects would be localised and limited in their extent and the impacts would be diminished over time as the Green Infrastructure would soften the built form in the longer term. The report concludes that the site's landscape character has the ability to absorb change through the introduction of the development as presented through the masterplan and would not give rise to any unacceptable landscape and visual harm. The contents of the report are noted and having had regard to the context of the site it is agreed that the proposals would not result in a significant detrimental impact on the landscape character so as to warrant refusal of the scheme.
- 2.9.13 Comments have been made by local residents with respect to the impacts on visual amenity, the fact that they consider the siting of the development to be ill-considered, the proposals being on a greenfield site, it being overdevelopment and damaging the character and charm of Sherburn in Elmet. Having had regard to all of the above elements it is considered that an appropriate design could be achieved at reserved matters stage so as to ensure that no significant detrimental impacts are caused to the character of the area in accordance with policies ENV 1 (1) and (4) and ENV3 of the Local Plan, policies SP8 and SP19 of the Core Strategy and the NPPF.

2.10 Flood Risk, Drainage and Climate Change

- 2.10.1 Policies SP15, SP16 and SP19 of the Core Strategy require proposals to take account of flood risk, drainage, climate change and energy efficiency within the design.
- 2.10.2 The application site is located in Flood Zone 1 (low probability of flooding). Local residents have expressed concern that the site was within Flood Zone 3 and that they were not notified that the flood zone had been altered. For clarity the flood zones are set by the Environment Agency and as such any issues regarding the flood designation for this site should be taken up directly with them. The Council therefore need to consider the application on the basis of the Flood Zone allocated

by the Environment Agency, this being Flood Zone 1. The applicants have submitted a Flood Risk Assessment which establishes the sources of flooding and taking into account climate change sets out mitigation measures in accordance with the requirements of the NPPF.

- 2.10.3 The Flood Risk Assessment sets out the drainage strategy for the site and this confirms that the site is underlain by soils with impeded drainage and is therefore not suitable for infiltration (drainage into the ground). The report states that the risk of groundwater flooding or flood risk from surface water is assessed as being very low. Given this, it is proposed to direct all runoff from the developed site to the drainage channel. The report sets out detailed calculations for the volume of surface water storage facilities on site and states that this could be accommodated within a detention basin. In addition it is stated that the flat nature of the site and relatively high invert level of the culvert beneath the A162, an on-site pumping station is expected to be required to transfer water from the detention basin to the culvert. The development proposals show an indicative surface water drainage layout for the site, additional SuDS features such as rainwater harvesting, permeable paving, filter strips, swales, filter drains or infiltration trenches may also be incorporated into the drainage strategy at reserved matters stage. The report concludes that a surface water drainage strategy is feasible for the site, given the development proposals and land available. The proposals provide the opportunity for the inclusion of SuDS elements ensuring that there would be no increase in surface water run-off and volume from the proposed development.
- 2.10.4 Local residents have made numerous comments regarding drainage and flooding both on and off site and these have been taken into account. The Environment Agency has stated that it has no comment to make on the application. The NYCC Flood Risk Management Officer raises no objection to the suggested drainage proposals and suggests one condition is attached in regards to the proposed drainage of the site. The Selby Area Internal Drainage Board has also raised no objections to the drainage proposals.
- 2.10.5 Yorkshire Water have stated that the development of the site should take place with separate systems for foul and surface water drainage and foul water domestic waste should discharge to the 600mm diameter public/foul combined water sewer recorded at the junction of Hodgsons Lane and Moor Lane at a point approximately 100 metres from the site. Yorkshire Water has therefore raised no objections to the application and has requested that conditions should be attached in order to protect the local aquatic environment and Yorkshire Water infrastructure.
- 2.10.6 With respect to energy efficiency, the dwellings would be constructed to Building Regulations requirements which meet the Code for Sustainable Homes Level 3. In order to comply with the specific requirements of Policy SP16 which requires that 10% of total predicted energy should be from renewable, low carbon or decentralised energy sources a condition should be imposed in order to ensure compliance with Policies SP15 and SP16 of the Core Strategy. Compliance with other parts of Policy SP15 and SP19 would be more appropriately considered under the reserved matters as they relate to details of design.
- 2.10.7 Having taken the above into account the proposed scheme can adequately address flood risk and drainage subject to appropriate conditions. In addition climate

change and energy efficiency measures can be secured via condition to ensure that these are incorporated at reserved matters stage in accordance with Policies SP15, SP16 and SP19 of the Core Strategy and the NPPF.

2.11 Impacts on Highway Safety

2.11.1 Policy in respect of highway safety and capacity is provided by Policies ENV1(2), T1 and T2 of the Selby District Local Plan, Policy SP19 of the Core Strategy and paragraphs 34, 35 and 39 of the NPPF. In addition Policies T7 and T8 of the Local Plan set out requirements for cycling and public rights of way.

2.11.2 The application is accompanied by a Transport Assessment by SK Transport Planning Ltd together with updated technical notes which examine the existing highway network, traffic flows and accident levels and presents the anticipated traffic generation and highway impacts as a result of the development having also taken into account other permissions within Sherburn in Elmet. The report concludes that the proposal is underpinned by a travel plan to promote accessibility of the site and reduce day-to-day car trips. Measures are also proposed to assist with influencing travel behaviour, particularly car route choice and sustainable connections to local amenities. Detailed traffic assessments have been undertaken in line with NYCC requirements and to allow consistency with other applications in the area. The assessments conclude that the proposal will not have a severe impact on the local highway network and the proposal provides an opportunity to deliver a sustainable residential development that integrates well with the existing community and that will result in acceptable residual effects on the transport network.

2.11.3 The Transport Assessment has been reviewed by North Yorkshire County Council Highways and comments from local residents and the Parish Council regarding the impact on the highway network have been taken into account. NYCC Highways have confirmed that the proposed roundabout has been assessed in terms of capacity and has been subjected to a Road Safety Audit and it is considered to be an appropriate means of access. The impact on the Low Street/ Kirkgate/ Moor Lane/ Finkle Hill signal controlled junction has also been assessed and the modelling demonstrates that the development will have a minimal effect on the operation of the signals. Notwithstanding this the Applicant has agreed a contribution to enable the pedestrian crossing on Low Street to be linked to the traffic signals to provide better co-ordination and minimise the cumulative impact of the signals on through traffic. This will enhance the operational improvements which will occur through the installation of MOVA (Microprocessor Optimised Vehicle Actuation) at the Low Street/ Kirkgate/ Moor Lane/ Finkle Hill signals, being delivered through the recent residential planning permissions. On the basis of these comments a contribution is to be secured via a Section 106 agreement.

2.11.4 NYCC Highways have also stated that in order to improve pedestrian/cycle amenity in the vicinity of Hodgsons Lane/ Moor Lane, new and additional drop kerb crossings will be required together with tactile pavements and this should be conditioned.

2.11.5 With respect to encouraging more sustainable modes of transport, the Transport Assessment establishes the accessibility of the site to local facilities through walking, cycling or public transport. In terms of walking, the centre of Sherburn in

Elmet is easily accessible from the site on foot (approximately 20 minutes at normal walking pace) and the whole of the settlement is accessible within the recognised acceptable walking distance (2km). With respect to cycling, local services and employment areas are within a reasonable cycling distance of the site. There are two bus stops within walking distance of the site located along the A162 and Moor Lane allowing access to Pontefract, Monk Fryston and Tadcaster. The bus stops located within the centre of Sherburn provide access to Selby and Leeds. There are two train services per day between Sheffield at York from Sherburn train station which is approximately 600 metres from the site with hourly services from South Milford train station between York, Selby and Leeds.

2.11.6 Having had regard to the fact that Sherburn in Elmet is a Local Service Centre, it is accepted that the site is sustainable with a choice of transport modes, although as with many of the other settlements within the District there will be some reliance on the private motor vehicle to access employment and wider services and facilities. North Yorkshire County Council Highways, as set out above, have identified that the existing highway network can serve the site, taking into account accessibility and that a travel plan can be conditioned.

2.11.7 Residents have commented that access is proposed on a site that was designated for two homes. The indicative layout plan demonstrates that an access would be retained for the two properties at 2 and 4 Hodgsons Lane.

2.11.8 It is therefore considered that the scheme is acceptable and in accordance with policies ENV1(2), T1, T2, T7 and T8 of the Local Plan, Policy SP19 of the Core Strategy and Paragraph 39 of the NPPF with respect to the impacts on the highway network subject to conditions.

2.12 Residential Amenity

2.12.1 Policy in respect to impacts on residential amenity and securing a good standard of residential amenity is provided by ENV1(1) of the Local Plan, as part of the Core Principles of the NPPF and within Paragraph 200 of the NPPF.

2.12.2 The detailed design of the properties, orientation and relationship of windows to other properties would be fully established at reserved matters stage so as to ensure that no significant detriment is caused through overlooking, overshadowing or creating an oppressive outlook. The submitted parameters plan suggests two storey properties would be located adjacent to the A162 and behind the properties along Moor Lane with single storey properties adjacent to Hodgsons Lane which would ensure that an appropriate relationship was achieved.

2.12.3 Residents have expressed concerns regarding noise pollution during the construction process and having consulted the Lead Officer for Environmental Health they have confirmed that this can be dealt with by virtue of a planning condition requiring a scheme to control, noise, vibration and dust to be submitted.

2.12.4 The application is accompanied by a Noise Impact Assessment to assess the impacts on potential occupiers arising by reason of noise from the A162 and the railway line. The report states that it was noted that during the noise readings undertaken the dominant source of noise was the A162 with further contribution from road traffic noise on the wider road network. The report however concludes

that noise need not be a determining factor in granting planning consent and that adequate protection of noise sensitive development can be achieved through appropriate mitigation such as careful consideration of the location and orientation of dwellings together with associated acoustic barriers. The report does not specify any mitigation measures as this will be determined at reserved matters stage. The Lead Officer – Environmental Health has recommended that a condition be imposed with respect to noise levels.

2.12.5 Having taken into account the matters discussed above it is considered that an appropriate scheme could be designed at reserved matters stage which should not cause significant detrimental impact on the residential amenities of either existing or future occupants in accordance with policy ENV1(1) of the Local Plan and the NPPF.

2.13 Impact on Nature Conservation and Protected Species

2.13.1 Policy in respect to impacts on nature conservation interests and protected species is provided by Policy ENV1(5) of the Local Plan, Policy SP18 of the Core Strategy and paragraphs 109 to 125 of the NPPF.

2.13.2 With respect to impacts of development proposals on protected species planning policy and guidance is provided by the NPPF and accompanying PPG in addition to the Habitat Regulations and Bat/ Great Crested Newt Mitigation Guidelines published by Natural England.

2.13.3 The application is accompanied by an Ecological Appraisal by FPCR Environmental and Design Ltd which establishes the impacts of the development and sets out recommendations for the development.

Nature Conservation Sites

2.13.4 The submitted report notes that there are no international sites of nature conservation interest within 5km of the site. One statutorily designated site, Sherburn Willows Site of Scientific Interest (SSSI) is present approximately 1.9km to the south west. The desktop data indicates the presence of 2 non-statutorily designated sites within 1km, both of which are Sites of Interest for Nature Conservation (SINC). Due to the separation distances involved it is not considered that the proposals would result in any significant adverse impacts on these sites.

Protected Species

2.13.5 The report establishes that there are no constraints to development from the presence of protected species such as badger, great crested newts, reptiles, water vole, otters, bats and birds. The report does however recommend precautions and mitigation measures to ensure that should protected species be present they are adequately protected. In this respect officers note that although there is no evidence that protected species were present at the time of the surveys and therefore currently occupying the site, nature is in a constant dynamic state of flux and species can colonise sites between surveys and the commencement of development. As such these precautions are accepted.

Habitats

2.13.6 The report confirms that the site comprises generally species-poor habitats, of intrinsically low conservation value, aside from hedgerows no habitats of Principal Importance or local BAP habitats were recorded on site. The report therefore considers that the presence of these habitats would not be a statutory constraint to works and their loss would have a negligible impact on the biodiversity value of the local area. The hedgerows within the site are dominated by native species and qualify as habitats of principle importance. Some are also likely to qualify as important under the Hedgerow Regulation or be valued highly. For the most part these features are to be retained; however removal of some sections will be required. The report recommends that where loss is incurred consideration should be given to their replacement elsewhere within the site. The report also recommends that the replacement and buffer planting along the north should utilise native species of local provenance. As such the report sets out a series of recommendations to protect the habitats of ecological value.

2.13.7 Natural England has raised no objection to the proposal. Yorkshire Wildlife Trust have objected to the proposals due to the lack of information on bat roosts close to the site and that they wish to see a thorough mitigation plan involving all the proposed developments in the area. For clarity, the Ecological Appraisal confirms that there are no bat roosts within the application site and the site has limited value for bats with respect to foraging in hedgerows. The report states that some sections of hedge will be removed which could result in impacts to foraging routes, however enhancement measures such as the central green corridor and new planting to the north should retain the site's value for connectivity. Furthermore, whilst a resident of Pinfold Garth has stated that they have a bat roost in their property, there would be no direct impact to this roost, there would be no disturbance to this roost and given the site's location and the comments made within the Ecological Appraisal confirm that there would be no shortage of foraging habitat in order to retain the bat population in a favourable conservation status. Appropriate mitigation measures have been suggested and these can be conditioned. It is also considered that as gardens, landscaping features and the balancing pond mature the site's value as a bat foraging area would be enhanced.

2.13.8 Therefore, in the absence of any evidence to suggest contrary to the findings of the ecology report, and having had regard to standing advice from Natural England the findings of the report are accepted.

2.13.9 Having had regard to all of the above it is considered that the proposal would accord with Policy ENV1(5) of the Local Plan, Policy SP18 of the Core Strategy and the NPPF with respect to nature conservation subject to a condition that the proposals be carried out in accordance with the recommendations set out in the Ecological Appraisal.

2.14 Affordable Housing

2.14.1 Policy SP9 of the Core Strategy states that the Council will seek to achieve a 40/60% affordable/general market housing ratio within overall housing delivery. In pursuit of this aim, the Council will negotiate for on-site provision of affordable housing up to a maximum of 40% of the total new dwellings on all market housing sites at or above the threshold of 10 dwellings.

2.14.2 The applicant has confirmed that they are prepared to provide 40% affordable units on site and that this would be secured via a Section 106 agreement. The Council's Lead Officer-Policy supports the provision of 108 affordable units and has provided guidance to the developers with respect to the tenure of any affordable units to be secured so that this can be considered for inclusion in any Section 106 agreement.

2.14.3 The proposals are therefore considered acceptable with respect to affordable housing provision having had regard to Policy SP9 subject to the completion of a Section 106 agreement.

2.15 Recreational Open Space

2.15.1 Policy in respect of the provision of recreational open space is provided by Policy RT2 of the Local Plan which should be afforded significant weight, the Developer Contributions Supplementary Planning Document, Policy SP19 of the Core Strategy and paragraphs 70 and 73 of the NPPF.

2.15.2 The parameters plan demonstrates that the site could incorporate on-site recreational open space (potential equipped play areas), however it is unclear from the plan provided whether the full amount of useable recreational open space provision would be provided on site therefore it would therefore be recommended that the Section 106 be written so that it allows for either on site provision, off site provision or a combination of both. If off-site provision is to be provided then this would need to be towards specific schemes identified by the Parish Council in order to accord with policy requirements set out in Policy RT2.

2.15.3 It is therefore considered that the proposals, subject to a Section 106 agreement, are appropriate and accord with Policies RT2 of the Local Plan, Policy SP19 of the Core Strategy and the NPPF.

2.16 Education, Healthcare, Waste and Recycling

2.16.1 ENV1 and CS6 of the Local Plan and the Developer Contributions Supplementary Planning Document set out the criteria for when contributions towards education, healthcare and waste and recycling are required. These policies should be afforded significant weight.

2.16.2 Having consulted North Yorkshire County Council Education and the Primary Care Trust, a contribution towards education facilities and for an additional consultation room at the Sherburn-in-Elmet medical practice has been requested. These monies can be secured via a section 106 agreement.

2.16.3 With respect to Waste and Recycling, a contribution of £65 per dwelling would be required and this would therefore be secured via Section 106 agreement.

2.17 Contamination

2.17.1 Policies ENV2 of the Local Plan and SP19 of the Core Strategy relate to contamination.

2.17.2 The application is accompanied by a Geo-environmental Appraisal by WSP Parsons Brinckerhoff. The appraisal states that the site has been primarily used for

agricultural purposes including pig farming and there are limited potential sources of contamination. The south-western corner of the site, containing former farm structures, is the main area of potential concern, particularly with regard to asbestos containing materials. A number of potential pollutant linkages have been identified which will require further assessment. The report also states that on the basis of the data presented within the report further intrusive ground investigation should be completed to provide information for foundation design and to confirm the presence/absence of localised contamination.

2.17.3 The Council's Contaminated Land Consultant is considering the report, however comments were not available at the time of compiling this report, Members will therefore be updated on this matter.

2.18 Impact on Heritage Assets

2.18.1 Policies ENV1 and ENV28 of the Local Plan, Policies SP18 and SP19 of the Core Strategy and the NPPF require proposals to take account of their impacts on heritage assets and in particular in relation to this site, archaeology.

2.18.2 The NPPF paragraph 128 states Local Planning Authorities should require an applicant to describe the significance of any heritage assets affected, including any contribution made by their setting. The level of detail should be proportionate to the assets' importance and no more than is sufficient to understand the potential impact of the proposal on their significance. Where a site on which development is proposed includes or has the potential to include heritage assets with archaeological interest, local planning authorities should require developers to submit an appropriate desk-based assessment and, where necessary, a field evaluation.

2.18.3 The applicants have complied with the requirements of the NPPF in so far as the application is accompanied by an Archaeological Desk Based Assessment and a Geophysical Survey. The assessments conclude that the development of the site would not have any impact on designated assets and development has the potential to impact on a non-designated archaeological asset of unknown date within the south of the site. The assessment has considered the potential for unknown archaeological assets, however considers that the site has low potential.

2.18.4 The report has been reviewed by North Yorkshire Council Heritage Officer who has advised that whilst the Desk Based Assessment has not identified heritage assets within the red line boundary, there are known remains within the vicinity and it would be considered that the application area of interest as having archaeological potential. They therefore advise that a scheme of archaeological evaluation should be undertaken to identify and describe the nature and significance of any surviving archaeological remains within the proposed development area, and enable an understanding of the potential impact of the development proposal upon their significance.

2.18.5 NYCC therefore, advise that a scheme of archaeological mitigation recording is undertaken in response to the ground-disturbing works associated with this development proposal. This should comprise an archaeological strip, map and record to be undertaken in advance of development, including site preparation works, top soil stripping, to be followed by appropriate analyses, reporting and

archive preparation. This is in order to ensure that a detailed record is made of any deposits/remains that will be disturbed. In order to secure the implementation of such a scheme of archaeological mitigation recording, NYCC advise that a condition be appended to any planning permission granted.

2.18.6 The proposals are therefore considered acceptable with respect to archaeology in accordance with Policies ENV1 and ENV28, of the Local Plan, Policies SP18 and SP19 of the Core Strategy and the NPPF.

2.19 Other Issues

2.19.1 An objector has noted that the supporting Planning Statement refers to extant consents for 718 dwellings not yet yielding a consistent rate of delivery. In response to this Redrow and Persimmon have provided confirmation that each house builder will complete 10 dwellings each in this financial year. From 2016 onwards it is expected that 40 dwellings per annum per builder (80 dwellings per annum) will be completed. This construction rate will result in 340 dwellings being completed by the end of 2019 in the current 5 year period, and the completion of the full 598 dwellings by 2023. Construction is also underway at the 120 unit site. In light of this the objector states that with respect to additional sites coming forward there should be a comparison and assessment of all suitable, appropriate sites in Sherburn via the Local Plan process rather than a first come first serve approach. These comments have been noted, however planning applications are considered on their own merits and as confirmed by the Policy Officer the determination cannot be unduly delayed to await the Site Allocations process.

2.19.2 Local residents have stated that there is no need for open market housing within the village and have stated that based on the minimum housing requirement for Sherburn being 790 dwellings there is only a need for a further 60 dwellings. Selby District has under delivered with respect to housing for a number of years and as a result of this and as set out above does not have a five year housing supply of land which means that the Council's housing policies are out of date. This clearly demonstrates that there is a need for open market housing and it is also noted that the figures within the Core Strategy are minimum requirements.

2.19.3 Residents have stated that there are gas leak problems at the site. Northern Gas Networks have been consulted on the application and confirmed that a 12" diameter ductile iron medium pressure gas main crosses the site in an east/west direction. They confirm that the gas main will be protected by an easement which will restrict the work which can be undertaken within the easement. In addition the application is accompanied by a Utilities Assessment which establishes where the nearest utility connections are and to establish whether they pose any constraints to development. The report concludes that these do not pose a constraint to the development.

2.19.4 Objectors have raised concern with respect to the impacts of pile driving. However, this can be dealt with through a planning condition, given that the type of foundations to be installed have not been confirmed as yet.

2.19.5 Objectors have made numerous comments regarding the impact of the proposals on the local infrastructure such as gyms, schools, doctor's surgery, play areas, dentists, lack of shopping facilities, public toilets, banking facilities, post boxes,

telephone kiosks, petrol station, ambulance service and entertainment facilities. The application secures contributions towards the doctor's surgery and local primary school. Recreational open space provision would need to accord with Policy RT2 and this could comprise both on-site or off site provision. With respect to the gym, dentist, shopping facilities, public toilets, bank facilities, post boxes, telephone kiosks, petrol station, ambulance service and entertainment facilities there is no policy requirement for these elements to be secured as part of the application, however it should be noted that development does quite often lead to improved services by virtue of the increased number of users.

2.19.6 Residents have expressed concern regarding the loss of a view and devaluation of property, however these are not material planning considerations.

2.19.7 Comments have been received with respect to the lack of community consultation and publicity. The Developers undertook community consultation prior to submitting the application and the application has been subject to appropriate advertisement during the consideration of the application.

2.19.8 Local residents have expressed concern that there are other brownfield sites which should be developed within Selby before considering sites such as the application site. The above report explains that the Council do not have a five year housing land supply and as such sites have to be considered on their own merits regardless of the fact there may be other sites available.

2.20 Taking into account the presumption in favour of sustainable development determining whether the adverse impacts of the development significantly and demonstrably outweigh the benefits when assessed against the policies in the NPPF taken as a whole.

2.20.1 Having considered the issues outlined above against the relevant policy tests it is considered that any harms to acknowledged interests arising from the proposal are not significant. However the proposal would result in the substantial benefit of meeting the local need for both market and affordable housing that has been demonstrated to exist.

2.20.2 It is therefore considered that the proposal accords with the requirements of paragraph 14 of the NPPF as well as the overarching aims and objectives of the NPPF and it is on this basis that permission should be granted subject to the attached conditions.

2.21 Conclusion

2.21.1 The application proposes outline planning consent for the erection of up to 270 dwellings with associated vehicular access (all other matters are reserved). The site is located in an area of open countryside immediately adjacent to the defined development limits of Sherburn and is on an area of land designated as safeguarded land. Part of the access and proposed roundabout serving the site are located within the Green Belt.

2.21.2 Whilst it is noted that the proposed scheme fails to comply with Policy SP2A(c) of the Core Strategy and Policy SL1, these policies are out of date in so far as they

relate to housing supply due to the fact that the Council does not have a 5 year housing land supply.

- 2.21.3 As such the proposals for residential development on this site should be considered in the context of the presumption in favour of sustainable development and paragraphs 14 and 49 of the NPPF. In assessing the proposal against the three dimensions of sustainable development set out within the NPPF, the development would bring economic benefits as it would generate employment opportunities in both the construction and other sectors linked to the construction market. The proposals would also bring additional residents to the area who in turn would contribute to the local economy through supporting local facilities.
- 2.21.4 The proposals would achieve a social role in that it would deliver levels of both open market and affordable housing in Sherburn, promoting sustainable and balanced communities and would assist the Council in meeting the objectively assessed housing needs of the District and would contribute to achieving a 5 year supply of housing land. The proposals would provide 40% on-site provision of affordable housing which would improve the tenure mix in this location.
- 2.21.5 The proposals would have an environmental role in that it would deliver high quality homes for local people and the proposals take into account environmental issues such as ecology and biodiversity, flooding and impacts on climate change. Due to its proximity to local services and its access to public transport it would also reduce the need to travel by car and would provide highway improvements.
- 2.21.6 The proposals could achieve an appropriate layout, appearance, landscaping and scale so as to respect the character of the area. The proposals are also considered to be acceptable in respect of the impact upon residential amenity, highways, flooding, drainage and climate change, protected species, archaeology and contamination in accordance with policy.
- 2.21.7 With respect to the proposed access, although it falls within the Green Belt, it constitutes an engineering operation which maintains openness and does not conflict with the purposes of including land within the Green Belt and as such does not constitute inappropriate development within the Green Belt.
- 2.21.8 Having had regard to all of the above, it is considered that there are no adverse impacts of granting planning permission that would significantly and demonstrably outweigh the substantial benefits. The proposal is therefore considered acceptable when assessed against the policies in the NPPF, in particular Paragraph 14, the Selby District Local Plan and the Core Strategy. It is on this basis that permission is recommended to be granted subject to the conditions and Section 106 agreement.

3.0 Recommendation

This planning application is recommended to be APPROVED subject to delegation being given to Officers to complete the Section 106 agreement to secure 40% on site provision for affordable housing, an education contribution towards Hungate Community Primary School, on-site recreational open space provision, or an off-site recreational open space contribution, contributions towards highway improvements, a Travel Plan,

Healthcare contribution and a waste and recycling contribution and subject to the conditions detailed below:

1. Approval of the details of the (a) appearance, b) landscaping, c) layout and d) scale (hereinafter called 'the reserved matters') shall be obtained from the Local Planning Authority in writing before any development is commenced.

Reason:

This is an outline permission and these matters have been reserved for the subsequent approval of the Local Planning Authority.

2. Applications for the approval of the reserved matters referred to in No.1 herein shall be made within a period of three years from the grant of this outline permission and the development to which this permission relates shall be begun not later than the expiration of two years from the final approval of the reserved matters or, in the case of approval on different dates, the final approval of the last such matter to be approved.

Reason:

In order to comply with the provisions of Section 51 of the Planning and Compulsory Purchase Act 2004.

3. No dwelling shall be occupied until at least 10% of the energy supply of the development has been secured from decentralised and renewable or low-carbon energy sources. Details and a timetable of how this is to be achieved, including details of physical works on site, shall be submitted to and approved in writing by the Local Planning Authority. The approved details shall be implemented in accordance with the approved timetable and retained as operational thereafter unless otherwise approved in writing by the Local Planning Authority.

Reason:

In the interest of sustainability, to minimise the development's impact.

4. The site shall be developed with separate systems of drainage for foul and surface water on and off site.

Reason:

In the interest of satisfactory and sustainable drainage.

5. No piped discharge of surface water from the application site shall take place until works to provide a satisfactory outfall for surface water have been completed in accordance with details to be submitted to and approved by the Local Planning Authority before development commences.

Reason:

To ensure that the site is properly drained and surface water is not discharged to the foul sewerage system which will prevent overloading.

6. No development shall take place until details of the proposed means of disposal of foul water drainage, including details of any balancing works and off-site works, have been submitted to and approved by the Local Planning

Authority.

Reason:

To ensure that the development can be properly drained.

7. No buildings shall be occupied or brought into use prior to completion of the approved foul drainage works.

Reason:

To ensure that no foul water discharges take place until proper provision has been made for its disposal.

8. A 7m undeveloped buffer strip shall be provided adjacent to Bishop Dike which crosses the site.

Reason:

In order to allow sufficient access for maintenance and repair work at all times.

9. The development shall be carried out in complete accordance with the recommendations set out in the Extended Phase 1 Habitat Survey by FPCR Environment and Design Ltd, dated July 2015 unless otherwise approved in writing by the Local Planning Authority.

Reason:

In the interests of ensuring that the scheme avoids potential impacts on nesting birds and to ensure the enhancement of the site for wildlife purposes.

10. No development shall commence until a Written Scheme of Archaeological Investigation has been submitted to and approved by the Local Planning Authority in writing.

The scheme shall include an assessment of significance and research questions; and the following:

1. The programme and methodology of site investigation and recording
2. Community involvement and/or outreach proposals
3. The programme for post investigation assessment
4. Provision to be made for analysis of the site investigation and recording
5. Provision to be made for publication and dissemination of the analysis and records of the site investigation
6. Provision to be made for archive deposition of the analysis and records of the site investigation
7. Nomination of a competent person or persons/organisation to undertake the works set out within the Written Scheme of Investigation.

No development shall take place other than in accordance with the Written Scheme of Archaeological Investigation approved. The development shall not be occupied until the site investigation and post investigation assessment has been completed in accordance with the programme set out in the Written Scheme of Investigation approved and the provision made for analysis,

publication and dissemination of results and archive deposition has been secured.

Reason:

This condition is imposed in accordance with Section 12 of the NPPF as the site is of archaeological interest.

11. The details submitted in pursuance of Condition no. 10 above shall be preceded by the submission to the Local Planning Authority for approval in writing, and subsequent implementation, of a scheme of archaeological investigation to provide for:

- (i) the identification and evaluation of the extent, character and significance of archaeological remains within the application area;
- (ii) an assessment of the impact of the proposed development on the archaeological significance of the remains;

Reason:

This condition is imposed in accordance with Section 12 of the NPPF as the site is of archaeological interest.

12. Unless otherwise approved in writing by the Local Planning Authority, there shall be no excavation or other groundworks, except for investigative works or the depositing of material on the site, until the following drawings and details have been submitted to and approved in writing by the Local Planning Authority:

- a. Detailed engineering drawings to a scale of not less than 1:500 and based upon an accurate survey showing:
 - the proposed highway layout including the highway boundary
 - dimensions of any carriageway, cycleway, footway, and verges
 - visibility splays
 - the proposed buildings and site layout, including levels
 - accesses and driveways
 - drainage and sewerage system
 - lining and signing
 - traffic calming measures
 - all types of surfacing (including tactiles), kerbing and edging.
- b. Longitudinal sections to a scale of not less than 1:500 horizontal and not less than 1:50 vertical along the centre line of each proposed road showing:
 - the existing ground level
 - the proposed road channel and centre line levels
 - full details of surface water drainage proposals.
- c. Full highway construction details including:
 - typical highway cross-sections to scale of not less than 1:50 showing a specification for all the types of construction proposed for carriageways, cycleways and footways/footpaths
 - when requested cross sections at regular intervals along the proposed roads showing the existing and proposed ground levels
 - kerb and edging construction details
 - typical drainage construction details.

- d. Details of the method and means of surface water disposal.
- e. Details of all proposed street lighting.
- f. Drawings for the proposed new roads and footways/footpaths giving all relevant dimensions for their setting out including reference dimensions to existing features.
- g. Full working drawings for any structures which affect or form part of the highway network.
- h. A programme for completing the works.

The development shall only be carried out in full compliance with the approved drawings and details unless agreed otherwise in writing by the Local Planning Authority.

INFORMATIVE:

In imposing the condition above it is recommended that before a detailed planning submission is made a draft layout is produced for discussion between the applicant, the Local Planning Authority and the Highway Authority in order to avoid abortive work. The agreed drawings must be approved in writing by the Local Planning Authority for the purpose of discharging this condition.

Reason:

In accordance with Policies ENV1, T1 and T2 of the Local Plan and to secure an appropriate highway constructed to an adoptable standard in the interests of highway safety and the amenity and convenience of highway users.

- 13. There shall be no access or egress between the highway and the application site by any vehicles other than the new access with the public highway on the A162.

Reason:

In accordance with Policies ENV1, T1 and T2 of the Local Plan and in the interests of both vehicle and pedestrian safety and the visual amenity of the area.

- 14. No dwelling to which this planning permission relates shall be occupied until the carriageway and any footway/footpath from which it gains access is constructed to basecourse macadam level and/or block paved and kerbed and connected to the existing highway network with street lighting installed and in operation.

The completion of all road works, including any phasing, shall be in accordance with a programme approved in writing with the Local Planning Authority before the first dwelling of the development is occupied.

Reason:

In accordance with Policies ENV1, T1 and T2 of the Local Plan and to ensure safe and appropriate access and egress to the dwellings, in the interests of highway safety and the convenience of prospective residents.

15. Unless otherwise approved in writing by the Local Planning Authority, there shall be no excavation or other groundworks, except for investigative works or the depositing of materials on the site in connection with the construction of the access road or buildings(s) or other works until:
- i) The details of the required highway improvement works listed below, have been submitted to and approved in writing by the Local Planning Authority.
 - ii) An independent Stage 2 Safety Audit has been carried out in accordance with HD19/03 – Road Safety Audit or any superseding regulations.
 - iii) A programme for the completion of the proposed works has been submitted and approved.

The required highway improvements shall include:

- a. Roundabout access on the A162.
- b. Dropped kerb crossings/tactile pavements in the vicinity of Hodgsons Lane/Moor Lane.
- c. Improvements to the A162/A63 roundabout.

Reason:

In accordance with Policies ENV1, T1 and T2 of the Local Plan and to ensure that the details are satisfactory in the interests of the safety and convenience of highway users.

16. Unless otherwise approved in writing by the Local Planning Authority, the development shall not be brought into use until the following highway works have been constructed in accordance with the details approved in writing by the Local Planning Authority under condition number 15:
- a. Roundabout access on the A162.
 - b. Dropped kerb crossings/tactile pavements in the vicinity of Hodgsons Lane/Moor Lane.
 - c. Improvements to the A162/A63 roundabout.

Reason:

In accordance with Policies ENV1, T1 and T2 of the Local Plan and to ensure that the details are satisfactory in the interests of the safety and convenience of highway users.

17. No dwelling shall be occupied until the related parking facilities have been constructed in accordance with the details which have been approved in writing by the Local Planning Authority. Once created these parking areas shall be maintained clear of obstruction and retained for their intended purpose at all times.

Reason:

In accordance with Policies ENV1, T1 and T2 of the Local Plan and to provide for adequate and satisfactory provision of off-street accommodation

for vehicles in the interest of safety and the general amenity of the development.

18. Notwithstanding the provisions of the Town and Country Planning General Permitted Development Order 2015 or any subsequent Order, the garage(s) shall not be converted into domestic accommodation without the granting of an appropriate planning permission.

Reason:

In accordance with Policies ENV1, T1 and T2 of the Selby District Local Plan and to ensure the retention of adequate and satisfactory provision of off-street accommodation for vehicles generated by occupiers of the dwelling and visitors to it, in the interest of safety and the general amenity the development.

19. All doors and windows on elevations of the building(s) adjacent to the existing and/or proposed highway shall be constructed and installed such that from the level of the adjacent highway for a height of 2.4 metres they do not open over the public highway and above 2.4 metres no part of an open door or window shall come within 0.5 metres of the carriageway. Any future replacement doors and windows shall also comply with this requirement.

Reason:

In accordance with Policies ENV1, T1 and T2 of the Selby District Local Plan and to protect pedestrians and other highway users.

20. Unless otherwise approved in writing by the Local Planning Authority there shall be no HCVs brought onto the site until a survey recording the condition of the existing highway has been carried out in a manner approved in writing by the Local Planning Authority.

Reason:

In accordance with policy number and in the interests of highway safety and the general amenity of the area.

21. There shall be no establishment of a site compound, site clearance, demolition, excavation or depositing of material in connection with the construction of the site until proposals have been submitted to and approved in writing by the Local Planning Authority for the provision of:
 - i) On-site parking capable of accommodating all staff and sub-contractors vehicles clear of the public highway
 - ii) On site materials storage area capable of accommodating all materials required for the operation of the site.

The approved areas shall be kept available for their intended use at all times that construction works are in operation unless otherwise approved in writing by the Local Planning Authority. No vehicles associated with on-site construction works shall be parked on the public highway or outside the application site.

Reason:

In accordance with Policies ENV1, T1 and T2 of the Local Plan and to provide for appropriate on-site vehicle parking and storage facilities, in the interests of highway safety and the general amenity of the area.

22. The Approved Travel Plan shall be implemented in accordance with the timescales specified therein, to include those parts identified as being implemented prior to occupation and following occupation, unless alternative timescales are agreed in writing with the Local Planning Authority. The Approved Travel Plan shall be monitored and reviewed in accordance with the agreed Travel Plan targets to the satisfaction of the Local Planning Authority.

Reason:

In accordance with Policies ENV1, T1 and T2 of the Local Plan and to establish measures to encourage more sustainable non-car modes of transport.

23. Prior to the site preparation and construction work commencing, a scheme to minimise the impact of noise, vibration, dust and dirt on residential property in close proximity to the site, shall be submitted to and agreed in writing with the Local Planning Authority.

Reason:

To protect the residential amenity of the locality and in order to comply with Policy ENV2 of the Local Plan and Policy SP19 of the Core Strategy.

24. Prior to any works commencing, the applicant shall produce a written scheme for protecting the proposed noise sensitive development; the scheme must be submitted to and approved in writing by the Local Planning Authority. The scheme shall ensure that the noise level in the garden areas of the proposed development shall not exceed 50dB LAeq(16 hour) between 0700 hours and 2300 hours and all works which form part of this scheme shall be completed before any part of the development is occupied. The works provided as part of the approved scheme shall be permanently retained and maintained throughout the life of the development. The scheme must also ensure the internal environment for each dwelling is protected from noise. The scheme shall ensure that the building envelope of each dwelling is constructed so as to provide sound attenuation against external noise. The internal noise levels achieved should not exceed 35 dB LAeq (16 hour) inside each dwelling between 0700 hours and 2300 hours and 35 dB LAeq (8 hour) and 45 dB (LAm_{ax}) in the bedrooms between 2300 and 0700 hours. This standard of insulation shall be completed before any part of the development is occupied. The works provided as part of the approved scheme shall be permanently retained and maintained throughout the life of the development. The aforementioned written scheme shall demonstrate that the noise levels specified will be achieved.

Reason:

To protect the residential amenity of the development from noise in accordance with Policy SP19 of the Core Strategy, paragraph 123 of the NPPF, the PPG in relation to noise and the policy aims of the Noise Policy Statement for England (NPSE).

25. Should any of the proposed foundations be piled then no development shall commence until a schedule of works to identify those plots affected, and setting out mitigation measures to protect residents from noise, dust and vibration shall be submitted to and approved in writing by the Local Planning Authority. The proposals shall thereafter be carried out in accordance with the approved scheme.

Reason:

In the interest of protecting residential amenity in accordance with Policies ENV1 and ENV2 of the Local Plan.

