



Meeting: **PLANNING COMMITTEE**  
Date: **WEDNESDAY 13 JULY 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](http://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. 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.

## **5. Planning Applications Received**

- 5.1 2014/0831/COU - 72 Ousegate, Selby (pages 1- 14 attached)
- 5.2 2015/1186/FUL - Yew Tree House, Chapel Green, Appleton Roebuck (pages 15 - 52 attached)
- 5.3 2016/0035/FUL - Broad Lane, Church Fenton, Tadcaster (pages 53 - 76 attached)
- 5.4 2016/0154/OUT - Land adj to Little Common Farm, Biggin Lane, Biggin - (pages 77 - 91 attached)
- 5.5 2016/0189/REM - Industrial Chemicals Group Ltd, Canal View, Selby (pages 92 - 115 attached)
- 5.6 2016/0098/COU - Hales Hill Farm, Back Lane, Acaster Selby (pages 116 - 136 attached)
- 5.7 2016/0359/OUT - Land South of Moor Lane, Sherburn In Elmet (pages 137 - 166 attached)

Gillian Marshall  
Solicitor to the Council

<b>Dates of next meetings</b>
10 August 2016
7 September 2016

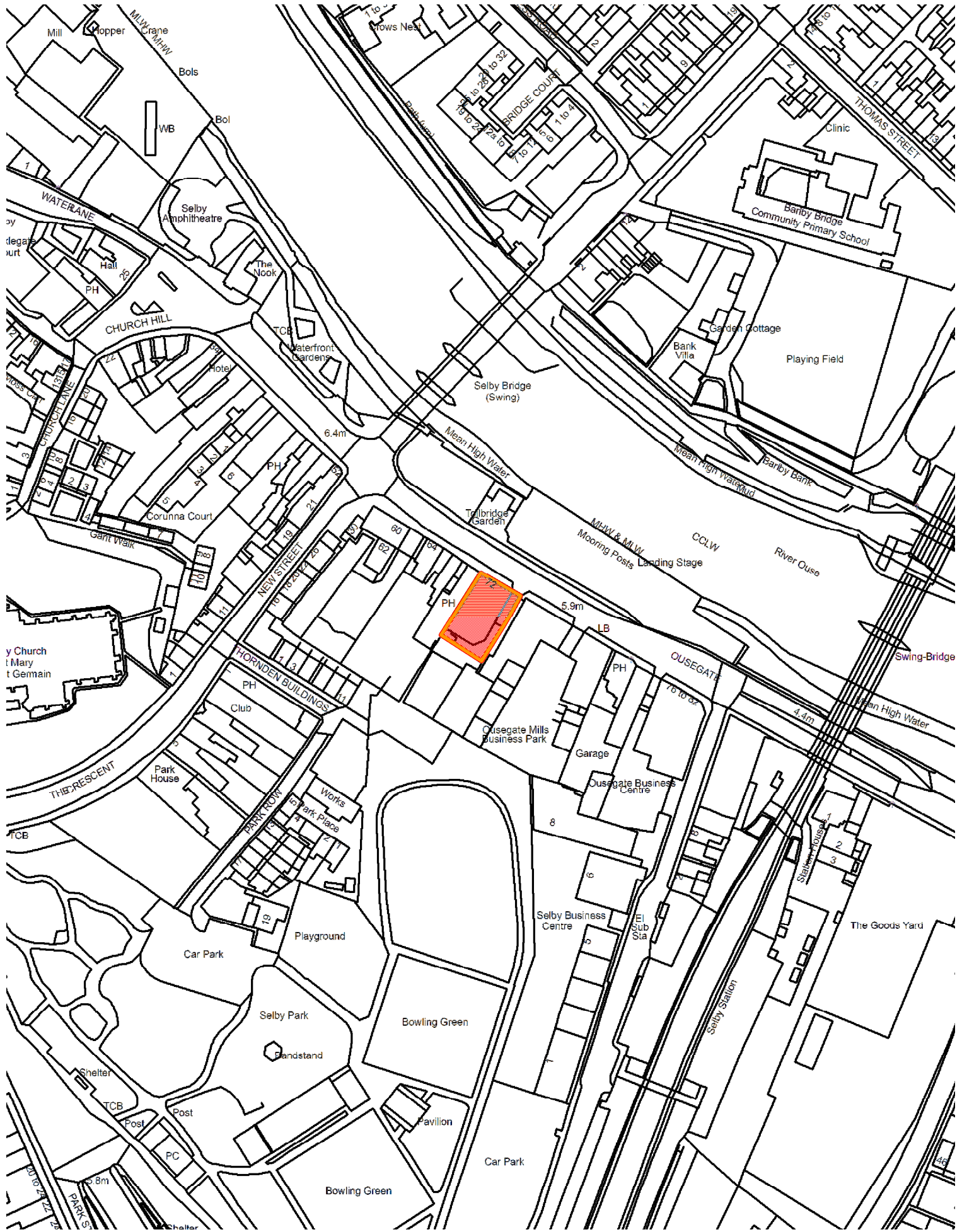
Enquiries relating to this agenda, please contact Janine Jenkinson on:  
Tel: 01757 292268, Email: [jjenkinson@selby.gov.uk](mailto:jjenkinson@selby.gov.uk)

## **Recording at Council Meetings**

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Items for Planning Committee  
13 July 2016

Ref	Site Address	Description	Officer	Page
2014/0831/COU	72 Ousegate, Selby, North Yorkshire, YO8 4NJ	The retrospective change of use of the building from A1 (retail) A4 (Drinking Establishment).	SIEA	1-14
2015/1186/FUL	Yew Tree House Chapel Green Appleton Roebuck York YO23 7DP	Proposed erection of a 3 bedroom detached dormer bungalow following the demolition of a detached garage and stone garden wall	DIWI	15-52
2016/0035/FUL	Broad Lane Church Fenton Tadcaster North Yorkshire	Demolition of existing agricultural buildings (use class Sui Generis) and the erection of a specialist state-funded day school for up to 20 children and associated parking (Class D1 use) on land adjacent to Fenton Grange	NIGO	53-76
2016/0154/OUT	Land Adj To Little Common Farm Biggin Lane Biggin Leeds West Yorkshire	Outline application with all matters reserved for the erection of two detached dwellings on land at Little Fenton Field	NIGO	77-91
2016/0189/REM	Industrial Chemicals Group Ltd Canal View Selby YO8 8AE	Reserved matters application relating to appearance, landscaping, layout and scale (reserved matters) of approval 2012/0705/FUL Extension of time application for approval 2004/1264/FUL for application under Section 73 to vary time limiting condition on outline approval 8/19/273U/PA (for the expansion of existing chemical works onto land to the south), to extend the time within which reserved matters can be submitted	FIEL	92-115
2016/0098/COU	Hales Hill Farm, Back Lane, Acaster Selby, York, YO23 7BW	Change of use of land from agricultural to touring caravan site following relocation of site from adjacent field	YVNA	116-136
2016/0359/OUT	Land South Of Moor Lane Sherburn In Elmet North Yorkshire	Outline application to include access (all other matters reserved) for erection of up to 20 dwellings	RUHA	137-166



# APPLICATION SITE

**Item No:** 2014/0831/COU

**Address:** 72 Ousegate, Selby

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Report Reference Number: 2014/0831/COU

Agenda Item No: 5.1

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**To:** Planning Committee  
**Date:** 13<sup>th</sup> July 2016  
**Author:** Simon Eades (Senior Planning Officer)  
**Lead Officer:** Jonathan Carr (Lead Officer – Planning)

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APPLICATION NUMBER:	2014/0831/COU (8/19/373D/PA)	PARISH:	Selby Town Council
APPLICANT:	Mr Wright	VALID DATE:	1 September 2014
		EXPIRY DATE:	27 October 2014
PROPOSAL:	The retrospective change of use of the building from A1 (retail) A4 (Drinking Establishment).		
LOCATION:	72 Ousegate, Selby, North Yorkshire, YO8 4NJ		

This matter has been brought to planning committee as there more than 10 representations which are contrary to the officer recommendation.

**Summary:**

The change of use has been implemented since the application was submitted. As such, clarification on the use which is currently operating was sought. Although the development is described on the submitted application forms as a change of use from A1 (Retail) to A4 (Drinking Establishments), it is clear from the uses described in the applicant's email, from a site visit and from the information on the website that the development is more accurately reflected by a change of the use of the building to 'A mixed use of D2 (Assembly and Leisure) and night club (Sui Generis)'. The applicant has been contacted and confirms agreement of this description. The development has been re-advertised and an update will be given at the meeting if any further representations have been received.

There have been some external alterations and signage erected, but these are not included for consideration on this application. The owners have been informed of the need to apply retrospectively for these alterations. Therefore the application relates solely to the change of use of the building.

The site is located within the Conservation Area and is next to a Listed Building. However, the internal use of the building is not considered to have a significant impact on the character and appearance of the area or the setting of the Listed Building. As such there would be no significant impact on these heritage assets arising from this application.

In relation to the use, insufficient information has been submitted on the noise created or the possible mitigation measures needed, to assess the impact on residential amenity of nearby dwellings. Therefore, the scheme therefore fails to accord with Policy ENV1, ENV24 and ENV25 of the Selby District Local Plan, Policies SP13, SP14 and SP19 of the Core Strategy and the advice contained within the NPPF.

## **Recommendation**

**This planning application is recommended to be REFUSED for the reasons outlined in Paragraph 2.12 of the Report.**

### **1. Introduction and background**

#### **1.1 The Site**

- 1.1.1 The premises are located on Ousegate between the Riverside Pub which is a Grade II listed building and Ousegate Mills which is a Grade II Listed Building. The premises comprise a single storey flat roof structure with roller shutter door and large fascia sign advertising 'The Venue'.
- 1.1.2 The application site is located within the defined development limits of Selby, it is located within the conservation area and is located in Flood Zone 2. The application site is affects the setting of a listed building.
- 1.1.2 The application site is located within the Selby Town Centre where there is mixture of commercial uses ranging from, retail, several public houses, restaurants and hot food takeaways. There are also various types, ages and designs of residential properties within the surrounding area. Opposite the site is the new residential development on the riverfront.

#### **1.2. The Proposal**

- 1.2.1 The application form states that the proposal seeks permission for Proposed change of use from A1 (retail) to A4 (drinking establishment). The use A4 drinking establishment is for the use of a public house and or wine bar. The application details seek permission for the intended hours of use as 11:00 to 04:00 Monday to Friday, Saturday, Sunday and Bank Holiday.
- 1.2.2 An email from the applicant states that the building is currently being used for at the following times and uses. Monday-Friday closed in the daytime. Monday-Thursday evenings for fitness classes or used as rehearsal space for bands, no later than 10pm. Friday evening, either a private hire/party or a live music event. Saturday daytime there are fitness classes and private parties. Saturday evenings it is used either for a private party, theatre event, sporting event or live gig. Sunday's, it is available for private party hire or rehearsal for bands. The nature of these uses are considered to fall under D2 use (Assembly and Leisure) which includes Concert Halls, dance halls, gymnasiums, other areas for indoor sports and recreation. The public website of the "Venue" states that the building is used as nightclub. Use Class A4 only includes Public Houses, Wine Bars or other drinking establishments.

- 1.2.3 Given the uses, outlined above, hours of use and, since the use is retrospective, there is information on the public website about the Venue it is considered that the retrospective application should more appropriately be applying for, the change of use the building from A1 (retail) to a mixed use comprising D2 (Assembly and Leisure) and a night club (Sui Generis).

### **1.3 Planning History**

- 1.3.1 The following historical applications which are considered to be relevant to the determination of this application.
- 1.3.2 An application (reference CO/1978/08086) for Erection Of Three Internally Illuminated Window Signs & Illuminated Fascia was permitted on 01.03.1978
- 1.3.3 An application (reference CO/1981/08087) for display of illuminated fascia sign was permitted on 16.12.1981
- 1.3.4 An application (reference CO/1981/08087) for Display Of Illuminated Fascia Sign was permitted on 16.12.1981
- 1.3.5 An application (reference CO/1982/08088) for externally Illuminated Sign was permitted on 08.11.1982.
- 1.3.6 An application (reference CO/1990/0543) for proposed alterations to existing shopfront was permitted on 18.10.1990
- 1.3.7 The last use of the building was for an A1 retail use. There is mixture of commercial uses ranging from, retail, several public houses, restaurants and hot food takeaways. There are also various types, ages and designs of residential properties within the surrounding area.

### **1.4 Consultations**

#### **1.4.1 NYCC Highways**

Note to the Planning Officer:

The Local Highway Authority recommends that the following Conditions are attached to any permission granted:

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 policy # and to protect pedestrians and other highway users.

#### **1.4.2 Canal and River Trust**

After due consideration of the application details, the Canal & River Trust has no comments to make.



#### 1.4.3 Selby Civic Society

Members of Selby Civic Society object on the grounds that the quality and appearance of the boarded-up frontage, and the building's advertising signage, is extremely poor. It does not preserve or enhance the character of the Conservation Area in this section of Ousegate. We urge refusal.

#### 1.4.4 Environmental Health

There are four consultation responses which are relevant to this application and they are as follows:

First consultation response dated 20<sup>th</sup> October 2014 which states the following:

“Due to the nature of the proposed drinking establishment which will include live music I would request that the applicant provides a noise assessment to demonstrate the impact on existing and approved residential properties in the area. The assessment should include details of noise levels from the proposed use of the site, mitigation by the structure and additional acoustic mitigation that is to be included in the building. Reference should also be made to the resultant levels at the existing and approved residential properties. Once this information has been provided I would request that I am re-consulted on this Application”.

Second consultation response dated 27<sup>th</sup> November 2014 was provided following the applicant submitting a noise assessment. This response states the following:

“I have considered the noise assessment carried out by ENS and dated the 18 November 2014 and would advise you of the following:

- The noise readings one meter from the double doors it is assumed were taken whilst the doors were closed. Was any consideration given to the change in noise level during the opening and closing of the doors that will occur during the normal operation of the venue due to people arriving and leaving? Recurrent peak noise levels can lead to sleep disturbance and it is noted that peak levels with the doors closed are upto 80 LAFmax when the music is on, but does not indicate if they are from music or traffic. The peak levels will be higher, however, when people enter or leave the building. Additional monitoring should be undertaken to inform of levels during this type of occurrence due to music.
- No detail of the frequency distribution of the noise is given. It is known that low frequency noise is more difficult to attenuate due to building structure and that this can be disturbing to people in the vicinity due to the rhythmic beat of the base which is unlike traffic noise which has a gradual build up and fades away. Details of the frequency distribution should be considered as a worst case scenario giving the mitigation due to structure of the Venue building.
- The planning condition attached to already consented developments relates to current noise levels in the area from existing night time economy and the traffic in the area.
- No consideration has been given to breakout of noise from the rear of the premises and how this may affect residents in properties in Thornden Buildings, flats on Ousegate and on Park Row. I would request that additional monitoring is undertaken to determine the impact on these existing receptors including the low frequency component.
- I would also request that a plan showing the monitoring points is provided.

Once the above has been provided I would request that I am re-consulted on this application.”

Third consultation response dated 7<sup>th</sup> January 2015 was provided following the applicant submitting a further noise assessment to try and resolve Environmental Health concerns raised in their consultation response dated 27<sup>th</sup> November 2014. This response states the following:

“In my memorandum of the 27 November 2014 additional information relating to noise issues was requested following the submission of the NES Noise Measurements letter dated the 18 November 2014. I would advise you that I am not aware of any additional information provided by the applicant in respect of the points given in that memorandum.

I would also comment that as residential properties are currently being constructed directly opposite the site and will be the closest residential properties to The Venue I am also concerned that the residential amenity of the inhabitants of these properties will be affected by noise generated by person leaving The Venue. I have noted and considered the conditions attached to the Premises Licence that it is believed is to be issued shortly. It is not envisaged that these conditions control noise made by persons once they have left The Venue site although a condition does relate to the provision of signage to ask patrons to be considerate. I would, therefore, request that additional information is provided to demonstrate the predicted impact of the patrons leaving The Venue on the residential properties in the vicinity including those under construction or consented.

Consideration was given to the noise from The Venue and patrons leaving the establishment when discharging conditions for the residential development opposite the site, however, as this The Venue does not yet have planning permission the standard of insulation required was based on the existing noise environment without the additional noise that will originate from The Venue itself and the patrons leaving the site.

Hence I do not, at this stage, possess sufficient information in respect to noise to assess the impact from either noise from music generated internally within The Venue or the patrons leaving the site. I would ask that the additional information is provided prior to any consent being given to this application.”

Fourth consultation response dated 9<sup>th</sup> June 2016 was provided to allow the applicant a final opportunity to the information requested in their second and third responses. This response states the following:

“I have considered the information provided I would advise you that the applicant has not provided a noise assessment which considers the impact of the noise break out from their premises on the residential amenity of residential properties in the area. I have considered the noise levels that have been provided but I would advise you that these should be considered as inadequate as they have been recorded with a Type 2 meter which is considered substandard by noise standards and it does not record the full range of noise frequencies with the higher and lower ends of the spectrum not being recorded so possibly under estimating the noise levels. There is also no indication as to the positioning of the noise meter and the

weather conditions to demonstrate that the noise readings were taken under appropriate conditions.

I requested consideration of the frequency distribution of the noise from the Venue as lower frequencies are more difficult to mitigate and in cases such as this the base noise is predominantly the cause of complaints. The applicant has only supplied C weighted readings from which I cannot determine the frequencies concerned or the impact on residential amenity or sleep disturbance.

I have considered the noise readings that have been presented but these are only highest and lowest readings taken in a 15 minute period. It is not possible from this to determine the impact on residential receptors of noise generated inside the Venue and it cannot be ruled out that the noise will exceed the significant observed adverse effect level.

I would, therefore, advise you that I do not have sufficient information provided by the applicant to determine if the Venue will have a detrimental impact on residential amenity in the area.”

## **1.5 Publicity**

1.5.1 All immediate neighbours were informed by letter and a site notice was erected on site. 39 representations has been received, 35 are in support of the application and 4 are objecting against the application.

The comments in support of the application are as follows:

- Increased potential employment opportunities.
- This is an opportunity to put Selby on the map for all the right reasons. As any live music venue will testify, there is a real struggle at the moment where venues are closing all over the country for many reasons. This is chance to put Selby on the stage so to speak and have a positive impact on so many people.
- The venue is a good capacity; will attract that bigger name bands. People
- The extension of the Riverside venue on Ousegate by renovation of the boarded up neighbouring Greens Furnishing building has given birth to The Venue... Selby's new centre for live music, entertainment, events as well as nightclub gives us a welcome alternative to the 'fight ridden' town centre we have to endure.
- Great improvement for local entertainment/music scene in Selby. Allows for greater capacity audience, creating a higher interest from artists and people outside of Selby. The location is preferable to anywhere else as it has minimal amount of noise issues due to being on the outskirts of town. A much needed and wanted change of establishment to benefit all.
- This venue is for all generations and pulls the community together. From raising funds for charity too family fun day's, Pantomimes. Musicals, live music and much much more.
- Selby is lacking in live entertainment venues for performance and functions of all types.
- Increasing its capacity will not only generate more revenue for the town because of people visiting, but will also improve the image of Selby as a whole. Bigger venue + Bigger bands = More people + More money. It is also well known that although the adjacent venue the Riverside is known for its Alternative scene, it is also known for having next to no trouble in the terms of drunk and disorderly or violence, unlike other local pubs/clubs.

The comments in objecting the application are as follows:

- No objection to this kind of application and welcome new ventures to the town and the people who work hard and invest their time and money, but not in this particular location.
- The owners of the old toll bridge filling station and along with another developer have since the year 2000 been in constant careful negotiation with Selby District Council, English Heritage, the Environment Agency and Selby Civic Society to get the right development for the site known as the gateway to Selby, this site was finally passed three years ago with a mixed development of residential and commercial, it is a high quality development which will completely enhance our Town, give a much needed lift to a neglected area, as well as providing good low cost housing with business Opportunities for several small business's. The only reason the new development has not been started is due to the recession, but as times have recently changed we are hopeful that work could commence in the very near future.
- To object for the reasons of late night noise, potential trouble due to alcohol and the loading of vehicles late at night in both a Conservation and future
- The area opposite has been allocated for residential development and this is very important to the regeneration of the area. The size of the venue being greatly enhanced is not conducive to this direction and will cause problems in this area through noise and nuisance to the detriment of occupiers of new buildings opposite that are to be constructed this year.
- The present A1 use is conducive to residential amenity and avoids the potential of anti social behaviour that results from such a venue and its impact on the area.
- Noise
- Residential amenity
- Highway safety
- Hours of use to long and to late

## **2.0 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**

The relevant Core Strategy Policies are:

SP1:	Presumption in Favour of Sustainable Development
SP13:	Scale and Distribution of Economic Growth
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

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:

ENV1:	Control of Development
ENV2:	Environmental Pollution and Contaminated Land
T1:	Development in Relation to the Highway Network
T2:	Access to Roads

## 2.4 National Guidance and Policy – National Planning Policy Framework (NPPF), National Planning Practice Guide (NPPG)

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 Planning Policy Guidance (PPG), 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.

## 2.5 Key Issues

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

1. Principle of the Development.
2. Impact on heritage assets and visual amenity.
3. Impact on Residential Amenity.
4. Flood Risk, drainage, Climate change

## 2.6 Principle of the Development

- 2.6.1 Relevant policies in respect to the principle of the development include Policies SP1, SP13 B (3) and SP14 A and B (a) of the Core Strategy, Policy ENV1 of the Selby District Local Plan and the advice contained within the NPPF.
- 2.6.2 Relevant policies in respect to the presumption in favour of sustainable development include Policies SP1 of the Core Strategy and Paragraph 14 of the NPPF.
- 2.6.3 The site is located within the defined development limits of Selby and the proposal is a change of use to a commercial property. There is nothing within the NPPF to identify this type of development as being unsustainable or preclude in principle development of this type in this location.
- 2.6.4 Policy SP13 seeks to support developing and revitalising the local economy through encouraging the re-use of premises. In all cases development is required to be sustainable, be appropriate in scale and type to its location and not harm the character of the area and seek a good standard of amenity. Policy Sp14 seeks to encourage the health and well-being of town centres by, (in Selby) making them the focus of uses such as leisure, recreation arts and cultural uses. Proposals are required to provide a high quality, safe environment and environmental improvements.
- 2.6.5 The proposed scheme brings a vacant unit back into use. It also promotes opportunities for recreation and leisure use. The proposed scheme also helps to promote the vitality and renaissance of the town centre through diversifying the range of activities present. The proposed scheme therefore accords with Policies SP13 A (4) and SP14 A and B (a) and (c) of the Core Strategy in these respects. In principle the scheme is therefore considered acceptable provided it can provide a good standard of amenity within a high quality safe environment and does not harm the character of the area.

## **2.7 Impact on Heritage Assets.**

- 2.8.1 Relevant policies in respect to the impact on Heritage Assets includes Policies ENV1, ENV24 and ENV25 of the Selby District Plan, Policies SP14 (D) SP18 and SP19 of the Core Strategy and Paragraphs 14, 64, 128 132 133 and 134 of the NPPF
- 2.8.2 Policy ENV24 of the Selby District Local Plan should be given limited weight due to the conflict between the approach taken and that set out within the NPPF, with the latter's emphasis on conserving the significance of designated heritage assets and the balancing of harm to heritage asset against the public benefits of the proposal.
- 2.8.3 In considering proposals which affect conservation areas regard is to be made to S72 (1) of the Planning (Listed Buildings and Conservation Areas Act) 1990 which requires that with respect to any buildings or other land in a conservation area special attention shall be paid to the desirability of preserving or enhancing the character or appearance of the conservation area.
- 2.8.4 When considering proposals which may affect a listed building, regard has to be made of S16 (2) (or S66 (1) if it is a planning application affecting a Listed Building or its setting) of the Planning (Listed Buildings and Conservation Areas Act) 1990

which requires the Local Planning Authority to 'have special regard to the desirability of preserving the building or its setting or any features of a special architectural or historic interest which it possesses'.

- 2.8.5 In support of the application the applicant has submitted a Heritage Statement. This outlines the heritage asset's significance as a building located within the Selby Town Conservation Area which is located within the setting of a grade II listed building. The Heritage Statement provides an assessment of significance and how it will affect the heritage assets. The assessment of significance states that the proposal will have a positive impact on the character and appearance of the conservation area as it bringing a vacant building back into use.
- 2.8.6 In addition to this the Heritage statement states that "It is anticipated that the change of use will add to the appearance of the front of the building in a positive way as it will benefit from regular decoration in keeping with the local colour schemes. At the moment the building is completely boarded up at the front with poor badly made signage."
- 2.8.7 Although a number of external changes to the building have taken place including boarding to the shop front, roller shutters, painted gate fascia sign board with raised signage, poster signs and lighting columns, these are not for consideration on this application. The applicant has been requested to include the details of the changes within this application so that both issues could be resolved in this application but has not done so. The consideration of this application is therefore confined to the impacts of the use only.
- 2.8.8 The comments of the Civic Society are noted. However, the external alterations associated with the change of use are not for consideration on this application. Furthermore, the benefits of bringing a neglected building back into use suggested by the applicant's Heritage Statement cannot be fully assessed without consideration of the external changes. As such, the change of use alone is not considered to have any significant impact. In this respect the use would not have a significant impact and therefore the character and appearance of the Conservation Area is preserved and there is no harm to the setting of the adjacent Listed Building. The change of use does not therefore conflict with Policies ENV1, ENV24 and ENV25 of the Selby District Plan, Policy SP18 and SP19 of the Core Strategy and the advice contained within the NPPF

## **2.9 Impact on Residential Amenity**

- 2.9.1 Relevant policies in respect to residential amenity are Policy ENV1 (1) of the Local Plan and Policy SP19 of the Core Strategy. In respect to the NPPF it is noted that one of the Core Principles of the framework is to always seek to secure a good standard of amenity and that the relevant paragraph with respect to when it is appropriate to remove permitted development rights is paragraph 200.
- 2.9.2 Policy SP14 (D) allows such uses in the town centre provided that in all cases, the development should be sustainable and be appropriate in scale and type to its location, not harm the character of the area, and seek a good standard of amenity.
- 2.9.3 The application form states that the proposal seeks permission for Proposed change of use from A1 (retail) to A4 (drinking establishment (public house of wine

bar)). The use applied for is not consistent with the use of the premises which is taking place and for which retrospective permission is sought.

- 2.9.4 The application forms states the intended hours for which permission is sought would extend to 11:00 to 04:00 Monday to Friday, Saturday, Sunday and Bank Holiday. However, an email from the applicant states that the building is currently being used for the following uses at the following times. Monday-Friday closed in the daytime. Monday-Thursday evenings, fitness classes or used as rehearsal space for bands, no later than 10pm. Friday evening, either a private hire/party or a live music event. Saturday daytime use is for fitness classes and private parties. Saturday evenings for either a private party, theatre event, sporting event or live gig. Sunday's for private party hire or rehearsal for bands. The public website of the "Venue" states that the building is used as nightclub.
- 2.9.5 Given the uses outlined above, the intended hours of use and information on the public website it is clear that the current use of the building for which permission is sought does not fall with use class A4 but is a mixed use comprising D2 (Assembly and Leisure) and night club (Sui Generis). The applicants have been contacted to confirm their agreement of this description and an update will be given at the committee meeting.
- 2.9.6 The previous use of the building was an A1 retail use. The premises is sandwiched between other commercial uses on Ousegate which include, retail, several public houses, restaurants and hot food takeaways. The immediate context of the site is therefore a thriving and active commercial street with late night uses.
- 2.9.7 However, there are also residential properties in close proximity. These include the new dwellings immediately opposite the site on the river front. There are also residential properties in Thornden Buildings and on Park Row. Planning permission for the flats opposite was obtained before the use applied for on this application commenced. The effect of the proposal on the occupants of these dwelling needs to be carefully considered to ensure there is no unacceptable reduction to their living conditions in terms of noise or disturbance.
- 2.9.8 The Environmental Health Officer raises concerns regarding problem of noise and the need for mitigation measures to ensure noise from the building does not cause a nuisance to the occupants of nearby dwellings. In particular, no consideration has been given to breakout of noise from the rear of the premises and how this may affect residents in Thornden Buildings, the flats on Ousegate and on Park Row. For these reasons and due to objections received raising concerns about noise, disturbance and the late night activity, Planning Officers have tried to work proactively with the applicant to resolve the objections. Additional monitoring has been requested to be undertaken to determine the impact on these existing receptors including the low frequency component. Once adequate information has been obtained then a full and proper assessment can be made and appropriate mitigation measures provided.
- 2.9.10 Although some noise measurements have been taken and submitted, the EH Officer points out that there is insufficient information to assess the levels of noise when doors are opened and closed, the frequency distribution of noise, the breakout of noise from the rear, and the noise from people leaving the premises at night. Moreover, the survey used the wrong equipment for measuring the levels.



2.9.11 As such, insufficient information has been provided by the applicant to determine if the Venue will have a detrimental impact on residential amenity in the area. The retrospective scheme therefore fails to accord with Policy ENV1 (1) of the Selby District Local Plan, Policy SP19 of the Core Strategy and the advice contained within the NPPF.

## **2.10 Flood Risk**

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 within Flood Zone 2 therefore having a 1 in 100 and 1 in 1,000 annual probability of river flooding (1% – 0.1%), or between a 1 in 200 and 1 in 1,000 annual probability of sea flooding (0.5% – 0.1%) in any year. The NPPF paragraph 104 States that “Applications for minor development and changes of use should not be subject to the Sequential or Exception Tests but should still meet the requirements for site-specific flood risk assessments”. The retrospective scheme is for change of use of the building from A1 (retail) to A4 (drinking establishment) which does not include any external changes and therefore a sequential and exception test is therefore not required in this instance.

2.10.2 A FRA was submitted with the proposal providing mitigation measures as appropriate. The FRA is considered to be acceptable. The proposals are therefore in accordance with the advice contained in within the NPPF and NPPG. It is recommended to impose a condition that the development shall be carried out in accordance with the submitted FRA scheme.

2.10.3 Whether it is necessary or appropriate to ensure that schemes comply with Policy SP15 (B) is a matter of fact and degree depending largely on the nature and scale of the proposed development. Having had regard to the nature and scale of the proposal for a change from A1 to A4 and it is considered that its ability to contribute towards reducing carbon emissions, or scope to be resilient to the effects of climate change is so limited that it would not be necessary and, or appropriate to require the proposals to meet the requirements of criteria SP15 (B) of the Core Strategy. Therefore having had regard to policy SP15 (B) it is considered that the proposal is acceptable.

## **2.11 Conclusion**

2.11.1 The application is for the retrospective change of use of the building from A1 (retail) to a mixed use of D2 (Assembly and Leisure) and night club (Sui Generis). Insufficient information in relation to noise created by use has been provided to assess the impact on residential amenity of nearby residential properties. The retrospective scheme therefore fails to accord with Policy ENV1 (1) of the Selby District Local Plan, Policies SP13, SP14 and SP19 of the Core Strategy and the advice contained within the NPPF.

## **2.12 Recommendation**

**This planning application is recommended to be REFUSAL for the following reasons.**

01. Insufficient and inadequate information has been received in relation to the measurement and monitoring of noise levels when doors are open and closed, the frequency and distribution of noise, the break out of noise from the rear or the noise from people arriving and leaving, to adequately assess the impact on nearby residents. The scheme therefore fails to accord with Policy ENV1 (1) of the Selby District Local Plan, Policies SP13, SP14 and SP19 of the Core Strategy, and the advice contained within the National Planning Policy Framework,, which, seek to create or maintain a good standard of amenity, and encourage the health and well-being of town centres. .

### **3.1 Legal Issues**

#### **3.1.1 Planning Acts**

This application has been considered 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 considered 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 2014/0831/COU and associated documents.

**Contact Officer: Jonathan Carr (Lead Officer-Planning)**

**Appendices: None**



# APPLICATION SITE

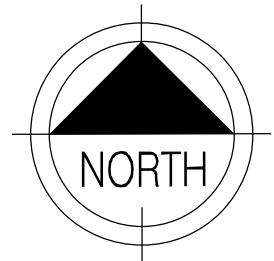
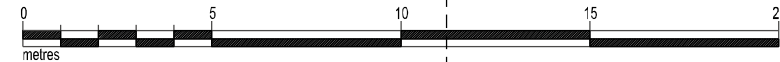
**Item No:** 2015/1186/FUL

**Address:** Yew Tree House, Chapel Green, Appleton Roebuck

This map has been reproduced from the Ordnance Survey mapping with the permission of Her Majesty's stationary office. © Crown copyright. Unauthorised reproduction infringes Crown copyright and may lead to prosecution or civil proceedings. Selby District Council: 100018656

**AMENDED  
DRAWING**

**Mill Reef**



JB : Architectural to be notified of any discrepancies. Contractors must check all dimensions on site. This drawing is copyright and is for use on this project only. This drawing is to be used solely for the information as titled. For other information refer to the latest revision of any cross referenced drawings.

442580

Existing tree

900mm high timber post and rail fence

**Westfie**

1800mm high timber close boarded fence

442570

15669

4000

New dwelling to be positioned 900mm from eastern boundary to allow for scaffold during construction

Grey area denotes double garage to be demolished

New oil tank

1800mm high timber close boarded fence

442560

Flat Tank Gravity Feed Rainwater Harvesting System 3000 litre DUK4 2.4m x 2.4m x 0.65m

Indicative position of surface water soak away position min. 5m away from any building

Red dotted line denotes garden wall to be demolished

5000

Stone chippings to driveway and new turning head  
Space allowed for one parking space and space for turning

442550

New 1800mm high stone wall to match existing

Existing 1800mm high stone wall to Yew Tree House

442540

1

3

YEW TREE HOUSE

RECEIVED		
10.03.2016		
BUSINESS SUPPORT		

rev	date	description
amendments		

STATUS **PLANNING**

CLIENT  
**Mr & Mrs S Carter**

PROJECT  
**New house to rear of Yew Tree House Appletone Roebuck**

DRAWING TITLE  
**PROPOSED SITE PLAN**

job no. <b>5236</b>	drawing no. <b>P 201</b>	revision
date <b>Jan '16</b>	scale <b>1:200</b>	sheet <b>A3</b>

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 www.jbarchitectural.co.uk

**To:** Planning Committee  
**Date:** 13<sup>th</sup> July 2016  
**Author:** Diane Wilson (Planning Officer)  
**Lead Officer:** Jonathan Carr (Lead Officer – Planning)

APPLICATION NUMBER:	2015/1186/FUL	PARISH:	Appleton Roebuck
APPLICANT:	Mr and Mrs Carter	VALID DATE:	29 <sup>th</sup> October 2015
		EXPIRY DATE:	24 <sup>th</sup> December 2015
PROPOSAL:	Proposed erection of a 3 bedroom detached dormer bungalow following the demolition of a detached garage and stone garden wall		
LOCATION:	Yew Tree House Chapel Green Appleton Roebuck York YO23 7DP		

## **1. Introduction and background**

- 1.1 This application was considered by the Planning Committee on the 8th June 2016 when members resolved to defer the application to obtain further advice from officers on reasons for refusal for the application contrary to the Planning Officer’s recommendation.
- 1.2 Reason for refusal based on parking, drainage, protected tree, and residential amenity are proposed, as set out below
- 1.3 The reasons for refusal as recommended by Councillors:
1. It is considered that the proposed scheme does not provide a sufficient amount of usable parking and turning space available for cars to leave the site in a forward gear. The proposed space for parking and turning area is very narrow and there are insufficient details provided to shown this can be achieved. The proposed scheme therefore fails to accord with Policies ENV1 (2), T1 and T2 of the Selby District Local Plan.
  2. The proposed access road for the proposed development is very narrow between the proposed dwelling and Mill Reef which provides no passing places and movements next to gardens. The existing occupants of Yew Tree House parks cars to the front of the dwelling. The proposed scheme

causes intensification of the access road. The proposed scheme therefore fails to accord with policies ENV1 (2), T1 and T2 of the Selby District Local Plan

3. The proposed scheme provides insufficient information on drainage. Insufficient information has been submitted to show that soakaways would provide sufficient drainage for the proposed development. The proposed scheme provides insufficient information to show where the drainage tanks or soakaways are located without harming the oak tree. The proposed scheme therefore fails to accord with Policies SP15 and SP16 of the Core Strategy Local Plan and paragraph 95 of the NPPF.
4. The proposed dwelling, due to its proximity to the oak tree would have a detrimental impact on the proposed dwelling causing damage to both the proposed dwelling and the oak tree's roots. The proposed scheme therefore fails to accord with policy ENV 1 (5) of the Selby District Local Plan
5. The proposed development as a result of its scale, design and location would have a harmful impact on the living conditions for the occupants of 3 Chapel Green and Yew Tree House in terms of overlooking, overshadowing and an overbearing effect. The proposed scheme therefore fails to accord with Policy ENV1 (1) of the Selby District Local Plan and Policy SP19 policy of the Selby District Core Strategy Local Plan.
6. The proposed scheme fails to provide sufficient amenity space for the size of the proposed dwelling resulting in a cramped form of development. The proposed scheme therefore fails to accord with Policy ENV1 (1) of the Selby District Local Plan and Policy SP19 policy of the Selby District Core Strategy Local Plan.

## 2.0 **Officers Response**

- 2.1 After due consideration, officers are of the view that the suggested reasons for refusal as set out above would be difficult to sustain at Appeal. The considerations raised as concerns, whilst material, have previously been assessed as being acceptable as set out in the officer report at Appendix 1.
- 2.2 Since the application was presented to Planning Committee there has been an update in relation to drainage. The IDB have subsequently confirmed that the applicant has tested the application site to consider if soakaways can provide a suitable technical drainage solution. The IDB have stated in their response that they have no objections to the use of soakaways on the application site. All other contents of the report remain the same.
- 2.3 Therefore the recommendation for approval still remains as referred to in Appendix 1 of the officer report presented to Planning Committee on 8th June

2016, and the recommendation as per the officer update note presented to planning committee on the 8<sup>th</sup> June 2015.

**Recommendation:**

**This planning application is recommended to be APPROVED subject to the following Conditions:**

01. The development for which permission is hereby granted shall be begun within a period of three years from the date of this permission.

Reason:

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

02. Prior to the commencement of development details of the materials to be used in the construction of the exterior walls and roof(s) of the development hereby approved shall be submitted to and approved in writing by the Local Planning Authority, and only the approved materials shall be utilised.

Reason:

In the interests of visual amenity and in order to comply with Policy ENV1 of the Selby District Local Plan.