26. No development shall take place until a detailed design and associated management and maintenance plan of surface water drainage for the site based on sustainable drainage principles and an assessment of the hydrological and hydrogeological context of the development has been submitted to and approved in writing by the Local Planning Authority. The surface water drainage design should demonstrate that the surface water runoff generated during rainfall events up to and including the 1 in 100 years rainfall event, to include for climate change and urban creep, will not exceed the run-off from the undeveloped site following the corresponding rainfall event. The approved drainage system shall be implemented in accordance with the approved detailed design prior to completion of the development.

The scheme to be submitted shall demonstrate that the surface water drainage system(s) are designed in accordance with the standards detailed in North Yorkshire County Council SuDS Design Guidance.

Reason:

To prevent the increased risk of flooding; to ensure the future maintenance of the sustainable drainage system, to improve and protect water quality and improve habitat and amenity.

31. The proposed development shall be restricted to a maximum number of 270 units.

Reason:

The highway capacity and impacts on education and healthcare have been assessed on the basis of this number of units.

32. The development hereby permitted shall be carried out in accordance with the plans/drawings listed below:

(to be inserted when the decision is issued).

HIGHWAYS INFORMATIVE- Mud on the Highway

You are advised that any activity on the development site that results in the deposit of soil, mud or other debris onto the highway will leave you liable for a range of offences under the Highways Act 1980 and Road Traffic Act 1988. Precautions should be taken to prevent such occurrences.

NORTHERN GAS NETWORKS INFORMATIVE:

There is a 12" diameter ductile iron medium pressure gas main crossing the site in an east/west direction. This gas main will need to be protected by an easement which will restrict the work that may be undertaken within that easement. The developer should therefore consult with Northern Gas Pipeworks with respect to the detailed layout prior to submitting a reserved matters application.

3.1 Legal Issues

3.1.1 Planning Acts

This application has been determined in accordance with the relevant planning acts.

3.1.2 Human Rights Act 1998

It is considered that a decision made in accordance with this recommendation would not result in any breach of convention rights.

3.1.3 Equality Act 2010

This application has been determined with regard to the Council's duties and obligations under the Equality Act 2010. However it is considered that the recommendation made in this report is proportionate taking into account the conflicting matters of the public and private interest so that there is no violation of those rights.

3.2 Financial Issues

3.2.1 Financial issues are not material to the determination of this application.

4. Conclusion

4.1 As stated in the main body of the report.

5. Background Documents

5.1 Planning Application file reference 2015/0544/OUT and associated documents.

Contact Officer: Richard Sunter (Lead Officer-Planning)

Appendices: None

APPENDIX 2

Extracts from Planning Committee Minutes

Planning Committee

Venue:	Council Chamber
Date:	11 November 2015
Time:	2.00 p.m.
Present:	Councillors Cattanach (Chair), I Reynolds (substitute for R Musgrave), Mrs L Casling, I Chilvers, J Deans, D Mackay, C Pearson, J Crawford and S Duckett (substitute for B Marshall).
Apologies for Absence:	Councillors R Musgrave and B Marshall.
Officers Present:	Richard Sunter - Lead Officer, Planning, Yvonne Naylor- Principal Planning Officer, Louise Milnes - Principal Planning Officer, Fiona Ellwood - Principal Planning Officer, Calum Rowley - Senior Planning Officer, Ruth Hardingham - Senior Planning Officer, Simon Eades - Senior Planning Officer, Diane Wilson - Planning Officer, Tim Coyne - Highway Officer, North Yorkshire County Council, Kelly Hamblin - Senior Solicitor, and Janine Jenkinson - Democratic Services Officer.
Public:	42
Press:	1

DISCLOSURES OF INTEREST

In relation to Item 6.6 – 2015/0712/OUT - The Poplars, Brayton, Councillor I Chilvers declared that he lived close to the site of the proposed scheme, and although not a disclosable pecuniary interest that would prevent him from voting, for the avoidance of any perceived bias by the public, he would leave the Council Chamber and not participate during the consideration and vote of the application. Planning Committee 11 November 2015 All Councillors declared that they had received representations in relation to agenda Items 6.2 - 2015/0544/OUT- Hodgsons Lane and 6.3 - 2015/0967/FUL Redmoor Farm Skipwith.

36. CHAIR'S ADDRESS TO THE PLANNING COMMITTEE

The Chair reported that following a Court of Appeal Decision, a legal challenge to the Selby District Core Strategy had been dismissed on 5 November 2015 and the Core Strategy had full weight when considering planning applications.

37. MINUTES

RESOLVED

To **APPROVE** the minutes of the Planning Committee held on 22 October 2015, and they be signed by the Chair.

38. SUSPENSION OF COUNCIL PROCEDURE RULES

The Planning Committee was asked to agree to the suspension of Council Procedure Rules 15.1 and 15.6 (a) for the Committee meeting. The Solicitor explained that this would

facilitate an open debate within the Committee, on the planning merits of the application.

RESOLVED:

To agree the suspension of Council Procedure Rules 15.1 and 15.6 (a) for the Committee meeting.

Application: 2015/0544/OUT
Location: Hodgson's Lane
Sherburn In Elmet
Proposal: Outline application for up to 270 residential dwellings including details of vehicular access (all other matters reserved).

The Principal Planning Officer introduced the application and referred the Committee to the additional information provided in the update note

The application had been brought before the Planning Committee due to it being a departure from the Development Plan and more than ten letters of objection being received. In addition, Councillor Buckle had requested the application be presented to Committee for the reasons outlined in the report.

Whilst it was noted that the proposed scheme failed to comply with Policy SP2A (c) of the Core Strategy and Policy SL1, the Committee was advised that these policies were out of date in so far as they related to housing supply, due to the Council not having a five year housing supply. The Committee was advised as such, applications for residential development on the site should be considered in the context of the presumption in favour of sustainable development and paragraphs 14 and 49 of the NPPF.

The Principal Planning Officer reported that there would be no adverse impact of granting planning permission that would significantly and demonstrably outweigh the benefits of the application. The proposal was considered acceptable and Councillors were recommended to approve the application.

David Buckle, resident, spoke in objection to the application.

Paul Doherty, Chairman of Sherburn in Elmet Parish Council, spoke in objection to the application.

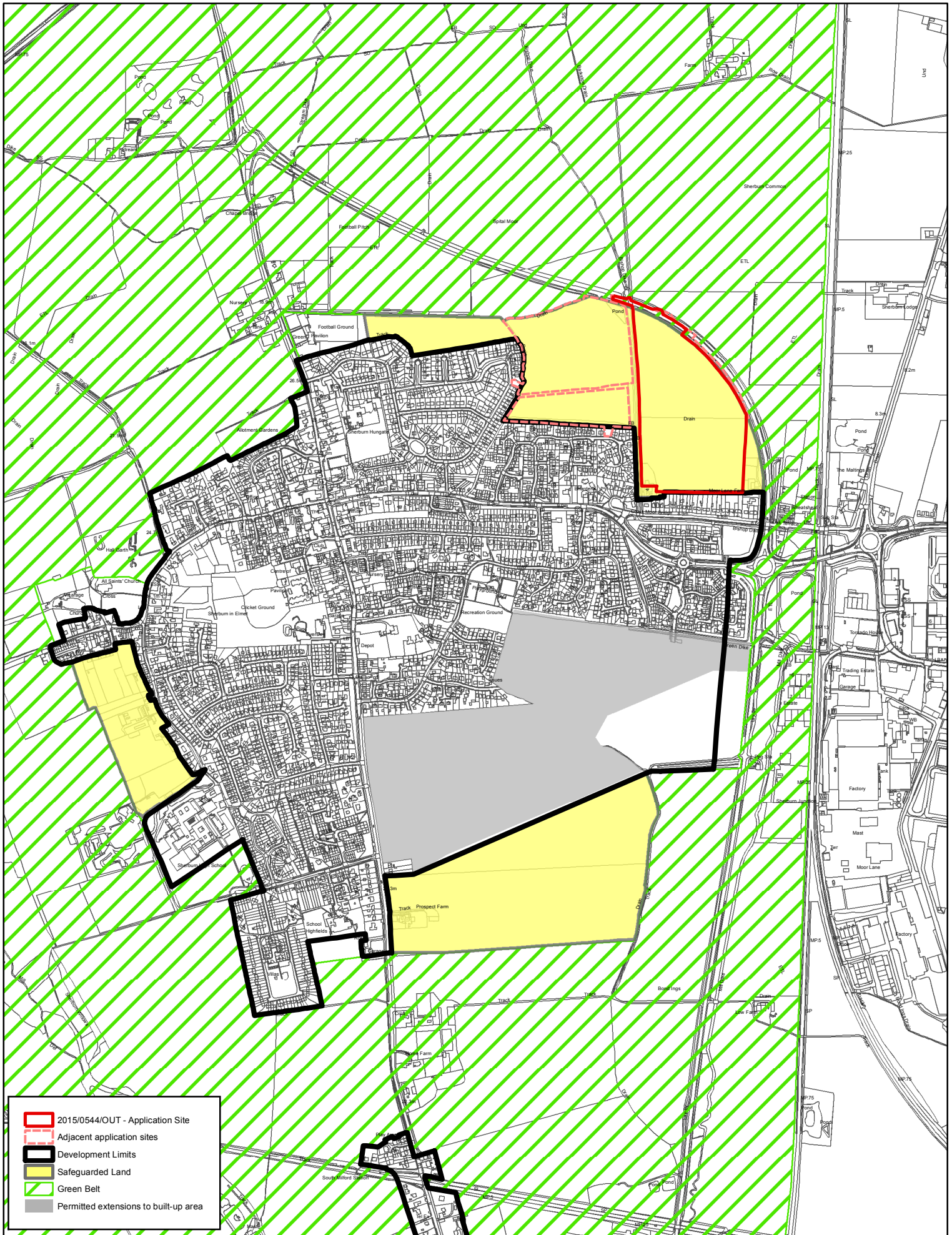
Bob Packham, Ward Councillor spoke in objection to the application.

Doug Hann, applicant spoke in support of the application.

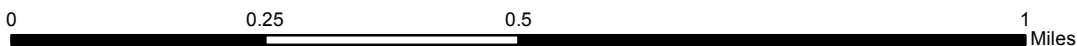
The Principal Planning Officer's recommendation was moved and seconded.

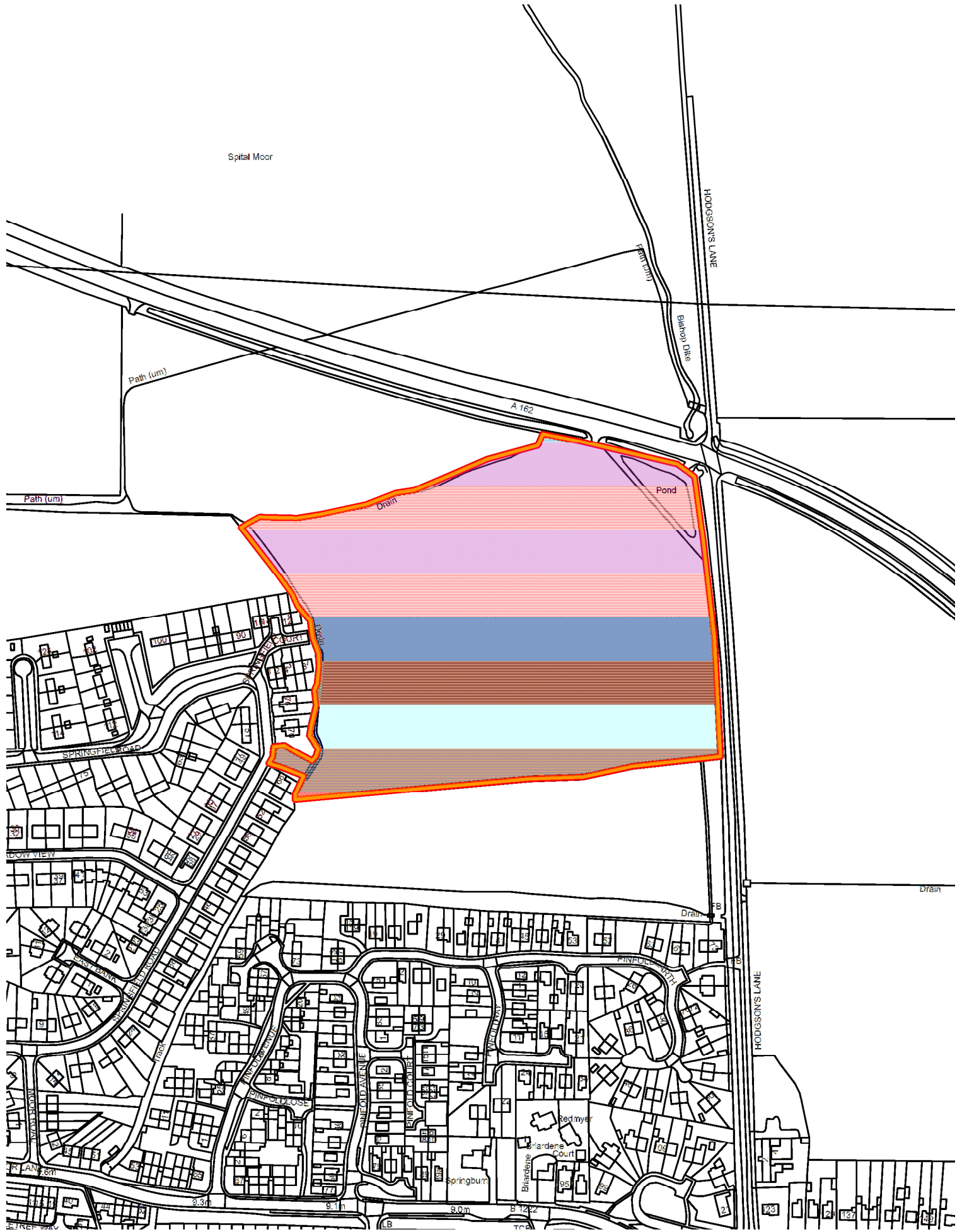
RESOLVED:

To APPROVE the application, subject to delegation being given to officers to complete the Section 106 Agreement to secure 40% on-site provision for affordable housing, an education contribution towards Hungate Community Primary School, on-site recreational open space provision and/ or off-site recreational open space contribution, contributions towards highway improvements aTravel Plan, a Healthcare contribution and a waste and recycling contribution, conditions detailed in paragraph 3.0 of the report, and the conditions detailed in the update note.



Application Site Context - 2015/0544/OUT





APPLICATION SITE

Item No: 2015/0895/OUT

Address: Hodgsons Lane, Sherburn in Elmet

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**AMENDED
DRAWING**



Land at Sherburn-in-Elmet
Proposed Layout

July 2015 Rev B
Scale 1:1250 @ A2

FOR ILLUSTRATIVE PURPOSES ONLY: NOT CURRENTLY FOR DETERMINATION

DWP
Dryden Wilkinson Partnership

Norwood Barn
Lower Norwood Road
Norwood
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To: Special Planning Committee
Date: 29 June 2016
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Lead Officer: Johnathan Carr (Lead Officer – Planning)

APPLICATION NUMBER:	8/58/1050/PA 2015/0895/OUT	PARISH:	Sherburn in Elmet Parish
APPLICANT:	Mr John Harrison, Mr David Harrison and Mr Bernard Harrison	VALID DATE: EXPIRY DATE:	10 August 2015 9 November 2015
PROPOSAL:	Outline application (with all detailed matters reserved) for residential development		
LOCATION:	Land at Hodgsons Lane Sherburn In Elmet		

This application has been brought forward to Committee as the Application has secured 10 or more letters in support.

This application is also a departure from the Development Plan and it is considered locally controversial given the level of objections. A request was also made for the application to be considered by the Committee by Cllr Buckle on the basis that Sherburn in Elmet could not cope with any more development”, however this request was lodged in December 2015 outside the timeframe applicable for such call in.

Summary:

The length of this summary is necessitated by the number of relatively complex planning issues raised by the application.

The application proposes outline planning consent for residential development with all other matters reserved, including access. The site is currently in arable agricultural use and the boundaries of the site are existing residential properties to the west, the A162 by pass to the north, Hodgson’s Lane to the east and a line of hedgerows and trees to the south with agricultural land beyond. The residential properties to the west are mainly two storey in height.

The indicative layout shows 135 dwellings. The site is located in an area of open countryside immediately adjacent to the defined development limits of Sherburn and is on an area of land designated as safeguarded land. A public right of way runs along the site's western boundary.

The parcels of land to the south and east of this site are the subject of two other applications for residential development which appear on this agenda.

In discussions with the applicant on this proposal and formulating recommendations officers have had regard to Policy SP1 of the Core Strategy; the presumption in favour of sustainable development, and the decision taking section of the NPPF.

Members' attention is drawn to the following policy context contained within the NPPF (para 187):

“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.”

However since the District has achieved a 5 year housing land supply it has not been possible to find a solution to the 'in principle' and significant conflict with the Selby District Local Plan Policy SL1 (Safeguarded Land).

Nevertheless, this summary firstly sets out for Members those aspects of this proposal which support an approval of this application.

The approval of this application would provide the following social, economic and environmental benefits and mitigation measures:

- the provision of a source of housing land supply towards the middle of the plan period.
- a contribution to the District's five year housing land supply.
- the provision of additional market, affordable and high quality housing for the District.
- the provision of housing in close proximity to a major employment base of the District thereby providing opportunities for shorter travel to work distances
- the provision of a local workforce source for the employers of nearby businesses, although this will depend upon potential employee skill matches and vacancy requirements.
- short term employment opportunities for the construction and house sales industry
- additional spending within the District from the future residents.
- on site open space provision and on-going maintenance
- Community Infrastructure Levy Fees to be provided on commencement of development.
- waste and recycling bins
- a biodiversity buffer zone along the length of Hodgson's Lane
- a 10% energy supply from decentralised and renewable or low carbon sources.
- the timely implementation of necessary highway works

Taken together these represent significant benefits and are in line with the Government's planning and general policy objective of boosting housing land supply in sustainable locations. They should carry significant weight in the planning balance.

The proposal must be determined in accordance with the development plan, unless material considerations such as the above benefits suggest otherwise. In other words the starting point for the decision making process should be a decision on whether the proposal is in accordance with the development plan as a whole.

This report identifies that the proposal is in conflict with a number of development plan policies which relate to the supply of housing, including

- Policy SL1 of the Selby District Local Plan which protects safeguarded land until its release is required and supported by a Local Plan or land supply review.
- Policy SP2(A)(c) of the Selby District Core Strategy (SDCS) which strictly controls development in the open countryside
- Policies SP2(A)(a), SP5(A)&(D) and SP14(A) of the SDCS which seek to secure an appropriate level of growth for Sherburn-in-Elmet matched with an appropriate provision of community services, infrastructure and shops.

The proposal is also in conflict with Policy SP15 relating to sustainable development and climate change. A significant part of the site lies within a moderately high risk flood zone (Zone 2 in terms of the Environment Agency mapping classification) and there are sites elsewhere in the District that in combination can deliver the number of dwellings on this site on lower flood risk land.

The application proposes development on land which the development plan, through Policy SL1 of the Selby District Local Plan (SDLP), does not intend to release until

- it is required and
- it has been identified for release in a Local Plan or housing land supply review.

This is because the application site forms part of a planning policy designation called 'safeguarded land'. This type of land was often originally part of the Green Belt and then taken out of the Green Belt to provide a long term supply of potential development land. In doing so this avoids the need to change Green Belt boundaries to accommodate development until well beyond the plan period.

The circumstances described in the two bullets above do not currently exist and this development plan policy approach to only release safeguarded land apart from within a plan led context is clearly supported by paragraph 85 (bullet 4) of the National Planning Policy Framework (NPPF).

The application proposes residential development on land which is in the open countryside and outside the development limits of Sherburn-in-Elmet. This is not a form of development which is permitted in Policy SP2(A)(c) of the SDCS and there is clear conflict with this policy.

Policies SP2(A)(a), SP5(A)&(D) and SP14(A) of the SDCS seek to secure an appropriate level of growth for Sherburn-in-Elmet matched with an appropriate provision of community services, infrastructure and shops. It is the officer view that, with the minimum housing requirement for Sherburn-in-Elmet up to 2027 already essentially being built out, this proposal, and the principle it sets for further release of large tracts of safeguarded land around the town does not represent an appropriate level of growth for the town and risks a deficiency in community facilities, infrastructure and shops which could result in an

unsustainable pattern of growth to the town. The appendix to this report provides a map showing the application site, the other application sites referred to in this report and the safeguarded land and other designations around Sherburn-in-Elmet.

Notwithstanding the above conclusion, the officer report draws Member attention to the need to consider that since the Core Strategy was adopted additional employment and retail provision (the 'Proving Ground' and an Aldi food supermarket) are facilities for the town which have been permitted. These facilities have assisted in the delivery of Policies SP2 and SP5 of the Core Strategy. The Aldi food supermarket has now been built and is open.

Later in this report it is explained in more detail why the proposal is considered to be in conflict with these policies and advises what weight can be given to the conflict with these proposals. Members are advised that they can give significant weight to these conflicts in the planning balance.

The applicant argues against giving any more than limited weight to Policy SL1 (SDLP) and Policy SP2(A)(c). Officer's attention has been drawn to a number of Inspector's and Secretary of State's decisions on these matters. The main report explains that officers consider the circumstances of the development plan context in Selby District are different to those in these decisions.

The applicant argues that the proposal is sustainable development and that its approval supports the Core Strategy's Spatial Development Strategy Policies SP2 and SP5. One of the applicant's main reasons for making this case is that in Policy SP5 housing provision for the town (790 dwellings up to 2027) and the District (7,200 dwellings up to 2027) is a minimum requirement that is expected to be exceeded through the permissions likely to be granted for windfall housing above the minimum. The main report explains why officers disagree with the applicant on this matter.

This report identifies that, whilst there is conflict with the development plan, the proposal is in accordance with a number of important development management policies within the development plan, including affordable housing, residential amenity, drainage, climate change, archaeology, highways, contamination and protection of biodiversity. This information is set out in detail in the report.

Nevertheless, the recommended greater weight to be given to the conflict with the housing supply, spatial development and climate change policies compared to the weight to be attached to the conformity with other policies, mean it is the officer view that this proposal is not in accordance with the development plan as a whole.

If Members agree with this view, the application should be refused unless material considerations indicate otherwise.

In this case, there are a number of material considerations which could 'indicate otherwise' and they carry significant weight as stated above. There are also some material considerations which do not support approval of this proposal. It is the officer view that these 'non-supporting' material considerations are also given significant weight as they relate to the:

- lack of community involvement to shape the future role and character of Sherburn-in-Elmet,

- conflict of this proposal with the NPPF on safeguarded land, and
- concerns over the principle set by this proposal's approval for the release of other safeguarded land in Sherburn-in-Elmet.
- concerns over the loss of land to residential development potentially required for future services and infrastructure
- lack of coordinated plan led land use planning to maximise the benefits of new development to the local community.

The report identifies that Sherburn-in-Elmet Parish Council and many local residents are extremely concerned about, and object to, the likely traffic impact of this application. However North Yorkshire County Council Highways have, following a review of the applicant's transport assessment, concluded that the impact on the local highway network from this application itself or in combination with the other two applications on this agenda could not be regarded as "severe". This being the necessary test in the NPPF to determine the acceptability of traffic impact, and with mitigation measures forming part of the proposal, officers recommend that Members consider the traffic impact of the proposal as acceptable.

Taking into account this 'mixed' picture of material considerations both for and against the proposal, it is the officer view that, taken together, material considerations do not suggest a decision other than a refusal in accordance with the development plan.

The planning balance revolves around, the amount of weight to be given to the conflict with the development plan compared to the weight to be given to other material considerations, which include both significant planning benefits and matters which weigh against approval.

Paragraph 85 of the NPPF is one of those material considerations that weigh against this proposal and it provides an unequivocal and restrictive policy which specifically applies to this application on safeguarded land.

It is therefore the officer view that the change in circumstances on the five year housing land supply and the analysis above indicate that this application be refused.

Subject to the results of the assessment currently being completed by the Council's appointed landscape consultant the reasons for refusal below may be added to in an update note at committee.

Recommendation

Reasons for refusal

Subject to the officer's update report which may include additional reasons for refusal, the reasons for refusal recommended are:

- 1. Approval of this application for housing development at this time without the support of a Local Plan Review, and without any overriding need to release safeguarded land for housing in the District and the town of Sherburn-in-Elmet would be in conflict with the protection afforded to safeguarded land by Policy SL1 of the Selby District Local Plan and paragraph 85 of the National Planning Policy Framework.**

- 2. Approval of this application for housing development without any current overriding planning need is contrary to the aims of Policy SL1 of the Selby District Local Plan; paragraph 85 of the National Planning Policy Framework (bullet 4) and paragraph 17 (bullet 1) of the National Planning Policy Framework by preventing i) a plan led approach to the phased release and integrated land use planning of this and all the other safeguarded land in Sherburn-in-Elmet; and ii) the consequential lack of community involvement which empowers local people to shape their surroundings.**
- 3. Approval of this application for housing and the planning principle this would set locally for the potential development of up to about 45 hectares of safeguarded land for housing in Sherburn-in-Elmet in addition to the housing supply already provided in the town, is in conflict with the recently adopted Core Strategy's spatial development strategy for this Local Service Centre and Selby District Core Strategy Policies SP2 (A) (a), SP5 (A) and (D) and SP14 (A).**
- 4. The growth of Sherburn-in-Elmet in a planning application housing led development process presents an unacceptable risk of an unsustainable pattern of growth of the town which, by virtue of a physically constrained town centre, the lack of a Site Allocations Local Plan Community Infrastructure Levy Charging Scheme to guarantee the delivery of local infrastructure, and the loss of land to residential development, could result in the lack of provision of accessible local services that reflect local community need and support the community's health, social and cultural well-being:- inconsistent with the social dimension of sustainable development contained in paragraph 7 of the National Planning Policy Framework and Policy SP5 of the Selby District Core Strategy.**
- 5. The development of this site for housing will result in the loss of countryside and moderately good quality agricultural land beyond the development limits of the Selby District Local Plan Proposals Map and in conflict with Policy SP2 A (c) of the Selby District Core Strategy**
- 6. Approval of this application and the planning principle this would set locally for the release of further safeguarded land for residential development will prejudice the outcome of the local plan process by making decisions about land use and the scale and location of development that should, as set out in the development plan and the NPPF, be taken as part of the local plan process.**
- 7. The application site and proposal, by virtue of it lying predominantly within Flood Zone Level 2 as indicated on the Environment Agency's Flood Risk Map and failing the National Planning Policy Framework and Planning Policy Guidance Sequential Test on flood risk, would be in conflict with Policy SP15 of the Selby District Core Strategy and paragraph 101 of the NPPF.**
- 8. Insufficient information is provided with this application to demonstrate that access can practicably be achieved without incurring significant cost that would affect the viability of the proposal. The application therefore fails to demonstrate that the scheme itself is viable and that the necessary planning obligations to achieve an acceptable development can be delivered. The**

proposal is therefore contrary to para 173 of the NPPF which indicates that pursuing sustainable development requires careful attention to viability and costs in plan making and decision taking.

1. Introduction and background

1.1 The Site

- 1.1.1 The application site is located outside the defined development limits of Sherburn in Elmet, being located to the north east of the existing settlement boundary. The whole of the application site is designated as safeguarded land within the Selby District Local Plan (2005).
- 1.1.2 The site is currently in arable agricultural use and the boundaries of the site are existing residential properties to the west, the A162 by pass to the north, Hodgson's Lane to the east and a line of hedgerows and trees to the south with agricultural land beyond. There are residential properties to the west which are mainly two storey in height. A public right of way runs along the site's western boundary.
- 1.1.3 The site lies on Flood Zone 1 and Flood Zone 2 as contained in the Environment Agency's Flood Risk mapping..

1.2. The Proposal

- 1.2.1 The application is for outline consent and the indicative scheme submitted with the application shows 135 dwellings. The application, as amended, now seeks outline approval with all matters reserved.
- 1.2.2 Initial proposals for the site showed a vehicular access from the adjoining residential area of Springfield Road, via a gap between 68 and 70 Springfield Road. This access proposal was withdrawn from the application and access is now for consideration at the reserved matters stage. Nevertheless, a Technical Note submitted as part of the application in January 2016 notes that the access could be taken from the roundabout that is proposed as part of the development of the land on the opposite side of Hodgson's Lane being promoted under the current application. The owner of this adjacent site has recently informed the Council that they will not allow such an access road onto their site. The applicant was informed of this position and has indicated that there is another access option. This would be a direct access onto the Bypass from the applicant's land and the construction of a new roundabout.
- 1.2.3 The submitted indicative layout shows a mixture of dwellings including detached semi-detached units and terraced units with access from Springfield Road. The indicative layout shows a loop configuration for the internal access road and demonstrates how recreational open space and a balancing pond could be provided on site as well as how the development could link to the surrounding area.

1.3 Planning History

- 1.3.1 There is no relevant planning history for the site.

- 1.3.2 However, Members should note that there are two further outline applications for residential development under planning application references (2015/0848/OUT and 2016/0195/OUT) for the immediate area to the east and south of the application site. Both these applications are on this agenda. An identical application to the latter application, Ref. 2015/0544/OUT, was considered at the 11th November 2015 Committee, and Members resolved to grant consent. However the S106 was not signed prior to the publication of the Council's 5 year housing land supply position statement as at 1 October 2015. This changed circumstance required officers to prepare another report to Planning Committee to reconsider in the light of changed circumstances. The applicants sought to protect their position by lodging an appeal within the required deadlines. The appeal was made on the grounds of non-determination by the local planning authority and at the same time an identical application was submitted to the Council. The determination of this appealed application is now for the Planning Inspectorate to make and there is a report on this matter on the agenda.
- 1.3.3 68 Springfield Road attained planning permission in 2015 under 2015/0134/HPA for a single storey extension. There are no proposed windows on the elevation adjoining one of the potential accesses to this application site.

1.4 Consultations

1.4.1 Sherburn in Elmet Parish Council

Comments on the application have been received from the Parish Council on the 24th September 2015, 10th November 2015, 24th November 2015 and 16th February 2016.

Initial comments from the Parish Council noted that there are 3 adjacent sites on Hodgson's Lane and they need to be considered together, not independently (2015/0544/OUT for 270 homes / 2015/0895/OUT for 135 homes and 2015/0848/OUT for 70 homes).

The comments made in relation to this application are as follows.

Highways

Comments on highways can be summarised as follows:

- the traffic generated by the developments has not been calculated using the Sherburn specific figures provided by the Local Highways Authority. This results in an underestimate of the traffic generated, so the figures they provide are inaccurate.
- The Parish Council are concerned that the proposed entrance is relatively narrow and will be a serious problem for heavy vehicles during the construction phase. We also feel that Springfield Road is too narrow and has too much on street parking to form a safe and suitable access to the site.

Highways - Neighbouring Villages

As far as we can see no consideration has been given to the impact of these developments on neighbouring villages. A specific concern is that the 270 home development will send 36% of its vehicle traffic into Leeds via Saxton. During the PM rush hour that equates to 51 vehicles, but the impact of this and the need for any mitigation measures has not been considered.

Unoccupied Buildings

Extract from Transport Issues and Developments: A Guide, Appendix D, Checklist for a Transport Assessment (NYCC). Does the report consider other committed developments (or vacant buildings etc.) which might have a noticeable impact on the base traffic assumptions?

Sherburn Industrial Estate has vacant buildings with a floor space in excess of 60,000 sqm.

<http://www.rightmove.co.uk/commercial-property-to-let/Sherburn-In-Elmet.html>

Contrary to the NYCC Checklist no allowance has been made for these buildings, so the analysis is not robust.

There are three adjacent sites on Hodgson's Lane and they need to be considered together, not independently.

Flooding

This is an important item for residents, understandably so given the flooding which occurred in August 2014. The Hodgson's Lane sites all have flooding issues, and concerns regarding the handling of these matters are highlighted by the Strata site (2014/1091/REM) where the relevant documents refer to discharge of surface water into the northern watercourse, whereas the developer used the southern watercourse and stated that they had permission to do so. Planning Enforcement nevertheless found them in breach of planning conditions.

The Sustainable Urban Drainage Officer has objected to this application on the grounds that the balancing pond and other attenuation features will be ineffective.

The Environment Agency have objected to this application on the grounds that it does not demonstrate that the flood risk Sequential Test has been passed. We would specifically point out that the Sequential Test document produced by AAH in support of this application makes no mention of the following safeguarded land:-

- South-East of SHB/1, Sherburn in Elmet 7.3 hectares
- East of Prospect Farm, Low Street, Sherburn in Elmet 12.8 hectares
- West of Garden Lane, Sherburn in Elmet 6.3 hectares

Ecology

We note the presence of bats on the site and that Yorkshire Wildlife Trust have put in an objection. The Ecology reports which have been provided for all three sites provide a very limited picture of the wildlife value of these sites. We would specifically point out that the site for 70 homes (2015/0848/OUT) has hosted breeding Grasshopper Warblers, Linnets, Yellowhammers and Corn Buntings and in winter is used by Common Snipe and sometimes significant numbers of Fieldfare and Redwing. These are all Red Listed species under the Birds of Conservation Concern criteria.

Archaeology

The Parish Council request that there should be an archaeological evaluation of the sites.

Planning Policy

The Parish Council is of the view that no further planning permissions for housing will be required prior to 2027 on the basis that the Core Strategy figure has already been met by granting consent for 718 houses. The Council opposes discounting of all planning permissions by 10% in Sherburn (where houses are under construction on three large sites), it is very unlikely that there will be a 10% shortfall, the whole of

each site is likely to be developed with the specified number of houses within the plan period. Additional consents will mean that these developments take place at a slower rate with increased disruption to the lives of residents and local infrastructure.

Even if the 10% "discount" were to be accepted this would generate a requirement for a further allocation of 60 dwellings. This is likely to come forward on smaller sites and granting permission for a further 270 houses is therefore not justified in the plan period.

The District Council must now recognise that simply building houses and providing employment without appropriate infrastructure (including roads as well as services and facilities) is NOT sustainable development. In addition, whilst our schools can accommodate the current increase in pupil numbers from existing permissions (with the planned growth of Athelstan and Hungate Schools) any larger increase in population in the plan period will result in insufficient capacity at Sherburn and South Milford for primary school children.

The comments from the Parish Council of the 13th November 2015 were commenting information submitted on 2015/0848/OUT, however they requested that the comments be noted on this application (2015/0895/OUT) on the basis that the comments relate to a "cumulative effect" and as such the comments are noted as follows:

- Mapping software shows that the quickest route into Leeds from the 70 home development will be through the traffic signals in the centre of Sherburn. However the Transport Assessment does not show any traffic using that route, presumably in an attempt to downplay the contribution this application would make to congestion in the village centre.
- Cardinal Close is Access Only so the routing described above is not possible.
- The traffic signals are currently running on a 126 second cycle during the PM rush hour. The Transport Assessment for the 270 home development was based on a 318 second cycle, now we are presented with a 364 second cycle. These changes to the cycle time in an obvious attempt to come up with "better" figures are unhelpful. The essential step of validating the model would be much easier and more robust if the modelling was done on the basis of the current 126 second cycle (thus allowing direct comparison with the video footage which is available).
- The Inspector's comments in Planning Appeal Ref. APP/Z4718/A/13/2191213 are relevant here:- "83. It is argued that traffic generated by the proposed supermarket would worsen the situation at the junction by only a very small amount. That is not a compelling argument. If the existing situation is technically inadequate, something that would make matters worse cannot be considered acceptable in the absence of any proposal that could provide a satisfactory resolution."
- It is our understanding that MOVA will not assist with congestion here as if a junction overloads without it will probably still be overloaded with it. The consultants claim a 13% improvement, but this is a generic figure which has been bandied about for years and cannot be taken as applying to a specific junction. If the consultants believe MOVA will provide a 13% improvement for the village centre traffic signals then they have to provide evidence specific to this junction.

- The Parish Council have three counts for use of the pedestrian crossing at this junction during the PM rush hour and they are:-
 - 23 Feb 2012 = 23 times
 - 5 March 2012 = 23 times
 - May 2012 = 22 times.
- The figures suggested by the developers equate to the pedestrian crossing being used 20 times in the PM rush hour; our surveys show that that figure is too low. Furthermore with committed and proposed developments for 1193 homes to add to the existing figure of 2,800 homes (an increase of 42%) it is logical to suggest that demand for the crossing will increase from 22/23 to 27/30.
- We would also draw your attention to comments made by Cannon Highways in a Transport Assessment in support of planning application 2015/0367/FUL:- 2.5.3.9 The results of the LinSig model in Tables 2.5 and 2.10 are based on a cycle time of 120 seconds which is not normally acceptable for a junction with controlled pedestrian crossing facilities where the cycle time is usually 90 seconds or less As noted above the existing cycle time is 126 seconds and that can be described as "not normally acceptable", but the consultants are proposing a 364 second cycle which includes a 199 second wait for the pedestrian stage. Clearly residents faced with a wait of over three minutes will be tempted to cross in an unsafe manner. At a congested junction which is overcapacity and has known issues with drivers jumping the lights there is clear potential for accidents and to put pedestrians at risk in this manner is not acceptable.
- The consultants advance a series of highly questionable reasons why the traffic figures will be lower. In the interests of brevity we will not address these as they are clearly an attempt to move the goalposts and produce some less alarming figures.
- A162/B1222 roundabout (A162/Moor Lane junction) - The Transport Assessment in support of the adjacent site for 270 homes (2015/0544/OUT) shows the A162/B1222 roundabout close to capacity (maximum RFC of 0.833, just short of the maximum recommended 0.85... but we are advised that it has been modelled incorrectly. There's a short distance of two approach lanes on the B1222 (E) approach, and the software assumes traffic uses all available lanes. However, only about 10% of traffic will use the second lane (right-turners), meaning the actual RFC (and hence queues and delays at the junction) will be much higher. This junction would therefore likely require improvement. (JCT Consultancy note 'ARCADY Health Warning' refers).
- This latest Transport Assessment is supposed to measure the cumulative impact of three developments, but does not even mention this roundabout. This is a fundamental flaw which has to be addressed.
- No consideration has been given to the impact of these developments on neighbouring villages. A specific concern is that the 270 home development will send 36% of its vehicle traffic into Leeds via Saxton. During the PM rush hour that equates to 51 vehicles, but the impact of this and the need for any mitigation measures has not been considered.
- Unoccupied Buildings - Extract from Transport Issues and Developments: A Guide, Appendix D, Checklist for a Transport Assessment (NYCC) - Does the report consider other committed developments (or vacant buildings etc.) which might have a noticeable impact on the base traffic assumptions? Sherburn Industrial Estate has vacant buildings with a floor space in excess

of 60,000 sqm. Contrary to the NYCC Checklist no allowance has been made for these buildings, so the analysis is not robust.