03. Prior to the commencement of development details of the boundary treatment shall be submitted to and approved in writing by the Local Planning Authority and shall be implanted in accordance with the approved scheme.

Reason:

In the interests of visual amenity and in order to comply with Policy ENV1 of the Selby District Local Plan.

04. Notwithstanding the provisions of Class A and Class E to Schedule 2, Part 1 of the Town and Country Planning (General Permitted Development) Order 2015 (as amended) no extensions, garages, outbuildings or other structures shall be erected without the prior written consent of the Local Planning Authority other than the boundary details agreed as part of condition 3.

Reason:

In order to retain the character of the site in the interest of visual amenity, having had regard to Policy ENV1.

05. Before any development is commenced the approval of the Local Planning Authority is required to a scheme of landscaping and tree planting for the site, indicating inter alia the number, species, heights on planting and positions of all trees, shrubs and bushes. Such scheme as approved in writing by the Local Planning Authority shall be carried out in its entirety within the period of twelvemonths beginning with the date on which development is commenced, or within such longer period as may be agreed in writing with the Local Planning Authority. All trees, shrubs and bushes shall be adequately maintained for the period of five years beginning with the date of completion of the scheme and during that period all losses shall be made good as and when necessary.

Reason:

To safeguard the rights of control by the Local Planning Authority in the Interests of amenity having had regard to Policy ENV1 of the Selby District Local Plan.

06. No demolition/development shall take place/commence until a Written Scheme of 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 programme and methodology of site investigation and recording
  - Community involvement and/or outreach proposals
  - The programme for post investigation assessment
  - Provision to be made for analysis of the site investigation and recording
  - Provision to be made for publication and dissemination of the analysis and records of the site investigation
  - Provision to be made for archive deposition of the analysis and records of the site investigation
  - Nomination of a competent person or persons/organisation to undertake the works set out within the Written Scheme of Investigation

Reason:

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

07. No demolition/development shall take place other than in accordance with the Written Scheme of Investigation approved under condition 07.

Reason:

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

08. 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 under condition 08 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.



09. The boundary wall between the proposed development and Yew Tree House shall measure 2 metres in height.

Reason:

In the interests of visual amenity and in order to comply with Policy ENV1 of the Selby District Local Plan.

10. Prior to development commencing a tree protection scheme with respect to the Oak tree to the immediate north western boundary and overhanging the site shall be submitted to and approved in writing by the Local Planning Authority. The measures set out in the scheme shall be fully implemented and shall be in place until the construction phase of the development has ceased.

Reason:

In the interests of tree protection and the visual amenity and character of the locality in accordance with Selby District Local Plan policy ENV1 and the NPPF.

11. In order to protected the Oak tree which bounds the application site to the north western boundary development shall confirm with the Abbey Pynford Foundation System within the arboricultural report submitted to the local planning authority on the 22<sup>nd</sup> October 2015.

Reason:

In the interests of tree protection and the visual amenity and character of the locality in accordance with Selby District Local Plan policy ENV1 and the NPPF.

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

- LOC - Location Plan P200
- LAY - Planning Layout P201
- PROP - Proposed Plans P202
- ELPR - Elevations as Proposed P203
- ELPR - Elevations as Proposed P204
- TECH - Technical Specifications P205
- LND – Landscaping P206
- LAY - Planning Layout P207

Reason:

For the avoidance of doubt and in accordance with policy ENV1 of the Selby District Local Plan.

**APPENDIX 1: Previous Officer Report Presented to Planning Committee on 8<sup>th</sup> June 2016**



**Report Reference Number 2016/1186/FUL**

**Agenda Item No:**

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**To:** Planning Committee  
**Date:** 13<sup>th</sup> July 2016  
**Author:** Diane Wilson (Planning Officer)  
**Lead Officer:** Jonathan Carr (Lead Officer – Planning)

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APPLICATION NUMBER:	2016/1186/FUL	PARISH:	Appleton Roebuck
APPLICANT:	Mr and Mrs Carter	VALID DATE:	29 <sup>th</sup> October 2015
		EXPIRY DATE:	24 <sup>th</sup> December 2015
PROPOSAL:	Proposed erection of a 3 bedroom detached dormer bungalow following the demolition of a detached garage and stone garden wall		
LOCATION:	Yew Tree House Chapel Green Appleton Roebuck York YO23 7DP		

This application has been brought before Planning Committee at the request of the Councillor R Musgrave due to concerns expressed by the parish council and residents over loss of amenity.

### **Summary:**

The site comprises a small infill plot within the defined development limits of a Designated Service Village and therefore is acceptable in principle in respect of the requirements of policy SP2A of the Core Strategy. The proposal is also considered acceptable when assessed against the policy tests in respect to all other acknowledged interests subject to the completion of a legal agreement to secure an affordable housing contribution and the attached conditions

### **Recommendation**

**Subject to no objections being raised by the Internal Drainage Board on Hydrology Report this planning application is recommended to be APPROVED subject to conditions detailed in Paragraph 2.20 of the Report and the completion of a legal agreement to secure a contribution towards affordable housing.**

#### **1. Introduction and background**

##### **1.1 The Site**

1.1.1 The development site is to the rear of Yew Tree House, Chapel Green, Appleton Roebuck and is used as garden for the same property.

1.1.2 Yew Tree House is on the northern fringes of the village set back from Chapel Green and lies within the Appleton Roebuck Conservation Area.

1.1.3 Adjacent to Yew Tree House is a vehicular access serving a Mill Reef and Yew Tree House to the rear.

##### **1.2 The Proposal**

1.2.1 The applicant is seeking permission for the erection of 3 bedroom dwelling, with parking for 2 cars to the rear of Yew Tree House, Chapel Green, Appleton Roebuck.

##### **1.3 Planning History**

1.3.1 The following historical applications are considered to be relevant to the determination of this application.

1.3.2 An application (reference CO/2003/0233) for the proposed erection of a detached dormer bungalow with detached single garage on land to the rear of Chapel Green, Appleton Roebuck, was permitted (allowed on appeal ref APP/N2739/A/03/1132776.) on 23.02.2004.

## **1.4 Consultations**

### **1.4.1 Parish Council**

Plans submitted with application

Objections were raised due to the lack of car parking space, and that the drains/ soakaway do not appear to be within the boundary of the proposed development. In addition the PC requests that planners investigate the possibility of Archaeological relics being present on the site.

Following amended plan consultation

Objections were raised due to the footprint of the proposed development is too large representing over development of the site. There are concerns regarding the resulting vehicle parking provisions. There are concerns regarding the resulting capacity for surface water drainage.

### **1.4.2 NYCC Highways**

Plans submitted with application

Although the applicant has indicated on the application form that they intend to alter the public highway for vehicles and pedestrians, the access road leading to the site is not publicly maintained highway so private rights [sic]. There are no local highway authority objections to the proposed development. Following amended plan consultation

Having been provided with an amended drawing there are no local highway authority objections to the proposed development

### **1.4.3 Yorkshire Water Services Ltd**

Plans submitted with application

For new build development, the developer is to follow the current Building Regulations 2000 hierarchy for surface water disposal (Requirement H3) – soakaway/infiltration system, watercourse, rainwater harvesting etc, with public sewer as a last resort option. (subject to evidence being submitted that other solutions have been considered, rejected etc before an agreement can be made on the public sewer network.

Following amended plan consultation.  
No comments received.

### **1.4.4 The Ainsty Internal Drainage Board**

Plans submitted with application

The board raised comments in terms of flood risk and surface water drainage and have raised no objections subject to conditions

Following amended plan consultation

The board welcomes the approach of surface water disposal. The board recommends that the applicant carry out soakaway testing, and have raised no objection subject to condition for a scheme of surface water drainage works.

**1.4.5 Yorkshire Wildlife Trust**

No comments received at the time of the compilation of this report.

**1.4.6 Natural England**

No Comments to make in relation to this application.

**1.4.7 North Yorkshire Archaeology**

Having seen the location map and read the description of the excavation carried out on 29<sup>th</sup> and 30<sup>th</sup> July 2000 in front of The Firs, Appleton Roebuck. This short report concludes that the culvert was probably constructed in association with the development of North Hall in the 17<sup>th</sup> or 18<sup>th</sup> centuries but that an association with another earlier structure or elaborate water management scheme cannot be ruled out. The location of the culvert as excavated is approximately 50 metres away from the proposed development site running in a north-south direction. Therefore the development will not directly impact upon the culvert, although its presence may indicate further remains nearby.

The location of the proposed development is within part of the village that has the potential for medieval origins with properties surrounding a green. The proposed development is positioned well back in the plot and is unlikely to disturb structural evidence such as medieval buildings which are normally positioned hard against the village green.

The existing garage will have reduced the significance of any archaeological deposits in that part of the site. The rear plots of medieval settlements were usually used for agricultural purposes, waste disposal and perhaps light industry. The ground disturbance associated with the proposed building may reveal deposits such as gullies, ditches, pits and stray finds of the period. Although these sorts of deposits are of interest they are not of such significance as to preclude development.

The comments provided by Arcus in their letter dated 29<sup>th</sup> April that the archaeological potential of the proposed development site is low. In view of the additional information recently received regarding the location of the excavation in July 2000, unseen when making our earlier response to this application (Our letter dated 11<sup>th</sup> April), therefore our previous comments are retracted, in terms of previous advice for an archaeological strip map and record exercise on this site. The view is that a Watching Brief would be an appropriate mitigation strategy for this development, and would be in proportion with the types of deposits expected, the size of the development and the scale of the impact upon any surviving archaeological remains.

We 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 watching brief to be carried out during any groundworks including new foundations and new drainage or services, septic tank, 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, we would advise that a Written Scheme of Investigation condition be appended to any planning permission granted.

#### 1.4.8 Contaminated Land

Having reviewed the Screening Assessment form for the site regarding potential contamination issues there appears to be any requirement for additional information or planning constraints.

### 1.5 **Publicity**

1.5.1 The application was advertised by site notice, advertisement in the local newspaper and neighbour notification letter resulting 5 letters of support and 12 objectors. Several objectors have made a large number of representations which reiterate the same concerns, therefore where comments have been duplicated they have only be listed below once. The comments raised are summarised as below:

1.5.2 Any further letters of comment / objections which are received prior to Committee will be reported via an Update Note at the Meeting.

1.5.3 The issues raised can be summarised as follows:

#### The first plans submitted received the following comments:

- The proposal is in the style of a dormer bungalow with large gable features and ridge heights more in keeping with a typical two storey house.
- There are limited landscaping proposals set out which concentrate on creating a visual barrier between the proposal and Yew Tree House. No similar planting appears to be proposed on the boundaries with other surrounding properties.
- The relevant definition of previously developed land is contained within Annex 2 of the glossary of the NPPF. Therefore the principle of developing the site for residential purposes the site cannot be considered as previously developed land.
- Policy SP4 states that schemes will only be acceptable in principle if the proposed scheme is found to be an appropriate scale.
- The nature of Chapel Green area and its historic importance is manifested by low density, which means the proposal would be inappropriate with regard to its scale, function and historic pattern of development in the settlement.
- Insufficient separation distances of 18 metres from the rear elevation of Yew Tree House, approximately 16 metres from the rear of 3 Chapel Green.
- The rooms look directly over gardens and rear windows of neighbouring properties.
- The building will cast a shadow over and provide overbearing impact to the garden and amenity spaces to the east and west.

- The access would create noise, vibration and head lights and the general disturbance this has not been assessed as part of this application.
- Harm to the conservation area by virtue of an erosive effect that the building will have on both the visual appearance of the conservation area.
- Further information is required by the applicant as the heritage statement has not been properly addressed.
- No assessment has been made with regard to ecology.
- Siting of bats and newts have been sited on numerous occasions
- The application makes no provision for affordable housing.
- The application site should include the land required for the access to the adopted highway.
- Notice certificate has not been served to other owners of the access road.
- The finished floor level will be elevated and the eaves height would be taller than shown on the plans.
- The drainage scheme proposes no evidence via percolation tests that soakaways area acceptable in this location.
- The height of the property is not that of a bungalow and more of a two storey house.
- Small area of amenity space.
- Overlooking, overshadowing, over dominance.
- Insufficient parking space, access and egress into the parking areas.
- Insufficient car parking spaces for a 4 bedroom house.
- The tree report omits relevant information on the height to first branch and root protection area.
- Property is in close proximity to the house.
- Little information has been provided in terms of drainage and flooding.
- Over development of the site.
- Insufficient information in terms of archaeology.
- Surface water run off.
- Development would spoil the view of properties.
- Concern over materials which would be used.
- Emergency services would not be able to access the site.
- Any damage caused to the driveway during construction will need to be repaired.
- Little space between boundary fence to the east and west.

#### Comments following amended plan consultation March 2016

##### Letters of support

- New plans show reduction in height.
- No overlooking.
- Roof lights acceptable.
- Double garage an eyesore new dwelling will improve the area.
- Materials in keeping with the area.
- Previous objections have been dealt with.
- Ecology report confirms no bats or newts.
- Surface water is a positive step.
- Adequate parking for 3 cars.

- Dwelling set back from Chapel Green would not detract from the conservation area.
- There is a reduction in height and massing.
- The use of rooflights to the front will reduce impact of overlooking.
- Ecology report confirms no presence of habitats.
- New dwelling will not have a negative impact on the local environment.
- New property provides adequate utility space.
- Precedent has been set for dwelling in the rear of properties.
- Planning has already been passed for a property behind 3 Chapel Green.

#### Letters of objection

- Conflict in policy has not been outweighed.
- Amended plans fails to address previous issues.
- Amended plans is still too close to other properties.
- Amended plans fails to address parking provision.
- There are no material considerations that indicate the decision other than the adopted development plan.
- Still not sufficient information being submitted.
- Archaeology concerns have not been addressed.
- Drainage has not been addressed.
- Separation distance has not been addressed.
- Over development of the plot.
- The red boundary line to the front of Yew Tree House where parking spaces are planned is considered to be common land.
- Overlooking would still occur.
- Turning circle not acceptable blind spots.
- Misrepresentative of photographs.
- Concerns regarding the platform structure of the foundations of the property.
- Concerns regarding the safety of building work have not been addressed.
- Safety concerns for those using the Green.
- Reduce the outlook from our property.
- Damage to other trees in gardens.
- Large standing pools of water would not be addressed.
- Building on or paving over garden would increase flooding.
- Heritage statement not adequate.
- Lack of regard to the Oak tree.
- Ecology report not sufficient.
- Drainage cannot be overcome.



## **2.0 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**

The relevant Core Strategy Policies are:

SP1:	Presumption in Favour of Sustainable Development
SP2:	Spatial Development Strategy
SP4:	Management of Residential Development in Settlements
SP5:	The 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:

ENV1:	Control of Development
ENV2:	Environmental Pollution and Contaminated Land
ENV25:	Control of Development in Conservation Areas
T1:	Development in Relation to Highway
T2:	Vehicular Access

Other Local Policy Documents

- Affordable Housing Supplementary Planning Document (AHSPD) 2014
- Developer Contribution Supplementary Planning Document (2007)
- Appleton Roebuck Village Design Statement (2012)

## **2.4 National Guidance and Policy – National Planning Policy Framework (NPPF), National Planning Practice Guide (PPG)**

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 Planning Policy Guidance (PPG), 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.

## **2.5 Key Issues**

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. Identifying the other impacts of the proposal
  1. Layout, scale, landscaping and design
  2. Residential amenity
  3. Highways
  4. Affordable housing
  5. Flood risk, drainage,
  6. Protection of trees
  7. Nature conservation
  8. Archaeological
  9. Community Infrastructure Levy
  10. Contamination
  11. Recreational open space contribution, education, healthcare, waste and recycling
  12. Other Matters

**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 Selby District Core Strategy Local Plan (2013) 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 application site is situated within the defined development limits of Appleton Roebuck which is a Designated Service Village. Policy SP2A(a) of the Core Strategy says:

"The majority of new development will be directed to the towns and more sustainable villages depending on their future roles as employment, retail and services centres, the level of housing need and particular environmental and infrastructure constraints"

It then follows on to say:

"The following Designated Service Villages have some scope for additional residential and small-scale employment growth to support rural sustainability..." before finally adding

"Proposals for development on non-allocated sites must meet the requirements of Policy SP4".

2.6.3 Policy SP4(a) states that in order to ensure that development on non-allocated sites contributes to sustainable development and the continued evolution of viable communities, the following types of residential development will be acceptable in principle, within Development Limits, in different settlement types, as follows:

"In Selby, Sherburn in Elmet, Tadcaster and Designated Service Villages- conversions, replacement dwellings, redevelopment of previously developed land, and appropriate scale development on greenfield land (including garden land and conversion/ redevelopment of farmsteads)".

2.6.3 The proposal constitutes the development of garden land within the defined development limit of a Designated Service Village for one dwelling, which reflects the size and scale of the surrounding dwellings within the immediate area (see section 2.7). As a consequence the proposal would meet the requirements of both Policy SP4(a) and Policy SP2A(a) of the Selby District Core Strategy Local Plan. The proposal is therefore acceptable in principle.

2.6.4 The comments made by the objectors in relation to the greenfield status of the application site are noted but as stated above Policy SP4 allows "appropriate scale development on greenfield land (including garden land)" and therefore this does not, in itself, provide a reason for refusal.

2.6.4 However, proposals that are acceptable in principle, are still required to meet criteria (c) and (d) of Policy SP4. The next section of the report will look at the Policy requirements of SP4(c) and (d) and other impacts of the proposal.

## **2.7 Layout, Scale, Landscaping and Design and Impact on Character and Form**

2.7.1 Policy SP4(c) requires that in all cases proposals will be expected to protect local amenity, to preserve and enhance the character of the local area and to comply with normal planning considerations, with full regard taken of the principles contained in Design Codes (e.g. Village Design Statements) , where available. Criterion (c) goes on to require that “appropriate scale will be assessed in relation to the density, character and form of the local area and should be appropriate to the role and function of the settlement within the hierarchy”.

2.7.2 Policy SP19 requires that “Proposals for all new development will be expected to contribute to enhancing community cohesion by achieving high quality design and have regard to the local character, identity and context of its surroundings including historic townscapes, settlement patterns and the open countryside. Both residential and non-residential development should meet the following key requirements:

- a) Make the best, most efficient use of land without compromising local distinctiveness, character and form.
- b) Positively contribute to an area’s identity and heritage in terms of scale, density and layout;

2.7.3 Selby District Local Plan Policy ENV1(1) requires development to take account of the effect upon the character of the area, with ENV1(4) requiring the standard of layout, design and materials to respect the site and its surroundings. Local Plan Policy ENV1 is broadly consistent with the aims of the NPPF and therefore should be given significant weight.

2.7.4 The site is located within Appleton Roebuck Conservation Area and therefore forms part of a Designated Heritage Asset. Section 72 of the Planning (Listed Building and Conservation Areas) Act 1990 requires that special attention shall be paid in the exercise of planning functions, to the desirability of preserving or enhancing the character or appearance of a conservation area. In addition the proposal would be subject to Policy ENV25 of the Selby District Local Plan which reiterates the requirements of the above act and sets out 4 criteria with which to assess proposals. However, limited weight should be afforded to Policy ENV25 as it departs from the approach taken in Section 12 of the NPPF, with the latter’s emphasis on the significance of Designated Heritage Assets and the tests to be taken in respect of assessing harms depending on whether substantial or less than substantial harm would occur as the result of a proposal.

2.7.5 Relevant policies within the NPPF, which relate to design, include paragraphs 56, 60, 61, 65 and 200. NPPF, paragraph 56, states the Government attaches great importance to the design of the built environment. Good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people.

- 2.7.6 Relevant policies within the NPPF, which relate to Designated Heritage Assets include paragraphs 128, 129, 130, 131, 132, 133 and 134.
- 2.7.7 Local documents that look specifically at the character of the village and its design aspirations include Appleton Roebuck Village Design Statement (2012) and Appleton Roebuck Conservation Area Appraisal.
- 2.7.8 The objections received in relation to the scale and design and over-development of the site, and its impact on the character and appearance of the area are noted.
- 2.7.9 However, in order to put the comments into perspective and to undertake an assessment of the impacts of the proposal on the character, appearance and significance of the area it is necessary to describe what the character, appearance and significance of the area is. In accordance with the requirements of paragraph 128 of the NPPF the applicant has produced a Heritage Statement, which has made reference to the Village Design Statement. The Heritage Statement, although somewhat light, does correctly describe the development of this part of the village and summarises the nature and extent of any impact arising from the proposal as follows: -

“The character area is made up of the two main village greens in the village, linked by a long weaving street that has been built up in a ribbon pattern. This stretch, although well established by 1600, was not part of the early linear planned village. It may have developed from a track to a manorial chapel possibly sited at Chapel Green and, as the village population expanded, houses were built along its south side. Barley Croft, the field behind those houses, shows evidence of medieval cultivation in its fine ridge and furrow.

The development site is situated to the north of Chapel Green in the village directly behind Yew Tree House which fronts onto Chapel Green.

The proposed dwelling would not detract from, or detrimentally affect views into the conservation area. The subtle and sympathetic pallet of materials would be in keeping with the surrounding area.”

- 2.7.10 Officers note that Chapel Green is located on the northern fringes of the village away from its historic core. It is a broad and attractive green space lined on its northern side by a number of buildings including a garage and ‘The Shoulder of Mutton’ public house. With the exception of the latter, and the terrace of four properties lying to the east (both of which has been altered and extended) all these buildings are of 20<sup>th</sup> Century in date and in a variety of styles and materials. This part of the conservation area is not characterised by any distinctive form of layout or building style and indeed this is not uncharacteristic of the overall character of the village with its loose – knit pattern of development and range of building types.

- 2.7.11 Having had regard to the above and the Village Design Guide Officers would comments as follows. The character and form of this part of the village is made up of two components, the open areas provided by the greens themselves and the built up areas around them. Furthermore whereas the greens are a survival of the mediaeval period, the built form of the surrounding dwellings is post medieval, with older properties mainly dating from the C18<sup>th</sup> and C19<sup>th</sup> together with a substantial amount of twentieth century developments. The effect is that there is considerable variation in the style, material, layout and plot size of individual properties, so much so that the grain of the village is very tight around the shoulder of Mutton Public House but this becomes much looser to the modern properties to the east which are comprised of larger houses set in large plots.
- 2.7.12 Turning now to the individual policy tests set out in ENV25, criterion (1) requires that the scale, form, position, design and materials of the new buildings are appropriate to the historic context. In this context it is noted that objections have been received in relation to the scale and design and over development of the site, and that 'with large gable features and ridge heights the proposed building would be more in keeping with a typical two storey house'.
- 2.7.13 The proposal, as amended, would consist of a three bedroom detached dwelling sited on the extended rear garden to Yew Tree House. Yew Tree House fronts on to Chapel Green but the new dwelling would be accessed from a shared access off Chapel Green currently used by Yew Tree House and Mill Reef. The proposal would have a footprint of 10.5m x 8.5m with a height to eaves of 2.7m and ridge of 6.1m. The external materials would be red 'multi brick in a reclaimed style and terracotta clay pantile, the fenestration details would be constructed from hardwood timber with timber fascia and soffits.
- 2.7.14 The residential development surrounding the site is comprised mainly of residential properties of detached two storey properties and two storey terrace properties. These properties vary in scale, design and relationship boundaries. Therefore it is considered that the proposal reflects the size of the plot and would fall within the scale parameters that exist in the locality both in terms of building size and heights but also in respect of building to plot ratios and hence density and grain. In addition, given that the proposal is for one dwelling it is considered that its scale is appropriate for a Designated Service Village. The proposal therefore meets the test set out in Policy ENV25(1) of the Local Plan.
- 2.7.15 Officers note that the proposal would form backland development. However, this does not mean that this would automatically render the proposal out of character or harm the appearance of the conservation area. It is noted that in 2003 an application was submitted for a detached property on land to the rear of 3 Chapel Green under planning reference 'CO/2003/0233'. It was considered at the time by the Council's Conservation Officer 'that the scheme would not be visible from Chapel Green and Main Street and would not impact on the character of the Conservation Area from these areas..' and continues..' whilst back land development is not part of the traditional pattern of the village, the proposal is acceptable in terms of its very limited visual impact on the character of the Conservation Area as viewed from a public space..'

- 2.7.16 The application was refused and an appeal allowed under reference APP/N2739/A/03/1132776 in 2004 (property known as Mill Reef). The Planning Inspector for that appeal held ‘.. the proposed development would not have an adverse effect on the character and appearance of Appleton Roebuck Conservation Area which would be thereby remain unharmed..’
- 2.7.17 In looking at the issue of the backland nature of the proposal it should also be borne in mind that the application site as well as the properties to the west are recent additions to the village and their layouts and form have no heritage significance in themselves. Hence subdivision of the plot and would result in no harm to the character, appearance and significance of the conservation area. Furthermore, it is noted that there are already a range of buildings that sit behind the main buildings fronting onto the Green and further to the west along Maltkiln Lane. The proposal would therefore sit comfortably amongst these and would not appear out of character or otherwise detract from the appearance of the conservation area by virtue of its siting. As such it is considered that the position of the proposed dwelling would be acceptable having had regard to its historic context.
- 2.7.18 The proposed dwelling would sit within the rear garden of Yew Tree House, and its construction would not necessitate the removal of any tree of specific interest or other feature of historic interest or feature of townscape importance. The proposal would result in the loss of several small trees and shrubs and a modern wall which have no amenity value or historic interest. Therefore it is considered that the proposal would meet the test set out in Policy ENV25 (2) of the Local Plan.
- 2.7.19 The dwelling would be located to the rear (north) of Yew Tree House and therefore would largely be screened from views from the Green. Similarly any views from the north, west or east would see the building within the context of the range of buildings that are situated around the application site. As such the application site does not provide any significant views into or out of the conservation area and the development of the dwelling would not adversely affect the setting of the conservation area.
- 2.7.20 The proposal includes a small parking area and the boundary treatment would be formed by 1.8 metre high timber close boarded fence. Given that this is a modern plot within the conservation area which has no particular heritage significance these details are considered to be compatible within their context with the character and appearance of this part of the conservation area.
- 2.7.21 Given the above the proposal, subject to the attached conditions, is considered to be in accordance with test set out Policy ENV25 of the Local Plan. Furthermore, for the same reasons it is considered that the proposal would preserve the character, appearance and significance of the conservation area.

2.7.22 Having had regard to all of the above elements it is considered that the proposals result in an appropriate design, and subject to the attached conditions would be of a form and character that is appropriate to the context in accordance with, Policies SP4(c), SP18 and SP19 of the Core Strategy, Policy ENV1(1) and (4) of the Local Plan and having had regard to paragraphs 56, 60, 61, 65 128, 129, 130, 131, 132, 133 and 134 and 200 of the NPPF.

## **2.8 Residential Amenity**

2.8.1 Policies ENV1(1) of the Local Plan requires development to take account of the effect upon the amenity of adjoining occupiers and should be given significant weight as it does not conflict with the core planning principle of always seeking to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings.

2.8.2 Policy "SP19 - Design Quality" of the Core Strategy outlines that proposals "for all new development will be expected to contribute to enhancing community cohesion by achieving high quality design and have regards to the local character, identity and context of its surroundings including historic townscapes, settlement patterns and the open countryside".

2.8.3 The comments from nearby residents are highlighted in paragraph 1.5.3. It is noted that concerns have been expressed about the overlooking, overshadowing overbearing impacts, separation distance, boundary treatments. These matters are addressed in turn below:

### Overlooking

2.8.4 The proposed dwelling would have a ridge height of approximately 6.1 metres and an eaves height of approximately 2.8 metres. There are no first floor windows other than roof lights to the principal (southern) elevation facing on to Yew Tree House, and the rear garden of properties on Chapel Green. These windows would serve a bedroom, bathroom and an ensuite. The openings in the ground floor principal (southern) elevation would serve a family room, a hall way and a single garage.

2.8.5 There are no openings to the western elevation facing the neighbouring property Mill Reef and a single window to the ground floor to serve a kitchen.

2.8.6 The separation distance between the proposed dwelling and Yew Tree House measures approximately 18 metres, the separation distance between Mill Reef and the proposed dwelling measures approximately 15 metres to the narrowest point and 17 metres to the widest point, and the distance between 3 Chapel Green and the proposed dwelling measures approximately 18 metres, and the separation distance between the proposed dwelling and neighbouring property Westfield House measures 33 metres.



- 2.8.7 The normal accepted distances for side to main relationships is 12 metres and for a main to main is 21 metres. However, this is in respect to two storey to two storey dwellings. The distances can be relaxed depending on the juxtaposition and design of individual properties. In this case the proposed dwelling would be 1<sup>1/2</sup> storeys with the first floor served by high levels velux openings and the overlooking at ground level would be mitigated by a 1.8 metre high fence which would separate the proposed dwelling from Yew Tree House. Any views towards other properties would be at such an angle so as to result in significant levels of overlooking.
- 2.8.8 Given the above details of the windows, the rooms that they serve, angles of views between windows and the distances between the proposed and existing dwellings it is considered that any overlooking would be marginal and insufficient to warrant refusal.

#### Overshadowing

- 2.8.9 It is considered that the proposed dwelling would give the appearance of a 1 ½ storey property. The site is situated in the garden area of the Yew Tree House which is sited in a northerly direction.
- 2.8.10 Concerns have been raised regarding overshadowing of the proposed dwelling to neighbouring properties and vice versa. However, it should be borne in mind that the introduction of a new building is likely to result in some level of overshadowing, at some time of the day/ year. The issue is therefore not whether overshadowing occurs but whether it would be so significant to have a significant detrimental impact on the amenity of the occupiers of adjacent dwellings.
- 2.8.11 In this case given the juxtaposition of the proposed dwelling to existing dwellings, its height and the distance between the relevant elevations, it is considered that any additional degree of overshadowing would mainly affect gardens, and then only for a limited period each day and therefore would not be so substantial to result in a poor level of amenity for existing and future occupiers.

#### Overbearing Outlook

- 2.8.12 Objections have asserted that the proposed dwelling would have an overbearing outlook, and would reduce the outlook from neighbouring properties. The application site area is in the rear garden of Yew Tree House, and shares a boundary between Mill Reef and Westfield house, and Yew Tree House. Westfield house currently looks out on to the rear garden of Yew Tree House and beyond, Mill Reef looks out on to a boundary fence and the double detached garage belonging to Yew Tree House. It is noted that a 1.8 metre boundary fence is to be erected between the application site and Yew Tree House. It is considered that any given Mill Reef currently looks out on to a detached double garage and boundary fence, a new boundary treatment would be erected between the application site and Yew Tree House, and taking into consideration the separation distance between the application site and the neighbouring property known as Westfield house, in terms of an overbearing outlook would not be so substantial to result in a poor level of amenity for existing and future occupiers.

2.8.13 The distance between neighbouring property 3 Chapel Green and the proposed dwelling measures approximately 18 metres and the separation distance between Yew Tree House and the proposed dwelling measures approximately 18 metres. The separation distances between these properties are under the recommended guidance of 21 metres, however given the design of the proposed dwelling it is considered that any harm to the amenity of the occupiers of the neighbouring properties, through reduced or altered outlook would not be so significant as to warrant refusal as a good standard of residential amenity would be retained.

2.8.14 Therefore having looked at the issues of overlooking, overshadowing and impact on outlook it is concluded that the proposed development would not result in a significant detrimental impact on the residential amenities of the occupiers of neighbouring properties and would result in a good standard of residential amenity in accordance with Policy ENV1(1) of the Local Plan and the NPPF. However, in order to ensure that amenity is not significantly harmed in the future it is recommended that a condition is attached to any permission granted for the removal of permitted development rights.

## **2.9 Highways**

2.9.1 Policies ENV1 (2), T1 and T2 of the Local Plan require development to ensure that there is no detrimental impact on the existing highway network or parking arrangements.

2.9.2 Policy "SP19 - Design Quality" states "that both residential and non-residential development should meet a series of noted criteria. These include the criteria relating specifically to highways and access namely

Be accessible to all users and easy to get to and move through;  
Create rights of way or improve them to make them more attractive to users, and facilitate sustainable access modes, including public transport, cycling and walking which minimise conflicts.

2.9.3 Objections have been submitted from neighbouring property Mill Reef regarding the parking provision are noted as are the comments relating to turning circles, access and egress into the parking areas, parking of construction vehicles/deliveries, emergency services. North Yorkshire Highway Officer has noted that 'although the applicant has indicated on the application form that they intend to alter the public highway for vehicles and pedestrians, the access road leading to the site is not publicly maintained by the NYCC Highways'. Therefore there are no highway authority objections to the proposed development.

2.9.4 The road leading to the application site area allows access to a number of properties and a public house. The driveway to the application site area also serves Mill Reef and Yew Tree House. It is proposed that the double garage would be demolished as part of the proposal in order to make provision for the detached dwelling.

- 2.9.5 Notwithstanding the status of the private road, in terms of parking provision, the application affords two parking spaces for the dwelling which include an integral garage and a parking space to the front of the property. This parking provision is in accordance with the emerging North Yorkshire County Council guidance 2015 on Transport Issues including Standards for Parking for Developer Funded works within North Yorkshire, where 3 bedroom properties should provide 2 parking spaces. In terms of access and egress in to the site area and concerns over blind spots, firstly as part of the proposal the existing 2 metre brick wall would be demolished to allow for parking provision with some off street parking to the front of the dwelling.
- 2.9.6 It is noted that this is not dissimilar to that of the neighbouring property Mill Reef where there is the creation of a parking area, the drawings show cars can park to the front of the dwelling without blocking the shared driveway. Secondly the dwelling provides an integral garage to serve one parking space, with the parking area to the front of the dwelling this would facilitate sufficient room for vehicle manoeuvre.
- 2.9.7 In terms of visibility it is recommended that a 2 metre wall would be erected between the proposed dwelling and Yew Tree House for residential amenity levels. Notwithstanding this given that the current driveway serves two dwellings and would continue to serve two dwellings in terms of the visibility and manoeuvre of traffic it is considered there would be no greater impact over and above what currently exists.
- 2.9.8 Comments have been received regarding the suitability of the access for emergency vehicles, the existing driveway measures approximately 4 metres in width at the narrowest point, given that the neighbouring property shares the same access it is considered that this concern would be the same for Mill Reef. According to the Approved Document B (Fire safety) – Volume 1: Dwellinghouses (2006 edition incorporating 2010 and 2013 amendments from National Planning Guidance Width of access must be no less than 3.1m for a pinch point (just the length of a gateway). The width of a road within the site must be no less than 3.7m between kerbs (enough room for the appliance doors to open).
- 2.9.9 Therefore having had regard to the above and that the Highways Officer has raised no objections to the proposal it is considered that the proposal would be acceptable and in accordance with policies ENV1(2), T1 and T2 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.

## **2.10 Affordable Housing**

Relevant policies in respect to affordable housing mix include Policy SP9 of the Core Strategy, The Affordable Housing SPD, Developer Contributions SPD and paragraph 50 of the NPPF.

2.10.1 Core Strategy Local Plan Policy SP9 alters the threshold for a maximum of 40% on site provision to 10 dwellings or more or site area of 0.3 hectares and for 1 - 9 dwellings a 10% contribution is required. In this context it is considered that limited weight should be afforded to the Developer Contributions SPD (2007) in respect of affordable housing and that substantial weight should be attributed to policy SP9 of the Core Strategy Local Plan and the accompanying Affordable Housing SPD.

2.10.2 However, in the context of the West Berkshire decision it is considered that there is a material consideration of substantial weight which outweighs the policy requirement for the commuted sum. Officers therefore recommend that, having had regard to Policy SP9 and the PPG, on balance, the application is acceptable without a contribution for affordable housing.

## **2.11 Flood Risk, Drainage, Climate Change and Energy Efficiency**

2.11.1 Paragraph Relevant policies in respect to Climate Change, Energy Efficiency and Renewable Considerations are Policies SP15 and SP16 of the Core Strategy and Paragraph 95 of the NPPF.

2.11.2 The NPPF paragraph 94 states that local planning authorities should adopt proactive strategies to mitigate and adapt to climate change, taking full account of flood risk, coastal change and water supply and demand considerations. NPPF Paragraph 95 states to support the move to a low carbon future, local planning authorities should plan for new development in locations and ways which reduce greenhouse gas emissions; and which actively support energy efficiency improvements to existing buildings.

2.11.3 Part (h) of Policy SP15 (B) refers specifically to the requirement to fulfil part (a) of Policy SP16 of the Core Strategy Local Plan. The proposed development is below the threshold of 10 dwellings and this part of the policy is therefore not applicable in this case. Policy SP16 (c) requires development schemes to employ the most up to date national regulatory standard for code for sustainable homes which the proposed development would do through the current Building Regulations regime. Therefore having had regard to policies SP15 (B) and SP16 (a) & (c) of the Core Strategy Local Plan it is considered that the proposal is, on balance, acceptable.

2.11.4 Comments have received in relation to little information being provided regarding drainage, no evidence of percolation tests or soakaways. Percolation test have been conducted and overseen by a Hydrologist and archaeologist, with a methodology being supported from the Ainsty Internal Drainage Board. No results have come forward at the time of writing this report.

2.11.5 The application site is located in Flood Zone 1 which is at low probability of flooding. It is noted from evidence submitted by neighbours that there are areas of standing water. On the unadopted highway bounding Chapel Green, and in the neighbouring garden of Westfield house. The design of the application would include a new surface water attenuation tank and soakaway, with main sewer to be used to dispose of the foul water. The design also includes a permeable surface for the parking area.

2.11.6 In terms of drainage the application form states that a soakaway design would be used. Officers have requested that percolation tests are to be conducted and overseen by a Hydrologist, in accordance with BRE 365: Soakaway Design, in order to confirm infiltration rates at the site. Percolation tests are to be conducted at the location of the proposed soakaway to serve the proposed dwelling. Subsequently information gathered from infiltration tests will be presented in a succinct Hydrology Report. Ainsty Internal Drainage Board has been consulted as part of this application and has raised no objections subject to conditions. The information would be submitted to the local authority and planning committee will be updated.

2.11.7 On balance and taking into account comments received, it is considered that the all matters relating to drainage, the drainage proposals submitted would be acceptable with conditions attached. The proposed scheme is therefore considered acceptable in accordance with Policy SP15 of the Core Strategy and the NPPF.

## **2.12 Impact on Trees**

2.12.1 The application site does not include any trees which are protected by a Tree Preservation Order. However the application site is located within the Appleton Roebuck Conservation Area and the trees within the site are afforded controls until the controls of this designation.