Comments of the 16th February 2016 on the application note the following:

Sustainability

The Council's current position is that there is a five-year supply. The question the Parish Council ask is if there is a five-year supply, why grant consent for development that clearly is not sustainable.

We reiterate the comments of the Core Strategy Inspector from June 2013, endorsing Policy SP5 which indicated that new allocations to accommodate 700 houses by 2027 would be required in Sherburn. In reaching this conclusion he further concluded that:

“the absence of many key services in the town and the limited opportunities for expanding its small town centre militate against greater housing development unless part of a comprehensive planned expansion.”

In reaching this conclusion it is clear that the Inspector was not convinced that development over and above the 700 figure would be sustainable unless the “absence of key services” was addressed. We agree with this conclusion.

This is a part of the very large amount of Safeguarded land referred to in the Selby District Local Plan. In the absence of: a proper review of all of this land; the need to release any of it in the plan period; and of the means to address the Inspector's concerns regarding key services, there is no basis to arbitrarily release the first piece of safeguarded land that happens to be the subject of a speculative planning application.

The Parish Council is of the view that these issues, particularly the lack of key services, should be properly considered through the proposed Site Allocations Plan (Plan Selby) and sites should not be released on an ad hoc basis in the absence of such consideration.

Highways - Unoccupied Units

When the planning application (2013/0467/OUT) for the major expansion of Sherburn Industrial Park was considered in 2014 the developers argued that the traffic implications of existing vacant units should not be considered. This was contrary to both government and NYCC guidelines. They described the former Supercook building and the Sherburn 550 building as "obsolete" and "compromised design". Despite protests from the Parish Council no account was taken of these vacant units.

The former Supercook building has been taken over by Ultimo Kitchens and is being fitted out prior to full occupation and a planning application (2016/0113/COU) has been submitted for a change of use to facilitate occupation of the Sherburn 550 building by a manufacturer of modular homes.

It is very clear that the description of these units as "obsolete" and "compromised design" was incorrect and the traffic implications of these vacant units should have been considered.

These vacant units are now being brought into use, but this planning application does not follow the guidelines and take account of them. It is irrefutable that the past decision to exclude these buildings was flawed and until the traffic implications of their use are included then the Transport Assessment submitted in support of this application will be incomplete and inaccurate.

Extract from Transport Issues and Developments: A Guide, Appendix D, Checklist for a Transport Assessment (NYCC)

Does the report consider other committed developments (or vacant buildings etc.) which might have a noticeable impact on the base traffic assumptions?

1.4.2 i) Lead Officer – Policy (October 2015)

Initial comments on the application provided by the Lead Officer- Policy in October 2015 concluded that

“The application should be considered against both the saved policies in the adopted 2005 Selby District Local Plan (SDLP) and the 2013 Selby District Core Strategy (CS).

The key issues which should be addressed are:

1. The principle of development outside adopted Development Limits and the ‘presumption in favour of sustainable development’
2. Impact on the Council’s housing land strategy
3. Affordable Housing
4. Safeguarded Land
5. Flood Risk

1. The principle of development

Paragraph 11 of the NPPF requires that development is determined in accordance with up-to-date plans, and Paragraph 12 re-emphasises that the Development Plan is the starting point for decision-making. The policies in the SDLP and CS are broadly consistent with the NPPF.

CS Policies SP2 and SP4 focus new development in the market towns and Designated Service Villages (DSVs), restricting development in the open countryside. Sherburn in Elmet is defined in the Core Strategy as a Local Service Centre where further housing, employment, retail, commercial and leisure growth will take place appropriate to the size and role of the settlement.

This outline proposal for 135 dwellings (indicatively) is on land that is adjacent to, but outside of, the defined Development Limits of Selby as marked on the Policies Map of the Local Plan. Hence the proposal is contrary to Policy SP2 in the Core Strategy Local Plan.

2. Impact on the Council’s Housing Land Strategy

The Council intends to allocate sufficient land in PLAN Selby, (the Sites and Policies Local Plan) to accommodate the housing target identified in the CS.

The Council cannot reasonably delay all new development proposals while it prepares the Local Plan, but it must continue to exercise its proper planning functions using existing and emerging policies as appropriate. One such way that it may exercise its proper planning functions is through maintaining an up to date five year housing land supply.

The Council's 2013-14 Five Year Housing Land Supply report establishes that the authority has less than a 5 year supply of deliverable housing land and that it has a 4.3 year supply of housing approximately. This means that in accordance with paragraph 49 of the NPPF the Council's policies designed to constrain housing supply cannot be considered up to date. An approval on this site would help the Council to restore its 5 year supply of housing land.

3. Affordable Housing

The scheme is in outline but indicates a total of 135 homes. Policy SP9 of the Core Strategy states that the Council will seek to achieve a 40% affordable housing contribution, which would equate to 54 affordable units which we would require to be delivered on site. The Strategic Housing Market Assessment 2009 set out a required tenure split for affordable units of 30-50% intermediate sale and 50-70% rented as a start point for negotiation, and identified a general housing need across Selby District for both 2 and 3 bed affordable homes. A smaller number of 1 and 4 bed homes may also be acceptable, subject to consideration of need. It is important for the developer to involve a Registered Provider at an early stage to ensure that the size and type of units are acceptable to them (in particular bedroom sizes), and they may have different requirements as to the tenure of the intermediate sale units. An up to date copy of the list of RPs working across Selby District can be found on our website with the Affordable Housing SPD.

4. Safeguarded Land

Safeguarded land is not specifically allocated for development but forms a long term resource which may be required for housing or employment growth after 2006. The release of safeguarded land was intended to be done in a controlled and phased manner through future Local Plan reviews. The Council are currently in the early stages of plan preparation in respect of PLAN Selby which will include allocation of land in respect of residential development. In this context policy SL1 of the Local Plan is considered to have little weight.

5. Flood risk

The eastern two thirds of the site lie within flood zone 2. Policy SP15 of the Core Strategy states that development in areas of flood risk should be avoided wherever possible through the application of a sequential test and if required an exception test. However Paragraph 104 of the NPPF states that: "For individual developments on sites allocated in development plans through the Sequential Test, applicants need not apply the Sequential Test". The application site is within an area of land as safeguarded land, which was allocated in the Selby District Local Plan applying a sequential approach which conforms to the Sequential Test (as stated in para 10 of appeal APP/N2739/A/13/2210492); therefore the sequential and exceptions tests need not apply.

Conclusion

This proposal is outside the Development Limits of a Local Service Centre and is therefore contrary to the adopted Selby District Local Plan and Core Strategy.

However as the Council currently has less than a 5 year supply of housing land, relevant policies for the supply of housing should not be considered up-to-date. Therefore this proposal must be considered against the NPPF's presumption in favour of sustainable development and paragraph 14 and Core Strategy Policy SP1.

The relevant part of that Policy and paragraph 14 of the NPPF in this case is that local planning authorities should: "grant permission unless

- Any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole; or
- Specific policies in this Framework indicate development should be restricted"

This proposal does not lie within any specially protected areas, such as Green Belt, where the NPPF would restrict development (bullet pt 2 above). Taking account of the issues, including those raised by the Policy and Strategy team mentioned above, you will need to decide if any adverse impacts of approving this development in the open countryside in this location would significantly outweigh the benefits of the provision of market and affordable housing for the village of Sherburn in Elmet, which has been identified as a focus for growth in the Council's adopted Local Plan.

Provided there are no other adverse impacts identified by the case officer and provided any infrastructure capacity issues can be dealt with through conditions and/or legal agreements, the Policy and Strategy team raise no objections to the scheme.

ii) Lead Officer – Policy (February 2016) Subsequent comments on the application from the Lead Officer – Policy received on the 15th February 2016 have noted that

"The application should be considered against both the saved policies in the adopted 2005 Selby District Local Plan (SDLP) and the 2013 Selby District Core Strategy (CS).

The key issues which should be addressed are:

1. The Principle of Development
2. Impact on the Council's Housing Land Strategy
3. Safeguarded Land
4. Previous Levels of Growth and the Scale of the Proposal
5. Relation of the Proposal to the Development Limit

1. The Principle of Development

Paragraph 11 of the NPPF restates planning law that requires planning permission to be determined in accordance with the development plan unless material considerations indicate otherwise. Paragraph 12 of the NPPF re-emphasises that an up-to-date Development Plan is the starting point for decision-making, adding that development that accords with an up-to-date Local Plan should be approved, and proposed development that conflicts should be refused unless other material considerations indicate otherwise. The policies in the SDLP and Adopted CS are consistent with the NPPF.

It is noted also that under para 14 of the NPPF that the presumption in favour of sustainable development should be seen as a golden thread running through decision-taking. Para 49 of the NPPF also states that housing applications should also be considered in the context of the presumption in favour of sustainable development.

CS Policies SP2 and SP4 direct the majority of new development to the Market Towns and Designated Service Villages (DSVs), restricting development in the open countryside. Sherburn is defined in the Core Strategy as a Local Service Centre, where further housing, employment, retail, commercial and leisure growth will take place appropriate to the size and role of each settlement.

This outline proposal for 135 dwellings is on land that is adjacent to, but mostly outside of, the defined Development Limits of Sherburn in Elmet as defined on the Policies Map of the SDLP. The proposal is therefore contrary to Policy SP2A(c) of the Core Strategy. However, Development Limits are currently under review as part of the PLAN Selby sites and allocations document, in line with commentary detailed in the Core Strategy. In evaluating the application, the relationship of the proposal to the edge of the settlement and defined Development Limit (as set out on the Policies Map) should be given due consideration as detailed under Section 5 of this response.

2. Impact on the Council's Housing Land Strategy

On the 3 December 2015, the Council's Executive formally endorsed an updated five year housing land supply Methodology and resultant housing land supply figure of 5.8 years, as set out in the Five Year Housing Land Supply Statement. The fact of having a five year land supply cannot be a reason in itself for refusing a planning application. The broad implications of a positive five year housing land supply position are that the relevant policies for the supply of housing in the Core Strategy can be considered up to date.

3. Safeguarded Land

The site is located within an area designated as Safeguarded Land (SL) under saved policy SL1 of the 2005 SDLP. The original intention of SL was to provide a 'reserve' of land to meet long term growth requirements post 2006. The release of SL was intended to be done in a controlled and phased manner through future Local Plan reviews and based upon the principles of well integrated sustainable development. Policy SL1 is considered to have some weighting as a material consideration when there is a 5 year supply of housing, as there is a need to maintain a reserve of land to meet long term growth needs.

From a review of the history of SL in Sherburn in Elmet, the SDLP Inquiry Inspector highlighted a number of issues of relevance:

- The SDLP site allocation - SHB/1 was considered sufficient development for the plan period beyond 2006 and that this was a level of growth which could be effectively assimilated into the wider Sherburn in Elmet area.

- The Inspector did not consider the use of the then proposed SL which relates to part of the applicant's site as a suitable housing allocation in the plan period.
- There was strong local opposition to the original SDLP site allocation.

There is a complex history to the extent and scale of potential development at Sherburn in Elmet.

While the principle of SL was supported through the examination by the Inspector, the SL policy dates from at least 2005, and has not been reviewed since this period. Given these issues, full weighting cannot be given to Policy SL1. In practical terms when considering and reviewing the spatial aspects of the policy as it applies to Sherburn in Elmet, this means evaluating the extent to which:

- The settlement remains a suitable location for SL;
- The individual SL1 policy area for Sherburn in Elmet remains a valid location for future development ;
- The scale of SL is appropriate to the location;
- The SL area is deliverable for development;
- The SL1 area plays a positive 'Green Belt' function, and
- The assessment of Development Limits and Green Belt Boundary indicates a positive case to establish a robust development limit while maintaining a Green Belt boundary which is likely to endure.

Work is progressing on PLAN Selby - the site allocation and development management plan, which together with the adopted Core Strategy will form the Local Plan for the District. The current scale and extent of safeguarded land is under review as part of this emerging document, which includes the current large-scale and strategically important safeguarded land allocations at Sherburn in Elmet. The original work on the extent and scale of safeguarded land linked to this settlement dates from at least 2005, and it is yet to be fully determined whether the overall quantum of 22.8ha remains proportional or appropriate at this settlement location.

Without the outcome of this review having been completed, in technical terms as the settlement is a Local Service Centre, the principal of safeguarded land at Sherburn in Elmet would align with its status within the settlement hierarchy as detailed in the Core Strategy. In relation to the SL area to which the application relates, it is strongly defined with a long-standing history. The SL has an eastern and northern edge that is clearly defined by the A162 and is bounded to the south and west by residential development. The strongly defined road feature along the eastern edge of the site would appear to suggest that the current Green Belt boundary is likely to endure.

While this review has not covered all the issues that would need to be undertaken as part of a full evaluation, it indicates on balance that some, but not full, weighting can be attached to the original SL1 policy designation at Sherburn in Elmet, in terms of suitability as a reserve of land for future development.

One of the critical issues relating to this application is whether there is a housing need to release safeguarded land of the scale indicated through this application at this moment in time and the implications of further development in Sherburn in Elmet in relation to the settlement hierarchy. Further comments on this matter are detailed below under Section 4. When evaluating the Development Limit in detail consideration should be given to the range of issues detailed below in Section 5.

4. Previous Levels of Growth and the Scale of the Proposal

CS policy SP5 designates levels of growth to settlements based on their infrastructure capacity and sustainability, it is important to determine in housing applications the impact a proposed scheme has on this level of growth, taking into account previous levels of growth since the start of the plan period and the scale of the proposal itself. Sherburn in Elmet has seen 816 dwellings built or approved in the settlement since the start of the Plan Period in April 2011; CS policy SP5 sets a minimum dwelling target for Sherburn in Elmet of 790 dwellings (2011 to 2027), therefore the settlement has exceeded its minimum target at a relatively early stage in the plan period.

The scale (135 dwellings) of the potential release of Safeguarded Land at Sherburn in Elmet through this application is considered to be of a strategic scale of development - 17% of the total original minimum requirement for the settlement (790 units). This application would take Sherburn in Elmet's total percentage delivery from 11% to 13% of the original minimum requirement (from 2011-2017), by only 2016.

Attention needs to be paid in avoiding distorting and undermining the delivery of the settlement hierarchy through unallocated development. Strategic developments of this scale may undermine efforts to support housing development at Tadcaster and Selby, which are important locations for housing growth in the Core strategy, by potentially offsetting the amount of development required by these towns. Selby has built or has permission for 3,281 out the 3,700 minimum target set in SP5 and Tadcaster has built or has permission for 77 out the 500 minimum target set in SP5. Neither of these settlements have achieved their minimum housing delivery targets as set out on the Core Strategy.

Now that policies SP2 and SP5 have full weight, and prior to the publication of PLAN Selby, it is important to direct the correct quantum of unallocated development to the appropriate places in the settlement hierarchy, in order to ensure, as per policy CS SP2, that Selby remains the principal focus for new housing development and that Tadcaster is a location where further housing growth will take place appropriate to the size and role of the settlement.

Given that there is a positive 5 year housing land supply in the District and the high level of growth forecast for Sherburn in Elmet there is no immediate housing need to release this scale of SL for housing in Sherburn in Elmet.

5. Relationship of the Proposal to the Development Limit

Core Strategy Policy SP18 aims to protect the high quality and local distinctiveness of the natural and man-made environment; therefore it is

important to determine the impact the proposed scheme has on its surroundings. The site is located in the countryside and outside of Development Limits. From emerging PLAN Selby evidence on the sensitivity of the landscape to development it is considered that the overall landscape assessment parcel for the area to which the application relates is of low sensitivity to development, with the settlement fringe considered of medium quality. The proposal extends significantly into the countryside and in determining the application, thought will need to be applied as to:

- the overall impact of the proposed development on the countryside;
- whether the current Development Limit as defined in the Policies Map remains robustly defined, or has changed and,
- whether the proposed development would set a new clearly defensible boundary.

Due to the Safeguarded Land status of the land it is unlikely that the Settlement Limit will have altered significantly over the recent past.

Detailed issues to consider when reviewing the Development Limit and the potential impact of the development, include:

- planning history;
- physical extent of existing settlement;
- settlement form and character;
- the type, function and range of buildings on the edge of the settlement;
- impact of the development on the countryside, environment and amenity, and
- the extent of current defensible boundaries, which are durable and likely to be permanent, and whether the development would erode or contribute towards maintaining a clear defensible boundary

iii) Lead Officer – Policy (May 2016)

There are four areas of planning policy to update in relation to comments on this application, following further investigation and research. These relate to safeguarded land, development limits, environment impact and flood risk analysis.

1. Safeguarded Land

The site is located within an area designated as Safeguarded Land (SL) under saved policy SL1 of the 2005 SDLP. The original intention of SL was to provide a 'reserve' of land to meet long term growth requirements post 2006, to be released in a controlled and phased manner – potentially over successive reviews of the Local Plan. This position accords with paragraph 85 of the NPPF which places importance on a plan-led approach to the use of 'safeguarded land' within development plans. The restrictive wording of paragraph 85 in the NPPF qualifies safeguarded land as a NPPF footnote 9 specific policy, referred to at the end of paragraph 14 of the NPPF, which indicates that development should be restricted.

It was noted in our previous response that the SL policy dates from at least 2005, and has not been reviewed since this period. It is considered that full weighting

cannot be attached to this policy, but as it is fully and clearly consistent with NPPF it is considered that moderate to significant weight can be afforded to the SL policy.

In our previous response we made comments as to the scale of growth witnessed in Sherburn in Elmet – a settlement which has also seen significant growth prior to this plan period. Consideration needs to be given to the balanced growth of the settlement to ensure that services / facilities keep track with growth and that development occurs through a phased and managed process. Work is progressing at pace on the development of PLAN Selby (site allocations and development management document), which is scheduled for Preferred Options consultation in September 2016. The review of SL forms part of the evidence base to this publication.

With a positive 5 Year Housing Land Supply (5YHLS) and with dwelling growth levels for Sherburn in Elmet forecast to exceed minimum delivery targets within only a few years after the adoption of the Core Strategy, and the weighting attached to policy SL1, it is not considered that there is a need to release SL for housing at this time and outside of the plan-making process. This response provides a firmer steer to the weighting of considerations regarding SL in light of SDLP Policy SL1, the NPPF and follows an additional review of recent appeals / case studies.

2. Development Limits

On a matter of clarity, it was noted in the previous policy response that due to the status of SL adjacent to the development limit in this area, it is unlikely that the development limit will have altered significantly in this area. This would support that position that while development limits are under review (as part of the development of PLAN Selby) they are not necessarily considered out of date. An assessment methodology or criteria was set out in the previous policy response to assist with reviewing the development limit.

3. Natural and Built Environment

Treated on its own merits it is noted that this proposed development extends significantly into the countryside beyond the clearly established development limit connected in a limited manner to the north eastern edge of Sherburn in Elmet (Springfield Road). The Core Strategy Policy SP18 aims to protect the high quality and local distinctiveness of the natural and man-made environment. Furthermore Policy SP19 'Design Quality' indicates that new development will be expected to achieve high quality design and have regard to the local character, identity and wider spatial context and Policy SP12 places an emphasis upon protecting, enhancing and linking Green Infrastructure. In evaluating the application consideration will need to be paid to the impact of the proposal on the open countryside, green corridors and its spatial relationship and integration to the built form of the existing settlement.

4. Flood Risk and Sequential Test

A number of matters in relation to flood risk and the sequential test are considered as part of this update.

Part of the site falls within Flood Zone Level 2 as indicated on the Environment Agencies Flood Risk map. Ordinary applications on areas at risk of flooding (Level 2, 3a etc) would need to go through a sequential test to evaluate whether there are other sites which could accommodate a similar level of development within Flood Zone level 1. This approach is in line with NPPF 100 and NPPG 103. The exception to this is given in para. 104 of the NPPF, which states that 'For individual developments on sites allocated in development plans through the Sequential Test, applicants need not apply the Sequential Test'.

The policy team has looked into the detailed history of the safeguarded land designation and do not consider that an approach equivalent to a flood risk sequential test would have been undertaken at the time of designation. While some analysis of flood risk was undertaken on SL sites, it was very much on the basis of individual site assessments informed by field observations (often categorising or photographing instances of flooding). In light of this analysis it is considered that an up to date sequential test is required for this site. This view would also tend to concur with recent discussions undertaken with the Environment Agency on this matter.

The Councils sequential test requirement should be conducted against all the extant allocated housing sites from the 2005 Selby District Local Plan and 2013 Core Strategy. The comparison against allocated housing sites should be District wide. The level of identified flood risk on the proposal site should be compared with identified flood risk on each of the allocated sites using the current Environment Agency Flood Map for Planning (Rivers and the Sea).

The combined capacity of the comparison sites in the sequential test should be able to accommodate the number of dwellings proposed in the application. If the proposed site has an equal or lower flood risk than all of the other allocated sites in the test (that are considered to be deliverable and combined together cannot accommodate the level of development proposed), then the site passes the test.

1.4.3 North Yorkshire County Council Highways

The Transport Assessment (TA) originally submitted in support of the planning application proposed vehicular access onto Springfield Road. Whilst no objection was put forward to this access, it raised some concerns with the Local Highway Authority (LHA) regarding the impact of the development traffic on the Low Street/Kirkgate/Moor Lane/Finkle Hill signal controlled junction. The applicant produced an amended TA which assessed the impact of access being taken from a new roundabout on the A162 which is proposed as part of the planning application reference no. 2015/0544/OUT. The consequence of amending the access arrangement is that traffic is distributed away from the village centre resulting in only an additional 10 vehicles through the Low Street/Kirkgate/Moor Lane/Finkle Hill signals in both the AM and PM peak hour. The Applicant has agreed a contribution proportionate to the number of trips the development will generate through the signals towards the works to improve the operation of the signals. The improvement works which have previously been identified include-

- The installation of MOVA (Microprocessor Optimised Vehicle Actuation).

- Linking the existing Pedestrian Crossing (south of Church View) to operate within the MOVA system.
- Upgrading the existing pedestrian crossing facilities.

By amending the access arrangement it is not considered that this minimal impact on the signal controlled junction could be regarded as “severe” as cited in paragraph 32 of the National Planning Framework (NPPF) as the reason upon which developments should be refused on transport grounds.

As with other recent planning applications in Sherburn, the traffic impact of the development including a comprehensive list of approved and proposed developments in the area has been assessed at other key junctions on the surrounding highway network, namely;

- A162 / Finkle Hill / Stream Lane roundabout
- A162 / B1222 roundabout
- A162 / Low Street / Lumby Lane roundabout
- A162 / A63 roundabout

Again the impact on the operation of these junctions is not considered to be “severe” under the NPPF.

A separate planning permission for the development of the former airfield at Lennerton Lane, Sherburn in Elmet (2013/0467/OUT) identified that an improvement to the A162/A63 roundabout is required to accommodate that development and other committed developments in the area. It is a condition of that planning permission to deliver the improvement. Similarly a planning application for a residential development in Hambleton (2015/0105/OUT) will require the same roundabout improvement to be undertaken. This proposed development will also have an impact on the A162/A63 roundabout. Should this development come forward prior to the aforementioned developments it will be required to deliver the roundabout improvement.

With access from the A162 the principle means of access for pedestrians/cyclists to the local facilities will be via Hodgsons Lane. To improve pedestrian/cycle amenity in the vicinity of Hodgsons Lane/Moor Lane, new and additional drop kerb crossings will be required together with tactile pavements.

It is understood at the time of writing that permission has not been granted for the 2015/0544/OUT application and the Applicant has lodged an Appeal. Should this Application come forward prior to the 2015/0544/OUT Application, then the proposed roundabout access on the A162 should form part of a reserved matters application. Subject to a satisfactory means of access being achievable together with an alternative access for emergency vehicles the LHA does not raise an objection to the Application but recommends the following matters are addressed through the inclusion in a Section 106 Agreement or by the imposition of conditions in any planning permission the Planning Authority is minded to grant.

Matters to be included in a Section 106 Agreement to which the Local Highway Authority would wish to be a party:

- £13,400 contribution towards the works required to link the pedestrian crossing on Low Street with the traffic signals at the Low Street/Kirkgate/Moor Lane/Finkle Hill junction.
- £5,000 monitoring fee for the site Travel Plan

Matters to be covered by the imposition of Conditions:

- Detailed Plans of Road and Footway Layout (Outline All Types)
- Construction of Roads and Footways Prior to Occupation of Dwellings
- Approval of Details for Works in the Highway
- Completion of Works in the Highway (before occupation)
- Parkings for Dwellings
- Garage Conversion To Habitable Room
- Doors and Windows Opening over the Highway
- Highway Condition Survey
- Wheel Washing Facilities (Amended)
- Location of Construction Access
- Permanent Site Construction Access
- Construction Management Plan
- Travel Plans

In response to the applicants consideration of a direct access onto the bypass from their own land North Yorkshire County Council Highways responded as follows:

“We have given this some further consideration. My previous consultation response dated 12 April 2016 considered the indicative access being taken over third party land from the proposed roundabout on to the A162 under application 2015/0544/OUT which has not been granted planning permission and is subject to an appeal by the applicants. Subject to a satisfactory means of access being achievable together with an alternative access for emergency vehicles this may provide a satisfactory means of access however, I have been asked to update my consultation response in light of the fact the third party owner has advised that no access provisions are in place and access over their land would not be permitted to adjoin the two sites, in this case satisfactory access from the indicative location could not be achieved and alternative access would have to be considered.

It may be possible to achieve a satisfactory access on to the A162 without the third party land through the provision of a roundabout. However, should application 2015/0544/OUT be granted which includes a new roundabout on the Bypass, an additional access on to the A162 from this application site may be unacceptable to the LHA.”

1.4.4 Environment Agency

Noted an objection to the application in September 2015 on the basis that there was an absence of evidence that the sequential test had been passed in the view of the Local Planning Authority.

The EA have subsequently confirmed that the proposed development will only meet the requirements of the National Planning Policy Framework if the following measures as detailed in the flood risk assessment Ref:22854, dated July 2015 produced by AAH planning consultants, submitted with this application are implemented and secured by way of a planning condition on any planning permission. The suggested condition notes a that the

development permitted by this planning permission shall only be carried out in accordance with the approved flood risk assessment (FRA) and the following mitigation measures detailed within the FRA:

- Finished floor levels of properties within flood zone 2 are set no lower than 8.7m above Ordnance Datum (AOD).
- Identification and provision of safe route(s) into and out of the site to an appropriate safe haven.

The mitigation measures shall be fully implemented prior to occupation and subsequently in accordance with the timing / phasing arrangements embodied within the scheme, or within any other period as may subsequently be agreed, in writing, by the local planning authority.

The EA also advise that the FRA states that surface water will be discharged into an adjacent ordinary watercourse (Bishops Dike). The site lies within the Selby Internal Drainage Board (IDB). The applicant should contact the IDB regarding their requirements regarding surface water runoff and to ascertain whether or not they have any local records of the site having flooded. The applicant should also contact the IDB to discuss any works that will affect any watercourses classified as non main river as formal consent from them under the Land Drainage Act 1991 may be required. The IDB is the responsible authority for any works that would affect any watercourses (classified as non main river) within the site.

They also note that the applicant should consider the use of flood resilient / flood proof construction techniques.

1.4.5 Yorkshire Water Services Ltd

No objections subject to conditions in relation to easements to sewers, separate systems for foul and surface water drainage and works to allow for discharge of surface water. They also note that they have no objection in principle to the indicative layout and there is existing infrastructure to serve the development and their acceptance to the submitted FRA subject to restrictions to the flow rate to the watercourses. .

1.4.6 North Yorkshire County Council – Flood Risk Management

Initial comments on the application noted

“A significant proportion of the site lies within Flood Zone 2. Also, the Flood Risk an Surface Water Assessment submitted with the application details SuDS systems including attenuation features such as a SuDS balancing pond and swales. Storage capacity of the pond has been calculated for the 1 in 100 year event (see section 8.16), however, flood mapping available would indicate that during this event the SuDS balancing pond and other attenuation features will be under water and thus ineffective. This will lead to increased flood risk both on and off site exacerbated by runoff from impermeable areas. For these reasons we object to the application”.

Later confirmed they confirmed that subject to conditions then the objection is removed as they are satisfied that flood risk can be managed at the site with the detailed design of proposals.

1.4.7 Selby Area Internal Drainage Board

Committee will be updated on the response at the meeting.

1.4.8 Environmental Health – Lead Officer

The proposed development is of a fairly large scale and as such will entail an extended construction phase. This phase of the development may negatively impact upon nearby residential amenity due to the potential for generation of dust, noise and vibration. The Environmental Protection 1990 allows for the abatement of statutory nuisance in relation to noise, dust and vibration. I would however stress that whilst a development may detrimentally impact upon existing residential amenity, it may not be deemed to constitute a statutory nuisance.

The following condition is recommended should planning consent be granted.

1. Prior to the site preparation and construction work commencing, a scheme to minimise the impact of noise, vibration, dust and dirt on residential property in close proximity to the site, shall be submitted to and agreed in writing with the Local Planning Authority.

Reason: *To protect the residential amenity of the locality and in order to comply with Selby District Council's Policy's SP19 and ENV2.*

Part of the site is adjacent to Sherburn in Elmet bypass which is a busy road, and it is recommended that should you decide to grant outline consent it is subject to the following condition:

2. Prior to any works commencing the applicant shall produce a written scheme for protecting the proposed noise sensitive development; the scheme must be submitted to and approved in writing by the Local Planning Authority. The scheme shall ensure that the noise level in the garden areas of the proposed development shall not exceed 50 dB LAeq (16 hour) between 0700 hours and 2300 hours and all works which form part of this scheme shall be completed before any part of the development is occupied. The works provided as part of the approved scheme shall be permanently retained and maintained throughout the life of the development. The scheme must also ensure the internal environment each dwelling is protected from noise. The scheme shall ensure that the building envelope of each dwelling is constructed so as to provide sound attenuation against external noise. The internal noise levels achieved should not exceed 35 dB LAeq (16 hour) inside each dwelling between 0700 hours and 2300 hours and 30 dB LAeq (8 hour) and 45 dB LMax in the bedrooms between 2300 and 0700 hours. This standard of insulation shall be achieved with adequate ventilation provided. All works which form part of the scheme shall be completed before any part of the development is occupied. The works provided as part of the approved scheme shall be permanently retained and maintained throughout the life of the development. The aforementioned written scheme shall demonstrate that the noise levels specified will be achieved.

Reason: *To protect the residential amenity of the development from noise in accordance with Selby District Council's Policy SP19, the National Planning Policy Framework (NPPF) paragraph 123, the National Planning Practice Guidance (NPPG) in relation to noise and the policy aims of the Noise Policy Statement for England (NPSE).*

1.4.9 Northern Gas Network

Committee will be updated on the response at the meeting

1.4.10 NYCC Heritage

NYCC Heritage advise that they "would advise that a scheme of archaeological mitigation is recording is undertaken in response to the ground disturbing works

associated with the development proposals". This should comprise an archaeological strip, map and record to be undertaken in advance of development. Including site preparation works, top soil stripping, to be following by appropriate analyses, reporting and active preparation. NYCC Heritage notes that in order to secure this a condition should be placed on any consent.

1.4.11 Natural England

Make the following comments:

- a) The site lies on or adjacent to a local site and the Local Planning Authority should ensure it has sufficient information to fully understand the impact of the proposals on the local site before it determines the application.
- b) The sites development will not impact on the SSSI at Sherburn Willows
- c) The application may provide opportunities to incorporate features into the design which are beneficial to wildlife and the authority should consider securing measures to enhance biodiversity of the site from the applicants if it is minded to grant planning permission for the site.
- d) The application may provide opportunities to enhance the character and distinctiveness of the surrounding natural and built environment; use natural resources more sustainability and bring benefits for the local community.

1.4.12 Yorkshire Wildlife Trust

Noted that the Trust has also commented on 2015/0544/OUT, and 2015/0848/OUT which are applications adjacent to this site.

As previously stated by the Trust, there is a significant maternity bat roost located in a private residence in Pinfold Garth that is adjacent to all three proposed development sites. Due to a lack of information on bat roosts close to the site the Trust has recorded a holding objections to all the above mentioned applications until a thorough mitigation plan involving all the proposed developments in the area is in place. The Trust has noted the response of Brooks Ecology to the holding objections placed by the Trust and the comment by North Yorkshire Bat Group on application 2015/0895/OUT. The Trust believes that it is important to clarify that the issues that would arise from these proposals is the cumulative effect of the three developments. The proposed locations of the developments will result in the roost being completely surrounded by housing. This will cause disturbance to the roost due to the combined effects of the loss of important foraging habitat, isolation of the bat roost from the wider landscape, and lighting impacts. Therefore, the argument of Brooks Ecology that the proposed development site for application 2015/0895/OUT is not as rich a foraging ground as the site directly to the south, is only one small aspect of the potential risks to the roost. The other foraging opportunities for the bats in the immediate vicinity of the site, such as along Bishop Dike and the hedgerows in the arable fields will be hard to access from the roost once developments are in place as the roost will be completely surrounded. Females during the maternity period, whilst pregnant or nursing, cannot lower their body temperature to slow their metabolism to compensate for diminished food supplies¹. For these reasons, maternity roosts are highly vulnerable to damage or destruction if the associated foraging sites are compromised. The lighting associated with the developments may also impact the roost. Research has shown that mothers from illuminated maternity roosts produce smaller offspring, as they emerged from the roost later, after the peak availability of insects. Illuminating commuting corridors has also been shown to delay commuting in some species and disrupt commuting behaviour. Bats are long lived and only give birth to one young in a year, so maternity roosts are crucial to the survival of bat populations. All UK bat

species were identified by the UK Biodiversity Action Plan (UK BAP) as needing conservation and greater protection. Additionally, all bats and their roosts are fully protected under the Wildlife and Countryside Act 1981 (as amended) and are further protected under the Conservation of Habitats and Species Regulations 2010 (as amended). 'A person commits an offence if he - deliberately disturbs a European Protected Species in a way that is likely to impair ability to survive, breed or reproduce/rear/nurture young. Under the Habitats Regulations, it is an offence 'to damage or destroy a breeding site or resting place of such an animal', referring to Annex IV species. This is a transposition of the Habitats Directive which states that 'the deterioration or destruction of breeding sites or resting places' of an Annex IV species is prohibited. As the Habitats Directive does not provide a specific definition of a breeding site or resting place, the Environment Directorate-General of the European Commission (EDGEC; 2007) states 'there is room for different interpretations', due to the wide range of species listed in Annex IV. The EDGEC goes on to advise that the Habitats Regulations should be understood as 'aiming to safeguard the ecological functionality of breeding sites and resting places'. Connectivity to foraging grounds and the wider landscape is essential for the continuous ecological functionality of a maternity roost². The combined effect of increased disturbance and lighting, diminished foraging areas and a complete lack of connectivity to foraging grounds caused by the proposed developments could result in the in the destruction of a significant maternity roost. Damage or destruction of the roost would be in direct contradiction of the aims of the National Planning Policy Framework (NPPF) Paragraph 109 of the NPPF states that "The planning system should contribute to and enhance the natural and local environment by // minimising impacts on biodiversity and providing net gains in biodiversity where possible, contributing to the Government's commitment to halt the overall decline in biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressure" The NPPF then goes on to state in paragraph 118 "When determining planning applications, local planning authorities should aim to conserve and enhance biodiversity by applying the following principles:

- If significant harm resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused.
- Planning permission should be refused for development resulting in the loss or deterioration of irreplaceable habitats, including ancient woodland.

In order to prevent the destruction of the roost, significant mitigation is required in a coordinated effort from the three developers. It will be necessary to compensate for the loss of foraging grounds and to provide connectivity via linear features, such as hedgerows and waterways, to the surrounding landscape this will ensure the ecological functionality of the roost. To date, the roost has never been surveyed and it is the opinion of the Trust that, at present, too little is known about the roost to allow informed decisions regarding planning permission or potential mitigation strategies. Once the extent of the roost is known, it is essential that all three developments, 2015/0895/OUT, 2015/0848/OUT and 2015/0544/OUT, collaborate to provide a coordinated mitigation strategy that will maintain connectivity to the wider environments and increase foraging opportunities within all three sites.

1.4.13 North Yorkshire Bat Group

No response received on the application within the statutory time period.

1.4.14 North Yorkshire Education

Based on the proposed 135 2+ bedroom properties a developer contribution of £458,865 would be sought for primary education facilities at Hungate Community Primary School as a result of this development. A developer contribution would not be sought for secondary school facilities at this time. Should the density of the site change we would be required to recalculate this based on pupil numbers available at the time of recalculation.

Update Note: Instead of this developer contribution which would have been provided through a Section 106 agreement, a general charge will be made through the mechanism of the new Community Infrastructure Levy

1.4.15 North Yorkshire Police

No response received on the application within the statutory time period.

1.4.16 North Yorkshire and York Primary Care Trust

In commenting on the application have requested a healthcare contribution of £43,200 for Sherburn Group Practice in relation to the above planning application. This is calculated as 135 (dwellings) x 2.4 (estimated occupancy) divided by 1500 (number of patients per GP) x £200,000 estimated cost of additional consulting room.

Update Note: Instead of this developer contribution which would have been provided through a Section 106 agreement, a general charge will be made through the mechanism of the new Community Infrastructure Levy

1.4.17 North Yorkshire Fire and Rescue Service

No response received in the statutory consultation period.

1.4.18 North Yorkshire Public Rights of Way

Request informative on consent to note that the existing public right of way should be protected till a new route can be agreed.

1.4.19 Contaminated Land Consultant (WPA)

Confirmed that the submitted information shows that the main risk driver appears to be 'possibly infilled ground' in the northeast corner of the site which has been correctly identified and the recommendation of gas testing seems appropriate. The design of the SuDS balancing pond should be considered in the context of potential contamination, as it could either exacerbate or remediate the situation. Despite the lack of detailed risk assessment, due to the size and scale of the development it appears prudent for further investigation in respect to contaminated land to be conducted alongside the geotechnical investigations; which would help to refine the CSM and provide more tangible evidence to the risk assessment. As such WPA have advised that conditions CL1, and CL5 are put in place. They also recommend that a plan for the intrusive site investigation, with respect to contaminated land, is submitted to SDC for discussion prior to commencement.

1.5 Publicity

1.5.1 The application was advertised as a departure by site notice, neighbour notification letter and advertisement in the local newspaper resulting in comments from 13 objections. The issues raised can be summarised as follows:

Principle of Development

- Question the need for the housing
- After Selby District Council are now able to provide a 5 year housing supply in the district. The council should now be able to support the residents of Sherburn in Elmet and recognise that anymore pending planning applications for large estates is not sustainable development.
- Understand that Housing applications should be considered in the context of the presumption in favour of sustainable development; however I do not believe that this particular planning application is sustainable and acceptable, bearing in mind that Sherburn In Elmet already has approved housing development of an estimated 1,000 houses, which are currently undergoing development.