2.12.2 Comments have been received in relation to an Oak Tree which bounds Appleton Roebuck Conservation Area and the application site area in an adjacent field. Concerns have been raised regarding the root protection area of the tree, information regarding height first branch, the lack of regard to the Oak tree and damage to other trees with the site area.

2.12.3 The agent has submitted an arboricultural report which indicates the footprint of the proposal overshadows the majority of the southern root plate of the English Oak tree with much of the development zone already covered by shallow founded structures (existing double garage.) The report recommends that a raised concrete raft with a 150mm void is incorporated beneath the house to accommodate the heave risk, and that piles should be seated deeper than the clay bed. Therefore it would not matter how large the Oak tree grew the house would be isolated from the zone of subsoil subject to movement. In terms of the height to first branch and root protection area for the tree, a further report has been submitted which states that the height to first branch is approximately 2 metres, the tree has been cut back from the boundary line some time ago and concludes that the proposed development is not likely to change the oak tree's pruning schedule.

2.12.4 The root protection area has been calculated using the trunks diameter 104m<sup>2</sup> and the report considers that the choice of foundation would isolate the house from the effects of the tree.

2.12.5 Following an amended plans being submitted by the agent the proposed dwelling has been brought forward and therefore the separation distance between the dwelling and the Oak tree has increased from 2 metres to 4 metres.

2.12.6 In order to address concerns raised by neighbours the local authority has undertaken an independent arboricultural report. The report states the tree is a reasonably good tree of some considerable age. It has some amenity value but it can only be seen from two properties clearly. The tree has been heavily pruned over recent years and is therefore smaller in stature than it would previously have been if left unmanaged. The tree is heavily covered in epicormic shoots as a result of this past pruning and the base is covered with ivy and there is a small amount of deadwood within the crown.

The report further stipulates that the proposed construction process is compatible with the proposed dwelling provided that special measures and fencing are erected during the construction phase. Officer recommend that this is controlled through the use of a condition.

2.12.7 The Council have received a request for this tree to be protected under the Tree Preservation Regulations. The Council considered that following a site visit the Oak tree is not considered to be a specimen tree and by virtue of the tree's location and its condition along with the context of the surrounding trees would not be justified to place a Tree Preservation Order on the tree.

2.12.8 The independent arboriculturist report states that the tree does not have significant amenity value, nor is at significant risk from damage by the erection of the proposed building adjacent. It is therefore not necessary to include it in a TPO for its own protection.

2.12.9 Therefore when taking into consideration the above and following the amended plans being submitted which included the proposed dwelling being brought forward. It is considered that the impact on the Oak tree would be reduced and the development would pose no significant harm provided that special measures and fencing are erected during the construction phase.

2.12.10 As such, having had regard to all the issues associated with the Oak tree and the proposal and in accordance with the conditions listed in paragraph 3.0 it is concluded that the proposal is acceptable and that the proposal is in accordance with Policy ENV1(5) of the Local Plan and Policy SP19(e) of the Core Strategy.

## **2.13 Nature Conservation and Protected Species**

2.13.1 Relevant policies in respect of nature conservation include Policy ENV1 (5) of the Selby District Local Plan and Policy SP18 "Protecting and Enhancing the Environment" of the Core Strategy.

2.13.2 Significant weight should be attached to Local Plan Policy ENV1 as it is broadly consistent with the aims of the NPPF.

2.13.3 Protected species include those protected under the 1981 Wildlife and Countryside Act (as amended) and the Conservation of Habitats and Species Regulations 2010. The presence of protected species is a material planning consideration.

2.13.4 It is noted that the application site is not a protected site for nature conservation.

- 2.13.5 Yorkshire Wildlife Trust have been consulted regarding the proposals, but have not provided a response, therefore it is assumed that they do not have any objections to the proposals.
- 2.13.6 Natural England has been consulted regarding the proposals, but have no comments to make in relation to this application.
- 2.13.7 Comments have been received in relation to Great Crested Newts, being located in the vicinity of the application site area, and Bats residing in the Oak tree to the rear of the property.
- 2.13.8 An ecology study has been submitted as part of this proposal. In terms of the presence of Great Crested Newts (GCN) a desk top review of maps and aerial imagery identified no water bodies within 250m of development. A number of ponds were potentially present within 500m radius of the development but these ponds were considered to be sufficient distance from the small development so as to not require further survey.
- 2.13.9 The development would result in the loss of a small area of mainly amenity grassland and garden habitats that are of relatively low value to GCN compared with the available, surrounding higher value terrestrial habitats, which are also prevalent around the potential waterbodies. The loss of the small area of garden due to the development is considered to be negligible importance to any local population of great crested newts.
- 2.13.10 The Natural England 'Template for Method Statement to support application for licence under Regulation 53(2)e of The Conservation of Habitats and Species Regulations 2010 (as amended) in respect of great crested newts *Triturus cristatus*. Form WML-A14-2 (Version December 2015)' suggests that the risk of a legal offence from such a small Development is very unlikely. No further surveys are necessary to support this conclusion.
- 2.13.11 A further assessment has been conducted in terms of bats. The Bat Roost Assessment as part of the ecology report noted the large oak tree situated to the rear of the property. An arboricultural report submitted by separately to this report confirmed that this tree will not be impacted by the Development. Rosetta Landscape Design's assessment of its roost potential was therefore not required." If a roost were present, the potential for indirect impacts to the occupying bats during construction phase were considered to be sufficiently low that a roost assessment of the tree itself was not required. Indirect impacts, if experienced, would be of very low magnitude due to the small scale of the development.
- 2.13.12 The construction of the development would have a negligible impact on the foraging resource of local bat populations and any disturbance to foraging bats would be of low magnitude and short duration. The construction of the development is highly unlikely to affect the favourable conservation status of local bat populations and the risk of legal offence due to the disturbance of a European Protected Species is considered to be highly unlikely.

- 2.13.13 The Development will require an existing double garage to be demolished. The garage was in a good state of repair and was in frequent use by the householders. The garage walls comprised a single-skin brick wall with no internal cavity. The roof comprised typical roofing felt laid flush to a single layer of wooden roof boards; as such there was no internal roof void. Fascia were present on all four faces on the structure and these were mostly flush to surface brick or presented spaces too small for a bat to gain access.
- 2.13.14 The exception was a single area, measuring approximately 15 cm, on the eastern face of the garage where the gap was sufficient to allow access into the internal area of the garage. There was, however, no void between the access point and the internal space of the garage. No evidence of bats, such as staining or droppings, were identified in or on the garage during the survey.
- 2.13.15 Due to the limited number of access points, lack of internal voids within the structure, and the frequent disturbance through ongoing use, the garage was assessed as having negligible–low potential to support transient or single bat roosts
- 2.13.16 Given the above, it is considered that the proposal would not harm any acknowledged nature conservation interests and is therefore in accordance with Policy ENV1 (5) of the Local Plan, Policy SP18 of the Core Strategy and the policy framework contained within the NPPF.

## **2.14 Archaeological Remains**

- 2.14.1 Policy ENV28 of the Local Plan states that ‘where development proposals affect sites of known or possible archaeological interest, the District Council will require an archaeological assessment/ evaluation to be submitted as part of the planning application.’ Given that paragraph 128 of the NPPF advises that Local Planning Authorities should require developers to submit desk-based assessments and, where necessary a field evaluation where the site on which development is proposed includes or has the potential to include heritage assets with archaeological interest then significant weight should be attached to this policy.
- 2.14.2 During the life of the application comments were received regarding archaeological remains which may be disturbed as part of this proposal therefore the Council requested an archaeological survey to be carried out for further investigation.
- 2.14.3 North Yorkshire Archaeology has been consulted as part of this application and concluded that: -

The location map and read the description of the excavation carried out on 29<sup>th</sup> and 30<sup>th</sup> July 2000 in front of The Firs, Appleton Roebuck. This short report concludes that the culvert was probably constructed in association with the development of North Hall in the 17<sup>th</sup> or 18<sup>th</sup> centuries but that an association with another earlier structure or elaborate water management scheme cannot be ruled out.



#### 2.14.4 They have also noted that:

The location of the culvert as excavated is approximately 50 metres away from the proposed development site running in a north-south direction. Therefore the development will not directly impact upon the culvert, although its presence may indicate further remains nearby. The location of the proposed development is within part of the village that has the potential for medieval origins with properties surrounding a green. The proposed development is positioned well back in the plot and is unlikely to disturb structural evidence such as medieval buildings which are normally positioned hard against the village green. The existing garage will have reduced the significance of any archaeological deposits in that part of the site.

The rear plots of medieval settlements were usually used for agricultural purposes, waste disposal and perhaps light industry. The ground disturbance associated with the proposed building may reveal deposits such as gullies, ditches, pits and stray finds of the period. Although these sorts of deposits are of interest they are not of such significance as to preclude development.

2.14.5 Accordingly, the Heritage Officer have considered the additional information (as provided by Arcus in their letter dated 29th April 2016) they have retracted their previous advice for an archaeological strip map and record exercise on this site. They have now noted that “a Watching Brief would be an appropriate mitigation strategy for this development, and would be in proportion with the types of deposits expected, the size of the development and the scale of the impact upon any surviving archaeological remains”.

2.14.6 This advice is in accordance with the historic environment policies within Section 12 of the National Planning Policy Framework, CLG, 2012 (paragraph 141), and the condition should comprise an archaeological watching brief to be carried out during any groundworks including new foundations and new drainage or services, septic tank, 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 accordance with the historic environment policies within Section 12 of the National Planning Policy Framework, 2012 (paragraph 128), this evaluation should be undertaken prior to determination of the planning application.

2.14.7 The proposals are therefore considered acceptable with conditions attached in the paragraph below with respect to the impact on designated and non-designated heritage assets in accordance with Policies ENV1 and ENV28, of the Local Plan, Policies SP18 and SP19 of the Core Strategy and the NPPF.

## **2.15 Contamination**

- 2.15.1 Policies ENV2 of the Local Plan and SP19 of the Core Strategy relate to contamination. Policy ENV2 should be afforded significant weight as it is in compliance with the NPPF.
- 2.15.2 The application is supported by a Screening Assessment which confirms that the risk of contamination is very low. The Council's contaminated land consultant has been consulted and have advised that no additional requirement for additional information is required.
- 2.15.3 No objections have been raised by the contaminated land consultant it is considered that the proposals are acceptable with respect to contamination in accordance with Policy ENV2 of the Local Plan and Policy SP19 of the Core Strategy.

## **2.16 Recreational Open Space Contribution, Education, Healthcare, Waste and Recycling**

- 2.16.1 Policy in respect of the provision of recreational open space is provided by Policy RT2 of the Local Plan, the Developer Contributions Supplementary Planning Document, Policy SP19 of the Core Strategy and paragraphs 70 and 73 of the NPPF.
- 2.16.2 Local Plan Policy RT2 states that proposals for more than 5 dwellings will be required to provide recreation open space at the rate of 60 square metres per dwelling. Part (a) of the same policy states:
- For schemes of more than 4 dwellings up to and including 10 dwellings, through a commuted payment to enable the district council new or upgrade existing facilities.
- 2.16.3 It is therefore not considered that a contribution towards off-site provision of Recreational Open Space is required. Policies 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. For schemes under 10 units' contributions should not be sought in line with the Planning Practice Guidance for education or healthcare
- 2.16.4 With respect to Waste and Recycling, a contribution for such provision would not be required for a scheme of this scale.
- 2.16.5 Having had regard to the above the proposals comply with policies ENV1 and CS6 of the Local Plan, Policy SP19 of the Core Strategy and the Developer Contributions SPD with respect to developer contributions.
- 2.16.6 The proposal is therefore considered acceptable when assessed against the policies in the NPPF, Selby District Local Plan and the Core Strategy. The proposal accords with the overarching aims and objectives of the NPPF and it is on this basis that permission should be granted.

2.16.7 Officers note that at the time of writing this a judgement has been handed down in respect of the West Berkshire District Council and Reading Borough Council in respect to tariff style contributions. Given the timing of the court decision Officers have not been able to assess the application in respect of the implications of the decision. Consequently Members will be updated of the implications on the day of Planning Committee.

## **2.17 Other Comments Received**

2.17.1 Further concerns have been raised in relation to this application, these include the application site should include the land required for the access to the adopted highway, the application site includes the red line around the site area and includes the access road. It is considered that planning applications are not required to include a red line to the main highway, in addition the access site is an existing access which already serves a garage.

2.17.2 Objectors have stated that the correct certificate has not been served on the other owners of the access road. However the planning agent has confirmed that he has served the notice on the owners who share the access road.

2.17.3 Objectors have stated that the use of the access would create noise, vibration and head lights and general disturbance and that these issues have not been assessed as part of this application. Officers note that when taking into consideration the appeal at Mill Reef the Inspector considered at the time that such an increase would be unlikely to be of a scale where a change in current conditions would become noticeable. Given that Mill Reef shares the access road and the driveway is currently used by the occupiers of Yew Tree House, there would be no significant further impact in traffic over and above what is currently used. Moreover it is expected that there would be some disturbance during the election the dwelling. However if the noise is deemed to be so adverse these issues can be controlled through statutory noise nuisance under Environmental Health legislation. Therefore it is not considered proportionate to place a condition for construction times for one dwelling.

2.17.4 The objectors have stated that the red line boundary to the front of Yew Tree House where parking spaces are planned is considered to be common land. Officers note that there has been no evidence to prove that this is in fact common land and as a consequence little weight can be given to this issue.

2.17.5 Objectors have stated that damage caused to the driveway during construction will need to be repaired. Officers note that the responsibility for harm caused during construction is primarily the responsibility of the developer. The granting of planning permission does not confer any right to enter third party land or to damage property.

2.17.6 Objectors have stated that the proposal would spoil the view of properties. Officers note that the right to a view is not a material planning consideration.

2.17.7 Objectors have stated that there has been misrepresentation of photography. Officers note that photographs have been submitted by neighbours and surveys, in addition to the planning officer taking photos on their site visit. There has been no evidence provided as to how these have appeared distorted.

2.17.8 Objectors have raised safety concerns for the green. Officers note that the highway officer has been consulted and had no objections and as such the proposal is considered acceptable in this respect.

## **2.18 Community Infrastructure Levy**

2.18.1 Under the Community Infrastructure Levy (CIL) Regulations, the proposal would be liable for payment of CIL at the appropriate rate adopted by Selby District Council on 1<sup>st</sup> January 2016.

## **2.19 Conclusion**

2.19.1 The site comprises a small infill plot within the defined development limits of a Designated Service Village and therefore is acceptable in principle in respect of the requirements of policy SP2A and SP4. The proposal is also considered acceptable when assessed against the policy tests in respect to all other acknowledged interests. With respect to percolation test Officers do not anticipate any issues arising in respect of soakaways but are awaiting for percolations test results and consultation response from the Internal Drainage Board. However, subject to no objections being received the application is considered acceptable subject to the completion of a legal agreement to secure an affordable housing contribution and the attached conditions.

## **2.20 Recommendation**

**Subject to no objections being raised by the Internal Drainage Board on the Hydrology Report this planning application is recommended to be APPROVED subject to conditions detailed in Paragraph 2.20 of the Report and the completion of a legal agreement to secure a contribution towards affordable housing.**

01. The development for which permission is hereby granted shall be begun within a period of three years from the date of this permission.

Reason:

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

02 Prior to the commencement of development details of the materials to be used in the construction of the exterior walls and roof(s) of the development hereby approved shall be submitted to and approved in writing by the Local Planning Authority, and only the approved materials shall be utilised.

Reason:

In the interests of visual amenity and in order to comply with Policy ENV1 of the Selby District Local Plan.

03. Prior to the commencement of development details of the boundary treatment shall be submitted to and approved in writing by the Local Planning Authority and shall be implanted in accordance with the approved scheme.

Reason:

In the interests of visual amenity and in order to comply with Policy ENV1 of the Selby District Local Plan.

04. Prior to the commencement of development details of the separate systems of drainage for foul and surface water on and off site shall be submitted to and approved in writing by the local planning authority. The development shall be implemented in full accordance with the approved scheme.

Reason:

In the interest of satisfactory and sustainable drainage and in accordance with Policies SP15, SP16 and SP19 of the Core Strategy.

05. Notwithstanding the provisions of Class A and Class E to Schedule 2, Part 1 of the Town and Country Planning (General Permitted Development) Order 2015 (as amended) no extensions, garages, outbuildings or other structures shall be erected without the prior written consent of the Local Planning Authority other than the boundary details agreed as part of condition 3.

Reason:

In order to retain the character of the site in the interest of visual amenity, having had regard to Policy ENV1.

06. Before any development is commenced the approval of the Local Planning Authority is required to a scheme of landscaping and tree planting for the site, indicating inter alia the number, species, heights on planting and positions of all trees, shrubs and bushes. Such scheme as approved in writing by the Local Planning Authority shall be carried out in its entirety within the period of twelve months beginning with the date on which development is commenced, or within such longer period as may be agreed in writing with the Local Planning Authority. All trees, shrubs and bushes shall be adequately maintained for the period of five years beginning with the date of completion of the scheme and during that period all losses shall be made good as and when necessary.

Reason:

To safeguard the rights of control by the Local Planning Authority in the interests of amenity having had regard to Policy ENV1 of the Selby District Local Plan.

07. No demolition/development shall take place/commence until a Written Scheme of 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 programme and methodology of site investigation and recording
- Community involvement and/or outreach proposals

- The programme for post investigation assessment
- Provision to be made for analysis of the site investigation and recording
- Provision to be made for publication and dissemination of the analysis and records of the site investigation
- Provision to be made for archive deposition of the analysis and records of the site investigation
- Nomination of a competent person or persons/organisation to undertake the works set out within the Written Scheme of Investigation.

Reason:

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

08. No demolition/development shall take place other than in accordance with the Written Scheme of Investigation approved under condition 08.

Reason:

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

09. 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 under condition 08 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.

10. The boundary wall between the proposed development and Yew Tree House shall measure 2 metres in height.

Reason:

In the interests of visual amenity and in order to comply with Policy ENV1 of the Selby District Local Plan.

11. Prior to development commencing a tree protection scheme with respect to the Oak tree to the immediate north western boundary and overhanging the site shall be submitted to and approved in writing by the Local Planning Authority. The measures set out in the scheme shall be fully implemented and shall be in place until the construction phase of the development has ceased.

Reason:

In the interests of tree protection and the visual amenity and character of the locality in accordance with Selby District Local Plan policy ENV1 and the NPPF.

12. In order to protected the Oak tree which bounds the application site to the north western boundary development shall confirm with the Abbey Pynford Foundation System within the arboricultural report submitted to the local planning authority on the 22<sup>nd</sup> October 2015.

Reason:

In the interests of tree protection and the visual amenity and character of the locality in accordance with Selby District Local Plan policy ENV1 and the NPPF.

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

- LOC - Location Plan P200
- LAY - Planning Layout P201
- PROP - Proposed Plans P202
- ELPR - Elevations as Proposed P203
- ELPR - Elevations as Proposed P204
- TECH - Technical Specifications P205
- LND – Landscaping P206
- LAY - Planning Layout P207

Reason:

For the avoidance of doubt and in accordance with policy ENV1 of the Selby District Local Plan.

#### INFORMATIVES

- Amended Plans
- CIL
- Coal

### 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.

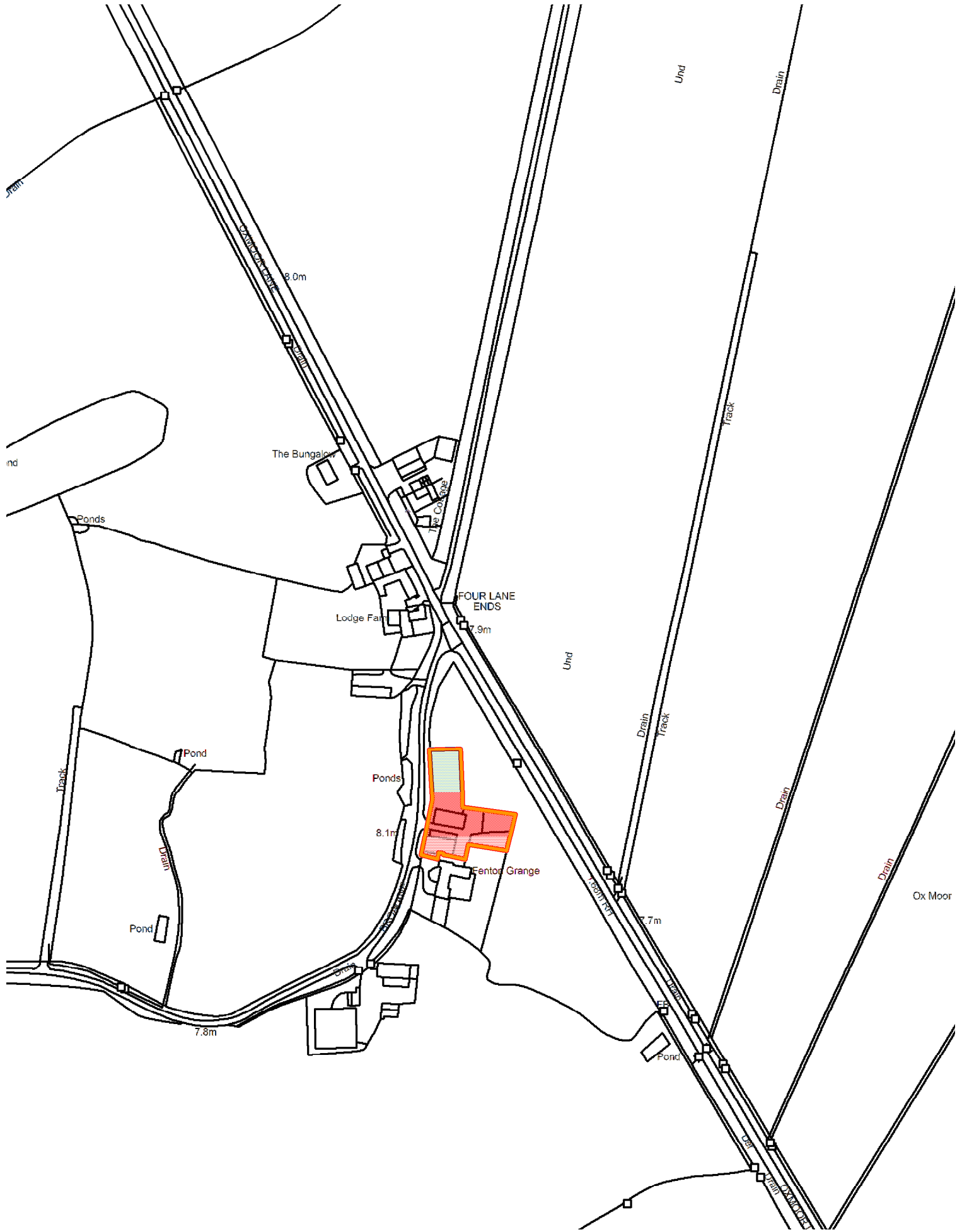
**5. Background Documents**

5.1 Planning Application file reference 2015/1186/FUL and associated documents.

***Contact Officer: Richard Sunter (Lead Officer Planning)***

**Appendices: None**





# APPLICATION SITE

**Item No:** 2016/0035/FUL

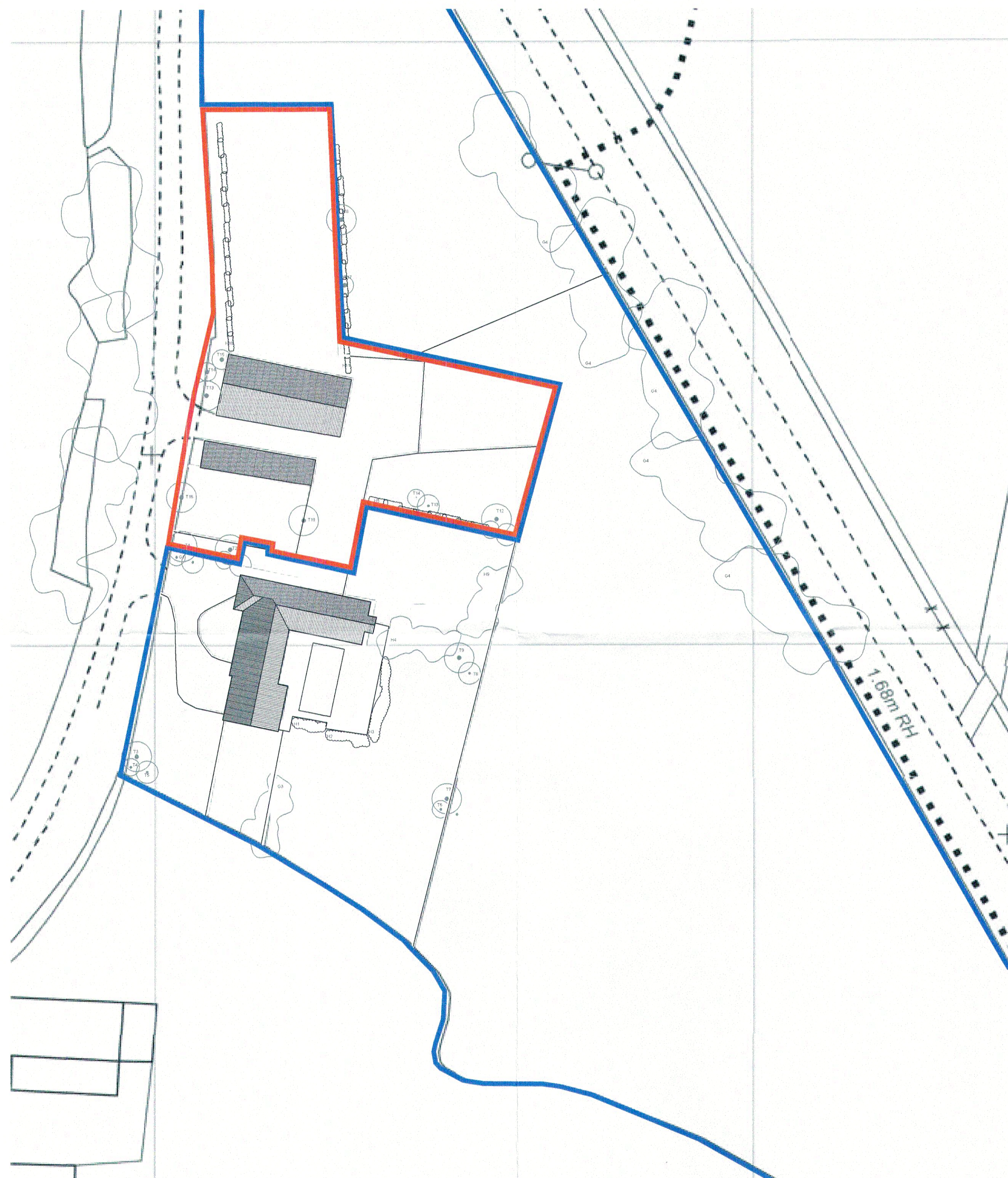
**Address:** Broad Lane, Church Fenton

This map has been reproduced from the Ordnance Survey mapping with the permission of Her Majesty's stationary office. © Crown copyright. Unauthorised reproduction infringes Crown copyright and may lead to prosecution or civil proceedings. Selby District Council: 100018656

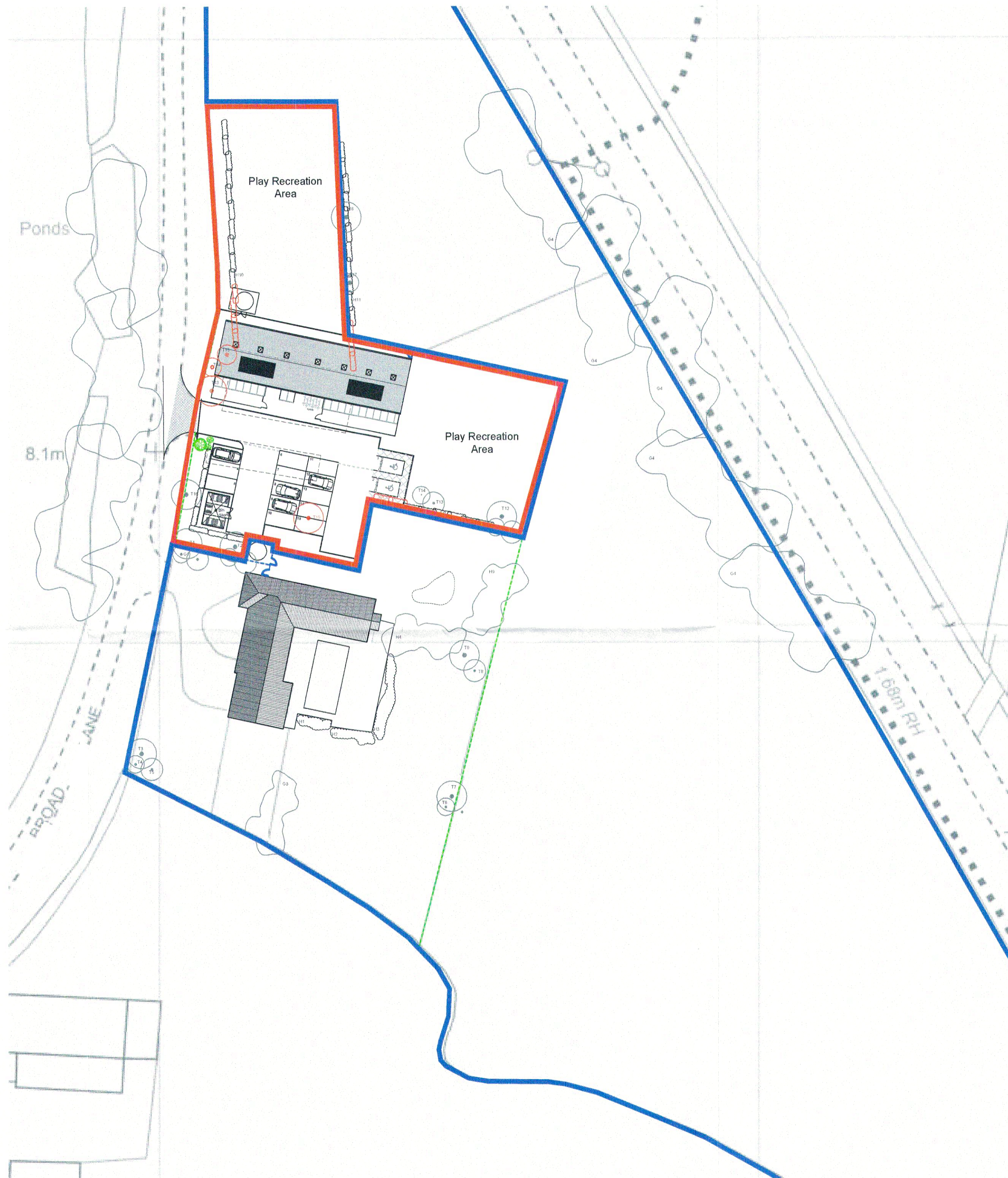
BUSINESS SUPPORT  
2 5 JAN 2016  
RECEIVED

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ar<sup>2</sup> architects limited is registered in England and Wales with the Registration number 20221486. The Registered Office is 32 Myrtle Way, Brough, East Yorkshire YO15 1SR.  
Drawings: Contractors must verify all dimensions on site before commencing any work or shop drawings. This drawing is not to be scaled. Use figures dimensioned only. Subject to statutory approvals and survey.  
Areas: Building areas are liable to adjustment over the course of the design process due to the ongoing co-ordination of building developments.  
Risk Assessment: In accordance with CDM Regulation 7, 11 & 16, significant hazards have been identified and are assessed low.  
Refer to the current Designers Risk Information Schedule for further details.

Area Within Red-line Boundary 2575m<sup>2</sup>



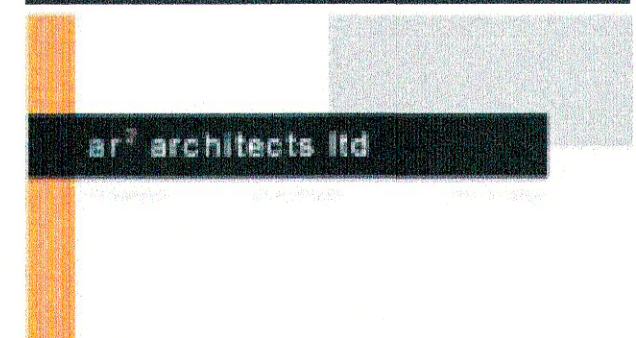
Existing Site Block Plan  
Scale - 1:500 @ A1



Proposed Site Block Plan  
Scale - 1:500 @ A1

REVISED

PLANNING



Unit 17, Brough Business Centre, Brough, East Yorkshire, HU15 1EN  
T: 01482 66 90 80 F: 01482 66 91 31

Project: FENTON GRANGE CHURCH FENTON TADCASTER, LS24 9ST  
Job Number: AR120-15

Client: THE CAMBIAN GROUP

Drawing Title: EXISTING AND PROPOSED SITE BLOCK PLAN  
Drawing Size: A1

Drawn GH	Date 18.12.2015	Scale 1:500	Cadfile -
Reviewed by RRB	Drawing No. (100)-08	Rev. P1	

**To:** Planning Committee  
**Date:** 13 July 2016  
**Author:** Mr Nigel Gould (Planning Officer)  
**Lead Officer:** Richard Sunter (Lead Officer – Planning)

APPLICATION NUMBER:	2016/0035/FUL	PARISH:	Church Fenton Parish Council
APPLICANT:	Cambian Group PLC	VALID DATE:	25th January 2016
		EXPIRY DATE:	21st March 2016
PROPOSAL:	Demolition of existing agricultural buildings (use class Sui Generis) and the erection of a specialist state-funded day school for up to 20 children and associated parking (Class D1 use) on land adjacent to Fenton Grange		
LOCATION:	Broad Lane Church Fenton Tadcaster North Yorkshire		

This application has been brought before Planning Committee due to a recommendation to approve and not being fully in accordance with the development plan. In particular the proposal does not conform to part 1 of Local Plan Policy CS2.

**Summary:**

The proposed scheme is made in full and includes a new single storey building to house a specialist school, the re-use of an existing vehicular access, the laying out of a new car park and provision of a bin store. The development would be used in conjunction with the adjacent property – Fenton Grange – and by students visiting from surrounding care homes.

The application site is located outside the defined development limits of Church Fenton. The proposal is therefore contrary to Policy CS2 (part 1) of the Core Strategy but in all other matters conforms with the stated policies. The key issue is therefore the suitability and reasoning for the location of this particular development. In evaluating the application, the relationship of the proposal to the surrounding area and the specialist nature of the school itself, the proposal is considered, on balance, to be acceptable.

**Recommendation**

**This planning application is recommended to be APPROVED subject to conditions detailed in Paragraph 3.0 of the Report.**

## **1. Introduction and background**

### **1.1 The Site**

1.1.1 The site is on the east side of Broad Lane a short distance from the junction with Oxmoor Lane. The applicant also owns the dwelling immediately adjacent to the south (Fenton Grange) and the adjacent land between the site and Oxmoor Lane.

1.1.2 The existing barn and stables would be removed and the existing access utilised to provide access to a single storey school building and a car park with bin store. This proposal is for a new school on previously developed land that is outside the defined Development Limits of Church Fenton – approximately 1.6km to the west of the village

### **1.2 The proposal**

Demolition of existing agricultural buildings (use class Sui Generis) and the erection of a specialist state-funded day school for up to 20 children and associated parking (Class D1 use) on land adjacent to Fenton Grange

### **1.3 Planning History**

1.3.1 The following historical applications are considered to be relevant to the determination of this application.

1.3.2 Application (2015/0508/CPP) for a Lawful Development Certificate for proposed use as dwelling house (Class C3 (b)) was approved and the certificate issued on the 22<sup>nd</sup> July 2015.

- The application was for a Lawful Development Certificate for the proposed use of the property falling within Class C3(b) of the Town and Country Planning (Use Classes) Order 1987 (as amended). The previous lawful use of the property was a single dwelling house which falls under Use Class C3 (a) as defined in the Town and Country Planning (Use Classes) Order 1987 (as amended). This Use Class Order defines Use Class C3 as:-
  - a) a single person or by people to be regarded as forming a single household
  - b) not more than six residents living together as a single household where care is provided for residents
  - c) not more than six residents living together as a single household where no care is provided for residents (other than use within C4).
- Having had regard to previous case law, and based on the information submitted with the application, it was considered that there would not be a material change of use of the land and as such, a Lawful Development

Certificate was issued subject to the express terms as set out within the First Schedule:

The proposed use would not constitute a material change of use of the land from its lawful use as a dwellinghouse within Use Class C3.

#### **First Schedule**

Use as a residential children's home for a maximum of four children, aged between 4 – 17 years that have been abused. The resident children will be educated off-site in local schools and two adult carers would effectively live at the dwellinghouse or where there is shift work, there will be a continuity of care and clear rotas. No alterations would be made to the internal layout of the premises from that shown on the plans accompanying the application.

#### **Second Schedule**

Land at Fenton Grange, Broad Lane, Church Fenton, Tadcaster, North Yorkshire, LS24 9ST

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- 1.3.3 Application (CO/1985/0990) (Permitted - 19.03.1985) for the erection of an extension to the existing dwelling (Fenton Grange) was granted on the 19<sup>th</sup> March 1985.
- 1.3.4 Application (CO/1984/1003) for the erection of stable block & tack room & erection of barn for the storage of hay & straw was granted on the 19<sup>th</sup> September 1984.
- 1.3.5 Application (CO/2002/0958) for the erection of a general purpose agricultural building on 0.067 ha of land adjacent to Fenton Grange was granted on the 28<sup>th</sup> October 2002.

#### **1.4 Consultations**

##### **1.4.1 Parish Council**

Comments not received.

##### **1.4.2 WPA Consulting - Contaminated Land Consultants**

WPA do not consider the report to be wholly compliant with current guidance. WPA would like the following points to be addressed in order to bring the report in line with current guidance:

- There is no evidence of a physical site walkover survey within the report, which is necessary in order to establish the current state of the site and identify any potential sources or evidence of contamination at the site. A site walkover survey, preferably including site photos, should be conducted and recorded within the report.
- A risk classification matrix such as that found in CIRIA C552 guidance should be presented to provide context for the risk assessment/conceptual site model and help to establish the meaning and significance of the risk ratings.
- WPA recommend that Selby District Council apply the standard contaminated land planning conditions CL1 – CL5 if they have not already, to ensure that development does not commence until an amended, compliant report has been received, as well as any necessary further works as recommended in the report.