Highways

- The proposed Vehicular access road on to Springfield Road from the development site has previously been deemed by NYCC Highways as inappropriate and unsafe. This was due to the close proximity of a blind bend and situated on a notorious bend in the road, where on street parking is a real issue for local residents, given that flats opposite the proposed access road have no off street parking provision.
- Inward and outward access to this proposed housing development is unsafe due to the high volume of traffic already on the roads around Springfield Road, North Drive and Moor Road on to Moor Lane.
- There is very little off street parking already around the area and the proposed access is on a bend and very near a blind bend on Springfield Road.
- Access should be off the bypass
- Safe and sensible option would be to use one or both of two existing access points from the bypass or modify Hodgson's Lane as part of the Hodgson's Gate development (which is even more houses) to give access into the proposed sites.
- Concerns over the lack of an emergency access.

Ecology

- It has been identified that there are bats within the site area, that use the field area for roosting and feeding. (The Wildlife and Countryside Act 1981 (WCA) protects bats and their roosts in England, Scotland and Wales).
- The Bishop Dyke that runs to the East of the site is also the habitat of water voles (fully protected under Schedule 5 of the Wildlife and Countryside Act 1981 and is a priority conservation species).
- This greenbelt safeguarded land is the habitat of much flora and fauna and this should be considered when making the planning decision.
- Wildlife lives in the perimeter hedges
- The Ecology reports carried out have not been made at dusk to support this and needs to be carried out before hibernation.

Flood Risk and Drainage

- Would like reassurance that the effect of this development on the water table in the area has been thoroughly investigated. The field on which these houses are to be built already has standing water that takes a very long time to drain away when we have a lot of rain.
- The site floods

Infrastructure

- How will the village infrastructure be developed to support the extra people who will live in these houses?
- Schools have no capacity to take extra children.
- An example given of a child having to go to South Milford Primary School because of the lack of capacity at the two Sherburn schools.
- Doctors has no capacity
- The infrastructure is not here in Sherburn in Elmet to support the volume of additional homes that are being proposed.
- Overloaded pumping station on Moor Lane.

Other Matters

- It is assumed that the land in question for the proposed access on to Springfiled Road is owned by Selby District Council and was previously allocated for local housing association houses.
- Areas with Japanese Knotweed, which can be found in and around the boundary hedges.
- Parking in the centre of Sherburn is chock a block.
- With access off the bypass building materials as well as plant and machinery can be easily delivered to the site without having to negotiate existing road networks which are not suitable and dangerous.

An online petition with in 566 objectors (at the time of submission to us in October 2015) has also been presented with concerns raised in regards to the number of applications within Sherburn for housing developments both approved and ones submitted which would:

- Increase traffic with the crossroads already being congested in rush hour. Introducing more traffic to the area would only escalate the situation.
- Parking is not adequate in the village especially at school times and weekends.
- South Milford Petrol Station is the only petrol station in the vicinity to the local residents without driving to Tadcaster. Not only is the petrol station used by residents in surrounding villages, it is also used by commuters and vehicles from the Sherburn Industrial Estate. It would cause chaos if hundreds of additional vehicles began using the Petrol Station especially in busy periods. The Station has already had an increase in shoppers due to the Marks and Spencer's food chain opening.
- As population is ever increasing in the village no more doctors surgeries have been built. An increase in numbers to this service is not viable at its current capacity.

- Although there are two primary schools in Sherburn in Elmet and one high school an increase in population would have a detrimental effect on local parents and children with the schools already being at a near full capacity.
- Residents of this village enjoy living in Sherburn in Elmet because of the surroundings and value the area greatly. Consistent building is resulting in Greenfield Land being lost to accommodate for more housing. On speaking to many residents people are saddened by this and do not want to see anymore building on our precious Greenfield Sites.
- Many of the sites chosen for development are and have been inhabited by wildlife. This needs to be taken into consideration when destroying such habitats so future generations can enjoy the same as we have.

The application has also received letters in support from addresses within Sherburn in Elmet but also from elsewhere in the District. These were received via the Agent in February 2016 following Officers advising that a refusal was being considered via delegated powers. As noted above as a result of the receipt of these 11 letters of support the application has been brought forward to committee for determination in line with the scheme of delegation. In summary the letters of support note the following points:

- The site is well chosen
- The site is within the village boundary
- The site has access to services
- There is a demand for housing in Sherburn in Elmet from those who have grown up there and want to stay there and this development is welcomed by this section of the community as it includes affordable housing
- Proposal is in line with the NPPF and will provide a wide variety of quality housing
- Local businesses will benefit from the arrival of new residents
- The Schools will benefit from the arrival of new residents

2. Report

- 2.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 states "if regard is to be had to the development plan for the purpose of any determination to be made under the planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise". This is recognised in paragraph 11 of the NPPF, with paragraph 12 stating that the framework does not change the statutory status of the development plan as the starting point for decision making. The development plan for the Selby District comprises the Selby District Core Strategy Local Plan (adopted 22nd October 2013) and those policies in the Selby District Local Plan (adopted on 8 February 2005) which were saved by the direction of the Secretary of State and which have not been superseded by the Core Strategy.

2.2 Selby District Core Strategy Local Plan

- 2.2.1 The Selby District Core Strategy was adopted on 22 October 2013 in accordance with the NPPF, its policies are up to date and can in general be given full weight in the determination of planning applications. A challenge to the Core Strategy was made in December 2013 and sought to have the plan quashed based on ten grounds of challenge. The case was heard in the High Court in July 2014 and

Judgement was given in October 2014 dismissing all ten grounds. Permission to appeal was granted on one ground – duty to co-operate. The case was heard by the Court of Appeal in October 2015 and judgement was given that same month which dismissed the appeal and upheld the High Court decision. The appellant then sought leave to appeal that decision. On 22 March 2016 the Supreme Court refused permission to appeal as there was no arguable point of law and that the Court of appeal was correct in its decision for the reasons given. There is no further potential for the Core Strategy to be challenged through the Court process and no additional right of appeal against the refusal to further entertain the challenge. Relevant policies here are:

The relevant Core Strategy Policies are as follows:

- SP1 Presumption in Favour of Sustainable Development
- SP2 Spatial Development Strategy
- SP5 Scale and Distribution of Housing
- SP8 Housing Mix
- SP9 Affordable Housing
- SP15 Sustainable Development and Climate Change
- SP16 Improving Resource Efficiency
- SP18 Protecting and Enhancing the Environment
- SP19 Design Quality

2.3 Selby District Local Plan

Annex 1 of the National Planning Policy Framework (NPPF) outlines the implementation of the Framework. As the Local Plan was not adopted in accordance with the Planning and Compulsory Purchase Act 2004, the guidance in paragraph 214 of the NPPF does not apply and therefore applications should be determined in accordance with the guidance in Paragraph 215 of the NPPF which states " In other cases and following this 12-month period, due weight should be given to relevant policies in existing plans according to their degree of consistency with this framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given)".

The relevant Selby District Local Plan Policies are:

- SL1: Safeguarded Land
- ENV1: Control of Development
- ENV2: Environmental Pollution and Contaminated Land
- T1: Development in Relation to Highway
- T2: Access to Roads
- RT2: Recreational Open Space
- CS6: Community facilities

2.4 National Policy

On the 27th March 2012 the Government published the National Planning Policy Framework (NPPF). The NPPF replaced the suite of Planning Policy Statements (PPS's) and Planning Policy Guidance Notes (PPG's) and now, along with the guidance in the Technical Guidance Note, and Policy for Traveller Sites, provides the national guidance on planning.

The NPPF introduces, in paragraph 14, a presumption in favour of sustainable development. Paragraph 14 of the NPPF states "At the heart of the National Planning Policy Framework is a presumption in favour of sustainable development, which should be seen as a golden thread running through both plan-making and decision-taking".

The NPPF and the accompanying PPG provides guidance on wide variety of planning issues the following report is made in light of the guidance of the NPPF.

Other Policies/Guidance

Affordable Housing Supplementary Planning Document, 2013
Developer Contributions Supplementary Planning Document March 2007
Sherburn in Elmet Village Design Statement, December 2009
North Yorkshire County Council SuDs Design Guidance, 2015

2.5 Key Issues and the decision making process

2.6 Introduction

2.6.1 The main issues and decision making process when assessing this application are:

- 1. Are there any relevant changed circumstances since the Lead Officer (Policy) considered the application in October 2015?**
- 2. What does the development plan say about the principle of development on the application site and the spatial development strategy for Sherburn-in-Elmet?**
- 3. What are the site specific impacts and how do they relate to planning policy.**
 1. Design and impact on the character of the area
 2. Flood risk, drainage and climate change
 3. Impact on highways
 4. Residential amenity
 5. Nature conservation and protected species
 6. Affordable housing
 7. Recreational open space
 8. Education, healthcare, waste and recycling
 9. Contamination
 10. Impact on heritage assets
 11. Education, healthcare, waste and recycling
 12. Other issues
- 4. Does the development plan point in favour of, or against, an approval of the application?**

5. Do material considerations suggest a decision other than in accordance with the development plan?

2.7 Are there any relevant changed circumstances since the Lead Officer Policy considered the application in October 2015?

2.7.1 Housing Land Supply

The National Planning Policy Framework (NPPF) places significant importance on maintaining the delivery of a five year housing land supply to meet housing targets (para 47 bullet 4) and relevant policies for the supply of housing should not be considered up-to-date if the local planning authority cannot demonstrate a five year supply of deliverable housing sites (para 49).

2.7.2 When the Lead Officer (Policy) responded to this application in October 2015 the Council could not demonstrate a five year housing land supply across the District. Therefore only limited weight could be given to the Council's own development plan policies on the supply of housing in these comments.. These policies could not be considered up to date. Instead paragraph 14 of the NPPF required the planning balance to be much more dependent on an assessment of the policies of the NPPF itself.

2.7.3 Now that a five year housing land supply can be demonstrated for the District (5.8 years at 1 October 2015), the planning balance has changed to allow the Council to determine the application:

- *"In accordance with the development plan unless material considerations indicate otherwise".*

2.7.4 This is a significant difference in the approach to the determination of this application compared to the position advised by the Policy team in October 2015. An updated housing land supply position with a base date of 1 April 2016 is to be reported to the Executive in August 2016.

Changed circumstances: the Community Infrastructure Levy

2.7.5 The Community Infrastructure Levy (CIL) is a charge which Local Authorities can charge on most types of new development in their area. CIL charges are based on the size and type of the proposed development, with the money raised used to pay for strategic infrastructure required to support development growth within their area.

2.7.6 The Council will use CIL to secure strategic infrastructure, as detailed in the Regulations 123 list, whilst local infrastructure will be secured through planning obligations in line with relevant policies.

2.7.7 CIL charging was formally introduced by the Council on 1 January 2016 and given that proposals relate to new housing a CIL contribution would be required for this development. However, this cannot be calculated in detail until a reserved matters

application setting out the proposed floor space for the development has been submitted.

2.7.8 The introduction of CIL would not impact on the on-site recreational open space provision, affordable housing provision, the waste and recycling, and local transport mitigation contributions which would still need to be secured through a Section 106 agreement. The contributions towards education, healthcare, off site recreational open space and strategic transport infrastructure are no longer appropriate within a Section 106 agreement as they are now covered by the CIL Regulation 123 list.

2.8 What does the development plan say about the principle of development on the application site and the spatial development strategy for Sherburn-in-Elmet?

2.8.1 Policy SP1 of the Core Strategy outlines that

"when considering development proposals the Council will take a positive approach that reflects the presumption in favour of sustainable development contained in the National Planning Policy Framework"

2.8.2 More detailed policies in the development plan regarding the principle of development on this site include Policy SL1 Safeguarded Land of the Selby District Local Plan and Core Strategy Policies SP2 "Spatial Development Strategy" and Policy SP5 "The Scale and Distribution of Housing" of the Core Strategy.

2.8.3 Policy SL1 of the Selby District Local Plan (SDLP) states that:
"Within areas of safeguarded land as defined on the proposals map, proposals for development which would prejudice long term growth beyond 2006 will not be permitted. It is intended that the release of safeguarded land, if required, will be carried out in a controlled and phased manner extending over successive reviews of the Local Plan."

2.8.4 The first part of the policy is out of date because it applies to proposals submitted before 2006 that would prejudice long term growth after 2006. However the second part of the policy is process rather than time limited.

2.8.5 As explained in paragraph 3.48 of the SDLP
"The release of Safeguarded Land, if required, to meet long term development needs would only be made in a controlled and phased manner through future Local Plan or land supply reviews, possibly extending over successive review periods"

2.8.6 Hence the application is in conflict with this policy because it will result in the release of safeguarded land without the endorsement of a Local Plan or land supply review to do so.

2.8.7 The policy itself was adopted in 2005, and the evidence which supported it would date back several years earlier. However that does not necessarily mean:

- it is out of date or
- should not be considered up to date (the terminology used in paragraph 49 of the NPPF) or
- carry limited weight

2.8.8 If the policy remains consistent with the NPPF and still provides a relevant approach to safeguarded land having taken into account the current land supply position and any changes in circumstances since 2005, it can be considered up to date or at least not out of date and carry due weight. Paragraph 215 of the NPPF states that:

“the closer the policies in the plan to the policies in the framework, the greater the weight that may be given”

2.8.9 Paragraph 85 of the NPPF states that

“Planning permission for the permanent development of safeguarded land should only be granted following a Local Plan review which proposes the development”

2.8.10 SDLP Policy SL1 is fully consistent with the NPPF.

2.8.11 As regards the relevance of the policy in 2016, it is important to note that:

- the minimum housing requirements for Sherburn-in-Elmet in the current plan period up to 2027 have essentially already been met when current commitments are built out
- the policy team’s view is that
 - the Council has now and should, through windfall housing, maintain a ‘positive’ five year housing land supply position at least in the short term.
 - there is no need to release this safeguarded land for development at this present time.
- the large amount of safeguarded land (about 45 hectares with the loss of some of this land for recreational open space) on five parcels of land to the north east, south and west of the town remain undeveloped. Based on the Core Strategy’s spatial development strategy and policies this amount of land still offers a long term supply and choice of land for the town’s growth requirements well beyond the current plan period up to 2027.

2.8.12 The SDCS Policy SP3 confirms the relevance and importance of a policy to safeguard land for the long term and to only release that land through the Local Plan in its criterion D. This states that:

“To ensure that the Green Belt boundaries endure in the long term, any Green Belt review through the Local Plan will:

ensure that there is sufficient land to meet development requirements throughout the Plan period and identify safeguarded land to facilitate development beyond the Plan period.”

2.8.13 The SDLP was adopted in 2005 and provided for housing growth up to 2006. This dates the plan and a number of policies in the adopted plan have either been withdrawn (by the Secretary of State in 2007) or replaced by the recently adopted Core Strategy. Nevertheless there are many policies in the SDLP that have been ‘saved’ for use in the determination of planning applications. Policy SL1 is one of these policies. There are recent Inspector’s and Secretary of State decisions on planning appeals which conclude that this type of policy is out of date beyond the end of the plan period or when a Council has decided to release some of its safeguarded land as an interim measure to ‘maintain’ a five year housing land

supply. This Council has not sought to amend its policy on safeguarded land and hence the latter circumstance does not apply here.

2.8.14 Clearly in 2016 we are well beyond the end of the plan period of 2006 and it is argued by the applicant that this means the policy is out of date and should carry little or no weight.

2.8.15 Nevertheless, it is the officer view that this policy is not out of date because

- the clarity of the policy and explanatory text identifies that it should only be released under the circumstances stated in paragraph 1.4.9 above, (These circumstances do not apply here)
- the policy clearly indicates that the release of safeguarded land might be spread over successive plan reviews (The housing levels, already established in Sherburn-in-Elmet, may point to the release of land only in the next Local Plan Review)
- the policy remains relevant today as safeguarded land is currently not required to meet the minimum housing requirement for Sherburn-in-Elmet in the adopted Core Strategy, and the District's housing supply as a whole at 1 April 2016 is likely to show the District as already having provision well above the Core Strategy's minimum target level of 7,200 dwellings by 2027.
- it is consistent with paragraph 85 of the NPPF.

2.8.16 A decision on which tracts of safeguarded land, if any, are to be released is currently the subject of a Local Plan Review. The Core Strategy has set the strategic approach in this review and the Sites and Policies Local Plan, 'PLAN Selby' will determine what parcels of land should be released for development through site allocations. A 'PLAN Selby' Preferred Options consultation is due out in the autumn 2016.

2.8.17 The above analysis means that Members can under the terms of the NPPF (para 215) give between moderate and significant weight to this proposal's conflict with SDLP Policy SL1 in the planning balance. (This weight is however not the full weight that can be attributed to a post NPPF up to date development plan policy such as within the Core Strategy) It is the officer view that significant weight should be given to the conflict because of the current circumstances on housing land supply and the adverse consequences for plan making in Sherburn-in-Elmet were the proposal to be approved. These consequences are described below.

2.8.18 Policies SP2 and SP5 of the Core Strategy set out some of the main elements of the development plan's spatial development strategy and its objective of creating sustainable communities. SDLP Policy SP2 identifies Sherburn-in-Elmet as a sustainable Local Service Centre which should accommodate residential and potentially employment growth between the years 2011 and 2027.

2.8.19 SDCS Policy SP5 seeks to provide a minimum of 790 dwellings in Sherburn-in-Elmet between these years. This represents 11% of the whole District's housing requirement of a minimum of 450 dwellings per annum during the plan period. Taking into account existing completions since the start of the plan period (2011), planning permissions and the delivery associated with this application, Sherburn-in-Elmet is likely to see some 937 new dwellings completed before 2027. This does

not take account of windfall residential development within the town's development limits.

2.8.20 Behind the policy wording of the Core Strategy, the reasoned justification of the plan refers to the possibility of an overall District wide housing supply which could include between 105 and 170 dwellings per annum from windfall sites above the 450 dwellings per annum, from around 2016. A windfall figure for Sherburn-in-Elmet is not provided. This shows that the Core Strategy has been adopted with an expectation that a significant number of dwellings above the minimum housing target could, in principle, be accommodated in the District.

2.8.21 However, there is about 45 hectares of safeguarded land designated around the town and not developed. There are currently two other planning applications with the Council for residential development on safeguarded land which, if approved, would add some 60 and 270 dwellings to the town's housing numbers. This would take the total dwelling commitment to 1267 for Sherburn-in Elmet. At 60% higher than the Core Strategy minimum housing target, without taking account of any windfall housing within the town's development limits, this clearly represents a significant departure from the Core Strategy's housing growth levels for the town and the spatial development strategy as it applies to Sherburn-in-Elmet. The appendix to this report provides a map showing the application site, the other application sites referred to in this report and the safeguarded land and other designations around Sherburn-in-Elmet.

2.8.22 In the particular circumstances in Sherburn, this raises concerns over:

- the lack of a strategic and integrated land use approach to the town's growth, including concerns over the need for a Sites and Policies Local Plan update of the Council's Community Infrastructure Levy charging policy to ensure that local services and infrastructure can be delivered in the town. .
- the 'bypassing' of the local community's desire and ability to shape the town's growth and to influence the delivery of appropriate new and improved facilities and services, and
- a potentially inappropriate increase in travel to work by car to West Yorkshire, contrary to the Core Strategy objective of minimising travel by car.
- an inappropriate scale of residential growth for the town compared to that envisaged by the Core Strategy.
- the earlier than necessary call for further changes to the Green Belt.

2.8.23 Some of these concerns were raised by the Inspector in his report on the examination of the Core Strategy (June 2013). He stated about the town, in paragraph 83 of his report, that:

"...the absence of many key services in the town and the limited opportunities for expanding its small town centre militate against greater housing growth unless part of a comprehensive planned expansion"

2.8.24 In addition paragraph 4.23 of the SDCS states, in relation to Sherburn-in-Elmet, that:

"The level of services and facilities available however, has not kept pace with growth. In these circumstances the Core Strategy aims to facilitate some growth in

market housing with a strong emphasis on provision of accompanying affordable housing, but priority will be given to improving existing services and expanding the range of local employment opportunities, in order to help counter the strong commuting movements to Leeds.”

- 2.8.25 However Member attention is drawn to the fact that since the Core Strategy was adopted additional employment and retail provision (the ‘Proving Ground’ and an Aldi food supermarket) are facilities for the town which have been permitted. These facilities have assisted in the delivery of Policies SP2 and SP5 of the Core Strategy. The Aldi food supermarket has now been built and is open.
- 2.8.26 Nevertheless the above concerns; the precedent that is likely to be set by the approval of any substantial tract of safeguarded land for residential development; the healthy housing land supply already in in the town, result in an officer conclusion that this application is in conflict with the Core Strategy’s spatial development strategy, in particular Policies SP2A, SP5 and SP14. These are up to date policies within a post NPPF adopted plan and therefore full weight can be given to them in the planning balance. The Council’s draft Strategic Housing Market Assessment broadly supports the overall scale of housing development proposed in the Core Strategy.
- 2.8.27 SDCS Policy SP2A,c This element of the Core Strategy policy cross references to development limits around settlements. A development limit draws a line on the policies map of the Local Plan and seeks to strictly control the type of development on one side of the line in order to protect the integrity of the countryside. The development limits are shown on the Selby District Local Plan policies map. These development limits are under review in the work on the Sites and Policies Local Plan ‘PLAN Selby’. This proposal would result in the loss of about 9 hectares of countryside and good quality agricultural land for a type of development not permitted by this policy. There is a close relationship between this policy and that of SDLP Policy SL1. One reinforces the other. At least moderate weight should be given to this conflict with development plan policy.
- 2.8.28 The applicant disagrees with the Council’s approach to the use of development limits in determining planning applications in 2016 from a plan adopted in 2005 and only planning for housing up to 2006. They consider this policy is out of date. It is the officer’s view that Members can continue to give weight to the development limits of the Selby District Local Plan where they provide an appropriate distinction between countryside and a main built up area; where growth in line with the Core Strategy is being accommodated and where the focus of growth should be within the development limits of the settlement. This is the position here. A number of Inspectors’ and Secretary of State’s decisions exist whereby development limit policies have been deemed out of date. These decisions do not reflect a recent Inspector’s decision on a proposal for residential development at North Duffield taking into account the specific circumstances of Selby District. The Inspector here concluded that with the five year housing land supply in the District and the Core Strategy setting up the process by which additional housing will be brought forward, the development plan policies on the supply of housing should be regarded as up to date.

What are the site specific impacts of the proposal and how do they relate to planning policy?

2.9 Design and Impact on the Character of the Area

- 2.9.1 Relevant policies in respect to design and the impacts on the character of the area include Policy ENV1 (1) and (4) of the Selby District Local Plan, and Policy SP19 “Design Quality” of the Core Strategy. In addition Policy SP8 of the Core Strategy requires an appropriate housing mix to be achieved.
- 2.9.2 Significant weight should be attached to the Local Plan policy ENV1 as it is broadly consistent with the aims of the NPPF.
- 2.9.3 Relevant policies within the NPPF, which relate to design include paragraphs 56, 60, 61, 65 and 200.
- 2.9.4 The application proposes outline consent with all matters reserved. An indicative illustrative masterplan has been submitted which demonstrates how the site could accommodate 135 dwellings, allowing for internal road networks, drainage areas and an area of recreational open space. The application site has a site area of 6.05 hectares which would achieve a density of approximately 22.3 dwellings per hectare which is considered to be low to medium density and as such would appear to be a reasonable density having had regard to the surrounding context.
- 2.9.5 With respect to the appearance of the proposals the submitted Planning Support Statement which includes the Design and Access Statement notes that the design and appearance of the scheme would be considered at the Reserved Matters stage but reference is made to the Village Design Statement and the context to the site. Taking into account the surrounding context of the site there is nothing to suggest that an appropriate appearance could not be achieved at reserved matters stage. The Indicative Layout notes a mix of properties which appear to be largely two storey. Providing that the scale of the properties proposed takes account of the surrounding context and in particular the inter-relationship with existing properties along the southern boundaries there is nothing to suggest that an appropriate scale cannot be achieved at reserved matters stage.
- 2.9.6 In terms of landscaping, this is reserved for future consideration, however it is noted that the site is generally open in character with trees and hedgerows located on the site boundaries. The submitted Planning Support Statement (Planning) notes that there are no trees or hedgerows within the site itself although it acknowledges that there are mature hedgerows on the boundaries which would be retained unless removal is required for creation of an access into the site.
- 2.9.7 Policy ENV3 of the Local Plan requires consideration be given to external lighting and it is considered, that an appropriate lighting scheme can be achieved at reserved matters stage. An exception to this is dependent upon whether access is to be gained directly off the bypass. This is likely to involve Green Belt land and concerns are expressed over the impact this would have on the openness of the Green Belt.

- 2.9.8 Policy SP8 states that proposals must ensure that the types and sizes of dwellings reflect the demand and profile of households evidenced from the most recent Strategic Housing Market Assessment. As this is an outline scheme there is no detail as to the proposed housing mix, however an appropriate mix could be achieved at reserved matters stage taking into account the housing needs identified in the Strategic Housing Market Assessment.
- 2.9.9 With respect to the landscape and visual impacts of the development, the Council has appointed a landscape consultant to undertake an assessment. The results of this assessment will be reported to Members at the meeting.

2.10 Flood Risk, Drainage, Climate Change and Energy Efficiency

- 2.10.1 Policies SP15, SP16 and SP19 of the Core Strategy require proposals to take account of flood risk, drainage, climate change and energy efficiency within the design.
- 2.10.2 The application site is located partly within Flood Zone 2 and partly in Flood Zone 1. In terms of Flood Zone 2 the NPPF states is of medium probability to flooding and defines it as having between a 1 in 100 and 1 in 1,000 annual probability of river flooding or a 1 in 200 and 1 in 1,1000 annual probability of flooding from the sea.
- 2.10.3 The PPG identifies dwelling houses as falling within the “more vulnerable” category and as such the proposals would need to pass the sequential test. In addition all applications in Flood Zones 2 and 3 must be accompanied by a Flood Risk Assessment. These are discussed in turn below.

Sequential Test

- 2.10.4 Paragraph 104 of the NPPF states that

“For individual developments on sites allocated in development plans through the Sequential Test, applicants need not apply the Sequential Test.”

- 2.10.5 However in designating safeguarded land in the Selby District Local Plan, the sequential test had not been undertaken and therefore it is now required for this planning application.
- 2.10.6 The applicant submitted a Sequential Test with the application but this is now out of date. The applicant was recently made aware of the need for an updated Sequential Test. In the absence of this update, officers informed the applicant that it was the Council’s view that the Sequential Test cannot be passed. The Policy Team has indicated that the following sites of lower flood risk than this application site have a deliverable housing yield within the next five years which combined together can accommodate more than the housing yield on the application site.

BRY/1 Land South of Byram Park Avenue	24 dwellings
EGG/2 Land East of High Eggborough Lane, Eggborough	39 dwellings
EGG/3 Land South of Selby Road, Eggborough	75 dwellings

- 2.10.7 Hence officer advice to Members is that this proposal fails the flood risk sequential test.

2.10.8 Paragraph 101 of the NPPF states that:

“The aim of the Sequential Test is to steer new development to areas with the lowest possibility of flooding. Development should not be allocated or permitted if there are reasonably available sites appropriate for the proposed development in areas with a lower probability of flooding.”

2.10.9 Hence the failure to pass the Sequential Test means that this development should not be permitted as it is in conflict with Policy SP15 of the SDCS and paragraph 101 of the NPPF. Policy SP15 of the SDCS should carry full weight in the planning balance.

Flood Risk Assessment

2.10.5 The applicants have submitted a Flood Risk and Surface Water Assessment (FRA) and a separate Sequential Test Report (STR). The FRA assesses the site characteristics, flood sources, considers the flood classification, and details mitigation measures. The proposed mitigation includes acknowledgement that floor levels to properties will need to be set above surrounding flood plain levels. That above ground surface water management methods will be required and that such surface water management features would need to be managed.

2.10.6 Residents have raised concerns that the application site is within Flood Zone 2 and that the drainage needs to be considered.

2.11.9 NYCC Flood Risk Management Team has been consulted on the proposals and they have recommended that a condition is attached if planning permission is given. The Environment Agency has been consulted and they have raised no objections, however have requested that a condition be imposed regarding progression in accordance with the submitted FRA and site levels.

2.11.10 With respect to surface water run-off this should be managed using sustainable drainage techniques to ensure that flood risk is not increased either on-site or elsewhere and the Internal Drainage Board would need to agree any discharge rates. Having consulted the Internal Drainage Board they have not provided any detailed comments.

2.11.11 Yorkshire Water have confirmed that they have no objections in principle to the proposals subject to conditions and the discharge of all surface water to watercourses.

Energy Efficiency and Climate Change

2.10.12 With respect to energy efficiency, in order to comply with the specific requirements of Policy SP16 which requires that 10% of total predicted energy should be from renewal, low carbon or decentralised energy sources a condition should be imposed on permission granted in order to ensure compliance with Policies SP15 and SP16 of the Core Strategy.

2.10.13 Having taken the above into account it is considered the proposed scheme can adequately address drainage subject to appropriate conditions. In addition climate change and energy efficiency measures can be secured via condition to ensure that

these are incorporated at reserved matters stage in accordance with Policies SP15, SP16 and SP19 of the Core Strategy and the NPPF. Flood risk can be mitigated on the site, but the proposal's failure of the sequential test requires a recommendation for refusal.

2.11 Impacts on Highway Safety

2.11.1 Policy in respect of highway safety and capacity is provided by Policies ENV1(2), T1 and T2 of the Selby District Local Plan, Policy SP19 of the Core Strategy and paragraphs 34, 35 and 39 of the NPPF. In addition Policies T7 and T8 of the Local Plan set out requirements for cycling and public rights of way.

2.11.2 The application is accompanied by a Transport Assessment together with updated technical notes which examine the existing highway network, traffic flows and accident levels and presents the anticipated traffic generation and highway impacts as a result of the development having also taken into account other permissions within Sherburn in Elmet. As noted earlier in this report initially the application sought agreement to the means of access for the site with access being shown from Springfield Road, however the application was amended to remove means of access and to leave this as a reserved matter. The January 2016 Highways Technical Note prepared by Bryan G Hall in support of the application notes access potentially being taken from the new roundabout which would be created by the developers of the site to the east of Hodgson's Lane which is subject of a separate application. All the reports conclude that the proposal would not have a material impact on the surrounding area and that traffic can be managed via a priority controlled junction onto Pinfold Garth if necessary. Detailed traffic assessments have been undertaken in line with NYCC requirements and to allow consistency with other applications in the area. The assessments conclude that the proposal will not have a severe impact on the local highway network.

2.11.3 North Yorkshire County Council Highways conclude that the application is acceptable in highways terms and would not have a severe detrimental impact on the network

2.11.4 It is accepted by officers that Sherburn-in-Elmet is designated as a Local Service Centre in the adopted Core Strategy and that the settlement represents a generally sustainable location in terms of access to jobs, local schools and services by a choice of transport modes. As with many settlements within the District there will be some reliance on the private motor vehicle to access employment and wider services and facilities. Nevertheless, the lack of the provision local shopping facilities within this site, especially if combined with approval for the two other adjacent sites for residential development and the lack of penetration of public transport into the site is of concern in terms of the site's detailed accessibility credentials.

2.11.5 Whilst the details of the design and location of the access to this site is not a matter for this outline planning application, the Council should if it is minded to approve the application be satisfied that a safe and suitable access can, in principle, be achieved. There is clearly some doubt over the deliverability of an access onto the bypass either directly from the application site or via the adjacent land to the east. Access onto Springfield Road raises no objection from the Local Highway Authority,

but would require the purchase of Selby District Council land. Whilst no agreement has been reached with the Council on this matter it is reasonable to assume that agreement could be reached in the future. Hence a safe and suitable access can be achieved for the application site.

2.11.6 It is therefore considered that the scheme is acceptable and in accordance with policies ENV1(2), T1, T2, T7 and T8 of the Local Plan, Policy SP19 of the Core Strategy and Paragraph 39 of the NPPF with respect to the impacts on the highway network subject to conditions.

2.12 Residential Amenity

2.12.1 Policy in respect to impacts on residential amenity and securing a good standard of residential amenity is provided by ENV1(1) of the Local Plan, as part of the Core Principles of the NPPF and within Paragraph 200 of the NPPF.

2.12.2 The detailed design of the properties, orientation, boundary treatments and relationship of windows to other properties would be fully established at reserved matters stage so as to ensure that no significant detriment is caused through overlooking, overshadowing or creating an oppressive outlook.

2.12.3 The Lead Officer has recommended conditions to minimise the impact on nearby residents of construction noise and disturbance to a minimum. A condition is also recommended to minimise the impact of noise within the new dwellings from the bypass.

2.12.4 Having taken into account the matters discussed above it is considered that an appropriate scheme could be designed at reserved matters stage which should not cause significant detrimental impact on the residential amenities of either existing or future occupants in accordance with policy ENV1(1) of the Local Plan and the NPPF.

2.13 Impact on Nature Conservation and Protected Species

2.13.1 Policy in respect to impacts on nature conservation interests and protected species is provided by Policy ENV1(5) of the Local Plan, Policy SP18 of the Core Strategy and paragraphs 109 to 125 of the NPPF.

2.13.2 With respect to impacts of development proposals on protected species planning policy and guidance is provided by the NPPF and accompanying PPG in addition to the Habitat Regulations and Bat/ Great Crested Newt Mitigation Guidelines published by Natural England.

2.13.3 The application is accompanied by a Preliminary Ecological Appraisal (April 2015) prepared by Brooks Ecological which establishes the impacts of the development and sets out recommendations for the development.

Nature Conservation Sites

2.13.4 There are no international sites of nature conservation interest within 5km of the site. One statutorily designated site, Sherburn Willows Site of Scientific Interest (SSSI) is within 2km of the site to the south west. The desktop data indicates the presence of 4 non-statutorily designated sites within 2km, these are Local Wildlife Sites and include 1 SSSI and 4 SINCs. Due to the separation distances involved it is not considered that the proposals would result in any significant adverse impacts on these sites.

Protected Species

2.13.5 The submitted Preliminary Ecological Appraisal (April 2015) considers the habitat on the site including the watercourses to the boundaries and ponds within the site, alongside hedgerows and trees in terms of bats, amphibians reptiles, terrestrial mammals and invasive species. Mitigation is noted in terms of limiting illumination in the vicinity of the dyke to limit impact on bats, limiting clearance of the site in the bird breeding season, a 6m buffer to the dyke to protect terrestrials mammals, enhancement of the hedges on the northern boundary for habitat purposes and the introduction of bat boxes within the site, nesting boxes within the site and provision of deadwood / rubble piles on the site periphery.

Habitats

2.13.6 The reports confirm that the site comprises agricultural land. The survey has not identified any habitats or plans species considered to be rare in the UK and therefore development of the site would have a negligible impact on the biodiversity value of the local area. The hedgerows noted as being are dominated by native species and the report advises that the hedgerows are cleared outside the bird breeding season and some enhancement of these hedgerows is also noted accordingly. A stand off to the Dyke which although not classified as BAP habitat could support such species is also noted. In the context of the submitted Report then there are a series of recommendations to protect the habitats of ecological value.

2.13.7 Natural England has raised no objection to the proposal. Yorkshire Wildlife Trust have objected but it is considered that a scheme for the provision of a detailed Ecological Enhancement Management Plan could be used to ensure the noted mitigation is detailed further.

2.13.8 Therefore, in the absence of any evidence to suggest contrary to the findings of the information submitted by the Applicants, and having had regard to standing advice from Natural England the findings of the submitted Reports are accepted.

2.13.9 Having had regard to all of the above it is considered that the proposal would accord with Policy ENV1(5) of the Local Plan, Policy SP18 of the Core Strategy and the NPPF with respect to nature conservation subject to a condition that the proposals be carried out in accordance with the recommendations set out in the submitted Report and a conditions on provision of a Ecological Enhancement Management Plan.

2.14 Affordable Housing

- 2.14.1 Policy SP9 of the Core Strategy states that the Council will seek to achieve a 40/60% affordable/general market housing ratio within overall housing delivery. In pursuit of this aim, the Council will negotiate for on-site provision of affordable housing up to a maximum of 40% of the total new dwellings on all market housing sites at or above the threshold of 10 dwellings.
- 2.14.2 The applicant has confirmed that they are prepared to provide 40% affordable units on site and that this could be secured via a Section 106 agreement. The Council's Lead Officer-Policy supports the provision of 40% of the units and has provided guidance to the developers with respect to the tenure of any affordable units to be secured so that this can be considered for inclusion in any Section 106 agreement.
- 2.14.3 However, officers are concerned that the applicant has not provided sufficient information to demonstrate that this level of affordable housing in the scheme is viable and can be delivered.(see paragraph 2.21.10 of this report).

2.15 Recreational Open Space

- 2.15.1 Policy in respect of the provision of recreational open space is provided by Policy RT2 of the Local Plan which should be afforded significant weight, the Developer Contributions Supplementary Planning Document, Policy SP19 of the Core Strategy and paragraphs 70 and 73 of the NPPF.
- 2.15.2 The indicative layout plan demonstrates that the site could incorporate on-site recreational open space, and this would need at the reserved matters stage accord with policy requirements set out in Policy RT2 and be maintained and managed by a management company. The delivery of the open space and its future management and maintenance would be part of a S106 Agreement.
- 2.15.3 However officers are concerned that the applicant has not provided sufficient information to demonstrate that this level of open space in the scheme is viable and can be delivered. (See paragraph 2.21.10 of this report)

2.16 Education, Healthcare, Waste and Recycling

- 2.16.1 ENV1 and CS6 of the Local Plan and the Developer Contributions Supplementary Planning Document set out the criteria for when contributions towards education, healthcare and waste and recycling are required. These policies should be afforded significant weight.
- 2.16.2 Having consulted North Yorkshire County Council Education and the Primary Care Trust, a contribution towards education facilities and for an additional consultation room at the Sherburn-in-Elmet medical practice has been requested. However, these monies are not now secured from the developer via a Section 106 agreement. Instead the developer would make the required payment to the Council based on the Community Infrastructure Levy Charge.
- 2.16.3 With respect to Waste and Recycling, a contribution of £65 per dwelling would be required and this would therefore be secured via Section 106 agreement.

2.17 Contamination

- 2.17.1 Policies ENV2 of the Local Plan and SP19 of the Core Strategy relate to contamination.
- 2.17.2 The application is accompanied by a Preliminary Investigation prepared by Dunelm Geotechnical and Environmental dated August 2015. The report does identify an area of “possibly infilled land” within the site (north east corner) and recommendations are made on gas testing in this area. The report outlines further investigations due to the size of the development and the Council’s Contaminated Land Consultant has advised that this conclusion and recommendations are appropriate.
- 2.17.3 The Council’s Contaminated Land Consultant has also advised that should consent be granted for the scheme then standard conditions CL1 to CL5 should be utilised.
- 2.17.4 In this context the scheme is considered to accord with Policy ENV2 of the Local Plan and SP19 of the Core Strategy.