#### 1.4.3 NYCC Highways

The Local Highway Authority recommends that the detailed conditions are attached to any permission granted.

#### 1.4.4 Yorkshire Water Services Ltd

A water supply can be provided under the terms of the Water Industry Act, 1991. Waste Water. The agent has made an error on the application form in that foul and surface water is to be drained to 'Main Sewer' (has admitted mistake in telephone discussion today). The Flood Risk Assessment (January 2016 Issue 2) has stated foul drainage being drained to a proposed private package treatment plant, with surface water drainage flows to Fenton Grange Drain, after consultation with Selby Area Internal Drainage Board, to agree rate of discharge flows. Based on the above, the application should be referred to the Environment Agency and the Local Authority's Environmental Health Section for comment on private treatment facilities.

#### 1.4.5 Education Directorate North Yorkshire County Council

Comments not received.

#### 1.4.6 Environmental Health

Comments not received.

#### 1.4.7 Community Infrastructure Levy Officer

I can confirm that the above application, based in the information submitted on the planning application received on 25th January 2016, is not liable for CIL, under the Community Infrastructure Levy Regulations 2010(as amended).

#### 1.4.8 Selby Area Internal Drainage Board

Comments not received.

#### 1.4.9 The Environment Agency (Liaison Officer)

The site lies within flood zone 1 as shown on our flood map. We therefore have no comment on flood risk grounds.

#### Non Mains Foul Drainage

Under the Development Management Procedure Order (DMPO) the Environment Agency is only a statutory consultee on non-mains foul drainage proposals for major development. For this reason we do not wish to make detailed comments in this instance however you are strongly advised to satisfy yourself that the proposal complies with the requirements of the Planning Practice Guidance and the Environment Agency's Pollution Prevention Guidance Note 4. You may wish to consult with your Environmental Health team for further guidance. For your information, a summary of the approach advocated by the Planning Practice Guidance and the Environment Agency's Pollution Prevention Guidance Note 4 is included below.

The Planning Practice Guidance and the Environment Agency's Pollution Prevention Guidance Note 4 clearly set out a foul drainage hierarchy which aims to encourage foul drainage disposal to a mains sewer system whenever one is available.

Where a mains sewer connection cannot be achieved, applicants must first consider the use of a package treatment plant discharging to a soakaway. Provided there is sufficient land available and the ground conditions are such that a soakaway will be effective, the ground will provide additional attenuation to the quality of the water discharged. A septic tank discharged to soakaway may also be acceptable in some circumstances.

If neither the use of a soakaway or a direct discharge is possible, consideration may then be given to the use of a system without any discharge such as a sealed cess pool or chemical toilet. Such sealed systems are a last resort given their need to be regularly emptied and their capacity to overflow or be breached. The traffic impacts and carbon emissions associated with regular emptying, and the risk that they may discharge raw sewage direct to the water environment means these solutions have the potential to render such a development unsustainable.

#### Permit

In addition, the applicant may require an Environmental Permit from the Environment Agency for water discharge activity. They would be advised to contact our National Permitting Service (Tel. 08708 506506) at the earliest opportunity.

## **1.5 Publicity**

- 1.5.1 The application was advertised by site notice, neighbour notification letter and by a press advert but no representations have been received.

## **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.

### **2.1.1 Selby District Core Strategy Local Plan**

The relevant Core Strategy Policies are:

- SP1 - Presumption in Favour of Sustainable Development
- SP2 - Spatial Development Strategy
- SP13 – Scale and Distribution of Economic Growth
- SP15 - Sustainable Development and Climate Change
- SP16 - Improving Resource Efficiency
- SP18 - Protecting and Enhancing the Environment
- SP19 - Design Quality

### **2.1.2 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:

ENV1 - Control of Development

ENV2 - Environmental Pollution and Contaminated Land

T1 - Development in Relation to Highway

T2 - Access to Roads.

CS2 – Development of New Schools and Educational Establishments.

### **2.1.3 National Guidance and Policy – National Planning Policy Framework (NPPF), National Planning Practice Guide (NPPG)**

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 Planning Policy Guidance (PPG), 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.

### **2.1.3 Community Infrastructure Levy**

Under the Community Infrastructure Levy (CIL) Regulations, the proposal **would not** be liable for payment of CIL at the appropriate rate adopted by Selby District Council on 1<sup>st</sup> January 2016.

## **2.2 Key Issues**

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

1. The principle of development. The appropriateness of the location of the application site for educational development in respect of current policy and guidance on sustainability contained within the Development Plan and the NPPF.



2. Identifying the Impacts of the Proposal
  1. Layout, Scale, Landscaping and Design and Impact on Character and Form
  2. Flood risk, drainage and climate change
  3. Residential amenity
  4. Impact on highways
  5. Nature conservation and protected species
  6. Requirement for Planning Obligations
  7. Land contamination
  8. Conclusion

### **2.3 The Appropriateness of the Location of the Application site for Educational Development in Respect of Current Policy and Guidance on Sustainability Contained within the Development Plan and the NPPF.**

- 2.3.1 Policy SP1 of the Selby District Core Strategy Local Plan (2013) 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.
- 2.3.2 Policy SP1 is therefore consistent with the guidance in Paragraph 14 of the NPPF which in turn states that: *"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. For decision-taking this means:*
- *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."*
- 2.3.3 Policy SP2 states that development for non-allocated sites must meet the requirements of SP4. I will deal with the relevant elements of SP4 in turn but part (C) of SP2 also states:
- "Development in the countryside (outside Development Limits) will be limited to replacement 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 other special circumstances."*
- 2.3.4 The site is not within or near land designated as Green Belt and as such Policy SP3 is not relevant.
- 2.3.5 Policy SP4 itself is more relevant to residential development and relates to the settlement hierarchy. The proposal is for a new school outside the development limits. Parts (c) and (d) relate to the development in all cases being expected to protect amenity and be appropriate in character and form to the local area.

- 2.3.6 Policy SP13 relates to scale and distribution of economic growth and states that support will be given to revitalising the local economy. In relation to the rural economy part C of SP13 states the following: *“In rural areas, sustainable development (on both Greenfield and PDL) which brings sustainable economic growth through local employment will be supported, including for example:*
- 1. The re-use of existing buildings and infrastructure and development of well-designed new buildings.*
  - 2. The redevelopment of existing and former employment sites and commercial premises.*
  - 3. The diversification of agriculture and other and based rural businesses.*
  - 4. Rural tourism and leisure developments, small scale rural offices or other small scale rural development.*
  - 5. The retention of local services and supporting development and expansion of local services and facilities in accordance with Policy SP14.”*
- 2.3.7 SP4 D then goes on to say that in all cases the development should be sustainable and appropriate in scale, not harm the character of the area and seek a good standard of amenity. Policy SP14 relates to shops and services outside the established town centres and is not specifically relevant to this proposal but the development does accord with the underlying principle.
- 2.3.8 The proposal is for re-use of previously developed land, is of a modest size and designed to a high standard. It would bring inward investment to this rural location along with the associated ripple effect to the surrounding service industry. For the reasons given it is considered that the proposal is acceptable in principle when assessed against Policies SP1, SP2, SP4, SP13 and SP14.
- 2.3.9 Further analysis of Policy CS2 is required, which states that the development of new schools will be permitted provided that:
- 1. “The proposal would be sited within or adjacent to defined development limits;*
  - 2. Adequate access, car parking and areas for safe setting down and collection of pupils off the highway would be provided;*
  - 3. The proposal would not create conditions prejudicial to highway safety or which would have a significant adverse effect on local amenity;*
  - 4. The internal design would permit the dual use of sports and other facilities;*
  - 5. A satisfactory amount of open space and playing fields to meet the needs of pupils and the local community incorporated in the development; and*
  - 6. The proposal would achieve a standard of design, materials and landscaping appropriate to the locality and which would not have a significant adverse effect on the appearance of character of the surrounding area.”*
- 2.3.10 It is considered that points 2 to 6 of CS2 are more specific requirements and more relevant to the impacts of the development which are considered in the second part of this report. By contrast part 1 of CS2 is a key – and final – constraint in considering the principle of the development and is therefore worthy of further analysis.
- 2.3.11 In light of the above policy context the proposal for a new school development is considered contrary to Policy CS2 (1) of the Selby District Local Plan.

### 2.3.12 Further consideration of Policy CS2 (1)

This proposal is for a new school on previously developed land that is outside the defined Development Limits of Church Fenton – approximately 1.6km to the west of the village. The existing barn and stables would be removed and the existing access utilised to provide access to a single storey school building and a car park with bin store. The development would consist of the following:

- A site area of 2575m<sup>2</sup>.
- The school would have a footprint of 31.30m x 8.75m with a shallow pitched roof of 2.65m to eaves and 3.72m to ridge.
- 2m overhanging canopies with paved external grounds to f.f.l.
- Externally: Grey Deca roof tiles, timber cladding, dark grey UPVC double glazed windows and doors, black rainwater goods, sky lights and solar panels.
- Internally: 3 individual classrooms, 1 large assembly room with the facility to separate into two rooms with an internal divide, toilets, offices, medical room and lobby. There would be outside recreational areas to the side and rear with secure access via the main gate.

2.3.13 The school will teach the national curriculum to a maximum number of 20 students aged between 7 and 17 who have suffered trauma in the Selby area. The students would reside overnight in a network of care homes and be brought from these care homes to the specialist school. The adjacent dwelling operates lawfully as a care home. No parents would visit the school and it would only be open in term time. Further, the site would be a secure premise with a security controlled access gate. The hours of use would be between 08:45 and 15:05 Monday to Friday.

2.3.14 Why this location? The choice of site relates to the specific geographical requirements and service provided by this new specialist school. Students attending the school would be from care homes with the school at the hub and the care homes feeding in to this central point. They would not be living at home and for safeguarding reasons would not be able to attend their usual school – due to the trauma they have experienced. To assist with their overall care package it is important that the children continue with their education but this can only be done in a secure educational facility that would provide the health and social care alongside their educational needs. This facility would provide that.

2.3.15 Paragraph 72 of the NPPF states: *“The Government attaches great importance to ensuring that a sufficient choice of school places is available to meet the needs of existing and new communities. Local planning authorities should take a proactive, positive and collaborative approach to meeting this requirement, and to development that will widen choice in education. They should:*

- *give great weight to the need to create, expand or alter schools; and*
- *work with schools promoters to identify and resolve key planning issues before applications are submitted.”* This follows directly from the Governments ‘Planning for Schools Development’ Policy Statement (August 2011).

2.3.16 Further evidence of the Governments support for new schools and in particular within rural locations is reflected in the changes to The Town and Country Planning (General Permitted Development) (England) Order 2015 [GDPO]. Specifically Classes S and T of Part 3 of Schedule 2 of the GDPO allows for conversion and

changes of use of existing agricultural buildings to amongst other things state funded schools – subject to the prior notification process.

2.3.17 The proposal does not conform with CS2 (1) as the proposal would not be sited within or adjacent to defined development limits. The proposal should therefore be refused unless material considerations indicate otherwise. One such material consideration is the specific needs and locational requirements of this proposal and the Government support for this type of development – including in rural locations – as detailed above.

2.3.18 The NPPF is another material consideration and this is predicated on the principle that sustainable development is about positive growth and states that the Planning System should contribute to the achievement of sustainable development, with particular emphasis on boosting significantly the supply of housing. Paragraphs 18 to 219 of the NPPF, taken as a whole, constitute the Government's view of what sustainable development in England means in practice for the planning system. These considerations weigh in favour of the proposal.

2.3.19 On consideration of the above information, it is considered that the proposal is acceptable in regards to the appropriateness of the location of the application site for the educational development in respect of policy and guidance on educational facilities and sustainability from both local and national policies. The impacts of the proposal are considered in the next section of the report.

## **2.4 Identifying the Impacts of the Proposal**

2.4.1 It is considered that the main potential impacts arising from the development are

1. Layout, Scale, Landscaping and Design and Impact on Character and Form
2. Flood risk, drainage and climate change
3. Residential amenity
4. Impact on highways
5. Nature conservation and protected species
6. Requirement for Planning Obligations
7. Land contamination
8. Conclusion

## **2.5 Layout, Scale, Landscaping and Design and Impact on Character and Form**

2.5.1 Selby District Local Plan Policy ENV1(1) requires development to take account of the effect upon the character of the area, with ENV1(4) requiring the standard of layout, design and materials to respect the site and its surroundings.

2.5.2 Policy SP19 requires that “Proposals for all new development will be expected to contribute to enhancing community cohesion by achieving high quality design and have regard to the local character, identity and context of its surroundings including historic townscapes, settlement patterns and the open countryside. Both residential and non-residential development should meet the following key requirements:

- a) Make the best, most efficient use of land without compromising local distinctiveness, character and form.

- b) Positively contribute to an area's identity and heritage in terms of scale, density and layout;

2.5.3 NPPF, paragraph 56, states the Government attaches great importance to the design of the built environment. Good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people.

- The school would have a footprint of 31.30m x 8.75m with a shallow pitched roof of 2.65m to eaves and 3.72m to ridge.
- 2m overhanging canopies with paved external grounds to f.f.l.
- Externally: Grey Deca roof tiles, timber cladding, dark grey UPVC double glazed windows and doors, black rainwater goods, sky lights and solar panels.
- Internally: 3 individual classrooms, 1 large assembly room with the facility to separate into two rooms with an internal divide, toilets, offices, medical room and lobby. There would be outside recreational areas to the side and rear with secure access via the main gate.

2.5.4 The plan provides for a modest single storey building orientated east to west and having a rectangular footprint of 31.30m x 8.75m. The proposal would have a shallow pitched roof finished in decra grey tiles, a height to eaves of 2.65m and to ridge of 3.72m. The external walls would be clad with timber with large UPVC windows and doors with grey surrounds.

2.5.5 The development would be on a similar footprint to the existing agricultural building with the existing point of access utilised. The parking area would be on the site of the previous stable block.

2.5.6 The design of the proposed development has a strong, contemporary appearance with clean lines and a minimal visual impact when viewed from outside of the site. The design incorporates PV cells on the roof and natural ventilation, with a large 'breeze solaire' canopy across the front elevation.

2.5.7 Other than the adjacent property – Fenton Grange – which forms part of the site and use, there are no other properties within close proximity with open fields to the east. The design therefore takes more of its influence from the agricultural and stable buildings on site. The result is a well design modest building that sits well in its setting with good circulation space internally

2.5.8 Having taken into account the design and appearance of properties within the immediate vicinity of the site which are predominantly two storey properties constructed from a mix of brick it is considered that the proposals would reflect the character of the area as such would be in accordance with Policies ENV1(1) and (4) and of the Selby District Local Plan the Core Strategy and the objectives of the NPPF.

2.5.9 Having taken into account the above policies it is concluded that the design and the effect of the proposal upon the character of the area would be acceptable, subject to the attached conditions.

- 2.5.7 Landscaping. Policy SP19 requires that new residential developments “Incorporate new and existing landscaping as an integral part of the design of schemes, including off-site landscaping for large sites and sites on the edge of settlements where appropriate” These policies are broadly consistent with the thrust of the NPPF to foster good design.
- 2.5.8 The site is not within the Green Belt, it is not within a “Locally Important Landscape Area” nor is it within or close to any area covered by a landscape designation.
- 2.5.9 Despite a small amount of clearance works the site is well screened with mature trees and hedging marking the west and north boundaries of the site. The applicants propose to retain the existing screening and boundary trees as well as the grassed area to the north and east which would be used for recreational use associated with the school building. An area of hard landscaping is proposed to the front of the building around the entrance. The proposal is therefore considered to accord with Policy SP19 of the Core Strategy.

## **2.6 Flood Risk, Drainage, Climate Change and Energy Efficiency**

- 2.6.1 Policies SP15, SP16 and SP19 of the Core Strategy require proposals to take account climate change and energy efficiency within the design.
- 2.6.2 The NPPF paragraph 94 states that local planning authorities should adopt proactive strategies to mitigate and adapt to climate change, taking full account of flood risk, coastal change and water supply and demand considerations. NPPF Paragraph 95 states to support the move to a low carbon future, local planning authorities should plan for new development in locations and ways which reduce greenhouse gas emissions; and which actively support energy efficiency improvements to existing buildings.
- 2.6.3 Further to the comments from Yorkshire Water and the Environment Agency the agent has confirmed that foul water will be drained to a private package treatment plant on site. This addresses the comments and a condition is attached requesting details prior to commencement of development.
- 2.6.4 The application site is located in Flood Zone 1 which is at low probability of flooding. The application is accompanied by a Flood Risk Assessment (FRA) which identifies the sources of flooding and confirms that flood mitigation will be introduced into the design of the dwellings. The Environment Agency has been consulted on the proposal but as the site is within Flood Zone 1 they have no comments on flood risk.
- 2.6.5 In terms of drainage the application states that foul sewage would be connected to the mains sewer with surface water directed to the mains. Yorkshire Water and the Drainage Board have been consulted on these methods of drainage but only the comments of Yorkshire Water have been received. On balance and taking into account the development in this location it is considered that the drainage proposals are acceptable with conditions. The proposed scheme is therefore considered acceptable in accordance with Policy SP15 of the Core Strategy and the NPPF.

## **2.7 Residential Amenity**

- 2.7.1 Policies ENV1(1) of the Local Plan requires development to take account of the effect upon the amenity of adjoining occupiers and should be given significant weight. Significant weight should be attached to this policy as it is broadly consistent with the aims of the NPPF to protect residential amenity.
- 2.7.2 Policy "SP19 - Design Quality" of the Core Strategy outlines that proposals "for all new development will be expected to contribute to enhancing community cohesion by achieving high quality design and have regards to the local character, identity and context of its surroundings including historic townscapes, settlement patterns and the open countryside".
- 2.7.3 The nearest property – Fenton Grange – is owned by the applicants and has permission to be used for accommodation for some of the students that would use the new school. That said the proposal needs to respect the amenity of Fenton Grange and the adjacent open fields. There are no other dwellings or properties that would be affected by this proposal.
- 2.7.4 The development has been carefully designed to reduce its visual impact to the surrounding area such that with the existing boundary trees – to be retained – the single-storey development would not be readily visible from outside the site. Similarly the impact on amenity would minimal.
- 2.7.5 The proposed development is therefore considered not to cause significant detrimental impact on the residential amenities of the area and would achieve an acceptable level of residential amenity for future occupants in accordance with policies ENV1(1) of the Local Plan Policy SP19 of the Core Strategy and the NPPF.

## **2.8 Highways**

- 2.8.1 Policies ENV1 (2), T1 and T2 of the Local Plan require development to ensure that there is no detrimental impact on the existing highway network or parking arrangements. Policy T7 seeks to promote the objectives of the national cycling strategy.
- 2.8.2 Policy "SP19 - Design Quality" states "that both residential and non-residential development should meet a series of noted criteria. These include the criteria relating specifically to highways and access namely
- Be accessible to all users and easy to get to and move through;
  - Create rights of way or improve them to make them more attractive to users, and facilitate sustainable access modes, including public transport, cycling and walking which minimise conflicts.
- 2.8.3 NPPF paragraphs 30 and 32 states that encouragement should be given to solutions which support reductions in greenhouse gas emissions and reduce congestion, all developments that generate significant amounts of movement should be supported by a Transport Statement or Transport Assessment, taking account the opportunities for sustainable transport modes; safe and suitable access to the site can be achieved for all people; and improvements can be undertaken within the

transport network that cost effectively limit the significant impacts of the development. Development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe.