2.18 Impact on Heritage Assets

- 2.18.1 Policies ENV1 and ENV28 of the Local Plan, Policies SP18 and SP19 of the Core Strategy and the NPPF require proposals to take account of their impacts on heritage assets and in particular in relation to this site, archaeology.
- 2.18.2 The NPPF paragraph 128 states Local Planning Authorities should require an applicant to describe the significance of any heritage assets affected, including any contribution made by their setting. The level of detail should be proportionate to the assets’ importance and no more than is sufficient to understand the potential impact of the proposal on their significance. Where a site on which development is proposed includes or has the potential to include heritage assets with archaeological interest, local planning authorities should require developers to submit an appropriate desk-based assessment and, where necessary, a field evaluation.
- 2.18.3 The applicants have not provided any specific information in relation to Archaeology and the site does not lie within an Archaeological Consultation Zone for consultation with the County Council. However, in the context of comments from residents a consultation request was sent to NYCC Heritage Officers.
- 2.18.4 They have advised that the proposed development lies within an area of archaeological potential and that a scheme of archaeological mitigation recording should be undertaken in response to the ground-disturbing works associated with this development proposal which can be secured via condition on any consent.
- 2.18.5 The proposals are therefore considered acceptable with respect to archaeology in accordance with Policies ENV1 and ENV28, of the Local Plan, Policies SP18 and SP19 of the Core Strategy and the NPPF.

2.19 Other Issues

- 2.19.1 Local residents have stated that there is no need for open market housing within the village. Selby District has under delivered with respect to housing for a number of years and as a result of this and as set out above does not have a five year housing supply of land which means that the Council's housing policies are out of date. This clearly demonstrates that there is a need for open market housing and it is also noted that the figures within the Core Strategy are minimum requirements.
- 2.19.2 Objectors have noted the presence of Japanese knotweed within the application site. This would need to be dealt with via a specialised contractor if present on site and the requirement to deal with this is covered by legislation outside planning to ensure its removal from the site.
- 2.19.3 Objectors have noted that an alternative access should be considered for the site development. The means of access to the site not for consideration on the application and therefore it is not determined or defined at this stage.
- 2.19.4 Objectors have raised concerns at the lack of parking for future occupiers from the development to park in the town centre to access services.
- 2.19.5 Objectors have raised concerns at the impact of the development on the boundaries of the site including the existing hedgerows. As noted earlier in the report the submitted ecology reports consider the impact on hedgerows and outline a series of mitigation measures to ensure these hedgerows are protected / managed appropriately. The mitigation and methods outlined in these reports can be controlled via conditions on any consent as such it is considered that the hedgerows have been appropriately assessed. In terms any boundary treatments other than hedges then the developer of the site would need to confirm the approaches to boundaries as part of the reserved matters submission or via condition discharge.
- 2.19.6 Objectors have made numerous comments regarding the impact of the proposals on the local infrastructure such as schools and the doctor's surgery. With respect to the leisure facilities, shopping facilities, and public toilets there is no policy requirement for these elements to be secured as part of the application, however it should be noted that development does quite often lead to improved services by virtue of the increased number of users. In terms of schools and healthcare infrastructure the site would be liable for payment of a CIL contribution which would be calculated in line with the schedule at the appropriate time.

2.20 Does the development plan point in favour of, or against, an approval of the application?

- 2.20.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 and section 70(2) of the Town and Country Planning Act 1990 requires that

"...applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise"

- 2.20.2 There are relevant policies in the development plan against which to assess this application and these are considered to be up to date or not out of date. Hence

due weight can be given to these relevant policies and the NPPF paragraph 14 test does not apply

2.20.3 This report must consider whether the application is in accordance with the development plan as a whole. The application accords with a number of important development management policies of the development plan such as affordable housing, residential amenity, drainage, climate change, archaeology, highways, contamination and protection of biodiversity.

2.20.4 The highway authority is not objecting to the proposal on the traffic impact of this proposal, nor on the cumulative impact of all three applications on this agenda. The highway authority is bound by the terms of the NPPF (paragraph 32) where it states that

“Development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe”.

2.20.5 Furthermore if approved this application and the other two applications on the agenda would make contributions to transport improvements and other infrastructure directly through a Section 106 agreement (local infrastructure) and indirectly through the Community Infrastructure Levy (monies spent at the discretion of the Council on strategic highway improvements).

2.20.6 The conformity of the proposal with the above development plan policies support the approval of the application. However this conformity is considered to be clearly outweighed by the conflict with the climate change and spatial development strategy plan policies referred to in this report, including Policy SL1 of the Selby District Local Plan.

2.20.7 Hence Members are advised to refuse the application in accordance with the development plan unless material considerations suggest otherwise

2.21 Do material considerations indicate a decision other than in accordance with the development plan?

2.21.1 The approval of this application would provide the following social, economic and environmental benefits and mitigation measures:

- the provision of a source of housing land supply towards the middle of the plan period.
- a contribution to the District’s five year housing land supply.
- the provision of additional market, affordable and high quality housing in the District.
- the provision of housing in close proximity to a major employment base of the District thereby providing opportunities for shorter travel to work distances
- the provision of a local workforce source for the employers of the nearby businesses, although this will depend upon potential employee skill matches and vacancy requirements.
- short term employment opportunities for the construction and house sales industry
- additional spending within the District from the future residents
- on site open space provision and on going maintenance

- Community Infrastructure Levy Fees
- waste and recycling bins
- a biodiversity buffer zone along the length of Hodgson's Lane
- 10% energy supply from decentralised and renewable or low carbon sources.
- timely implementation of necessary highway works

2.21.2 Taken together these would represent significant benefits for the District and are in line with the Government's planning and general policy objective of boosting housing land supply in sustainable locations. They should carry significant weight in the planning balance.

2.21.3 Other material considerations which are relevant are:

- The approval of the 'Proving Ground' (former airfield at Lennerton Lane) since the adoption of the Core Strategy will contribute to a wider range of employment opportunities in the area. Retail provision, through the opening of a new Aldi supermarket has improved local convenience shopping facilities in the town. Both these developments have contributed positively to the Core Strategy's Spatial Development Strategy for Sherburn-in-Elmet
- Paragraph 85 of the NPPF regarding when planning permission should be granted on safeguarded land.
- Concerns that planning permission for housing on this safeguarded land deprives the local community of what they could reasonably expect from that designation in the SDLP. This expectation would be that the community would be able to contribute to the plan making process on where, when and what growth of the settlement should take place. The importance of local communities shaping the growth and planning of their areas is one of core principles for planning in the NPPF (paragraph 17). The local community discussed options for growth in the town last summer in the 'Lets Talk' PLAN Selby community engagement.
- Concerns of Sherburn Parish Council, of the scope and robustness of the traffic data that has been used to assess the impact of traffic on the local highway network.
- Concerns over the lack of any shopping facilities for future residents within easy walking distance.
- Whether the only vehicular access of the development directly onto the bypass, and the consequential 'turning of the development's back' on Sherburn-in-Elmet is an appropriate form of development for the area and would perpetuate the perception of the local community that developments around the bypass represent a separate 'community' to Sherburn-in-Elmet.

2.21.4 Hence, there are clearly material considerations here that could suggest approval of the proposal despite the conflict with the development plan and they do carry significant weight. These are summarised in paragraph 2.21.1 Furthermore the first bullet point of paragraph 2.21.3 indicates that additional housing in the town has the benefit of being located in close proximity to a large employment area and a new food supermarket. There are also material considerations which do not support this proposal and these are included in paragraph 2.21.3

2.21.5 Members are advised that they can give significant weight to these 'non-supporting' material considerations as they relate to the:

- lack of community involvement to shape the future role and character of Sherburn-in-Elmet,
- conflict of this proposal with the NPPF on safeguarded land, and
- concerns over the principle set by this proposal's approval for the release of other safeguarded land in Sherburn-in-Elmet.
- concerns over the loss of land to residential development potentially required for future services and infrastructure
- lack of coordinated plan led land use planning to maximise the benefits of new development to the local community.

2.21.6 It is the officer view that, taken together, these material considerations do not suggest a decision other than in accordance with the development plan. Hence as concluded above a decision in accordance with the development plan points to a refusal of planning permission here.

2.21.7 The planning balance revolves around, the amount of weight to be given to the conflict with the development plan compared to the weight to be given to other material considerations, which include both significant planning benefits and matters which weigh against approval.

2.21.8 Paragraph 85 of the NPPF is one of the material considerations which weighs against the application and it provides an unequivocal and restrictive policy which specifically applies to this proposal. This states that:

“Planning permission for the permanent development of safeguarded land should only be granted following a Local Plan review which proposes the development.”

2.21.9 It is the officer view that the change in circumstances on the five year housing land supply in the District and the analysis above indicates that this application be refused in accordance with the development plan.

2.21.10 An additional material consideration relates to site viability. The application includes commitments to meet the policy requirements of the Council in order to make the development acceptable in planning terms. Specifically there is a commitment to the onsite provision of POS and 40% affordable housing. All access options for the site (albeit the details of how the access would be designed are not for consideration here) appear to involve significant costs either in terms of payment to third parties for land purchase or the construction of a new roundabout on the bypass. Such costs must therefore be covered in any viability appraisal in support of the application to demonstrate to the council that the commitments in the application are deliverable. In particular the benefits of the affordable housing you offer may not carry weight in circumstances where the viability evidence does not support its delivery. This is particularly so for this case when approval of the development requires a decision that material planning considerations outweigh the conflict with the development plan. In the absence of this viability less weight must be given to the applicant's statement of with Policy SP9 of the SDCS (affordable housing), and Policy RT2 of the SDLP (recreation open space)

2.22 Would the circumstances of this application justify a reason for refusal on the grounds of prematurity to the outcome of the Sites and Policies Local Plan, 'PLAN Selby'?

2.22.1 The National Planning Policy Guidance at paragraph 14 provides guidance on this matter. This states that:

Annex 1 of the National Planning Policy Framework explains how weight may be given to policies in emerging plans. However in the context of the Framework and in particular the presumption in favour of sustainable development – arguments that an application is premature are unlikely to justify a refusal of planning permission other than where it is clear that the adverse impacts of granting permission would significantly and demonstrably outweigh the benefits, taking the policies in the Framework and any other material considerations into account.

Such circumstances are likely, but not exclusively, to be limited to situations where both:

a) the development proposed is so substantial, or its cumulative effect would be so significant, that to grant permission would undermine the plan-making process by predetermining decisions about the scale, location or phasing of new development that are central to an emerging Local Plan or Neighbourhood Planning; and
b) the emerging plan is at an advanced stage but is not yet formally part of the development plan for the area.

Refusal of planning permission on grounds of prematurity will seldom be justified where a draft Local Plan has yet to be submitted for examination, or in the case of a Neighbourhood Plan, before the end of the local planning authority publicity period. Where planning permission is refused on grounds of prematurity, the local planning authority will need to indicate clearly how the grant of permission for the development concerned would prejudice the outcome of the plan-making process"

2.22.2 The normal parameters for justifying a reason for refusal on prematurity are underlined above (These underlines are not part of the PPG). Criterion b) above does not apply here, and criterion a) is likely to refer to a scale of development which is more 'central' to the overall spatial distribution of housing across the District and which would potentially undermine growth in Tadcaster and Selby. Nevertheless, approval of both this application on its own and in combination with other safeguarded land in Sherburn-in-Elmet would prejudice the outcome of the plan making process by

- i. releasing land that may not be required for development during the plan period and may be better retained as safeguarded land
- ii. releasing land prior to a Local Plan Review of safeguarded land as required by the development plan and the NPPF.
- iii. developing land that may be less sustainable in terms of accessibility and impact on the character and amenity of the area than other safeguarded land, the latter which should be the first choice for release during the plan period.
- iv. The development of land for residential use could prejudice the appropriate siting of community and other facilities/land uses to serve the increased/unplanned population.

2.22.3 Therefore, on balance, officers consider that a reason for refusal on prematurity grounds is justified.

3.0 Recommendation

Reasons for refusal

Subject to the officer's update report which may include additional reasons for refusal, the reasons for refusal recommended are:

- 1. Approval of this application for housing development at this time without the support of a Local Plan Review, and without any overriding need to release safeguarded land for housing in the District and the town of Sherburn-in-Elmet would be in conflict with the protection afforded to safeguarded land by Policy SL1 of the Selby District Local Plan and paragraph 85 of the National Planning Policy Framework.**
- 2. Approval of this application for housing development without any current overriding planning need is contrary to the aims of Policy SL1 of the Selby District Local Plan; paragraph 85 of the National Planning Policy Framework (bullet 4) and paragraph 17 (bullet 1) of the National Planning Policy Framework by preventing i) a plan led approach to the phased release and integrated land use planning of this and all the other safeguarded land in Sherburn-in-Elmet; and ii) the consequential lack of community involvement which empowers local people to shape their surroundings.**
- 3. Approval of this application for housing development and the planning principle this would set locally for the potential development of up to about 45 hectares of safeguarded land for housing in Sherburn-in-Elmet in addition to the housing supply already provided in the town, is in conflict with the recently adopted Core Strategy's spatial development strategy for this Local Service Centre and Selby District Core Strategy Policies SP2 (A) (a), SP5 (A) and (D) and SP14 (A).**
- 4. The growth of Sherburn-in-Elmet in a planning application housing led development process presents an unacceptable risk of an unsustainable pattern of growth of the town which, by virtue of a physically constrained town centre, the lack of a Site Allocations Local Plan Community Infrastructure Levy Charging Scheme to guarantee the delivery of local infrastructure, and the loss of land to residential development, could result in the lack of provision of accessible local services that reflect local community need and support the community's health, social and cultural well-being:- inconsistent with the social dimension of sustainable development contained in paragraph 7 of the National Planning Policy Framework and Policy SP5 of the Selby District Core Strategy.**

5. **The development of this site for housing will result in the loss of countryside and moderately good quality agricultural land beyond the development limits of the Selby District Local Plan Proposals Map and in conflict with Policy SP2 A (c) of the Selby District Core Strategy**
6. **Approval of this application and the planning principle this would set locally for the release of further safeguarded land for residential development will prejudice the outcome of the local plan process by making decisions about land use and the scale and location of development that should, as set out in the development plan and the NPPF, be taken as part of the local plan process.**
- 7 **The application site and proposal, by virtue of it lying predominantly within Flood Zone Level 2 as indicated on the Environment Agency's Flood Risk Map and failing the National Planning Policy Framework and Planning Policy Guidance Sequential Test on flood risk, would be in conflict with Policy SP15 of the Selby District Core Strategy and paragraph 101 of the NPPF.**
- 8 **Insufficient information is provided with this application to demonstrate that access can practicably be achieved without incurring significant cost that would affect the viability of the proposal. The application therefore fails to demonstrate that the scheme itself is viable and that the necessary planning obligations to achieve an acceptable development can be delivered. The proposal is therefore contrary to para 173 of the NPPF which indicates that pursuing sustainable development requires careful attention to viability and costs in plan making and decision taking.**

3.1 Legal Issues

3.1.1 Planning Acts

This application has been determined in accordance with the relevant planning acts.

3.1.2 Human Rights Act 1998

It is considered that a decision made in accordance with this recommendation would not result in any breach of convention rights.

3.1.3 Equality Act 2010

This application has been determined with regard to the Council's duties and obligations under the Equality Act 2010. However it is considered that the recommendation made in this report is proportionate taking into account the conflicting matters of the public and private interest so that there is no violation of those rights.

3.2 Financial Issues

3.2.1 See paragraph 2.21.10 regarding site viability.

4. Conclusion

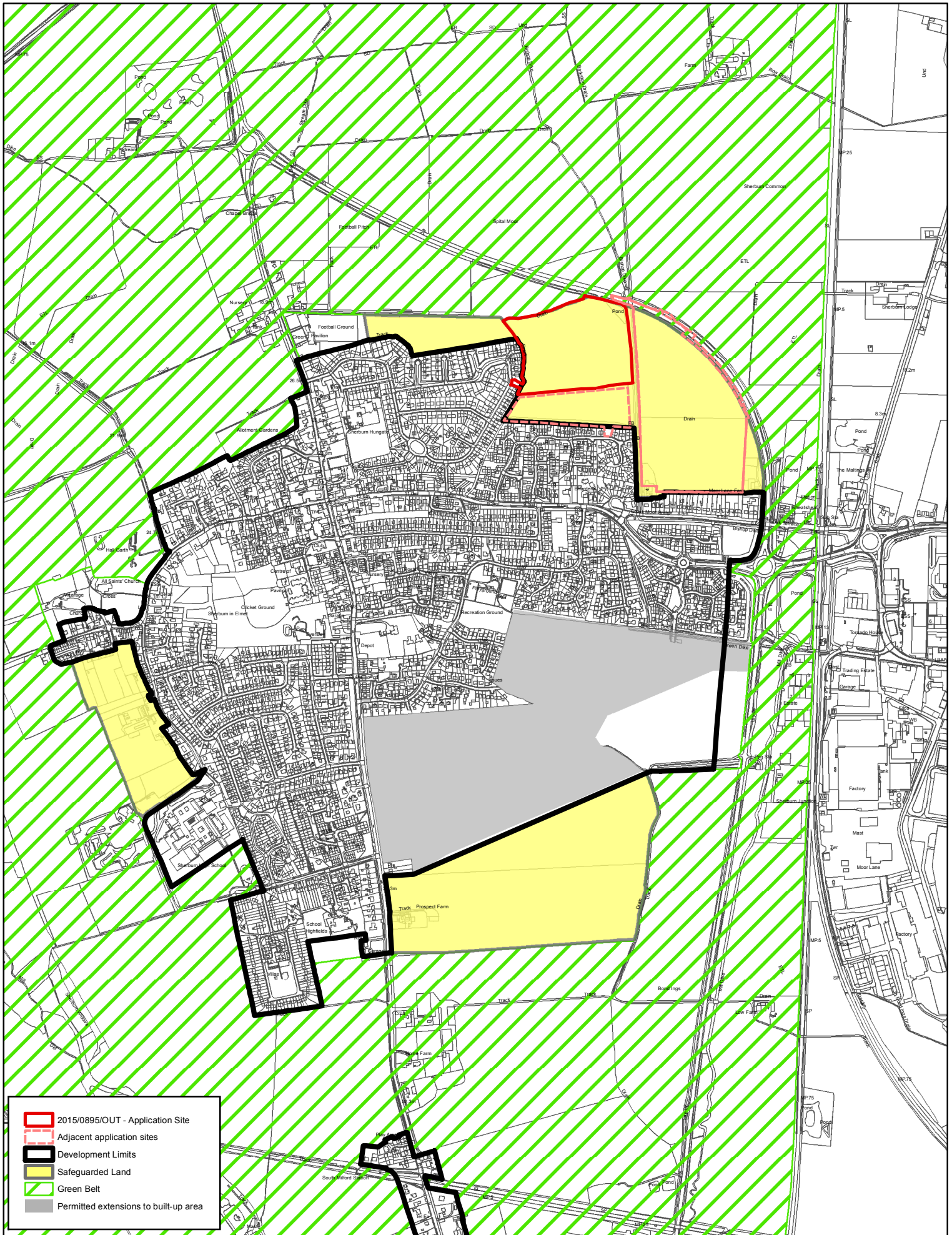
4.1 As stated in sections 2.20, 2.21 and 2.22 of the report.

5. Background Documents

- 5.1 Planning Application file reference 2015/0895/OUT and associated documents.

Contact Officer: David Sykes (Planning Consultant)

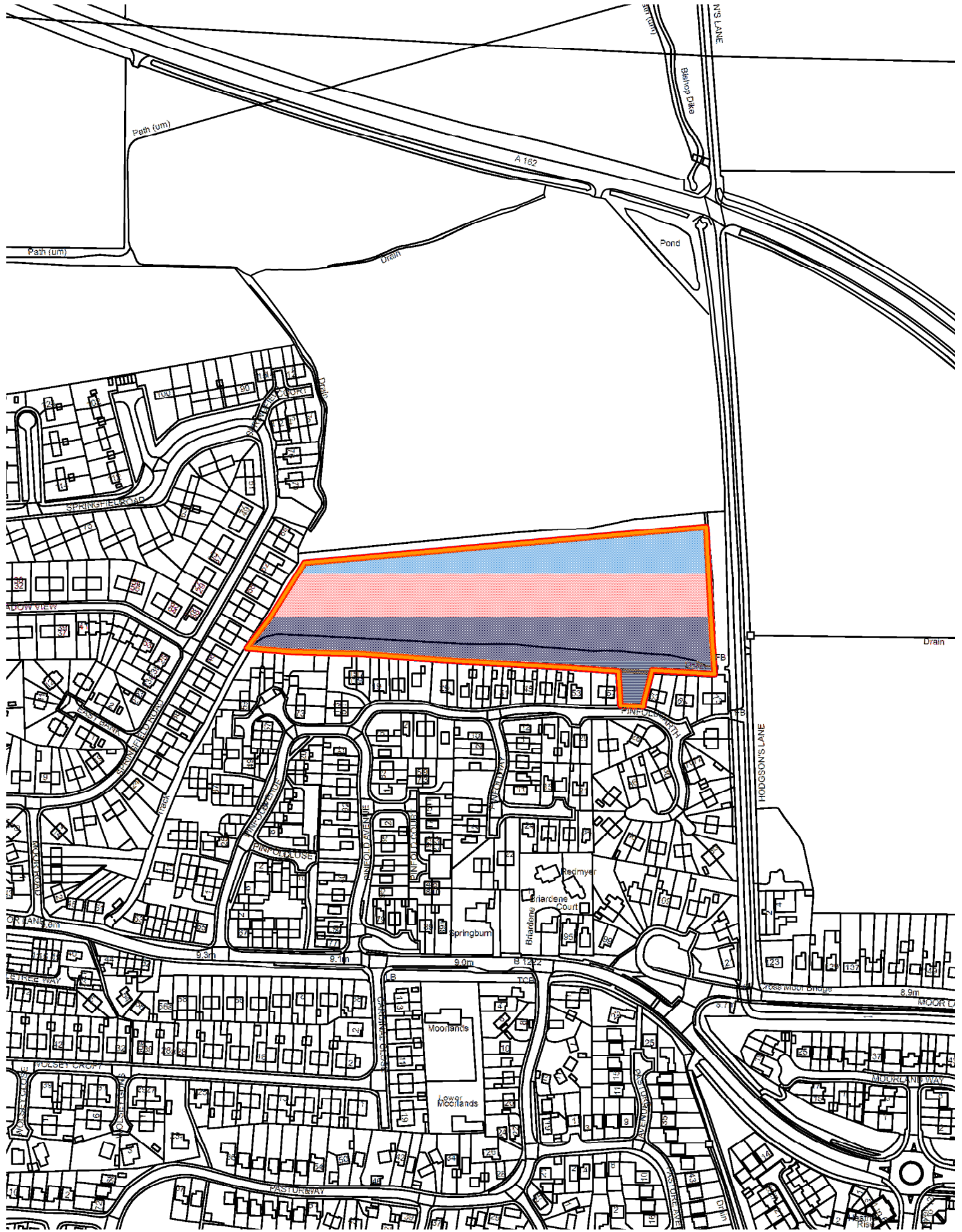
Appendix 1: Application Site Context.



Application Site Context - 2015/0895/OUT



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APPLICATION SITE

Item No: 2015/0848/OUT

Address: Pinfold Garth, Sherburn in Elmet

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To: Planning Committee
Date: 29 June 2016
Author: David Sykes (Planning Consultant)
Lead Officer: Jonathan Carr (Interim Lead Officer – Planning)

APPLICATION NUMBER:	2015/0848/OUT	PARISH:	Sherburn in Elmet Parish
APPLICANT:	Mr David Wainwright	VALID DATE:	20.08.2015
		EXPIRY DATE:	19.11.2015
PROPOSAL:	Outline application for residential development comprising up to 60 dwellings, areas of open space, landscaping and associated infrastructure with all matters reserved except access on land to north		
LOCATION:	Pinfold Garth Sherburn In Elmet North Yorkshire		

This application has been brought before Planning Committee due to it being a departure from the Development Plan and it is considered locally controversial given the level of objections.

A request was also made for the application to be considered by the Committee by Cllr Buckle on the basis that Sherburn in Elmet could not cope with any more development”, however this request was lodged in December 2015 outside the timeframe applicable for such call in.

Summary:

The length of this summary is necessitated by the number of relatively complex planning issues raised by the application.

The application proposes outline planning consent for the erection of 60no. dwellings with associated vehicular access (all other matters such as design and landscaping are reserved for later determination). The site is located in an area of open countryside to the north east of the town and immediately adjacent to its defined development limits. It is

agricultural land but currently not in productive use. The existing residential built up area is immediately to the south and west of this site. The land to the north and east is in arable agricultural use and these parcels of land are separated from the application site by trees and hedgerow. A public footpath runs along the western boundary and Hodgson's Lane and a drainage dyke runs alongside the eastern boundary. Access is proposed between residential properties on Pinfold Garth.

The land to the north and east of this site are the subject of two other applications for residential development which appear on this agenda.

In discussions with the applicant on this proposal and formulating recommendations officers have had regard to Policy SP1 of the Core Strategy; the presumption in favour of sustainable development, and the decision taking section of the NPPF.

Members' attention is drawn to the following policy context contained within the NPPF (para 187):

"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."

However since the District has achieved a 5 year housing land supply it has not been possible to find a solution to the 'in principle' and significant conflict with the Selby District Local Plan Policy SL1 (Safeguarded Land).

Nevertheless, this summary firstly sets out for Members those aspects of this proposal which support an approval of this application.

The approval of this application would provide the following social, economic and environmental benefits and mitigation measures:

- the provision of a source of housing land supply towards the middle of the plan period.
- a contribution to the District's five year housing land supply.
- the provision of additional market, affordable and high quality housing for the District.
- the provision of housing in close proximity to a major employment base of the District thereby providing opportunities for shorter travel to work distances
- the provision of a local workforce source for the employers of nearby businesses, although this will depend upon potential employee skill matches and vacancy requirements.
- short term employment opportunities for the construction and house sales industry
- additional spending within the District from the future residents
- on site open space provision and on-going maintenance
- Community Infrastructure Levy Fees to be provided on commencement of development.
- waste and recycling bins
- a biodiversity buffer zone along the length of Hodgson's Lane
- a 10% energy supply from decentralised and renewable or low carbon sources.
- the timely implementation of necessary highway works

Taken together these represent significant benefits and are in line with the Government's planning and general policy objective of boosting housing land supply in sustainable locations. They should carry significant weight in the planning balance.

This proposal must be determined in accordance with the development plan, unless material considerations such as the above benefits suggest otherwise. In other words the starting point for the decision making process should be a decision on whether the proposal is in accordance with the development plan as a whole.

This report identifies that the proposal is in conflict with a number of development plan policies which relate to the supply of housing, including

- Policy SL1 of the Selby District Local Plan which protects safeguarded land until its release is required and supported by a Local Plan or land supply review.
- Policy SP2(A)(c) of the Selby District Core Strategy (SDCS) which strictly controls development in the open countryside
- Policies SP2(A)(a), SP5(A)&(D) and SP14(A) of the SDCS which seek to secure an appropriate level of growth for Sherburn-in-Elmet matched with an appropriate provision of community services, infrastructure and shops.

The proposal is also in conflict with Policy SP15 relating to sustainable development and climate change. A significant part of the site lies within a moderately high risk flood zone (Zone 2 in terms of the Environment Agency mapping classification) and there are sites elsewhere in the District that in combination can deliver the number of dwellings on this site on lower flood risk land.

The application proposes development on land which the development plan, through Policy SL1 of the Selby District Local Plan (SDLP), does not intend to release until

- it is required and
- it has been identified for release in a Local Plan or housing land supply review.

This is because the application site forms part of a planning policy designation called 'safeguarded land'. This type of land was often originally part of the Green Belt and then taken out of the Green Belt to provide a long term supply of potential development land. In doing so this avoids the need to change Green Belt boundaries to accommodate development until well beyond the plan period.

The circumstances described in the two bullets above do not currently exist and this development plan policy approach to only release safeguarded land apart from within a plan led context is clearly supported by paragraph 85 (bullet 4) of the National Planning Policy Framework (NPPF).

The application proposes residential development on land which is in the open countryside and outside the development limits of Sherburn-in-Elmet. This is not a form of development which is permitted in Policy SP2(A)(c) of the SDCS and there is clear conflict with this policy.

Policies SP2(A)(a), SP5(A)&(D) and SP14(A) of the SDCS seek to secure an appropriate level of growth for Sherburn-in-Elmet matched with an appropriate provision of community services, infrastructure and shops. It is the officer view that, with the minimum housing requirement for Sherburn-in-Elmet up to 2027 already essentially being built out, this

proposal (albeit a relatively modest size), and the principle it sets for further release of large tracts of safeguarded land around the town does not represent an appropriate level of growth for the town and risks a deficiency in community facilities, infrastructure and shops which could result in an unsustainable pattern of growth to the town. The appendix to this report provides a map showing the application site, the other application sites referred to in this report and the safeguarded land and other designations around Sherburn-in-Elmet.

Notwithstanding the above conclusion, the officer report draws Member attention to the need to consider that since the Core Strategy was adopted additional employment and retail provision (the 'Proving Ground' and an Aldi food supermarket) are facilities for the town which have been permitted. These facilities have assisted in the delivery of Policies SP2 and SP5 of the Core Strategy. The Aldi food supermarket has now been built and is open.

Later in this report it is explained in more detail why the proposal is considered to be in conflict with these policies and advises what weight can be given to the conflict with these proposals. Members are advised that they can give significant weight to these conflicts in the planning balance.

The applicant argues against giving any more than limited weight to Policy SL1 (SDLP) and Policy SP2(A)(c). Officer's attention has been drawn to a number of Inspector's and Secretary of State's decisions on these matters. The main report explains that officers consider the circumstances of the development plan context in Selby District are different to those in these decisions.

The applicant argues that the proposal is sustainable development and that its approval supports the Core Strategy's Spatial Development Strategy Policies SP2 and SP5. One of the applicant's main reasons for making this case is that in Policy SP5 housing provision for the town (790 dwellings up to 2027) and the District (7,200 dwellings up to 2027) is a minimum requirement that is expected to be exceeded through the permissions likely to be granted for windfall housing above the minimum. The main report explains why officers disagree with the applicant on this matter.

This report identifies that, whilst there is conflict with the development plan, the proposal is in accordance with a number of important development management policies within the development plan, including affordable housing, residential amenity, drainage, climate change, archaeology, highways, contamination and protection of biodiversity. This information is set out in detail in the report.

Nevertheless, the recommended greater weight to be given to the conflict with the housing supply, spatial development and climate change policies compared to the weight to be attached to the conformity with other policies, means it is the officer view that this proposal is not in accordance with the development plan as a whole.

If Members agree with this conclusion, the application should be refused unless material considerations indicate otherwise.

In this case, there are a number of material considerations which could 'indicate otherwise' and they carry significant weight as stated above. There are also some material considerations which do not support approval of this proposal. It is the officer view that

these 'non-supporting' material considerations are also given significant weight as they relate to the:

- lack of community involvement to shape the future role and character of Sherburn-in-Elmet,
- conflict of this proposal with the NPPF on safeguarded land, and
- concerns over the principle set by this proposal's approval for the release of other safeguarded land in Sherburn-in-Elmet.
- concerns over the loss of land to residential development potentially required for future services and infrastructure
- lack of coordinated plan led land use planning to maximise the benefits of new development to the local community.

The report identifies that Sherburn-in-Elmet Parish Council and many local residents are extremely concerned about, and object to, the likely traffic impact of this application. However North Yorkshire County Council Highways have, following a review of the applicant's transport assessment, concluded that the impact on the local highway network from this application itself or in combination with the other two applications on this agenda could not be regarded as "severe". This being the necessary test in the NPPF to determine the acceptability of traffic impact, and with mitigation measures forming part of the proposal, officers recommend that Members consider the traffic impact of the proposal as acceptable.

Taking into account this 'mixed' picture of material considerations both for and against the proposal, it is the officer view that, taken together, material considerations do not suggest a decision other than a refusal in accordance with the development plan.

The planning balance revolves around, the amount of weight given to the conflict with the development plan compared to the weight to be given to other material considerations, which include both significant planning benefits and matters which weigh against approval.

Paragraph 85 of the NPPF is one of those material considerations that weigh against this proposal and it provides an unequivocal and restrictive policy which specifically applies to this application on safeguarded land.

It is the officer view that the change in circumstances on the five year housing land supply and the analysis above indicate that this application be refused.

Subject to the results of the assessment currently being completed by the Council's appointed landscape consultant the reasons for refusal below may be added to in an update note at committee.

Recommendation

Reasons for refusal

Subject to the officer's update report which may include additional reasons for refusal, the reasons for refusal recommended are:

- 1. Approval of the application for housing development at this time without the support of a Local Plan Review, and without any overriding need to release safeguarded land for housing in the District and the town of Sherburn-in-**

Elmet would be in conflict with the protection afforded to safeguarded land by Policy SL1 of the Selby District Local Plan and paragraph 85 of the National Planning Policy Framework.

- 2. Approval of the application for housing development without any current overriding planning need is contrary to the aims of Policy SL1 of the Selby District Local Plan; paragraph 85 of the National Planning Policy Framework (bullet 4) and paragraph 17 (bullet 1) of the National Planning Policy Framework by preventing i) a plan led approach to the phased release and integrated land use planning of this and all the other safeguarded land in Sherburn-in-Elmet; and ii) the consequential lack of community involvement which empowers local people to shape their surroundings.**
- 3. Approval of the application site for housing and the planning principle this would set locally for the potential development of up to about 45 hectares of safeguarded land for housing in Sherburn-in-Elmet in addition to the housing supply already provided in the town, is in conflict with the recently adopted Core Strategy's spatial development strategy for this Local Service Centre and Selby District Core Strategy Policies SP2 (A) (a), SP5 (A) and (D) and SP14 (A).**
- 4. The growth of Sherburn-in-Elmet in a planning application housing led development process presents an unacceptable risk of an unsustainable pattern of growth of the town which, by virtue of a physically constrained town centre, the lack of a Site Allocations Local Plan Community Infrastructure Levy Charging Scheme to guarantee the delivery of local infrastructure, and the loss of land to residential development, could result in the lack of provision of accessible local services that reflect local community need and support the community's health, social and cultural well-being:- inconsistent with the social dimension of sustainable development contained in paragraph 7 of the National Planning Policy Framework and Policy SP5 of the Selby District Core Strategy.**
- 5. The development of this site for housing will result in the loss of countryside and moderately good quality agricultural land beyond the development limits of the Selby District Local Plan Proposals Map and in conflict with Policy SP2 A (c) of the Selby District Core Strategy**
- 6. Approval of this application and the planning principle this would set locally for the release of further safeguarded land for residential development will prejudice the outcome of the local plan process by making decisions about land use and the scale and location of development that should, as set out in the development plan and the NPPF, be taken as part of the local plan process.**
- 7. The application site and proposal, by virtue of it lying predominantly within Flood Zone Level 2 as indicated on the Environment Agency's Flood Risk Map and failing the National Planning Policy Framework and Planning Policy Guidance Sequential Test on flood risk, would be in conflict with Policy SP15 of the Selby District Core Strategy and paragraph 101 of the NPPF.**

1. Introduction and background

1.1 The Site

- 1.1.1 The application site is located outside the defined development limits of Sherburn in Elmet, being located to the north east of the existing settlement boundary.
- 1.1.2 In addition the site is on an area designated as safeguarded land within the Local Plan.
- 1.1.3 The proposed access to the site is to be taken from Pinfold Garth between existing residential properties.
- 1.1.4 The site is currently unused grassland which is bounded by a combination of mature hedgerow and trees.
- 1.1.5 There are residential properties to the south and west of the site which are mainly two storey in height. The land to the north and east is agricultural land in arable cultivation.
- 1.1.6 There is a single track pathway running alongside the eastern boundary of the site to the A162 formed by Hodgsons Lane.
- 1.1.7 There is an existing drainage ditch running alongside the site between the site boundary and Hodgson Lane and to the immediate north of the site. The site is situated part within Flood Zone 1 and 2.

1.2. The Proposal

- 1.2.1 The application is for outline consent for 60 dwellings including details of vehicular access. All other matters are reserved.
- 1.2.2 The proposed vehicular access would be taken from Pinfold Garth via a new access between existing residential properties.
- 1.2.3 The submitted indicative layout (which shows the originally requested 70 dwellings) shows a mixture of dwellings with including detached, terraces and semi-detached units ranging between 2 and 2 and half storeys.
- 1.2.4 The indicative layout plan demonstrates how recreational open space and a series of landscaped buffers could be provided on site as well as how the development could link to the wider residential area.

1.3 Planning History

- 1.3.1 There is no site specific planning history.
- 1.3.2 Members should note that there are two further outline applications for residential development under planning application references (2015/0895/OUT and 2016/0195/OUT) for the immediate area surrounding the application site. Application 2015/0895/OUT is for the land to the north of the application site and

both are on the Agenda. An identical application to 2016/0195/OUT was submitted last year (2015/0544/OUT) and considered at the 11th November 2015 Committee. Members resolved to grant consent. However the S106 was not signed prior to the publication of the 5 year Housing Land Supply in December 2015 and officers were seeking to prepare a report to Planning Committee reporting on the impact of these changed circumstances. The applicants sought to protect their position by lodging an appeal within the required deadlines. The appeal was made on the grounds of non-determination by the local planning authority and at the same time an identical application was submitted to the Council. The determination of this appealed application is now for the Planning Inspectorate to make and there is a report on this matter on the agenda.

1.4 Consultations

1.4.1 Sherburn in Elmet Parish Council

Comments on the application have been received from the Parish Council on the 24th September 2015, 10th November 2015, 24th November 2015 and 16th February 2016.

Initial comments from the Parish Council noted that there are 3 adjacent sites on Hodgson's Lane and they need to be considered together, not independently (2015/0544/OUT for 270 homes / 2015/0895/OUT for 135 homes and 2015/0848/OUT for 70 homes. The comments made in relation to this application are as follows.

Flooding

This is an important item for residents, understandably so given the flooding which occurred in August 2014. The Hodgson's Lane sites all have flooding issues, and concerns regarding the handling of these matters are highlighted by the Strata site (2014/1091/REM) where the relevant documents refer to discharge of surface water into the northern watercourse, whereas the developer used the southern watercourse and stated that they had permission to do so. Planning Enforcement nevertheless found them in breach of planning conditions.

The Flood Risk Assessment on 2015/0848/OUT states that no intrusive soils investigation has been carried out, but nevertheless concludes that the risk of flooding from groundwater is low. It is our understanding that similar unsafe assumptions were made in respect of the Strata site and were found to be wrong when trial pits were dug and immediately filled with water. Our initial concerns regarding this were confirmed when the Sustainable Urban Drainage Officer objected to this application on the grounds that it does not provide sufficient information.

The Flood Risk Assessment does not demonstrate that the necessary Sequential Test has been passed and on this issue alone planning permission should be refused. We would specifically point out that the comments regarding the Sequential Test in the Flood Risk Assessment document produced by ARP in support of this application makes no mention of the following safeguarded land:-

- South-East of SHB/1, Sherburn in Elmet 7.3 hectares

- East of Prospect Farm, Low Street, Sherburn in Elmet 12.8 hectares
- West of Garden Lane, Sherburn in Elmet 6.3 hectares

Ecology

We note the presence of bats on the site and that Yorkshire Wildlife Trust have put in an objection. The Ecology reports which have been provided for all three sites provide a very limited picture of the wildlife value of these sites. We would specifically point out that the site for 70 homes (2015/0848/OUT) has hosted breeding Grasshopper Warblers, Linnets, Yellowhammers and Corn Buntings and in winter is used by Common Snipe and sometimes significant numbers of Fieldfare and Redwing. These are all Red Listed species under the Birds of Conservation Concern criteria.

Japanese Knotweed

This site is contaminated with Japanese Knotweed which the District Council have been notified of. If planning permission is granted then a condition will be required to ensure that Japanese Knotweed has been eradicated before any construction work commences.

Archaeology

The Parish Council request that there should be an archaeological evaluation of the sites.

Planning Policy

The Parish Council is of the view that no further planning permissions for housing will be required prior to 2027 on the basis that the Core Strategy figure has already been met by granting consent for 718 houses. The Council opposes discounting of all planning permissions by 10% in Sherburn (where houses are under construction on three large sites), it is very unlikely that there will be a 10% shortfall, the whole of each site is likely to be developed with the specified number of houses within the plan period. Additional consents will mean that these developments take place at a slower rate with increased disruption to the lives of residents and local infrastructure.

Even if the 10% "discount" were to be accepted this would generate a requirement for a further allocation of 60 dwellings. This is likely to come forward on smaller sites and granting permission for a further 270 houses is therefore not justified in the plan period.

The District Council must now recognise that simply building houses and providing employment without appropriate infrastructure (including roads as well as services and facilities) is NOT sustainable development. In addition, whilst our schools can accommodate the current increase in pupil numbers from existing permissions (with the planned growth of Athelstan and Hungate Schools) any larger increase in population in the plan period will result in insufficient capacity at Sherburn and South Milford for primary school children.

Highways

We also note that for 2015/0895/OUT and 2015/0848/OUT the traffic generated by the developments has not been calculated using the Sherburn specific figures provided by the Local Highways Authority. This results in an underestimate of the traffic generated, so the figures they provide are inaccurate.

The Parish Council are concerned that the proposed entrance is relatively narrow and will be a serious problem for heavy vehicles during the construction phase. We also feel that Pinfold Garth is too narrow and has too much on street parking to form a safe and suitable access to the site.

Highways - Neighbouring Villages

As far as we can see no consideration has been given to the impact of these developments on neighbouring villages.

Unoccupied Buildings

Extract from Transport Issues and Developments: A Guide, Appendix D, Checklist for a Transport Assessment (NYCC)

Does the report consider other committed developments (or vacant buildings etc.) which might have a noticeable impact on the base traffic assumptions?

Sherburn Industrial Estate has vacant buildings with a floor space in excess of 60,000 sqm. <http://www.rightmove.co.uk/commercial-property-to-let/Sherburn-In-Elmet.html>. Contrary to the NYCC Checklist no allowance has been made for these buildings, so the analysis is not robust.

Further comments from the Parish Council in 10th November 2015 focused on the submitted Transport Assessment and noted the following points:

- Mapping software shows that the quickest route into Leeds from the 70 home development will be through the traffic signals in the centre of Sherburn. However the Transport Assessment does not show any traffic using that route, presumably in an attempt to downplay the contribution this application would make to congestion in the village centre.
- Cardinal Close is Access Only so the routing described above is not possible.
- The traffic signals are currently running on a 126 second cycle during the PM rush hour. The Transport Assessment for the 270 home development was based on a 318 second cycle, now we are presented with a 364 second cycle. These changes to the cycle time in an obvious attempt to come up with "better" figures are unhelpful. The essential step of validating the model would be much easier and more robust if the modelling was done on the basis of the current 126 second cycle (thus allowing direct comparison with the video footage which is available).
- The Inspector's comments in Planning Appeal Ref. APP/Z4718/A/13/2191213 are relevant here:- "83. It is argued that traffic generated by the proposed supermarket would worsen the situation at the junction by only a very small amount. That is not a compelling argument. If the existing situation is technically inadequate, something that would make matters worse cannot be considered acceptable in the absence of any proposal that could provide a satisfactory resolution."

- It is our understanding that MOVA will not assist with congestion here as if a junction overloads without it will probably still be overloaded with it. The consultants claim a 13% improvement, but this is a generic figure which has been bandied about for years and cannot be taken as applying to a specific junction. If the consultants believe MOVA will provide a 13% improvement for the village centre traffic signals then they have to provide evidence specific to this junction.
- The Parish Council have three counts for use of the pedestrian crossing at this junction during the PM rush hour and they are:-
 - 23 Feb 2012 = 23 times
 - 5 March 2012 = 23 times
 - May 2012 = 22 times.
- The figures suggested by the developers equate to the pedestrian crossing being used 20 times in the PM rush hour; our surveys show that that figure is
- too low. Furthermore with committed and proposed developments for 1193 homes to add to the existing figure of 2,800 homes (an increase of 42%) it is logical to suggest that demand for the crossing will increase from 22/23 to 27/30.
- We would also draw your attention to comments made by Cannon Highways in a Transport Assessment in support of planning application 2015/0367/FUL:- “ 2.5.3.9 The results of the LinSig model in Tables 2.5 and 2.10 are based on a cycle time of 120 seconds which is not normally acceptable for a junction with controlled pedestrian crossing facilities where the cycle time is usually 90 seconds or less” As noted above the existing cycle time is 126 seconds and that can be described as "not normally acceptable", but the consultants are proposing a 364 second cycle which includes a 199 second wait for the pedestrian stage. Clearly residents faced with a wait of over three minutes will be tempted to cross in an unsafe manner. At a congested junction which is overcapacity and has known issues with drivers jumping the lights there is clear potential for accidents and to put pedestrians at risk in this manner is not acceptable.
- The consultants advance a series of highly questionable reasons why the traffic figures will be lower. In the interests of brevity we will not address these as they are clearly an attempt to move the goalposts and produce some less alarming figures.
- A162/B1222 roundabout (A162/Moor Lane junction) - The Transport Assessment in support of the adjacent site for 270 homes (2015/0544/OUT) shows the A162/B1222 roundabout close to capacity (maximum RFC of 0.833, just short of the maximum recommended 0.85... but we are advised that it has been modelled incorrectly. There's a short distance of two approach lanes on the B1222 (E) approach, and the software assumes traffic uses all available lanes. However, only about 10% of traffic will use the second lane (right-turners), meaning the actual RFC (and hence queues and delays at the junction) will be much higher. This junction would therefore likely require improvement. (JCT Consultancy note 'ARCADY Health Warning' refers).
- This latest Transport Assessment is supposed to measure the cumulative impact of three developments, but does not even mention this roundabout. This is a fundamental flaw which has to be addressed.
- No consideration has been given to the impact of these developments on neighbouring villages. A specific concern is that the 270 home development will send 36% of its vehicle traffic into Leeds via Saxton. During the PM rush

hour that equates to 51 vehicles, but the impact of this and the need for any mitigation measures has not been considered.

- Unoccupied Buildings - Extract from Transport Issues and Developments: A Guide, Appendix D, Checklist for a Transport Assessment (NYCC) - Does the report consider other committed developments (or vacant buildings etc.) which might have a noticeable impact on the base traffic assumptions? Sherburn Industrial Estate has vacant buildings with a floor space in excess of 60,000 sqm. Contrary to the NYCC Checklist no allowance has been made for these buildings, so the analysis is not robust.

Further comments of 24th November 2015 in response to further consultation on the application the Parish Council noted that "The Sherburn in Elmet Parish Council would like to reiterate our strong objection".

Further comments from 16th February 2016, arising from the re-consultation on the reduced quantum of development and additional highways information, the Parish Council outlined the following points:

- Sustainability
 - The Council's current position is that there is a five-year supply. The question the Parish Council ask is if there is a five-year supply, why grant consent for development that clearly is not sustainable.
 - We reiterate the comments of the Core Strategy Inspector from June 2013, endorsing Policy SP5 which indicated that new allocations to accommodate 700 houses by 2027 would be required in Sherburn. In reaching this conclusion he further concluded that: "the absence of many key services in the town and the limited opportunities for expanding its small town centre militate against greater housing development unless part of a comprehensive planned expansion."
 - In reaching this conclusion it is clear that the Inspector was not convinced that development over and above the 700 figure would be sustainable unless the "absence of key services" was addressed. We agree with this conclusion.
 - This is a part of the very large amount of Safeguarded land referred to in the Selby District Local Plan. In the absence of: a proper review of all of this land; the need to release any of it in the plan period; and of the means to address the Inspector's concerns regarding key services, there is no basis to arbitrarily release the first piece of safeguarded land that happens to be the subject of a speculative planning application.
 - The Parish Council is of the view that these issues, particularly the lack of key services, should be properly considered through the proposed Site Allocations Plan (Plan Selby) and sites should not be released on an ad hoc basis in the absence of such consideration.
- Highways
 - We refer to the Local Highway Authority Considerations and Recommendation dated 22nd January 2016. SCP produced a Transport Assessment dated 28th October 2015 which the Parish Council responded to in a detailed note in November 2015. This highlighted a number of significant issues with the Transport

- Assessment (e.g. the mistaken use of an access only road as a through route).
- The Parish Council now see that the Local Highway Authority have recommended acceptance following what they describe as "protracted discussions with the applicants". No record of any part of these discussions has been posted on the Planning Portal. If the LHA have had protracted discussions with the applicant's transport consultants then it is essential that those discussions are accessible in a publicly available reference document.
 - The Local Highway Authority Considerations and Recommendation document essentially posts their conclusions as to why they feel this scheme is acceptable. It does not provide any of the background information. For example we are told that " SCP have worked with the LHA's senior signals engineer to provide a computer simulation which best represents the operation of the village centre signals ", but none of the calculations have been provided.
 - The LHA state that "the key improvement to the village centre signals is the installation of the MOVA operating system", but they have not provided any evidence of the improvements which MOVA will provide. The Parish Council noted in November that if it is suggested that MOVA will bring improvements to the village centre traffic signals, then evidence specific to this junction must be provided. No such evidence has been provided.
 - At the moment local residents are being presented with the LHA's conclusions, without the supporting evidence. Without that evidence it is impossible for local residents or the Parish Council to make informed comment.
- Unoccupied Units
 - When the planning application (2013/0467/OUT) for the major expansion of Sherburn Industrial Park was considered in 2014 the developers argued that the traffic implications of existing vacant units should not be considered. This was contrary to both government and NYCC guidelines. They described the former Supercook building and the Sherburn 550 building as "obsolete" and "compromised design". Despite protests from the Parish Council no account was taken of these vacant units.
 - The former Supercook building has been taken over by Ultimo Kitchens and is being fitted out prior to full occupation and a planning application (2016/0113/COU) has been submitted for a change of use to facilitate occupation of the Sherburn 550 building by a manufacturer of modular homes.
 - It is very clear that the description of these units as "obsolete" and "compromised design" was incorrect and the traffic implications of these vacant units should have been considered.
 - These vacant units are now being brought into use, but this planning application does not follow the guidelines and take account of them. It is irrefutable that the past decision to exclude these buildings was flawed and until the traffic implications of their use are included then the Transport Assessment submitted in support of this application will be incomplete and inaccurate.

- Extract from Transport Issues and Developments: A Guide, Appendix D, Checklist for a Transport Assessment (NYCC)
 - Does the report consider other committed developments (or vacant buildings etc.) which might have a noticeable impact on the base traffic assumptions?

1.4.2 i) Lead Officer – Policy:- October 2015

Initial comments on the application provided by the Lead Officer- Policy in October 2015 concluded that

This proposal is outside the Development Limits of a Local Service Centre and is therefore contrary to the adopted Selby District Local Plan and Core Strategy. However as the Council currently has less than a 5 year supply of housing land, relevant policies for the supply of housing should not be considered up-to-date. Therefore this proposal must be considered against the NPPF's presumption in favour of sustainable development and paragraph 14 and Core Strategy Policy SP1.

The relevant part of that Policy and paragraph 14 of the NPPF in this case is that local planning authorities should:

"grant permission unless

- *Any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework take as a whole; or*
- *Specific policies in this Framework indicate development should be restricted"*

This proposal does not lie within any specially protected areas, such as Green Belt, where the NPPF would restrict development (bullet pt 2 above). Taking account of the issues, including those raised by the Policy and Strategy team mentioned above, you will need to decide if any adverse impacts of approving this development in the open countryside in this location would significantly outweigh the benefits of the provision of market and affordable housing for the village of Sherburn in Elmet, which has been identified as a focus for growth in the Council's adopted Local Plan.

Provided there are no other adverse impacts identified by the case officer and provided any infrastructure capacity issues can be dealt with through conditions and/or legal agreements, the Policy and Strategy team raise no objections to the scheme.

1.4.2 ii) Lead Officer – Policy:- February 2016

Subsequent comments on the application from the Lead Officer – Policy received on the 15th February 2016 have however noted that

The key issues which should be addressed are:

1. The Principle of Development
2. Impact on the Council's Housing Land Strategy
3. Safeguarded Land
4. Previous Levels of Growth and the Scale of the Proposal

5. Relation of the Proposal to the Development Limit

1. The Principle of Development

Paragraph 11 of the NPPF restates planning law that requires planning permission to be determined in accordance with the development plan unless material considerations indicate otherwise. Paragraph 12 of the NPPF re-emphasises that an up-to-date Development Plan is the starting point for decision-making, adding that development that accords with an up-to-date Local Plan should be approved, and proposed development that conflicts should be refused unless other material considerations indicate otherwise. The policies in the SDLP and Adopted CS are consistent with the NPPF.

It is noted also that under para 14 of the NPPF that the presumption in favour of sustainable development should be seen as a golden thread running through decision-taking. Para 49 of the NPPF also states that housing applications should also be considered in the context of the presumption in favour of sustainable development.

CS Policies SP2 and SP4 direct the majority of new development to the Market Towns and Designated Service Villages (DSVs), restricting development in the open countryside. Sherburn is defined in the Core Strategy as a Local Service Centre, where further housing, employment, retail, commercial and leisure growth will take place appropriate to the size and role of each settlement.

This outline proposal for 70 dwellings is on land that is adjacent to, but mostly outside of, the defined Development Limits of Sherburn in Elmet as defined on the Policies Map of the SDLP. The proposal is therefore contrary to Policy SP2A(c) of the Core Strategy. However, Development Limits are currently under review as part of the PLAN Selby sites and allocations document, in line with commentary detailed in the Core Strategy. In evaluating the application, the relationship of the proposal to the edge of the settlement and defined Development Limit (as set out on the Policies Map) should be given due consideration as detailed under Section 5 of this response.

2. Impact on the Council's Housing Land Strategy

On the 3 December 2015, the Council's Executive formally endorsed an updated five year housing land supply Methodology and resultant housing land supply figure of 5.8 years, as set out in the Five Year Housing Land Supply Statement. The fact of having a five year land supply cannot be a reason in itself for refusing a planning application. The broad implications of a positive five year housing land supply position are that the relevant policies for the supply of housing in the Core Strategy can be considered up to date.

3. Safeguarded Land

The site is located within an area designated as Safeguarded Land (SL) under saved policy SL1 of the 2005 SDLP. The original intention of SL was to provide a 'reserve' of land to meet long term growth requirements post 2006. The release of SL was intended to be done in a controlled and phased manner through future Local Plan reviews and based upon the principles of

well integrated sustainable development. Policy SL1 is considered to have some weighting as a material consideration when there is a 5 year supply of housing, as there is a need to maintain a reserve of land to meet long term growth needs.

From a review of the history of SL in Sherburn in Elmet, the SDLP Inquiry Inspector highlighted a number of issues of relevance:

- The SDLP site allocation - SHB/1 was considered sufficient development for the plan period beyond 2006 and that this was a level of growth which could be effectively assimilated into the wider Sherburn in Elmet area.
- The Inspector did not consider the use of the then proposed SL which relates to part of the applicant's site as a suitable housing allocation in the plan period.
- There was strong local opposition to the original SDLP site allocation.

There is a complex history to the extent and scale of potential development at Sherburn in Elmet.

While the principle of SL was supported through the examination by the Inspector, the SL policy dates from at least 2005, and has not been reviewed since this period. Given these issues, full weighting cannot be given to Policy SL1. In practical terms when considering and reviewing the spatial aspects of the policy as it applies to Sherburn in Elmet, this means evaluating the extent to which:

- The settlement remains a suitable location for SL;
- The individual SL1 policy area for Sherburn in Elmet remains a valid location for future development ;
- The scale of SL is appropriate to the location;
- The SL area is deliverable for development;
- The SL1 area plays a positive 'Green Belt' function, and
- The assessment of Development Limits and Green Belt Boundary indicates a positive case to establish a robust development limit while maintaining a Green Belt boundary which is likely to endure.

Work is progressing on PLAN Selby - the site allocation and development management plan, which together with the adopted Core Strategy will form the Local Plan for the District. The current scale and extent of safeguarded land is under review as part of this emerging document, which includes the current large-scale and strategically important safeguarded land allocations at Sherburn in Elmet. The original work on the extent and scale of safeguarded land linked to this settlement dates from at least 2005, and it is yet to be fully determined whether the overall quantum of 22.8ha remains proportional or appropriate at this settlement location.

Without the outcome of this review having been completed, in technical terms as the settlement is a Local Service Centre, the principal of safeguarded land at Sherburn in Elmet would align with its status within the settlement hierarchy as detailed in the Core Strategy. In relation to the SL area to which the application relates, it is strongly defined with a long-standing history. The SL has an eastern and northern edge that is clearly

defined by the A162 and is bounded to the south and west by residential development. The strongly defined road feature along the eastern edge of the site would appear to suggest that the current Green Belt boundary is likely to endure.

While this review has not covered all the issues that would need to be undertaken as part of a full evaluation, it indicates on balance that some, but not full, weighting can be attached to the original SL1 policy designation at Sherburn in Elmet, in terms of suitability as a reserve of land for future development.

One of the critical issues relating to this application is whether there is a housing need to release safeguarded land of the scale indicated through this application at this moment in time and the implications of further development in Sherburn in Elmet in relation to the settlement hierarchy. Further comments on this matter are detailed below under Section 4. When evaluating the Development Limit in detail consideration should be given to the range of issues detailed below in Section 5.

4. Previous Levels of Growth and the Scale of the Proposal

CS policy SP5 designates levels of growth to settlements based on their infrastructure capacity and sustainability, it is important to determine in housing applications the impact a proposed scheme has on this level of growth, taking into account previous levels of growth since the start of the plan period and the scale of the proposal itself. Sherburn in Elmet has seen 816 dwellings built or approved in the settlement since the start of the Plan Period in April 2011; CS policy SP5 sets a minimum dwelling target for Sherburn in Elmet of 790 dwellings (2011 to 2027), therefore the settlement has exceeded its minimum target at a relatively early stage in the plan period.

The scale (70 dwellings) of the potential release of Safeguarded Land at Sherburn in Elmet through this application is considered to be of a strategic scale of development - 9% of the total original minimum requirement for the settlement (790 units). This application would take Sherburn in Elmet's total percentage delivery from 11% to 12% of the original minimum requirement (from 2011-2017), by only 2016.

Attention needs to be paid in avoiding distorting and undermining the delivery of the settlement hierarchy through unallocated development. Strategic developments of this scale may undermine efforts to support housing development at Tadcaster and Selby, which are important locations for housing growth in the Core strategy, by potentially offsetting the amount of development required by these towns. Selby has built or has permission for 3,281 out the 3,700 minimum target set in SP5 and Tadcaster has built or has permission for 77 out the 500 minimum target set in SP5. Neither of these settlements have achieved their minimum housing delivery targets as set out on the Core Strategy.

Now that policies SP2 and SP5 have full weight, and prior to the publication of PLAN Selby, it is important to direct the correct quantum of unallocated development to the appropriate places in the settlement hierarchy, in order to

ensure, as per policy CS SP2, that Selby remains the principal focus for new housing development and that Tadcaster is a location where further housing growth will take place appropriate to the size and role of the settlement.

Given that there is a positive 5 year housing land supply in the District and the high level of growth forecast for Sherburn in Elmet there is no immediate housing need to release this scale of SL for housing in Sherburn in Elmet.

5. Relationship of the Proposal to the Development Limit

Core Strategy Policy SP18 aims to protect the high quality and local distinctiveness of the natural and man-made environment; therefore it is important to determine the impact the proposed scheme has on its surroundings. The site is located in the countryside and outside of Development Limits. From emerging PLAN Selby evidence on the sensitivity of the landscape to development it is considered that the overall landscape assessment parcel for the area to which the application relates is of low sensitivity to development, with the settlement fringe considered of medium quality. The proposal extends significantly into the countryside and in determining the application, thought will need to be applied as to:

- the overall impact of the proposed development on the countryside;
- whether the current Development Limit as defined in the Policies Map remains robustly defined, or has changed and,
- whether the proposed development would set a new clearly defensible boundary.

Due to the Safeguarded Land status of the land it is unlikely that the Settlement Limit will have altered significantly over the recent past.

Detailed issues to consider when reviewing the Development Limit and the potential impact of the development, include:

- planning history;
- physical extent of existing settlement;
- settlement form and character;
- the type, function and range of buildings on the edge of the settlement;
- impact of the development on the countryside, environment and amenity, and
- the extent of current defensible boundaries, which are durable and likely to be permanent, and whether the development would erode or contribute towards maintaining a clear defensible boundary

1.4.2 iii Lead Officer Policy: May 2016

It is understood that any updates have been requested to planning policy considerations since the response on this application dated 9th February 2016.

There are three areas of planning policy to update in relation to comments on this application, following further investigation and research. These relate to safeguarded land, development limits and flood risk analysis.

1. Safeguarded Land

The site is located within an area designated as Safeguarded Land (SL) under saved policy SL1 of the 2005 SDLP. The original intention of SL was to provide a 'reserve' of land to meet long term growth requirements post 2006, to be released in a controlled and phased manner – potentially over successive reviews of the Local Plan. This position accords with paragraph 85 of the NPPF which places importance on a plan-led approach to the use of 'safeguarded land' within development plans. The restrictive wording of paragraph 85 in the NPPF qualifies safeguarded land as a NPPF footnote 9 specific policy, referred to at the end of paragraph 14 of the NPPF, which indicates that development should be restricted.

It was noted in our previous response that the SL policy dates from at least 2005, and has not been reviewed since this period. It is not considered that full weighting can be attached to this policy, but as it is fully and clearly consistent with NPPF it is considered that moderate to significant weight can be afforded to the SL policy.

In our previous response we made comments as to the scale of growth witnessed in Sherburn in Elmet – a settlement which has also witnessed significant growth prior to this plan period. Consideration needs to be given to the balanced growth of the settlement to ensure that services / facilities keep track with growth and that development occurs through a phased and managed process. Work is progressing at pace on the development of PLAN Selby (site allocations and development management document), which is scheduled for Preferred Options consultation in September 2016. The review of SL forms part of the evidence base to this publication.

With a positive 5 Year Housing Land Supply (5YHLS) and with dwelling growth levels for Sherburn in Elmet forecast to exceed minimum delivery targets within only a few years after the adoption of the Core Strategy, and the weighting attached to policy SL1, it is not considered that there is a need to release SL for housing at this time and outside of the plan-making process. This response provides a firmer steer to the weighting of considerations regarding SL in light of SDLP Policy SL1, the NPPF and follows an additional review of recent appeals / case studies.

2. Development Limits

On a matter of clarity, it was noted in the previous policy response that due to the status of SL adjacent to the development limit in this area, it is unlikely that the development limit will have altered significantly in this area. This would support that position that while development limits are under review (as part of the development of PLAN Selby) they are not necessarily considered out of date. An assessment methodology or criteria was set out in the previous policy response to assist with reviewing the development limit.

3. Flood Risk and Sequential Test

A number of matters in relation to flood risk and the sequential test should be considered as part of this update.

Part of the site falls within Flood Zone Level 2 as indicated on the Environment Agencies Flood Risk map. Ordinarily applications on areas at risk of flooding (Level

2, 3a etc) would need to go through a sequential test to evaluate whether there are other sites which could accommodate a similar level of development within Flood Zone level 1. This approach is in line with NPPF 100 and NPPG 103. The exception to this is given in para. 104 of the NPPF, which states that 'For individual developments on sites allocated in development plans through the Sequential Test, applicants need not apply the Sequential Test.'

The policy team has looked into the detailed history of the safeguarded land designation and do not consider that an approach equivalent to a flood risk sequential test would have been undertaken at the time of designation. While some analysis of flood risk was undertaken on SL sites, it was very much on the basis of individual site assessments informed by field observations (often categorising or photographing instances of flooding). In light of this analysis it is considered that an up to date sequential test is required for this site. This view would also tend to concur with recent discussions undertaken with the Environment Agency on this matter.

The Councils sequential test requirement should be conducted against all the extant allocated housing sites from the 2005 Selby District Local Plan and 2013 Core Strategy. The comparison against allocated housing sites should be District wide. The level of identified flood risk on the proposal site should be compared with identified flood risk on each of the allocated sites using the current Environment Agency Flood Map for Planning (Rivers and the Sea).

The combined capacity of the comparison sites in the sequential test should be able to accommodate the number of dwellings proposed in the application. If the proposed site has an equal or lower flood risk than all of the other allocated sites in the test (that are considered to be deliverable and combined together cannot accommodate the level of development proposed), then the site passes the test.

1.4.3 North Yorkshire County Council Highways

The Local Highways Authority (LHA) have been engaged in protracted discussions with the applicants transport consultant, SCP, in terms of the impact of the proposed development on the existing highway network. The main areas of discussion have been focused on the likely number of trips the development will generate, the distribution of traffic, existing committed developments, applications not yet determined and the impact on key junctions. This has resulted in a number of traffic scenarios being tested. The results of the testing have been considered against the guidance in the National Planning Policy Framework which states that "development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe."

The trip rates used by SCP to predict the traffic numbers the development could generate were taken from the recent Transport Assessments prepared as part of previous planning applications for residential development. These in turn were arrived at from surveys of traffic entering/exiting The Fairway. SCP undertook their own traffic survey of the Pinfold Avenue junctions with Moor Lane to ascertain more "local" trip rates which were found to be lower than those used for the previous applications. The reason for this is likely to be that The Fairway survey could have included an element of traffic rat-running between Moor Lane and Low Street.

Notwithstanding this SCP have used The Fairway trip rates to provide a more robust worst case scenario. It should also be noted that the Applicant has reduced the number of dwellings he would be seeking to build from 70 to 60.

In terms of traffic distribution regard was given to the survey undertaken at the Pinfold Avenue junction and also the Office of National Statistics travel to work data for the area in which the development lies which is taken from the 2011 Census. In terms of the survey the majority of vehicles leaving Pinfold Avenue were shown to turn right towards the village centre traffic signals. The Census data shows the locations where people in the area presently work and from that information the most likely route people will drive can be predicted. When considering the journey to work data regard has to be given to the location of Pinfold Avenue in relation to the A162 and more importantly the link road between Low Street and Moor Lane which will be provided as part of the Redrow/Persimmons development. These provide a viable alternative to travelling through the village centre and SCP estimated that during the peak periods 84% of the development traffic could travel to and from the site via the east, avoiding the village centre.

It should be borne in mind that the traffic profile will significantly change in the village over the next few years as the developments which have received planning permission come forward. Traffic will always try to find the quickest route and the delivery of the link road between Moor Lane and Low Street is key to taking traffic away from the centre. As such it is pragmatic to consider that traffic from the development site would look to use the A162 or the new link road to avoid any queuing which may occur at the village centre signals. Presently, approximately 65% of traffic from Pinfold Avenue turns right towards the village centre, where SCP predict that 84% of development trips will turn left towards the A162. The actual distribution might be somewhere in between of these figures but for analysis purposes the impact on the village centre signals has been tested for both scenarios. In terms of surveyed traffic 24 and 26 vehicles were predicted to travel through the village centre signals in the AM and PM peak periods respectively; based on the Census data these figures would reduce to only 5 vehicles in the AM and PM peak periods.

SCP have worked with the LHA's senior signals engineer to provide a computer simulation which best represents the operation of the village centre signals whilst also taking into account the effect of the installation of a Microprocessor Optimised Vehicle Actuation (MOVA) system at the junction which is being funded through recent planning permissions. MOVA is a product developed to overcome some of the problems associated with traditional signal control. It is more responsive to traffic conditions and often leads to a significant increase in capacity at a junction. MOVA has two modes of operation depending on the road conditions - these are congested and uncongested (free flowing). In free flowing mode the aim of MOVA is to disperse any queues which have built up on a red signal, it then assesses the traffic flows approaching on each arm of the junction and calculates if extending the current green time would be beneficial. If it is beneficial then the current green time is extended and the calculation is repeated. When the network is congested MOVA operates in a capacity maximising mode. This assesses which approaches are overloaded and how efficiently the green time is being used and seeks to determine a set of signal timings which will maximise the throughput of the junction under the current conditions.

The signals have been modelled for a future year of 2020 future year with the link road in place and all committed developments built out. For the surveyed flow scenario the worse impact would be on the Moor Lane approach to the signals with an additional 7 vehicles joining the queue over the AM peak hour and additional 4 vehicles on the Kirkgate arm. For the Census data scenario again the worse impact would be on the Moor Lane approach with an increase of 6 vehicles over the AM peak hour and 2 vehicles on the Kirkgate arm.

As stated earlier the likely distribution of trips from the development site may be somewhere in between the two scenarios assessed as traffic outside of Sherburn seeks the quickest route. Focusing on the surveyed distribution scenario the trips to and from the village centre signals are within what can reasonably be expected to be the daily variation in traffic on the network. Furthermore the additional number of vehicles which will be added to the queue on Moor Lane and Kirkgate during the AM Peak hour do not, in the opinion of the LHA, provide a defensible reason for refusal on the grounds that the impact is "severe" under the NPPF. As mentioned the key improvement to the village centre signals is the installation of the MOVA operating system and contributions towards this have been secured through recent planning permissions. The LHA would also like to extend the scope of the works to include an upgrade of the existing pedestrian crossing facilities at the signals and the Applicant has agreed a contribution of £20,000 towards this cost.

SCP was also asked to consider the impact of the development on the B1222/A162 roundabout. The recent planning application for development adjacent to Hodgsons Lane (2015/05444/OUT) carried out a capacity assessment and identified that with the further development the B1222 Bishopdyke Road eastern approach arm had a ratio to flow capacity (RFC) of 0.833 in the PM peak hour. When an RFC is 0.85 and below any queuing is considered to be minimal and acceptable. This is nationally accepted. SCP has modelled the roundabout based on the Census data distribution and also including the flows from the Springfield Road planning application (2015/0895/OUT) which is presently being considered. In the PM peak period the RFC on the B1222 eastern arm is predicted to increase to 0.85 which is considered to be acceptable. Again it is not considered that this provides a defensible reason to recommend a refusal of the application on highway grounds.

The other key junction SCP was asked to assess was the A162/A63 roundabout. Consideration was given to committed developments in Sherburn and Hambleton and also to the planning applications which have been submitted but not determined. As part of a previous permission an improvement scheme has been approved for this roundabout which will improve its capacity. It is intended that these improvements will be undertaken in the near future. This has been accounted for in the capacity assessment and it is concluded that the development will have a negligible effect on the operation of the improved roundabout.

The Local Highway Authority recommends that the following matters are addressed through inclusion in a Section 106 Agreement or by the imposition of conditions in any planning permission the Planning Authority is minded to grant.

Matters to be included in a Section 106 Agreement to which the Local Highway Authority would wish to be a party:

- £20,000 contribution towards improvements at the village centre traffic signals.

- A maximum development limit of 60 dwellings.

Matters to be covered by the imposition of Conditions:

- Detailed Plans of Road and Footway Layout (Outline All Types)
- Construction of Roads and Footways Prior to Occupation of Dwellings (Residential)
- Use of Existing Access
- Discharge of Surface Water
- Permanent Site Construction Access
- Visibility Splays
- Parking for Dwellings
- Garage Conversion to Habitable Room
- Wheel Washing Facilities
- Highway Condition Survey
- Construction Traffic Management Plan

1.4.5 Environment Agency

The proposed development will only meet the requirements of the National Planning Policy Framework if the following measures as detailed in the flood risk assessment reference 800/377r1, dated June 2015, submitted with this application are implemented and secured by way of a planning condition on any planning permission, as follows:

The development permitted by this planning permission shall only be carried out in accordance with the approved flood risk assessment (FRA), reference 800/377r1, dated June 2015, and the following mitigation measures detailed within the FRA:

1. Finished floor levels are set no lower than 8.5m above Ordnance Datum (AOD), which is 600mm above the modelled 1% annual probability flood accommodating for climate change.

The mitigation measures shall be fully implemented prior to occupation and subsequently in accordance with the timing / phasing arrangements embodied within the scheme, or within any other period as may subsequently be agreed, in writing, by the local planning authority.

Reason

To reduce the risk of flooding to the proposed development and future occupants.

They also noted that surface water management is now outside our remit as a consultee, and should be addressed by North Yorkshire County Council (in their role as Lead Local Flood Authority) and Selby Area IDB. It is noted that the FRA suggests that a discharge rate of 3.5 l/s/ha can be achieved on the site, but gives limited information to demonstrate the space required for storage etc can be accommodated in the design.

1.4.6 Yorkshire Water Services Ltd

Noted no objections subject to conditions should be attached in order to protect the local aquatic environment and Yorkshire Water infrastructure:

Unless otherwise agreed in writing by the local planning authority, no building or other obstruction shall be located over or within 3.5 (three point five) metres either side of the centre line of the sewers, which crosses the site.

Reason - In order to allow sufficient access for maintenance and repair work at all times

The site shall be developed with separate systems of drainage for foul and surface water on and off site.

Reason - In the interest of satisfactory and sustainable drainage

No piped discharge of surface water from the application site shall take place until works to provide a satisfactory outfall for surface water, other than the existing public sewer, have been completed in accordance with details to be submitted to and approved by the local planning authority before development commences.

Reason - To ensure that the site is properly drained and surface water is not discharged to the foul sewerage system which will prevent overloading

They also noted that in terms of the existing Drainage infrastructure then the Statutory Sewer Map, there are existing public sewers recorded to cross part of the red line site boundary. The presence of this infrastructure should be taken into account in the design of the scheme. We recommend no obstruction to be located within 3.5 metres of the sewer.

In relation to surface water they note that the submitted Flood Risk Assessment (reference 800/377r1, prepared by ARP, dated June 2015) is satisfactory from Yorkshire Water's viewpoint. The report confirms all surface water will discharge to watercourse.

Restrictions on surface water disposal from the site may be imposed by other parties. You are strongly advised to seek advice/comments from the Environment Agency / Land Drainage Authority / Internal Drainage Board, with regard to surface water disposal from the site.

The public sewer network is for domestic sewage purposes. Land and highway drainage have no right of connection to the public sewer network. In addition a water supply can be provided under the terms of the Water Industry Act, 1991 and that off-site works are likely to be required in order to serve this development

1.4.7 North Yorkshire County Council – Flood Risk Management

Initial comments made on the application noted that

“The SuDS statement submitted with the application states that the hydrobrake control manhole will form part of a Section 104 Agreement of the Water Industry Act 1991 with Yorkshire Water. For information please note that Yorkshire water may insist upon a minimum 5 l/s discharge from this asset which would be incompatible with the proposed discharge from the site at 1.4 l/s/ha of 3.5 l/s.

A significant proportion of the site, including lower areas that may be topographically suited to attenuation basins, lies within Flood Zone 2. Although this is an outline planning application, there has not been sufficient information provided with the application to determine whether any SuDS proposals are acceptable in principle. Whilst the flood risk assessment states that property floor levels will be a suitable level above possible flood levels, documents submitted with the application

do not detail SuDS proposals sufficiently to determine whether they would function during extreme events.

Should they become exceeded during extreme events, the increased impermeable area of the site will lead to significantly increased runoff which will cause increased flood risk off site which is not acceptable.

More detailed surface water management proposals are required to demonstrate that increased flood risk, particularly off site, will not be caused. For this and the reasons above we must object to the application”.

Subsequently, the Officer confirmed that the information provided by the applicant's agents has clarified flood extents and maintenance arrangements, as such they no longer object to the application and would recommend the following planning condition:

No development shall take place until a detailed design and associated management and maintenance plan of surface water drainage for the site based on sustainable drainage principles and an assessment of the hydrological and hydrogeological context of the development has been submitted to and approved in writing by the Local Planning Authority. The surface water drainage design should demonstrate that the surface water runoff generated during rainfall events up to and including the 1 in 100 years rainfall event, to include for climate change and urban creep, will not exceed the run-off from the undeveloped site following the corresponding rainfall event. The approved drainage system shall be implemented in accordance with the approved detailed design prior to completion of the development.

The scheme to be submitted shall demonstrate that the surface water drainage system(s) are designed in accordance with the standards detailed in North Yorkshire County Council SuDS Design Guidance.

Reason

To prevent the increased risk of flooding; to ensure the future maintenance of the sustainable drainage system, to improve and protect water quality and improve habitat and amenity.

1.4.8 Selby Area Internal Drainage Board

No response received on the application in the statutory consultation period: Members will be updated at Committee if a response is received.

1.4.9 Environmental Health – Lead Officer

Members will be updated at Committee.

1.4.10 Northern Gas Network

No response received on the application in the statutory consultation period: Members will be updated at Committee if a response is received.

1.4.11 NYCC Heritage

The proposed development lies within an area of archaeological potential. Advise that a scheme of archaeological mitigation recording is undertaken in response to the ground-disturbing works associated with this development proposal. This should

comprise an archaeological strip, map and record to be undertaken in advance of development, including site preparation works, top soil stripping, to be followed by appropriate analyses, reporting and archive preparation. This is in order to ensure that a detailed record is made of any deposits/remains that will be disturbed. This advice is in accordance with the historic environment policies within Section 12 of the National Planning Policy Framework, CLG, 2012 (paragraph 141). In order to secure the implementation of such a scheme of archaeological mitigation recording recommend a condition.

1.4.12 Natural England

The lack of comment from Natural England does not imply that there are no impacts on the natural environment, but only that the application is not likely to result in significant impacts on statutory designated nature conservation sites or landscapes. It is for the local planning authority to determine whether or not this application is consistent with national and local policies on the natural environment. Other bodies and individuals may be able to provide information and advice on the environmental value of this site and the impacts of the proposal to assist the decision making process. We advise LPAs to obtain specialist ecological or other environmental advice when determining the environmental impacts of development. We recommend referring to our Impact Risk Zones (available on Magic and as a downloadable dataset) prior to consultation with Natural England.

1.4.13 Yorkshire Wildlife Trust

Initial comments on the application were as follows:

The Trust has also commented on 2015/0544/OUT and 2015/0895/OUT, which are applications adjacent to the above proposed developments (see map). As previously stated by the Trust, there is a significant maternity bat roost located in a private residence in Pinfold Garth that is adjacent to all three proposed development sites (see map, roost denoted by yellow star). Due to a lack of information on bat roosts close to the site the Trust has recorded a holding objections to all the above mentioned applications until a thorough mitigation plan involving all the proposed developments in the area is in place.

A member of the public has observed the bats foraging in the fields and tree line directly behind Pinfold Garth, proposed for development under application number 2015/0848/OUT. The other foraging opportunities for the bats in the immediate vicinity of the site, such as along Bishop Dike and the hedgerows in the arable fields will be hard to access from the roost once developments are in place as the roost will be completely surrounded. Females during the maternity period, whilst pregnant or nursing, cannot lower their body temperature to slow their metabolism to compensate for diminished food supplies. For these reasons, maternity roosts are highly vulnerable to damage or destruction if the associated foraging sites are compromised. The lighting associated with the developments may also impact the roost. Research has shown that mothers from illuminated maternity roosts produce smaller offspring, as they emerged from the roost later, after the peak availability of insects. Illuminating commuting corridors has also been shown to delay commuting in some species and disrupt commuting behaviour. Bats are long lived and only give birth to one young in a year, so maternity roosts are crucial to the survival of bat populations.

All UK bat species were identified by the UK Biodiversity Action Plan (UK BAP) as needing conservation and greater protection. Additionally, all bats and their roosts are fully protected under the Wildlife and Countryside Act 1981 (as amended) and are further protected under the Conservation of Habitats and Species Regulations 2010 (as amended). 'A person commits an offence if he - deliberately disturbs a European Protected Species in a way that is likely to impair ability to survive, breed or reproduce/rear/nurture young.

Under the Habitats Regulations, it is an offence 'to damage or destroy a breeding site or resting place of such an animal', referring to Annex IV species. This is a transposition of the Habitats Directive which states that 'the deterioration or destruction of breeding sites or resting places' of an Annex IV species is prohibited. As the Habitats Directive does not provide a specific definition of a breeding site or resting place, the Environment Directorate-General of the European Commission (EDGEC; 2007) states 'there is room for different interpretations', due to the wide range of species listed in Annex IV. The EDGEC goes on to advise that the Habitats Regulations should be understood as 'aiming to safeguard the ecological functionality of breeding sites and resting places'.

Connectivity to foraging grounds and the wider landscape is essential for the continuous ecological functionality of a maternity roost². The combined effect of increased disturbance and lighting, diminished foraging areas and a complete lack of connectivity to foraging grounds caused by the proposed developments could result in the in the destruction of a significant maternity roost.

Damage or destruction of the roost would be in direct contradiction of the aims of the National Planning Policy Framework (NPPF) Paragraph 109 of the NPPF states that "The planning system should contribute to and enhance the natural and local environment by // minimising impacts on biodiversity and providing net gains in biodiversity where possible, contributing to the Government's commitment to halt the overall decline in biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressure.

The NPPF then goes on to state in paragraph 118 "When determining planning applications, local planning authorities should aim to conserve and enhance biodiversity by applying the following principles:

- * If significant harm resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused.
- * Planning permission should be refused for development resulting in the loss or deterioration of irreplaceable habitats, including ancient woodland.

In order to prevent the destruction of the roost, significant mitigation is required in a coordinated effort from the three developers. It will be necessary to compensate for the loss of foraging grounds and to provide connectivity via linear features, such as hedgerows and waterways, to the surrounding landscape this will ensure the ecological functionality of the roost.

To date, the roost has never been surveyed and it is the opinion of the Trust that, at present, too little is known about the roost to allow informed decisions regarding planning permission or potential mitigation strategies. Once the extent of the roost is known, it is essential that all three developments, 2015/0895/OUT, 2015/0848/OUT and 2015/0544/OUT, collaborate to provide a coordinated mitigation strategy that will maintain connectivity to the wider environments, particularly along Bishop's Dyke, and increase foraging opportunities within all three sites.

The Trust has noted the response of Wold Ecology to the holding objections placed by the Trust and the comments by North Yorkshire Bat Group on application 2015/0848/OUT. The Trust welcomes the mitigation proposed by Wold Ecology and, in light of the significance of the maternity roost on Pinfold Garth, would like to make the following suggestions for additional measures. As well as bat boxes, bat bricks should be incorporated into the built structures; these have the advantage of being permanent and so cannot be removed by residents. The trees planted along the southern (adjacent to Pinfold Garth) and the eastern (along Bishops Dyke) boundaries of the site should be mature specimens, as this will improve the connectivity from the roost to the wider landscape. A monitoring and management scheme should also be implemented to ensure the ongoing success of the mitigation strategies.

The Trust strongly recommends that the mitigation suggested by the Trust and Wold Ecology, as well as a management and monitoring scheme is conditioned and fully funded, should planning permission be granted.

1.4.14 North Yorkshire Bat Group

Initial comments from the North Yorkshire Bat Group (September 2015) noted concern that the ecologists who surveyed the sites contacted North Yorkshire Bat Group to obtain existing data on bats in the local area. This has resulted in the status of bats in the local area being considerably understated. A summary of the records we hold is attached along with a map showing known roosts. From this you will see that there is one roost immediately adjacent to the development sites and another close-by. Whilst the developments will not directly affect these roosts, bats from the roosts are likely to feed over the sites and along the local dykes and hedgerows. We therefore consider that the developers should be required to produce a mitigation plan to minimise the impact of the development(s) on bats and enhance the site to encourage use by bats. In particular:-

- That an undeveloped buffer zone of at least 6m in width be left beside dykes and hedgerows
- That a lighting plan be produced that will ensure that these buffer zones remain unlit and
- that lighting within the development in kept to a minimum
- That bat roosting features (built-in bat boxes) and swift nesting boxes be incorporated into
- each new dwelling

Until such a plan has been produced we feel that these applications should not be determined.

Subsequent comments from the Group (in November 2015) noted the provision of a mitigation plan by the applicants and therefore confirmed that the application was acceptable subject to compliance with the plan.

1.4.15 North Yorkshire Education

Based on the proposed 70 2+ bedroom properties a developer contribution of £237,930 would be sought for primary education facilities at Hungate Community Primary School as a result of this development. A developer contribution would not be sought for secondary school facilities at this time. Should the density of the site change we would be required to recalculate this based on pupil numbers available at the time of recalculation.

Update Note: Instead of this developer contribution which would have been provided through a Section 106 agreement, a general charge will be made through the mechanism of the new Community Infrastructure Levy.

1.4.16 North Yorkshire Police

The Police Architectural Liaison Officer has made a series of comments on the on the application identifying some concerns in relation to the indicative layout in terms of the approaches on vehicle parking, the need for the scheme to be designed taking account of the Secured by Design, Code for Sustainable Homes technical guidance, construction security, signage of the development, litter control, play area maintenance and dog fouling measures, the footpath links and approaches for the design of any on site open space.

1.4.17 North Yorkshire and York Primary Care Trust

In commenting on the application have requested a healthcare contribution of £22,400 for Sherburn Group Practice in relation to the above planning application. This is calculated as 70 (dwellings) x 2.4 (estimated occupancy) divided by 1500 (number of patients per GP) x £200,000 estimated cost of additional consulting room.

Update Note: Instead of this developer contribution which would have been provided through a Section 106 agreement, a general charge will be made through the mechanism of the new Community Infrastructure Levy

1.4.18 North Yorkshire Fire and Rescue Service

No observations at this stage.

1.4.19 North Yorkshire Public Rights of Way

No objections subject to an informative noting that “No works are to be undertaken which will create an obstruction, either permanent or temporary, to the Public Right of Way adjacent to the proposed development. Applicants are advised to contact the County Council's Access and Public Rights of team at County Hall, Northallerton via paths@northyorks.gov.uk to obtain up-to-date information regarding the line of the route of the way. The applicant should discuss with the Highway Authority any proposals for altering the route.”

1.4.20 Contaminated Land Consultant (WPA)

While a ‘contamination focused site investigation’ is not recommended, the report states; ‘However a ground investigation will be required to confirm conditions and inform foundation design, particularly given the nature of the superficial deposits and potential for compressible materials. It would be prudent at this time to test near surface topsoil to confirm its suitability for use in residential gardens and if peat deposits are identified, confirm the gas regime.’ This recommendation seems appropriate to the findings of the report. The only error found in the report was that

the definitions of risk were back to front in the 'Risk Description' table. This is however an obvious editing/formatting error and does not affect the following risk analysis. Other than that, the report is compact and thorough; with all potential linkages considered and appropriate conclusions and recommendations. WPA would advise that the recommended geo-environmental investigations be allowed to commence, with conditions CL1 and CL5 in place.

1.5 Publicity

1.5.1 The application was advertised as a departure from the Development Plan by site notice, neighbour notification letter and advertisement in the local newspaper resulting in comments from 36 properties (some submitting multiple comments on the application). The issues raised can be summarised as follows:

Principle of Development

- Comments on pre-application literature note that Sherburn needs 750 new houses – it doesn't – Selby wants them! Sherburn is having development forced upon it by Selby Council.
- The development of this application site and the adjoining sites would be overdevelopment and begs the question of how existing residents are being protected from the impacts and what account is being taken of the cumulative impacts of the development of these sites which should be one application and subject of an Environmental Impact Assessment (EIA).
- There is no need for further open market housing in the area and sufficient provision has been made already – these concerns are shared by the Parish Council

Design and Impact on the Character of the Area

- The protection of Sherburn in Elmet's visual, historic and archaeological qualities is supported by Policy C6 of the emerging Local Plan for Selby and Paragraph 64 of the NPPF and development should be refused that is of poor design and fails to take the opportunity available for improving the character of an area and the way it functions.

Highways Issues

- The information from the developer prior to the application made no reference to other developments in the settlement – the impact of which will impact on the traffic situation
- Consideration should be given to the relationship in highways terms to the Industrial Estate and other development such as the Church Fenton airfield / Squires Motorcycle Bar and the Sherburn Aerodrome
- Travelling to the schools from the site would undoubtedly be via car given the location of provision
- The development of the settlement will increase travel to work levels by private car
- Increased traffic flow on the roads serving the site which are not very wide will lead to more accidents and impact on drivers and pedestrians including children/elderly.
- Heavy construction traffic to and from the site will make minor collisions and bumps to legitimately parked cars more likely

- Little has been offered by way of an alternative such as improving public transport links through bus or rail network provision – so people will travel by car.
- A mini roundabout (at the junction of Pinfold Garth and Cardinal Close) would be an appropriate means by which traffic flow in this location be better managed and more safely managed given the increased volume of traffic that can be expected.
- The scheme would only be accessible by one route
- The submitted highways assessment is biased towards the developer and is not a true reflection of the actual situation
- Consideration should be given to the use of Hodgson Lane or Springfield Lane to serve the development
- The submitted assessment underestimates the traffic generation level from the development
- Visibility along Pinfold Garth is restricted and limited due to parked cars
- Alternative access via Hodgson Lane or the Bypass should be considered or from the proposed roundabout on the bypass
- The information provided by the Traffic Consultant (SCP) fails to fully account for the character of the roads and the reduction in the number of houses to 60 rather 70 shows there are issues in highways terms
- In highways terms the Council should be considering all three applications for this part of Sherburn as a whole (2015/0848/OUT ; 2015/0895/OUT and 2015/0544/OUT)
- How will emergency services access these development and between the schemes currently being considered under 2015/0848/OUT ; 2015/0895/OUT and 2015/0544/OUT
- Hodgson Lane is not a vehicle route

Drainage and Flooding

- The site is part within Flood Zone 2 and should not be developed.
- Development of the site will increase the risk of flooding in the area caused in part by run off of rainwater.
- The land already gets very waterlogged after just normal rainfall.
- Development of this site may impact on the adjoining application sites in terms of flooding – but no assessment has been done of this possibility.
- There should not be any further run off surface water putting existing properties at risk.
- The existing sewerage system is already failing to put extra pressure on the system seems ludicrous.
- The submitted Flood Risk Assessment does not consider the Sequential Test.
- The submitted information notes the site is at low risk of flooding however pits dug on nearby Strata development immediately filled with water.
- There is limited capacity at the local Waste Water Treatment Works 7
- Have the events of December 2015 / January 2016 been taken into account in assessing flooding.

Impact on residential amenity

- Will impact on the life of existing residents of the settlement as a result of construction traffic, construction activity and highways impacts.
- Existing properties could be overlooked and overshadowed by the development and gaps should be set between the new and existing development.

- Difficult to judge the impact of the development on amenity given the limited information provided – the developer should not be given “carte blanche” and detailed plans should be provided.
- Will result in noise from the houses as a result of car movements on Pinfold Garth.
- Development of the site would impact on the view of the open countryside.
- The sand and water running through the site would mean need for piling – this is being done by Strata on another development and is impacting on residents.
- Development of the site represents a total invasion of a nice quiet area.

Impact on services/facilities

- Sherburn centre is relatively small and facilities including shops and social facilities alongside the road network and infrastructure are limited.
- Medical provision is a concern and the Doctors have noted an issue on capacity for patients and the car is also limited at the Surgery.
- There is no capacity for any additional NHS patients at the Dentist.
- Primary and Secondary school provision constrained already and oversubscribed.
- Infrastructure in the settlement is at breaking point and there needs to be some improved provision.
- Will impact on police resources just as earlier developments in the village have historically.
- There are inadequate public transport services for the village.
- There are no public toilets in the village.

Ecology

- The development of this site (and the adjoining sites) will impact on the biodiversity of the area
- Development of this site may impact on the adjoining application sites in terms of ecology – but no assessment has been done of this possibility
- Will reduce available habitat for bats, red kite, sparrowhawks, barn owls and kingfishers and will destroy the natural environment
- Will result in the loss of hedgerows which are or should be protected and not lost
- The land has not been actively farmed for 15 years and as such its development now could result in loss of wildflower population and loss of habitat for species
- There is an active bat population in the area and the site is used for feeding, flight and foraging.

Other issues

- The development of the site will mean that an area of land to the side of 69 Pinfold Avenue would be left unused
- Development of the site will mean trees and hedgerows will be lost to the rear of existing properties (63 / 65 / 67 / 69 / 71 and 73 Pinfold Garth) which will impact on privacy
- The pre-application consultation with the community was on a tight timescale allowing only 2 days to return questionnaires and Barton Willmore failed in the exercise to advise of their role.

- The pre-application literature contained a series of sweeping statements advocating the benefits of the development that should be considered by the Local Planning Authority
- Access for emergency services to the development would be a concern
- Parking in the centre of Sherburn is constrained and more development / extra traffic will make it impossible
- Greenspace in the settlement is being constantly eroded and this will impact on the physical and mental health of the community if it continues.
- Will reduce value of existing properties adjoining and surrounding the site
- The site is greenfield and is used for recreational purposes including dog walking and recreation
- There are issues with gas leaks in the village
- Will result in increased levels of anti-social behaviour
- No tree survey has been provided as part of the application.
- Only one pharmacy to serve the village which cannot cope with current demand
- No leisure facilities in the settlement for residents.
- There is a clear pathway through the site which has been in use for in excess of 30 years and has not been challenged by the landowners – this is a continuous right of way as a result and should be accounted for in any plans for the site.
- Knotweed is evident on the site
- The application contains misleading information and is misleading.
- Pile driving will damage surrounding properties.
- There is no reference to the builder or the type of houses proposed.
- Not clear where the children's play area will be
- Crime rates will increase as a result of more development.

An online petition with 566 objectors (at the time of submission to us in October 2015) has also been presented with concerns raised in regards to the number of applications within Sherburn for housing developments both approved and ones submitted which would:

- Increase traffic with the crossroads already being congested in rush hour. Introducing more traffic to the area would only escalate the situation.
- Parking is not adequate in the village especially at school times and weekends.
- South Milford Petrol Station is the only petrol station in the vicinity to the local residents without driving to Tadcaster. Not only is the petrol station used by residents in surrounding villages, it is also used by commuters and vehicles from the Sherburn Industrial Estate. It would cause chaos if hundreds of additional vehicles began using the Petrol Station especially in busy periods. The Station has already had an increase in shoppers due to the Marks and Spencer's food chain opening.
- As population is ever increasing in the village no more doctors surgeries have been built. An increase in numbers to this service is not viable at its current capacity.
- Although there are two primary schools in Sherburn in Elmet and one high school an increase in population would have a detrimental effect on local parents and children with the schools already being at a near full capacity.
- Residents of this village enjoy living in Sherburn in Elmet because of the surroundings and value the area greatly. Consistent building is resulting in Greenfield Land being lost to accommodate for more housing. On speaking to

many residents people are saddened by this and do not want to see anymore building on our precious Greenfield Sites.

- Many of the sites chosen for development are and have been inhabited by wildlife. This needs to be taken into consideration when destroying such habitats so future generations can enjoy the same as we have.

2. Report

2.1 Introduction

2.1.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 states "if regard is to be had to the development plan for the purpose of any determination to be made under the planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise". This is recognised in paragraph 11 of the NPPF, with paragraph 12 stating that the framework does not change the statutory status of the development plan as the starting point for decision making. The development plan for the Selby District comprises the Selby District Core Strategy Local Plan (adopted 22nd October 2013) and those policies in the Selby District Local Plan (adopted on 8 February 2005) which were saved by the direction of the Secretary of State and which have not been superseded by the Core Strategy.

2.2 Selby District Core Strategy Local Plan

2.2.1 The Selby District Core Strategy was adopted on 22 October 2013 in accordance with the NPPF, its policies are up to date and can in general be given full weight in the determination of planning applications. A challenge to the Core Strategy was made in December 2013 and sought to have the plan quashed based on ten grounds of challenge. The case was heard in the High Court in July 2014 and Judgement was given in October 2014 dismissing all ten grounds. Permission to appeal was granted on one ground – duty to co-operate. The case was heard by the Court of Appeal in October 2015 and judgement was given that same month which dismissed the appeal and upheld the High Court decision. The appellant then sought leave to appeal that decision. On 22 March 2016 the Supreme Court refused permission to appeal as there was no arguable point of law and that the Court of appeal was correct in its decision for the reasons given. There is no further potential for the Core Strategy to be challenged through the Court process and no additional right of appeal against the refusal to further entertain the challenge.

Relevant policies here are:

- SP1 Presumption in Favour of Sustainable Development
- SP2 Spatial Development Strategy
- SP5 Scale and Distribution of Housing
- SP8 Housing Mix
- SP9 Affordable Housing
- SP12 Access to Services, Community Facilities and Infrastructure
- SP14 Town Centres and Local Services
- SP15 Sustainable Development and Climate Change
- SP16 Improving Resource Efficiency
- SP18 Protecting and Enhancing the Environment
- SP19 Design Quality

2.3 Selby District Local Plan

- 2.3.1 Annex 1 of the National Planning Policy Framework (NPPF) outlines the implementation of the Framework. As the Local Plan was not adopted in accordance with the Planning and Compulsory Purchase Act 2004, the guidance in paragraph 214 of the NPPF does not apply and therefore applications should be determined in accordance with the guidance in Paragraph 215 of the NPPF which states " In other cases and following this 12-month period, due weight should be given to relevant policies in existing plans according to their degree of consistency with this framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given)".

The relevant Selby District Local Plan Policies are:

SL1:	Safeguarded Land
ENV1:	Control of Development
ENV2:	Environmental Pollution and Contaminated Land
ENV3	Light Pollution
ENV28:	Archaeology
T1:	Development in Relation to Highway
T2:	Access to Roads
T7	Cyclists
T8	Public Rights of Way
RT2:	Recreational Open Space
CS6:	Infrastructure and Community facilities

2.4 National Policy

- 2.4.1 On the 27th March 2012 the Government published the National Planning Policy Framework (NPPF). The NPPF replaced the suite of Planning Policy Statements (PPS's) and Planning Policy Guidance Notes (PPG's) and now, along with the guidance in the Technical Guidance Note, and Policy for Traveller Sites, provides the national guidance on planning.

- 2.4.2 The NPPF introduces, in paragraph 14, a presumption in favour of sustainable development. Paragraph 14 of the NPPF states "At the heart of the National Planning Policy Framework is a presumption in favour of sustainable development, which should be seen as a golden thread running through both plan-making and decision-taking".

- 2.4.3 The NPPF and the accompanying PPG provides guidance on wide variety of planning issues the following report is made in light of the guidance of the NPPF.

2.5 Other Policies/Guidance

Affordable Housing Supplementary Planning Document, 2013
Developer Contributions Supplementary Planning Document March 2007
Sherburn in Elmet Village Design Statement, December 2009
North Yorkshire County Council SuDs Design Guidance, 2015

2.6 Key Issues and the decision making process

2.6.1 The main issues and decision making process to be taken into account when assessing this application are:

- 1. Are there any relevant changed circumstances since the Lead Officer Policy considered the application in October 2015?**
- 2. What does the development plan say about the principle of development on the application site and the spatial development strategy for Sherburn-in-Elmet?**
- 3 What are the site specific impacts and how do they relate to planning policy.**
 1. Design and impact on the character of the area
 2. Flood risk, drainage and climate change
 3. Impact on highways
 4. Residential amenity
 5. Nature conservation and protected species
 6. Affordable housing
 7. Recreational open space
 8. Education, healthcare, waste and recycling
 9. Contamination
 10. Impact on heritage assets
 11. Education, healthcare, waste and recycling
 12. Other issues
- 4 Does the development plan point in favour of, or against, an approval of the application?**
- 5. Do material considerations suggest a decision other than in accordance with the development plan?**

2.7 Are there any relevant changed circumstances since the Lead Officer Policy considered this application in October 2015?

2.7.1 Housing Land Supply

The National Planning Policy Framework (NPPF) places significant importance on maintaining the delivery of a five year housing land supply to meet housing targets (para 47 bullet 4) and relevant policies for the supply of housing should not be considered up-to-date if the local planning authority cannot demonstrate a five year supply of deliverable housing sites (para 49).

2.7.2 When the Lead Officer (Policy) responded to this application in October 2015 the Council could not demonstrate a five year housing land supply across the District. Therefore only limited weight could be given to the Council's own development plan policies on the supply of housing in these comments.. These policies could not be considered up to date. Instead paragraph 14 of the NPPF required the planning

balance to be much more dependent on an assessment of the policies of the NPPF itself.

2.7.3 Now that a five year housing land supply can be demonstrated for the District (5.8 years at 1 October 2015), the planning balance has changed to allow the Council to determine the application:

- *“In accordance with the development plan unless material considerations indicate otherwise”.*

2.7.4 This is a significant difference in the approach to the determination of this application compared to the position advised by the Policy team in October 2015. An updated housing land supply position with a base date of 1 April 2016 is to be reported to the Executive in August 2016.

Changed circumstances: the Community Infrastructure Levy

2.7.5 The Community Infrastructure Levy (CIL) is a charge which Local Authorities can charge on most types of new development in their area. CIL charges are based on the size and type of the proposed development, with the money raised used to pay for strategic infrastructure required to support development growth within their area.

2.7.6 The Council will use CIL to secure strategic infrastructure, as detailed in the Regulations 123 list, whilst local infrastructure will be secured through planning obligations in line with relevant policies.

2.7.7 CIL charging was formally introduced by the Council on 1 January 2016 and given that proposals relate to new housing a CIL contribution would be required for this development. However, this cannot be calculated in detail until a reserved matters application setting out the proposed floor space for the development has been submitted.

2.7.8 The introduction of CIL would not impact on the on-site recreational open space provision, affordable housing provision, the waste and recycling, and local transport mitigation contributions which would still need to be secured through a Section 106 agreement. The contributions towards education, healthcare, off site recreational open space and strategic transport infrastructure are no longer appropriate within a Section 106 agreement as they are now covered by the CIL Regulation 123 list.

2.8 What does the development plan say about the principle of development on the application site and the spatial development strategy for Sherburn-in-Elmet?

2.8.1 Policy SP1 of the Core Strategy outlines that

“when considering development proposals the Council will take a positive approach that reflects the presumption in favour of sustainable development contained in the National Planning Policy Framework”

2.8.2 More detailed policies in the development plan regarding the principle of development on this site include Policy SL1 Safeguarded Land of the Selby District

Local Plan and Core Strategy Policies SP2 “Spatial Development Strategy” and Policy SP5 “The Scale and Distribution of Housing” of the Core Strategy.

2.8.3 Policy SL1 of the Selby District Local Plan (SDLP) states that:

“Within areas of safeguarded land as defined on the proposals map, proposals for development which would prejudice long term growth beyond 2006 will not be permitted. It is intended that the release of safeguarded land, if required, will be carried out in a controlled and phased manner extending over successive reviews of the Local Plan.”

2.8.4 The first part of the policy is out of date because it applies to proposals submitted before 2006 that would prejudice long term growth after 2006. However the second part of the policy is process rather than time limited.

2.8.5 As explained in paragraph 3.48 of the SDLP

“The release of Safeguarded Land, if required, to meet long term development needs would only be made in a controlled and phased manner through future Local Plan or land supply reviews, possibly extending over successive review periods”

2.8.6 Hence the application is in conflict with this policy because it will result in the release of safeguarded land without the endorsement of a Local Plan or land supply review to do so.

2.8.7 The policy itself was adopted in 2005, and the evidence which supported it would date back several years earlier. However that does not necessarily mean:

- it is out of date or
- should not be considered up to date (the terminology used in paragraph 49 of the NPPF) or
- carry limited weight

2.8.8 If the policy remains consistent with the NPPF and still provides a relevant approach to safeguarded land having taken into account the current land supply position and any changes in circumstances since 2005, it can be considered up to date or at least not out of date and carry due weight. Paragraph 215 of the NPPF states that:

“the closer the policies in the plan to the policies in the framework, the greater the weight that may be given”

2.8.9 Paragraph 85 of the NPPF states that

“Planning permission for the permanent development of safeguarded land should only be granted following a Local Plan review which proposes the development”

2.8.10 SDLP Policy SL1 is fully consistent with the NPPF.

2.8.11 As regards the relevance of the policy in 2016, it is important to note that:

- the minimum housing requirements for Sherburn-in-Elmet in the current plan period up to 2027 have essentially already been met when current commitments are built out
- the policy team’s view is that
 - the Council has now and should, through windfall housing, maintain a ‘positive’ five year housing land supply position at least in the short term.

- there is no need to release this safeguarded land for development at this present time.
- the large amount of safeguarded land (about 45 hectares with the loss of some of this land for recreational open space) on five parcels of land to the north east, south and west of the town remain undeveloped. Based on the Core Strategy's spatial development strategy and policies this amount of land still offers a long term supply and choice of land for the town's growth requirements well beyond the current plan period up to 2027.

2.8.12 The SDCS Policy SP3 confirms the relevance and importance of a policy to safeguard land for the long term and to only release that land through the Local Plan in its criterion D. This states that:

“To ensure that the Green Belt boundaries endure in the long term, any Green Belt review through the Local Plan will:

ensure that there is sufficient land to meet development requirements throughout the Plan period and identify safeguarded land to facilitate development beyond the Plan period.”

2.8.13 The SDLP was adopted in 2005 and provided for housing growth up to 2006. This dates the plan and a number of policies in the adopted plan have either been withdrawn (by the Secretary of State in 2007) or replaced by the recently adopted Core Strategy. Nevertheless there are many policies in the SDLP that have been 'saved' for use in the determination of planning applications. Policy SL1 is one of these policies. There are recent Inspector's and Secretary of State decisions on planning appeals which conclude that this type of policy is out of date beyond the end of the plan period or when a Council has decided to release some of its safeguarded land as an interim measure to 'maintain' a five year housing land supply. This Council has not sought to amend its policy on safeguarded land and hence the latter circumstance does not apply here.

2.8.14 Clearly in 2016 we are well beyond the end of the plan period of 2006 and it is argued by the applicant that this means the policy is out of date and should carry little or no weight.

2.8.15 Nevertheless, it is the officer view that this policy is not out of date because

- the clarity of the policy and explanatory text identifies that it should only be released under the circumstances stated in paragraph 1.4.9 above, (These circumstances do not apply here)
- The policy clearly indicates that the release of safeguarded land might be spread over successive plan reviews (The housing levels, already established in Sherburn-in Elmet, may point to the release of land only in the next Local Plan Review)
- the policy remains relevant today as safeguarded land is currently not required to meet the minimum housing requirement for Sherburn-in-Elmet in the adopted Core Strategy, and the District's housing supply as a whole at 1 April 2016 is likely to show the District as already having provision well above the Core Strategy's minimum target level of 7,200 dwellings by 2027.
- it is consistent with paragraph 85 of the NPPF.

- 2.8.16 A decision on which tracts of safeguarded land, if any, are to be released is currently the subject of a Local Plan Review. The Core Strategy has set the strategic approach in this review and the Sites and Policies Local Plan, 'PLAN Selby' will determine what parcels of land should be released for development through site allocations. A 'PLAN Selby' Preferred Options consultation is due out in the autumn 2016.
- 2.8.17 The above analysis means that Members can under the terms of the NPPF (para 215) give between moderate and significant weight to this proposal's conflict with SDLP Policy SL1 in the planning balance. (This weight is however not the full weight that can be attributed to a post NPPF up to date development plan policy such as within the Core Strategy) It is the officer view that significant weight should be given to the conflict because of the current circumstances on housing land supply and the adverse consequences for plan making in Sherburn-in-Elmet were the proposal to be approved. These consequences are described below.
- 2.8.18 Policies SP2 and SP5 of the Core Strategy set out some of the main elements of the development plan's spatial development strategy and its objective of creating sustainable communities. SDLP Policy SP2 identifies Sherburn-in-Elmet as a sustainable Local Service Centre which should accommodate residential and potentially employment growth between the years 2011 and 2027.
- 2.8.19 SDCS Policy SP5 seeks to provide a minimum of 790 dwellings in Sherburn-in-Elmet between these years. This represents 11% of the whole District's housing requirement of a minimum of 450 dwellings per annum during the plan period. Taking into account existing completions since the start of the plan period (2011), planning permissions and the delivery associated with this application, Sherburn-in-Elmet is likely to see some 862 new dwellings completed before 2027. This does not take account of windfall residential development within the town's development limits.
- 2.8.20 Behind the policy wording of the Core Strategy, the reasoned justification of the plan refers to the possibility of an overall District wide housing supply which could include between 105 and 170 dwellings per annum from windfall sites above the 450 dwellings per annum, from around 2016. A windfall figure for Sherburn-in-Elmet is not provided. This shows that the Core Strategy has been adopted with an expectation that a significant number of dwellings above the minimum housing target could, in principle, be accommodated in the District.
- 2.8.21 However, there is about 45 hectares of safeguarded land designated around the town and not developed. There are currently two other planning applications with the Council for residential development on safeguarded land which, if approved, would add some 135 and 270 dwellings to the town's housing numbers. This would take the total dwelling commitment to 1267 for Sherburn-in-Elmet. At 60% higher than the Core Strategy minimum housing target, without taking account of any windfall housing within the town's development limits, this clearly represents a significant departure from the Core Strategy's housing growth levels for the town and the spatial development strategy as it applies to Sherburn-in-Elmet. The appendix to this report provides a map showing the application site, the other application sites referred to in this report and the safeguarded land and other designations around Sherburn-in-Elmet.

2.8.22 In the particular circumstances in Sherburn, this raises concerns over:

- the lack of a strategic and integrated land use approach to the town's growth, including concerns over the need for a Sites and Policies Local Plan update of the Council's Community Infrastructure Levy charging policy to ensure that local services and infrastructure can be delivered in the town. .
- the 'bypassing' of the local community's desire and ability to shape the town's growth and to influence the delivery of appropriate new and improved facilities and services, and
- a potentially inappropriate increase in travel to work by car to West Yorkshire, contrary to the Core Strategy objective of minimising travel by car.
- an inappropriate scale of residential growth for the town compared to that envisaged by the Core Strategy.
- the earlier than necessary call for further changes to the Green Belt.

2.8.23 Some of these concerns were raised by the Inspector in his report on the examination of the Core Strategy (June 2013). He stated about the town, in paragraph 83 of his report, that:

"...the absence of many key services in the town and the limited opportunities for expanding its small town centre militate against greater housing growth unless part of a comprehensive planned expansion"

2.8.24 In addition paragraph 4.23 of the SDCS states, in relation to Sherburn-in-Elmet, that:

"The level of services and facilities available however, has not kept pace with growth. In these circumstances the Core Strategy aims to facilitate some growth in market housing with a strong emphasis on provision of accompanying affordable housing, but priority will be given to improving existing services and expanding the range of local employment opportunities, in order to help counter the strong commuting movements to Leeds."

2.8.25 However Member attention is drawn to the fact that since the Core Strategy was adopted additional employment and retail provision (the 'Proving Ground' and an Aldi food supermarket) are facilities for the town which have been permitted. These facilities have assisted in the delivery of Policies SP2 and SP5 of the Core Strategy. The Aldi food supermarket has now been built and is open.

2.8.26 Nevertheless the above concerns; the precedent that is likely to be set by the approval of any substantial tract of safeguarded land for residential development; the healthy housing land supply already in in the town, result in an officer conclusion that this application is in conflict with the Core Strategy's spatial development strategy, in particular Policies SP2A, SP5 and SP14. These are up to date policies within a post NPPF adopted plan and therefore full weight can be given to them in the planning balance. The Council's draft Strategic Housing Market Assessment broadly supports the overall scale of housing development proposed in the Core Strategy.

2.8.27 SDCS Policy SP2A,c This element of the Core Strategy policy cross references to development limits around settlements. A development limit draws a line on the policies map of the Local Plan and seeks to strictly control the type of development

on one side of the line in order to protect the integrity of the countryside. The development limits are shown on the Selby District Local Plan policies map. These development limits are under review in the work on the Sites and Policies Local Plan 'PLAN Selby'. This proposal would result in the loss of about 9 hectares of countryside and good quality agricultural land for a type of development not permitted by this policy. There is a close relationship between this policy and that of SDLP Policy SL1. One reinforces the other. At least moderate weight should be given to this conflict with development plan policy.

2.8.28 The applicant disagrees with the Council's approach to the use of development limits in determining planning applications in 2016 from a plan adopted in 2005 and only planning for housing up to 2006. They consider this policy is out of date. It is the officer's view that Members can continue to give weight to the development limits of the Selby District Local Plan where they provide an appropriate distinction between countryside and a main built up area; where growth in line with the Core Strategy is being accommodated and where the focus of growth should be within the development limits of the settlement. This is the position here. A number of Inspectors' and Secretary of State's decisions exist whereby development limit policies have been deemed out of date. These decisions do not reflect a recent Inspector's decision on a proposal for residential development at North Duffield taking into account the specific circumstances of Selby District. The Inspector here concluded that with the five year housing land supply in the District and the Core Strategy setting up the process by which additional housing will be brought forward, the development plan policies on the supply of housing should be regarded as up to date.

What are the site specific impacts of the proposal and how do they relate to planning policy?

2.9 Design and Impact on the Character of the Area

2.9.1 Relevant policies in respect to design and the impacts on the character of the area include Policy ENV1 (1) and (4) of the Selby District Local Plan, and Policy SP19 "Design Quality" of the Core Strategy. In addition Policy SP8 of the Core Strategy requires an appropriate housing mix to be achieved.

2.9.2 Significant weight should be attached to the Local Plan policy ENV1 as it is broadly consistent with the aims of the NPPF.

2.9.3 Relevant policies within the NPPF, which relate to design include paragraphs 56, 60, 61, 65 and 200.

2.9.4 The application proposes outline consent for up to 60 dwellings with access for consideration and all other matters reserved. An indicative illustrative masterplan has been submitted which demonstrates how the site could accommodate 70 dwellings (as this was the initial proposed quantum of development), allowing for internal road networks and an area of recreational open space. The application site has a site area of 2.52 hectares which would achieve a density of approximately 23.8 dwellings per hectare which is considered to be low to medium density and as such would appear to be a reasonable density having had regard to the surrounding context. Having taken into account the indicative layout submitted and the context

of the site it is considered that an appropriate layout could be achieved at reserved matters stage.

- 2.9.5 With respect to the appearance of the proposals the submitted Planning, Design and Access Statement notes that the materials for the development would be considered at the Reserved Matters stage but also notes that a mix of materials would be used to reflect the surrounding context and immediate areas. Having had regard to the contents of the Planning, Design and Access Statement and taking into account the surrounding context of the site there is nothing to suggest that an appropriate appearance could not be achieved at reserved matters stage. The Indicative Layout notes a mix of properties with the majority of properties being two storey with some two and a half storey properties. Providing that the scale of the properties proposed takes account of the surrounding context and in particular the inter-relationship with existing properties along the southern boundaries there is nothing to suggest that an appropriate scale cannot be achieved at reserved matters stage.
- 2.9.6 In terms of landscaping, this is reserved for future consideration, however it is noted that the site is generally open in character with trees and hedgerows located on the site boundaries. The submitted Planning, Design and Access Statement notes that there are no trees or hedgerows within the site itself although it acknowledges that there are mature hedgerows on the boundaries which would be retained.
- 2.9.7 Policy ENV3 of the Local Plan requires consideration be given to external lighting and it is considered that an appropriate lighting scheme can be achieved at reserved matters stage.
- 2.9.8 Policy SP8 states that proposals must ensure that the types and sizes of dwellings reflect the demand and profile of households evidenced from the most recent Strategic Housing Market Assessment. As this is an outline scheme there is no detail as to the proposed housing mix, however an appropriate mix could be achieved at reserved matters stage taking into account the housing needs identified in the Strategic Housing Market Assessment.
- 2.9.9 The Police Architectural Liaison Officer has commented on the proposed indicative layout and has made a series of recommendations which the developers should take account of within the design of a detailed reserved matters scheme.
- 2.9.10 With respect to the development's landscape and visual impact the Council has commissioned a landscape consultant to make a qualified assessment. Members will be updated on the results of this assessment at Committee.
- 2.9.11 Comments have been made by local residents with respect to the impacts on visual amenity, the layout of the scheme, the proposals being on a greenfield site, and damaging the character and charm of Sherburn in Elmet.

2.10 Flood Risk, Drainage, Climate Change and Energy Efficiency

- 2.10.1 Policies SP15, SP16 and SP19 of the Core Strategy require proposals to take account of flood risk, drainage, climate change and energy efficiency within the design.

2.10.2 The majority of the application site lies within Flood Zone 2 and the remainder in Flood Zone 1. In terms of Flood Zone 2 the NPPF states is of medium probability to flooding and defines it as having between a 1 in 100 and 1 in 1,000 annual probability of river flooding or a 1 in 200 and 1 in 1,1000 annual probability of flooding from the sea.

2.10.3 The PPG identifies dwelling houses as falling within the “more vulnerable” category and as such the proposals would need to pass the sequential test. In addition all applications in Flood Zones 2 and 3 must be accompanied by a Flood Risk Assessment. These are discussed in turn below.

Sequential Test

2.10.4 Paragraph 104 of the NPPF states that

“For individual developments on sites allocated in development plans through the Sequential Test, applicants need not apply the Sequential Test.”

2.10.5 However in designating safeguarded land in the Selby District Local Plan, the sequential test had not been undertaken and therefore it is now required for this planning application.

2.10.6 The applicant has submitted a Sequential Test and considers that it has been passed. The policy team has assessed the applicant’s sequential test. It is the officers’ view that the following sites of lower flood risk than this application site have a deliverable housing yield within the next five years which combined together can accommodate more than the housing yield on the application site.

BRY/1 Land South of Byram Park Avenue	24 dwellings
EGG/2 Land East of High Eggborough Lane, Eggborough	39 dwellings
EGG/3 Land South of Selby Road, Eggborough	75 dwellings

2.10.7 Hence officers advise Member that this proposal fails the flood risk sequential test.

2.10.8 Paragraph 101 of the NPPF states that:

“The aim of the Sequential Test is to steer new development to areas with the lowest possibility of flooding. Development should not be allocated or permitted if there are reasonably available sites appropriate for the proposed development in areas with a lower probability of flooding.”

2.10.9 Hence the failure to pass the Sequential Test means that this development should not be permitted as it is in conflict with Policy SP15 of the SDCS and paragraph 101 of the NPPF. Policy SP15 of the SDCS should carry full weight in the planning balance.

Flood Risk Assessment

2.10.10 The applicants have submitted a Flood Risk Assessment which assesses the site characteristics, flood sources, outlines discussions with statutory consultees including the Environment Agency and Yorkshire Water and the IDB, consideration of the flood classification, and mitigation measures. The proposed mitigation

includes floor levels to properties, no basements to properties and solid concrete floors to ground floors, external level at 50mm below the ground floor level of properties, alignment of the site access to ensure no ponding, use of sustainable urban drainage methods, restrictions on surface water run off rates, ensuring that 50% of the surface areas are permeable and attenuation mitigation.

- 2.10.11 Residents have raised concerns that the application site is within Flood Zone 2 and that the drainage needs to be considered.
- 2.10.12 NYCC Flood Risk Management Team has been consulted on the proposals and they have recommended that a condition is attached if planning permission is given. The Environment Agency has been consulted and they have raised no objections, however have requested that a condition be imposed regarding progression in accordance with the submitted FRA and site levels.
- 2.10.13 With respect to surface water run-off this should be managed using sustainable drainage techniques to ensure that flood risk is not increased either on-site or elsewhere and the Internal Drainage Board should agree any discharge rates. Having consulted the Internal Drainage Board they have not provided any detailed comments.
- 2.10.14 Yorkshire Water have confirmed that they have no objections in principle to the proposals subject to conditions and the discharge of all surface water to watercourses.

Energy Efficiency and Climate Change

- 2.10.15 With respect to energy efficiency, in order to comply with the specific requirements of Policy SP16 which requires that 10% of total predicted energy should be from renewal, low carbon or decentralised energy sources a condition should be imposed on permission granted in order to ensure compliance with Policies SP15 and SP16 of the Core Strategy.
- 2.10.16 Having taken the above into account it is considered the proposed scheme can adequately address drainage subject to appropriate conditions. In addition climate change and energy efficiency measures can be secured via condition to ensure that these are incorporated at reserved matters stage in accordance with Policies SP15, SP16 and SP19 of the Core Strategy and the NPPF. Flood risk can be mitigated on the site, but the proposal's failure of the sequential test requires a recommendation for refusal.

2.11 Impacts on Highway Safety

- 2.11.1 Policy in respect of highway safety and capacity is provided by Policies ENV1(2), T1 and T2 of the Selby District Local Plan, Policy SP19 of the Core Strategy and paragraphs 34, 35 and 39 of the NPPF. In addition Policies T7 and T8 of the Local Plan set out requirements for cycling and public rights of way.
- 2.11.2 The applicants Transport Assessment together with updated technical notes which examine the existing highway network, traffic flows and accident levels and presents the anticipated traffic generation and highway impacts as a result of the development having also taken into account other permissions within Sherburn in

Elmet. The reports conclude that the proposal would not have a material impact on the surrounding area and that traffic can be managed via a priority controlled junction onto Pinfold Garth. Detailed traffic assessments have been undertaken in line with NYCC requirements and to allow consistency with other applications in the area. The assessments conclude that the proposal will not have a severe impact on the local highway network.

2.11.3 The North Yorkshire County Council Review of the applicant's Transport Assessment concludes that the application is acceptable in highways terms and would not have a severe detrimental impact on the network subject to a limitation on the number of units on the development to 60. NYCC Highways requested that the number of dwellings on the site be controlled via the S106. However, the applicants have agreed to an amendment to reduce the number of units from 70 to 60 so this does not need to form part of a legal agreement. NYCC Highways have alongside a series of conditions noted above, requested a contribution towards improvements to the traffic lights in Sherburn town centre of £20,000.

2.11.5 It is accepted by officers that Sherburn-in-Elmet is designated as a Local Service Centre in the adopted Core Strategy and that the settlement represents a generally sustainable location in terms of access to jobs, local schools and services by a choice of transport modes. As with many settlements within the District there will be some reliance on the private motor vehicle to access employment and wider services and facilities. Nevertheless, the lack of the provision local shopping facilities within this site, especially if combined with approval for the two other adjacent sites for residential development is of concern.

2.11.5 North Yorkshire County Council Highways do not consider that the impact of the local highway network from this application or in combination with the other two applications on this agenda could be regarded as "severe" as cited in paragraph 32 of the National Planning Policy Framework. This is the necessary test to determine the acceptability of traffic impact for planning applications.

2.11.6 The County Council will secure measures to mitigate the local traffic impact from the developer and have no objection to this proposal or the cumulative impact of all three residential proposals on the agenda. It is therefore recommended that Members consider this proposal as acceptable in terms of traffic impact and in accordance with Policies ENV1 (2), T1, T2, T7 and T8 of the Local Plan, Policy SP10 of the Core Strategy and paragraph 32 of the NPPF, subject to conditions and contributions to highway improvements.

2.12 Residential Amenity

2.12.1 Policy in respect to impacts on residential amenity and securing a good standard of residential amenity is provided by ENV1(1) of the Local Plan, as part of the Core Principles of the NPPF and within Paragraph 200 of the NPPF.

2.12.2 The detailed design of the properties, orientation, boundary treatments and relationship of windows to other properties would be fully established at reserved matters stage so as to ensure that no significant detriment is caused through overlooking, overshadowing or creating an oppressive outlook.

2.12.3 Residents have expressed concerns regarding noise pollution during the construction process and a consultation has been sent to the Lead Officer for Environmental Health for their review of the application. It may be considered appropriate they have to condition provision of a scheme to control, noise, vibration and dust to be submitted, however committee will be updated on this accordingly.

2.12.5 Having taken into account the matters discussed above it is considered that an appropriate scheme could be designed at reserved matters stage which, subject to the comments from the Lead Officer for Environmental Health, should not cause significant detrimental impact on the residential amenities of either existing or future occupants in accordance with policy ENV1(1) of the Local Plan and the NPPF.

2.13 Impact on Nature Conservation and Protected Species

2.13.1 Policy in respect to impacts on nature conservation interests and protected species is provided by Policy ENV1(5) of the Local Plan, Policy SP18 of the Core Strategy and paragraphs 109 to 125 of the NPPF.

2.13.2 With respect to impacts of development proposals on protected species planning policy and guidance is provided by the NPPF and accompanying PPG in addition to the Habitat Regulations and Bat/ Great Crested Newt Mitigation Guidelines published by Natural England.

2.13.3 The application is accompanied by a Phase 1 Habitat Survey Report (May 2015) prepared by Wold Ecology which establishes the impacts of the development and sets out recommendations for the development. An Ecological Enhancement Management Plan also prepared by Wold Ecology (dated October 2015) has also been submitted as a result of comments from consultees on the application. This also sets out a series of recommendations.

Nature Conservation Sites

2.13.4 The submitted report notes that there are no international sites of nature conservation interest within 5km of the site. One statutorily designated site, Sherburn Willows Site of Scientific Interest (SSSI) is present approximately 1.9km to the south west. The desktop data indicates the presence of 6 non-statutorily designated sites within 2km, these are Local Wildlife Sites and include 1 SSSI and 5 SINCs. Due to the separation distances involved it is not considered that the proposals would result in any significant adverse impacts on these sites.

Protected Species

2.13.5 The submitted Phase 1 Habitat Survey and the Ecological Enhancement Management Plan outline mitigation in terms of buffer zones to the adjacent watercourse on the eastern side of the site, provision of enhanced habitat, hedge and tree planting methods and maintenance approaches, use of management methods for the construction stage to protect birds, mammals, water voles and bats and methodologies for lighting / construction specifications, bat box provision and hedgehog housing, management of Japanese knotweed on the site, as well as specifications for new and enhanced planting.

Habitats

2.13.6 The reports confirm that the site comprises sheltered and well drained land dominated by regenerating semi-improved grassland. The survey has not identified any habitats or plant species considered to be rare in the UK and therefore development of the site would have a negligible impact on the biodiversity value of the local area. The hedgerows assessed on the site boundaries are dominated by native species and the report advises that the hedgerows are cleared outside the bird breeding season, that root protection should be utilised during construction and that hedgerows should be maintained and managed accordingly. A margin to the hedgerows is also advised and stand off to the ditches which although not classified as BAP habitat can support such species. In the context of the Phase 1 and as part of the Ecological Enhancement Management Plan then there are a series of recommendations to protect the habitats of ecological value.

2.13.7 Natural England has raised no objection to the proposal. Yorkshire Wildlife Trust and the Bat Group initially objected to the proposals but have since supported the scheme in the context of the submitted Ecological Enhancement Management Plan, the implementation of which can be controlled via condition on any consent.

2.13.8 Therefore, in the absence of any evidence to suggest contrary to the findings of the information submitted by the Applicants, and having had regard to standing advice from Natural England the findings of the submitted Reports are accepted.

2.13.9 Having had regard to all of the above it is considered that the proposal would accord with Policy ENV1(5) of the Local Plan, Policy SP18 of the Core Strategy and the NPPF with respect to nature conservation subject to a condition that the proposals be carried out in accordance with the recommendations set out in the submitted Phase 1 Report and Ecological Enhancement Management Plan.

2.14 Affordable Housing

2.14.1 Policy SP9 of the Core Strategy states that the Council will seek to achieve a 40/60% affordable/general market housing ratio within overall housing delivery. In pursuit of this aim, the Council will negotiate for on-site provision of affordable housing up to a maximum of 40% of the total new dwellings on all market housing sites at or above the threshold of 10 dwellings.

2.14.2 The applicant has confirmed that they are prepared to provide 40% affordable units on site and that this could be secured via a Section 106 agreement. The Council's Lead Officer-Policy supports the provision of 40% of the units (24 affordable units) and has provided guidance to the developers with respect to the tenure of any affordable units to be secured so that this can be considered for inclusion in any Section 106 agreement.

2.14.3 The proposals are therefore considered acceptable with respect to affordable housing provision having had regard to Policy SP9 subject to the completion of a Section 106 agreement.

2.15 Recreational Open Space

2.15.1 Policy in respect of the provision of recreational open space is provided by Policy RT2 of the Local Plan which should be afforded significant weight, the Developer

Contributions Supplementary Planning Document, Policy SP19 of the Core Strategy and paragraphs 70 and 73 of the NPPF.

2.15.2 The indicative layout plan demonstrates that the site could incorporate on-site recreational open space, and this would need to accord with policy requirements set out in Policy RT2 at the reserved matters stage be maintained and managed by a management company. The delivery of the open space and its future management and maintenance would be part of a S106 Agreement.

2.15.3 It is therefore considered that the proposals, subject to a Section 106 agreement, are appropriate and accord with Policies RT2 of the Local Plan, Policy SP19 of the Core Strategy and the NPPF.

2.16 Education, Healthcare, Waste and Recycling

2.16.1 ENV1 and CS6 of the Local Plan and the Developer Contributions Supplementary Planning Document set out the criteria for when contributions towards education, healthcare and waste and recycling are required. These policies should be afforded significant weight.

2.16.2 Having consulted North Yorkshire County Council Education and the Primary Care Trust, a contribution towards education facilities and for an additional consultation room at the Sherburn-in-Elmet medical practice has been requested. However Section 106 planning obligations for this type of development are no longer appropriate as such funding is now covered by the Community Infrastructure Levy.

2.16.3 With respect to Waste and Recycling, a contribution of £65 per dwelling would be required and this would therefore be secured via Section 106 agreement.

2.17 Contamination

2.17.1 Policies ENV2 of the Local Plan and SP19 of the Core Strategy relate to contamination.

2.17.2 The application is accompanied by a Phase 1 Environmental Desk Study conducted by H Y Consulting dated August 2015. The report concludes that 'no significant potential pollutant linkages have been identified in the conceptual Site model that warrants a contamination focused Site investigation (SI) to assess ground contamination.' The Council's Contaminated Land Consultant has advised that this conclusion and recommendations are appropriate.

2.17.3 The Council's Contaminated Land Consultant has also advised that should consent be granted for the scheme then standard conditions CL1 to CL5 should be utilised.

2.17.4 In this context the scheme is considered to accord with Policy ENV2 of the Local Plan and SP19 of the Core Strategy.

2.18 Impact on Heritage Assets

2.18.1 Policies ENV1 and ENV28 of the Local Plan, Policies SP18 and SP19 of the Core Strategy and the NPPF require proposals to take account of their impacts on heritage assets and in particular in relation to this site, archaeology.

- 2.18.2 The NPPF paragraph 128 states Local Planning Authorities should require an applicant to describe the significance of any heritage assets affected, including any contribution made by their setting. The level of detail should be proportionate to the assets' importance and no more than is sufficient to understand the potential impact of the proposal on their significance. Where a site on which development is proposed includes or has the potential to include heritage assets with archaeological interest, local planning authorities should require developers to submit an appropriate desk-based assessment and, where necessary, a field evaluation.
- 2.18.3 The applicants have not provided any specific information in relation to Archaeology and the site does not lie within an Archaeological Consultation Zone for consultation with the County Council. However, in the context of comments from residents a consultation request was sent to NYCC Heritage Officers.
- 2.18.4 They have advised that the proposed development lies within an area of archaeological potential and that a scheme of archaeological mitigation recording is undertaken in response to the ground-disturbing works associated with this development proposal which can be secured via condition on any consent.
- 2.18.5 The proposals are therefore considered acceptable with respect to archaeology in accordance with Policies ENV1 and ENV28, of the Local Plan, Policies SP18 and SP19 of the Core Strategy and the NPPF.

2.19 Other Issues

- 2.19.1 Local residents have stated that there is no need for open market housing within the village and have stated that based on the minimum housing requirement for Sherburn being 790 dwellings there is only a need for a further 60 dwellings. The officer report has dealt with the issue of housing numbers in the paragraphs above.
- 2.19.2 Objectors have noted the presence of Japanese knotweed within the application site. The presence of the species is noted within the submitted Phase 1 Habitat Survey and the report confirms that a specialised contractor should be appointed to remove the species from the site.
- 2.19.3 Objectors have stated that the application should have been subject to an Environmental Impact Assessment. The scheme is not a Schedule 1 scheme and nor is it considered to be a Schedule 2 development and therefore an Environmental Statement was not required in support of the application.
- 2.19.4 Objectors have noted that an alternative access should be considered for the site development. The access for the site is to be taken from Pinfold Garth at a break in properties. The Council has no reason to seek an alternative access and as noted in the submitted information the land was retained by the landowner to facilitate access to the site.
- 2.19.5 An objector has noted that no tree survey was submitted with the application. The applicants have noted on the application form that there are no trees within the site and Officers noted on site visits that there are no trees within the main body of the site. There are no trees covered by TPO's within the site and there are none on the

immediately adjoining land. As such, it is considered that the impact of on trees have been appropriately accounted for in the application.

- 2.19.6 An objector has noted that if the site is developed there would be an area of land that would be undeveloped between his property and the application site. If this land is outside the application site then it is not being considered for development, its future use or ownership is not relevant to the determination of this application.
- 2.19.7 Objectors have noted that the emergency services would have difficulty accessing the site as a result of parking on the roads in the surrounding area. Parking preventing the movement of emergency vehicles is not a material planning consideration and is not a matter planning can resolve. The internal layout of the site would be subject of consultations with the Police Liaison Officer at the reserved matters stage and as part of the adoption process for highways then the ability of such vehicles to move through the application site will be considered.
- 2.19.8 Objectors have raised concerns at the lack of parking for future occupiers from the development to park in the town centre to access services. This report expresses concern over the ability of the town centre to provide for appropriate services and facilities should the town grow significantly above the town's minimum housing requirements.
- 2.19.9 Objectors have commented that development of the site will result in the loss of open space and the loss of dog walking routes / rights of way. The development would result in the loss of open countryside, but not public open space. A public right of way does follow the application site's western boundary, but were approval granted a condition would be attached to secure the retention of this public right of way.
- 2.19.10 Objectors have raised concerns at the impact of the development on the boundaries of the site including the existing hedgerows. As noted earlier in the report the submitted ecology reports consider the impact on hedgerows and outline a series of mitigation measures to ensure these hedgerows are protected / managed appropriately. The mitigation and methods outlined in these reports can be controlled via conditions on any consent as such it is considered that the hedgerows have been appropriately assessed. In terms any boundary treatments other than hedges then the developer of the site would need to confirm the treatment on the approaches to boundaries as part of the reserved matters submission or via condition discharge.
- 2.19.11 Objectors have noted that no details of the house designs or the details of the play area have been provided as part of the application. As this is an outline application such details are not being considered. Details would be confirmed at the reserved matters stage should consent be issues.
- 2.19.12 Residents have stated that there are gas leak problems in the area. Northern Gas Networks have been consulted and members will be updated on this matter at Committee.
- 2.19.13 Objectors have raised concern with respect to the impacts of pile driving. A consultation has been sent to Environmental Health and it maybe that a condition can be used in relation to such matters given that the type of foundations to be

installed has not been confirmed as of yet. Members will be updated of the position of the Lead Officer for Environmental Health at the Committee.

2.19.14 Objectors have made numerous comments regarding the impact of the proposals on the local infrastructure such as leisure facilities, chemist, schools, doctor's surgery, play areas, dentists, lack of shopping facilities and public toilets. Funding from the development via the Community Infrastructure Levy will allow the Council to spend monies on those community facilities which are contained in the Regulation 123 list, such as improvements to primary health care and extensions to schools. The provision of a play area is provided for within the development. The provision of an appropriate and sustainable mix of development and land uses is of concern to officers unless the further growth of Sherburn occurs through a plan led process

2.19.15 Residents have expressed concern regarding the loss of a view and devaluation of property, however these are not material planning considerations.

2.19.16 Comments have been received with respect to the approach of the developer to community consultation and publicity. The developers undertook community consultation prior to submitting the application and the application has been subject to appropriate advertisement during the consideration of the application.

2.20 Does the development plan point in favour of, or against, an approval of the application?

2.20.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 and section 70(2) of the Town and Country Planning Act 1990 requires that

"...applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise"

2.20.2 There are relevant policies in the development plan against which to assess this application and these are considered to be up to date or not out of date. Hence due weight can be given to these relevant policies and the NPPF paragraph 14 test does not apply

2.20.3 This report must consider whether the application is in accordance with the development plan as a whole. The application accords with a number of important development management policies of the development plan such as affordable housing, residential amenity, drainage, climate change, archaeology, highways, contamination and protection of biodiversity.

2.20.4 The highways authority is not objecting to the proposal on the traffic impact of this proposal, nor on the cumulative impact of all three applications on this agenda. The highways authority is bound by the terms of the NPPF (paragraph 32) where it states that

"Development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe".

2.20.5 Furthermore if approved this application and the other two applications on the agenda would make contributions to transport improvements and other

infrastructure directly through a Section 106 agreement (local transport initiatives) and indirectly through the Community Infrastructure Levy (monies spent at the discretion of the Council on strategic transport infrastructure). .

2.20.6 The conformity of the proposal with the above development plan policies support the approval of the application. However this conformity is considered to be clearly outweighed by the conflict with the climate change and spatial development strategy plan policies referred to in this report, including Policy SL1 of the Selby District Local Plan.

2.20.7 Hence Members are advised to refuse the application in accordance with the development plan unless material considerations suggest otherwise

2.21 Do material considerations indicate a decision other than in accordance with the development plan?

2.21.1 The approval of this application would provide the following social, economic and environmental benefits and mitigation measures:

- the provision of a source of housing land supply towards the middle of the plan period.
- a contribution to the District's five year housing land supply.
- the provision of additional market, affordable and high quality housing in the District.
- the provision of housing in close proximity to a major employment base of the District thereby providing opportunities for shorter travel to work distances
- the provision of a local workforce source for the employers of the nearby businesses, although this will depend upon potential employee skill matches and vacancy requirements.
- short term employment opportunities for the construction and house sales industry
- additional spending within the District from the future residents
- on site open space provision and on going maintenance
- Community Infrastructure Levy Fees
- waste and recycling bins
- a biodiversity buffer zone along the length of Hodgson's Lane
- 10% energy supply from decentralised and renewable or low carbon sources.
- timely implementation of necessary highway works

2.21.2 Taken together these would represent significant benefits for the District and are in line with the Government's planning and general policy objective of boosting housing land supply in sustainable locations. They should carry significant weight in the planning balance.

2.21.3 Other material considerations which are relevant are:

- The approval of the 'Proving Ground' (former airfield at Lennerton Lane) since the adoption of the Core Strategy will contribute to a wider range of employment opportunities in the area. Retail provision, through the opening of a new Aldi supermarket has improved local convenience shopping facilities in the town.

Both these developments have contributed positively to the Core Strategy's Spatial Development Strategy for Sherburn-in-Elmet

- Paragraph 85 of the NPPF regarding when planning permission should be granted on safeguarded land.
- Concerns that planning permission for housing on this safeguarded land deprives the local community of what they could reasonably expect from that designation in the SDLP. This expectation would be that the community would be able to contribute to the plan making process on where, when and what growth of the settlement should take place. The importance of local communities shaping the growth and planning of their areas is one of core principles for planning in the NPPF (paragraph 17). The local community discussed options for growth in the town last summer in the 'Lets Talk' PLAN Selby community engagement.
- Concerns of Sherburn Parish Council, of the scope and robustness of the traffic data that has been used to assess the impact of traffic on the local highway network.
- Concerns over the lack of any shopping facilities for future residents within easy walking distance.
- Whether the only vehicular access of the development directly onto the bypass, and the consequential 'turning of the development's back' on Sherburn-in-Elmet is an appropriate form of development for the area and would perpetuate the perception of the local community that developments around the bypass represent a separate 'community' to Sherburn-in-Elmet.

2.21.4 Hence, there are clearly material considerations here that could suggest approval of the proposal despite the conflict with the development plan and they do carry significant weight. These are summarised in paragraph 2.21.1 Furthermore the first bullet point of paragraph 2.21.3 indicates that additional housing in the town has the benefit of being located in close proximity to a large employment area and a new food supermarket. There are also material considerations which do not support this proposal and these are included in paragraph 2.21.3

2.21.5 Members are advised that they can give significant weight to these 'non-supporting' material considerations as they relate to the:

- lack of community involvement to shape the future role and character of Sherburn-in-Elmet,
- conflict of this proposal with the NPPF on safeguarded land, and
- concerns over the principle set by this proposal's approval for the release of other safeguarded land in Sherburn-in-Elmet.
- concerns over the loss of land to residential development potentially required for future services and infrastructure
- lack of coordinated plan led land use planning to maximise the benefits of new development to the local community.

2.21.6 It is the officer view that, taken together, these material considerations do not suggest a decision other than in accordance with the development plan. Hence as concluded above a decision in accordance with the development plan points to a refusal of planning permission here.

2.21.7 The planning balance revolves around, the amount of weight given to the conflict with the development plan compared to the weight to be given to other material

considerations, which include both significant planning benefits and matters which weigh against approval.

2.21.8 Paragraph 85 of the NPPF is one of those material considerations that weigh against this proposal and it provides an unequivocal and restrictive policy which specifically applies to this application on safeguarded land. This states that:

“Planning permission for the permanent development of safeguarded land should only be granted following a Local Plan review which proposes the development.”

2.21.9 Therefore it is the officers view that the change in circumstances on the five year housing land supply in the District and the analysis above indicates that this application be refused in accordance with the development plan.

2.22 Would the circumstances of this application justify a reason for refusal on the grounds of prematurity to the outcome of the Sites and Policies Local Plan, ‘PLAN Selby’?

2.22.1 The National Planning Policy Guidance at paragraph 14 provides guidance on this matter. This states that:

Annex 1 of the National Planning Policy Framework explains how weight may be given to policies in emerging plans. However in the context of the Framework and in particular the presumption in favour of sustainable development – arguments that an application is premature are unlikely to justify a refusal of planning permission other than where it is clear that the adverse impacts of granting permission would significantly and demonstrably outweigh the benefits, taking the policies in the Framework and any other material considerations into account.

Such circumstances are likely, but not exclusively, to be limited to situations where both:

a) the development proposed is so substantial, or its cumulative effect would be so significant, that to grant permission would undermine the plan-making process by predetermining decisions about the scale, location or phasing of new development that are central to an emerging Local Plan or Neighbourhood Planning; and
b) the emerging plan is at an advanced stage but is not yet formally part of the development plan for the area.

Refusal of planning permission on grounds of prematurity will seldom be justified where a draft Local Plan has yet to be submitted for examination, or in the case of a Neighbourhood Plan, before the end of the local planning authority publicity period. Where planning permission is refused on grounds of prematurity, the local planning authority will need to indicate clearly how the grant of permission for the development concerned would prejudice the outcome of the plan-making process”

2.22.2 The normal parameters for justifying a reason for refusal on prematurity are underlined above (These underlines are not part of the PPG). Criterion b) above does not apply here, and criterion a) is likely to refer to a scale of development which is more ‘central’ to the overall spatial distribution of housing across the District and which would potentially undermine growth in Tadcaster and Selby.

Nevertheless, approval of both this application on its own and in combination with other safeguarded land in Sherburn-in Elmet would prejudice the outcome of the plan making process by

- i. releasing land that may not be required for development during the plan period and may be better retained as safeguarded land
- ii. releasing land prior to a Local Plan Review of safeguarded land as required by the development plan and the NPPF.
- iii. developing land that may be less sustainable in terms of accessibility and impact on the character and amenity of the area than other safeguarded land, the latter which should be the first choice for release during the plan period.
- iv. The development of land for residential use could prejudice the appropriate siting of community and other facilities/land uses to serve the increased/unplanned population.

2.22.3 Therefore, on balance, officers consider that a reason for refusal on prematurity grounds is justified.

3.0 Recommendation

Reasons for refusal

Subject to the officer's update report which may include additional reasons for refusal, the reasons for refusal are:

- 1 Approval of the application for housing development at this time without the support of a Local Plan Review, and without any overriding need to release safeguarded land for housing in the District and the town of Sherburn-in-Elmet would be in conflict with the protection afforded to safeguarded land by Policy SL1 of the Selby District Local Plan and paragraph 85 of the National Planning Policy Framework.**
- 2 Approval of the application for housing development without any current overriding planning need is contrary to the aims of Policy SL1 of the Selby District Local Plan; paragraph 85 of the National Planning Policy Framework (bullet 4) and paragraph 17 (bullet 1) of the National Planning Policy Framework by preventing i) a plan led approach to the phased release and integrated land use planning of this and all the other safeguarded land in Sherburn-in-Elmet; and ii) the consequential lack of community involvement which empowers local people to shape their surroundings.**
- 3 Approval of the application site for housing and the planning principle this would set locally for the potential development of up to about 45 hectares of safeguarded land for housing in Sherburn-in-Elmet in addition to the housing supply already provided in the town, is in conflict with the recently adopted Core Strategy's spatial development strategy for this Local Service Centre and Selby District Core Strategy Policies SP2 (A) (a), SP5 (A) and (D) and SP14 (A).**
- 4 The growth of Sherburn-in-Elmet in a planning application housing led development process presents an unacceptable risk of an unsustainable pattern**

of growth of the town which, by virtue of a physically constrained town centre, the lack of a Site Allocations Local Plan Community Infrastructure Levy Charging Scheme to guarantee the delivery of local infrastructure, and the loss of land to residential development, could result in the lack of provision of accessible local services that reflect local community need and support the community's health, social and cultural well-being:- inconsistent with the social dimension of sustainable development contained in paragraph 7 of the National Planning Policy Framework and Policy SP5 of the Selby District Core Strategy.

- 5 The development of this site for housing will result in the loss of countryside and moderately good quality agricultural land beyond the development limits of the Selby District Local Plan Proposals Map and in conflict with Policy SP2 A (c) of the Selby District Core Strategy
- 6 Approval of this application and the planning principle this would set locally for the release of further safeguarded land for residential development will prejudice the outcome of the local plan process by making decisions about land use and the scale and location of development that should, as set out in the development plan and the NPPF, be taken as part of the local plan process.
- 7 The application site and proposal, by virtue of it lying predominantly within Flood Zone Level 2 as indicated on the Environment Agency's Flood Risk Map and failing the National Planning Policy Framework and Planning Policy Guidance Sequential Test on flood risk, would be in conflict with Policy SP15 of the Selby District Core Strategy and paragraph 101 of the NPPF.

3.1 Legal Issues

3.1.1 Planning Acts

This application has been determined in accordance with the relevant planning acts.

3.1.2 Human Rights Act 1998

It is considered that a decision made in accordance with this recommendation would not result in any breach of convention rights.

3.1.3 Equality Act 2010

This application has been determined with regard to the Council's duties and obligations under the Equality Act 2010. However it is considered that the recommendation made in this report is proportionate taking into account the conflicting matters of the public and private interest so that there is no violation of those rights.

3.2 Financial Issues

3.2.1 Financial issues are not material to the determination of this application.

4. Conclusion

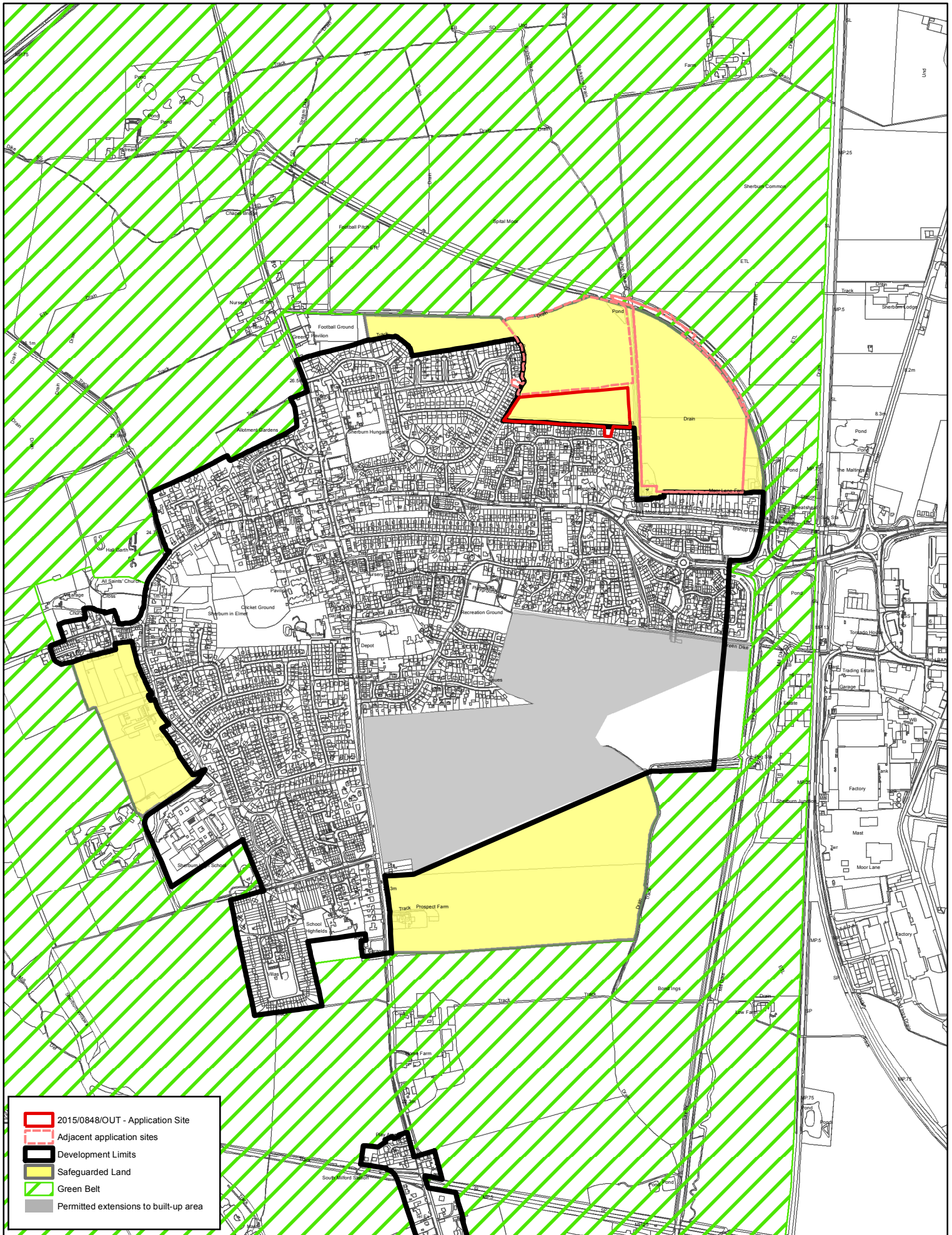
4.1 See sections 2.20, 2.21 and 2.22 of the report.

5. Background Documents

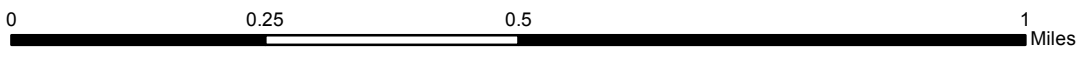
5.1 Planning Application file reference 2015/0848/OUT and associated documents.

Contact Officer: David Sykes (Planning Consultant)

Appendix: Application Site Context



Application Site Context - 2015/0848/OUT



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Planning Committee 2016-17



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Glossary of Planning Terms

Community Infrastructure Levy (CIL):

The Community Infrastructure Levy is a planning charge, introduced by the Planning Act 2008 as a tool for local authorities in England and Wales to help deliver infrastructure to support the development of their area. It came into force on 6 April 2010 through the Community Infrastructure Levy Regulations 2010.

Curtilage:

The curtilage is defined as the area of land attached to a building.

Environmental Impact Assessment (EIA):

Environmental impact assessment is the formal process used to predict the environmental consequences (positive or negative) of a plan, policy, program, or project prior to the decision to move forward with the proposed action. The requirements for, contents of and how a local planning should process an EIA is set out in the Town and Country Planning (Environmental Impact Assessment) Regulations 2011.

National Planning Policy Framework (NPPF):

The National Planning Policy Framework was published on 27 March 2012 and sets out the Government's planning policies for England and how these are expected to be applied.

Permitted Development (PD) Rights

Permitted development rights allow householders and a wide range of other parties to improve and extend their homes/ businesses and land without the need to seek a specific planning permission where that would be out of proportion with the impact of works carried out. Many garages, conservatories and extensions to dwellings constitute permitted development. This depends on their size and relationship to the boundaries of the property.

Previously Developed Land (PDL)

Previously developed land is that which is or was occupied by a permanent structure (excluding agricultural or forestry buildings), and associated fixed surface infrastructure. The definition covers the curtilage of the development. Previously developed land may occur in both built-up and rural settings.

Planning Practice Guidance (PPG)

The Planning Practice Guidance sets out the Government's planning guidance on a range of topics. It is available on line and is frequently updated.

Recreational Open Space (ROS)

Open space, which includes all open space of public value, can take many forms, from formal sports pitches to open areas within a development, linear corridors and country parks. It can provide health and recreation benefits to people living and working nearby; have an ecological value and contribute to green infrastructure.

Section 106 Agreement

Planning obligations under Section 106 of the Town and Country Planning Act 1990 (as amended), commonly known as s106 agreements, are a mechanism which make a development proposal acceptable in planning terms, that would not otherwise be acceptable. They can be used to secure on-site and off-site affordable housing provision, recreational open space, health, highway improvements and community facilities.

Site of Importance for nature Conservation

Site of Nature Conservation Interest (SNCI), Site of Importance for Nature Conservation (SINC) and regionally important geological sites (RIGS) are designations used by local authorities in England for sites of substantive local nature conservation and geological value.

Site of Special Scientific Interest (SSI)

Sites of special scientific interest (SSSIs) are protected by law to conserve their wildlife or geology. Natural England can identify and designate land as an SSSI. They are of national importance.

Scheduled Ancient Monument (SAM):

Ancient monuments are structures of special historic interest or significance, and range from earthworks to ruins to buried remains. Many of them are scheduled as nationally important archaeological sites. Applications for Scheduled Monument Consent (SMC) may be required by the Department for Culture, Media and Sport. It is an offence to damage a scheduled monument.

Supplementary Planning Document (SPD)

Supplementary Planning Documents are non-statutory planning documents prepared by the Council in consultation with the local community, for example the Affordable Housing SPD, Developer Contributions SPD.

Tree Preservation Order (TPO):

A Tree Preservation Order is an order made by a local planning authority in England to protect specific trees, groups of trees or woodlands in the interests of amenity. An Order prohibits the cutting down, topping, lopping, uprooting, wilful damage, wilful destruction of trees without the local planning authority's written consent. If consent is given, it can be subject to conditions which have to be followed.

Village Design Statements (VDS)

A VDS is a document that describes the distinctive characteristics of the locality, and provides design guidance to influence future development and improve the physical qualities of the area.