- 2.8.4 Paragraphs 34 and 35 of the NPPF go on to state decisions should ensure developments that generate significant movement are located where the need to travel will be minimised and the use of sustainable transport modes can be maximised and should exploit opportunities for the use of sustainable transport methods. Therefore, developments should be located and designed where practical to accommodate the efficient delivery of goods and supplies; give priority to pedestrian and cycle movements, and have access to high quality public transport facilities; create safe and secure layouts which minimise conflicts between traffic and cyclists or pedestrians, avoiding street clutter; incorporate facilities for charging plug-in and other ultra-low emission vehicles; and consider the needs of people with disabilities by all modes of transport. Paragraph 36 states that all developments which generate significant amounts of movement should be required to provide a Travel Plan.
- 2.8.5 The application is supported by a transport assessment which states that the specialised nature of the proposed school ensures that pupil trips are minimised, with the pupils not already living on-site arriving in groups from the same care home. Further an assessment of traffic generation predicts a worst case assumption that the proposals could generate up to 48 trips per day but that peak hour trips would therefore be negligible.
- 2.8.6 The Highways Officer has raised no objections to the proposal subject to conditions.
- 2.8.7 In light of the above it is considered that the proposals are acceptable and would not be prejudicial to highway safety in accordance with Policies ENV1(2), T1, T2 and T7 of Selby District Local Plan, Policy SP19 of the Core Strategy, the NPPF with respect of transport.

## **2.9 Nature Conservation and Protected Species**

- 2.9.1 In respect to impacts of development proposals on protected species planning policy and guidance is provided by the 1981 Wildlife and Countryside Act and the Conservation of Habitats and Species Regulations 2010 and the NPPF. The presence of a protected species is a material planning consideration. In addition Policy ENV1(5) require proposals not to harm acknowledged nature conservation interests.
- 2.9.2 Policy SP18 of the Core Strategy seeks to ensure that developments safeguard and, where possible, enhance the historic and natural environment including the landscape character and the setting of areas of acknowledged importance and also promoting the stewardship of the District's wildlife. As well as seeking to ensuring developments retain, protect and enhance features of biological and geological interest and provide appropriate management of these features it also seeks to ensure that states that unavoidable impacts are appropriately mitigated and compensated for, on or off-site. SP18 also outlines that encouragement should be given to encouraging the incorporation of positive biodiversity actions, as defined in the Selby Local Biodiversity Action Plan, at the design stage of new developments or land uses.



- 2.9.3 The application is supported by an Ecological Appraisal. A single pond is located approximately 10m east of the site on the opposite side of Broad Lane. The pond is approximately 50m<sup>2</sup> in area, and was subject to a Habitat Suitability Index (HSI) in accordance with standard guidelines as part of the Appraisal. The Appraisal states: *“In determining whether, Natural England’s “Rapid Risk Assessment” tool was used to predict whether the proposed works may result in conflict with protected species legislation for great crested newts.”* The report further concludes: *“Based on the combined evidence of the HSI and Rapid Risk Assessment tool, and given the very small area of habitats on site which are suitable for great crested newts, the risk of causing an offence in respect of great crested newts is considered to be negligible.”*
- 2.9.4 The Ecological Appraisal also identifies that a barn owl box is located on the existing barn which is to be demolished as part of the proposals although no report of the barn owl being present was identified on the site visit by the Appraisal author. Appropriate protection and compensation measures are therefore required as follows and are attached as conditions in section 3.0 of this report:
- No building and construction work shall commence until evidence has been provided that no birds are nesting (at the development site to which this consent applies) immediately prior to work commencing.
  - a temporary replacement barn owl roosting/nesting box shall be installed within 200 metres of the development at least 30 days before any works to the barn or removal of the barn owl box are undertaken.
  - On completion of the demolition and construction, two permanent replacement barn owl boxes or ideally, provision of an integrated nesting space shall be installed at appropriate locations on buildings on the site. The new locations should be advised and agreed by an ecologist. not subjected to direct disturbance and remain in place until at least 30 days after permanent provision has been made.
  - All construction should be subject to an Ecological and Environmental Management Plan (or equivalent) and will need to give consideration to the above as well as general environmental considerations such as pollution, dust suppression, and site tidiness.
  - site clearance of trees, grassland and scrub, as well as demolition of the barn should be undertaken outside of the breeding bird season (which is from March to August inclusive).
- 2.9.5 The presence of a protected species is a material planning consideration. The site is not designated for nature conservation. As such, having had regard to all the ecological issues associated with the proposal it is concluded that the proposal is acceptable and that the proposal is in accordance with Policy SP18 of the Core Strategy and ENV1(5) of the Local Plan.

## **2.10 Requirement for Planning Obligations**

- 2.10.1 Affordable Housing. The Council's approach to providing Affordable Housing is set out in the Selby District Core Strategy policy SP9, adopted in October 2013 and supporting Affordable Housing Supplementary Planning Document (SPD) adopted February 2014. The proposal for a new educational establishment would not trigger any contributions towards affordable housing in accordance with the Supplementary Planning Document and as such no contributions are required as part of this application.
- 2.10.2 Waste and Recycling. Developer contributions are provided for in policy SP12 and the Developer Contributions Supplementary Planning Document 2007. The SPD states that developer contributions for Waste and Recycling Facilities will be sought in respect of residential development (including conversions/subdivision of existing dwellings to create flats, apartments, etc.). The purpose of the SPD is so that new residential developments are designed to accommodate refuse bins and waste recycling facilities in a way that facilitates the collection of refuse and materials for recycling, without harming residential and visual amenity. The SPD does not therefore require developer contributions for the proposal such as this. It is important to note that the development of the new school also includes the provision of a new car park on which is an enclosed bin store. The proposed bin store does not affect the use of the car park or the amenity of the new school and adjacent dwelling, nor does it cause any visual harm.
- 2.10.3 Recreational Open Space Contribution, Education and Healthcare. Developer contributions are provided for in Policy SP12 and the Developer Contributions Supplementary Planning Document 2007. The adoption of the CIL strategy and charging schedule on the 1<sup>st</sup> January 2016 means that these requirements cannot form part of a Legal Agreement (S106) and would form part of the requirements for payment of CIL when the development itself begins.
- 2.10.4 On the basis of the above the proposal does not require any parallel Legal Agreement (S106) as no contributions for on-site or off-site works are required as part of this proposal.

## **2.11 Contamination**

- 2.11.1 Policy ENV2 states development which would give rise to or would be affected by unacceptable levels of noise nuisance, contamination or other environmental pollution will not be permitted unless satisfactory remedial or preventative measures are incorporated as an integral element in the scheme.
- 2.11.2 NPPF Paragraph 109 states proposals should prevent both new and existing development from contributing to, or being put at, unacceptable risk from, or being adversely affected by unacceptable levels of soil, air, water or noise pollution or land instability.
- 2.11.3 Paragraphs 120 and 121 of the NPPF require proposals to ensure that new development is appropriate for its location and where a site is affected by contamination or land stability issues, responsibility for securing a safe development rests with the developer and/or landowner.

2.11.4 In respect of contamination there is no evidence to suggest that the site is contaminated and it is considered reasonable that this issue can be dealt with by condition should contaminants become apparent during the construction of the proposal.

2.11.6 The principle of residential development has already been established on this site with the extant permission and the supporting risk assessments with both applications raise no contamination issues. In light of this and as the previous buildings that made up the officers mess have been removed in full it is considered appropriate to replicate the previous condition relating to contamination.

2.11.7 The proposal is therefore considered to accord with Policy ENV2 of the Selby District Local Plan.

## **2.12 Conclusion**

2.12.1 The proposed development is considered acceptable in terms of its use, appearance and location, given the specific use and locational requirements of this particular development as detailed in the report and the supporting information submitted with the application.

2.12.2 Having had regard to the development plan, all other relevant local and national policy, consultation responses and all other material planning considerations, it is considered that the proposal would not have a detrimental effect on the form and character of the area, highway safety and residential amenity of the occupants of neighbouring properties or impact on the surrounding landscape. In addition the proposals are considered acceptable with respect to their impacts on residential amenity, flooding, drainage and climate change, protected species and contamination in accordance. The application is therefore considered to be in accordance with Policies ENV1, ENV2, CS2 T1 and T2 of the Selby District Local Plan, Policies SP1, SP2, SP13, SP15 SP16, SP18 and SP19 of the Core Strategy and the advice contained within the NPPF.

## **3.0 Recommendation**

This application is recommended to be APPROVE in accordance with the following conditions:

01. The development for which permission is hereby granted shall be begun within a period of three years from the date of this permission.

Reason:

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

02 The development hereby approved shall be carried out in accordance with the materials specified on the approved plan N6002-2052 Rev: A, unless otherwise agreed in writing by Selby District Council.

Reason:

To ensure that the external appearance of the building is satisfactory in accordance with Policy ENV1 of the Selby District Local Plan.

03. 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 access(es) to the site have been set out and constructed in accordance with the published Specification of the Highway Authority and the following requirements
- a. The existing access shall be improved and constructed in accordance with the approved details and/or Standard Detail number E9.
  - b. Any gates or barriers shall be erected a minimum distance of 6 metres back from the carriageway of the existing highway and shall not be able to swing over the existing or proposed highway.
  - c. Provision to prevent surface water from the site/plot discharging onto the existing or proposed highway shall be maintained thereafter to prevent such discharges.

#### INFORMATIVE

You are advised that a separate licence will be required from the Highway Authority in order to allow any works in the adopted highway to be carried out. The 'Specification for Housing and Industrial Estate Roads and Private Street Works' published by North Yorkshire County Council, the Highway Authority, is available at the County Council's offices. The local office of the Highway Authority will also be pleased to provide the detailed constructional specification referred to in this condition.

#### REASON

In accordance with policies T1 and T2 of the Selby Local Plan and to ensure a satisfactory means of access to the site from the public highway in the interests of vehicle and pedestrian safety and convenience.

04. 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 in connection with the construction of the access road or building(s) or other works until:
- (i) The details of the following off site required highway improvement works, works listed below have been submitted to and approved in writing by the Local Planning Authority in consultation with the Local Highway Authority:
    - a. Provision of passing place on Broad Lane.
  - (i) A programme for the completion of the proposed works has been submitted to and approved writing by the Local Planning Authority in consultation with the Local Highway Authority.

#### REASON

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

05. No part of the development shall be brought into use until the approved vehicle access, parking, manoeuvring and turning areas approved under condition number #
- a. have been constructed in accordance with the submitted drawing (Reference T287\_04A.DWG Rev A)

Once created these areas shall be maintained clear of any obstruction and retained for their intended purpose at all times

#### REASON

In accordance with Policies T1 and T2 of the Selby Local Plan and to provide for appropriate on-site vehicle facilities in the interests of highway safety and the general amenity of the development

#### INFORMATIVE

The proposals shall cater for all types of vehicles that will use the site. The parking standards are set out in the North Yorkshire County Council publication 'Transport Issues and Development - A Guide' available at [www.northyorks.gov.uk](http://www.northyorks.gov.uk)

06. No development for any phase of the development shall take place until a Construction Method Statement for that phase has been submitted to, and approved in writing by, the Local Planning Authority in consultation with the Local Highway Authority. The approved Statement shall be adhered to throughout the construction period for the phase. The statement shall provide for the following in respect of the phase:
- a. the parking of vehicles of site operatives and visitors
  - b. loading and unloading of plant and materials
  - c. storage of plant and materials used in constructing the development
  - d. wheel washing facilities
  - e. measures to control the emission of dust and dirt during construction
  - f. HGV routing

07. Before any development is commenced the approval of the Local Planning Authority is required to a scheme of landscaping and tree planting for the site, indicating inter alia the number, species, heights on planting and positions of all trees, shrubs and bushes. Such scheme as approved in writing by the Local Planning Authority shall be carried out in its entirety within the period of twelve months beginning with the date on which development is commenced, or within such longer period as may be agreed in writing with the Local Planning Authority. All trees, shrubs and bushes shall be adequately maintained for the period of five years beginning with the date of completion of the scheme and during that period all losses shall be made good as and when necessary.

#### Reason:

In the interests of amenity having had regard to Policy ENV1 of the Selby District Local Plan.

08. 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.

09. Prior to development, an investigation and risk assessment (in addition to any assessment provided with the planning application) must be undertaken to assess the nature and extent of any land contamination. The investigation and risk assessment must be undertaken by competent persons and a written report of the findings must be produced. The written report is subject to the approval in writing of the Local Planning Authority. The report of the findings must include:

- i. a survey of the extent, scale and nature of contamination (including ground gases where appropriate);
- ii. an assessment of the potential risks to:
  1. human health,
  2. property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes,
  3. adjoining land,
  4. groundwaters and surface waters,
  5. ecological systems,
  6. archaeological sites and ancient monuments;
- iii. an appraisal of remedial options, and proposal of the preferred option(s).

This must be conducted in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11'.

Reason:

To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.

10. Prior to development, a detailed remediation scheme to bring the site to a condition suitable for the intended use (by removing unacceptable risks to human health, buildings and other property and the natural and historical environment) must be prepared and is subject to the approval in writing of the Local Planning Authority. The scheme must include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works and site management procedures. The scheme must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.

Reason:

To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.

11. Prior to first occupation or use, the approved remediation scheme must be carried out in accordance with its terms and a verification report that demonstrates the effectiveness of the remediation carried out must be produced and is subject to the approval in writing of the Local Planning Authority.

Reason:

To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems.

12. In the event that contamination is found at any time when carrying out the approved development that was not previously identified, it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken and where remediation is necessary a remediation scheme must be prepared, which is subject to the approval in writing of the Local Planning Authority. Following completion of measures identified in the approved remediation scheme a verification report must be prepared, which is subject to the approval in writing of the Local Planning Authority.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.

13. Prior to the commencement of development an Ecological and Environmental Management Plan shall be submitted to and approved in writing by the Local Planning Authority and shall be implemented in accordance with the approved scheme. The scheme shall include the key principles as identified in the accompanying Ecological Appraisal submitted with the planning application and shall be implemented in full.

Reason:

In the interests of visual amenity and in order to comply with Policy ENV1 of the Selby District Local Plan.

14. No development approved by this permission shall be commenced until the Local Planning Authority has approved a Scheme for the provision of surface water drainage works. Any such Scheme shall be implemented before the development is brought into use.

The following criteria shall be considered:

- Discharge from “greenfield sites” taken as 1.4 lit/sec/ha (1:1yr storm).
- Storage volume shall accommodate a 1:30 yr event with no surface flooding and no overland discharge off the site in a 1:100yr event.
- A 20% allowance for climate change shall be included in all calculations.
- A range of durations shall be used to establish the worst-case scenario.
- The suitability of soakaways, as a means of surface water disposal, shall be ascertained in accordance with BRE Digest 365 or other approved methodology.

Reason:

To ensure the development is provided with satisfactory means of drainage and to reduce the risk of flooding.

15. Prior to commencement of development full details of a package treatment plant and its capacity to serve the proposed development shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be implemented in full prior to the first occupation of the development hereby approved.

Reasons

In the interests of pollution prevention and in accordance with Policies ENV1 and ENV 2 of the Selby Local Plan.

16. The development hereby permitted shall not be carried out otherwise in complete accordance with the approved plans and specifications.

Reason:

To ensure that no departure is made from the details approved and that the whole of the development is carried out, in order to ensure the development accords with Policy ENV1.

### **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.

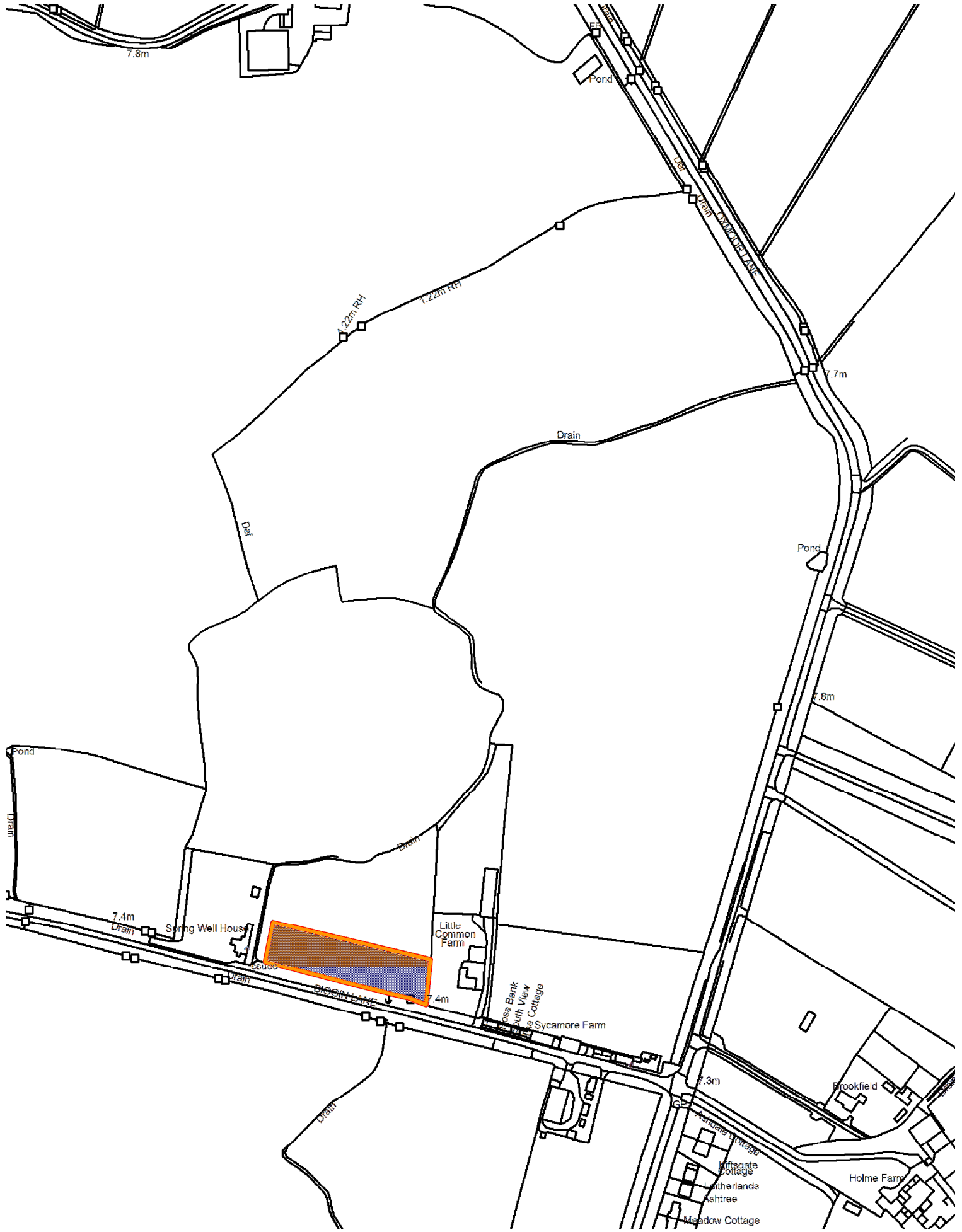
## **5. Background Documents**

- 5.1 Planning Application file reference 2016/0035/FUL and associated documents.

**Contact Officer:** Mr J Cokeham, Head of Strategic Planning, Policy & Economic Development,

**Appendices:** None



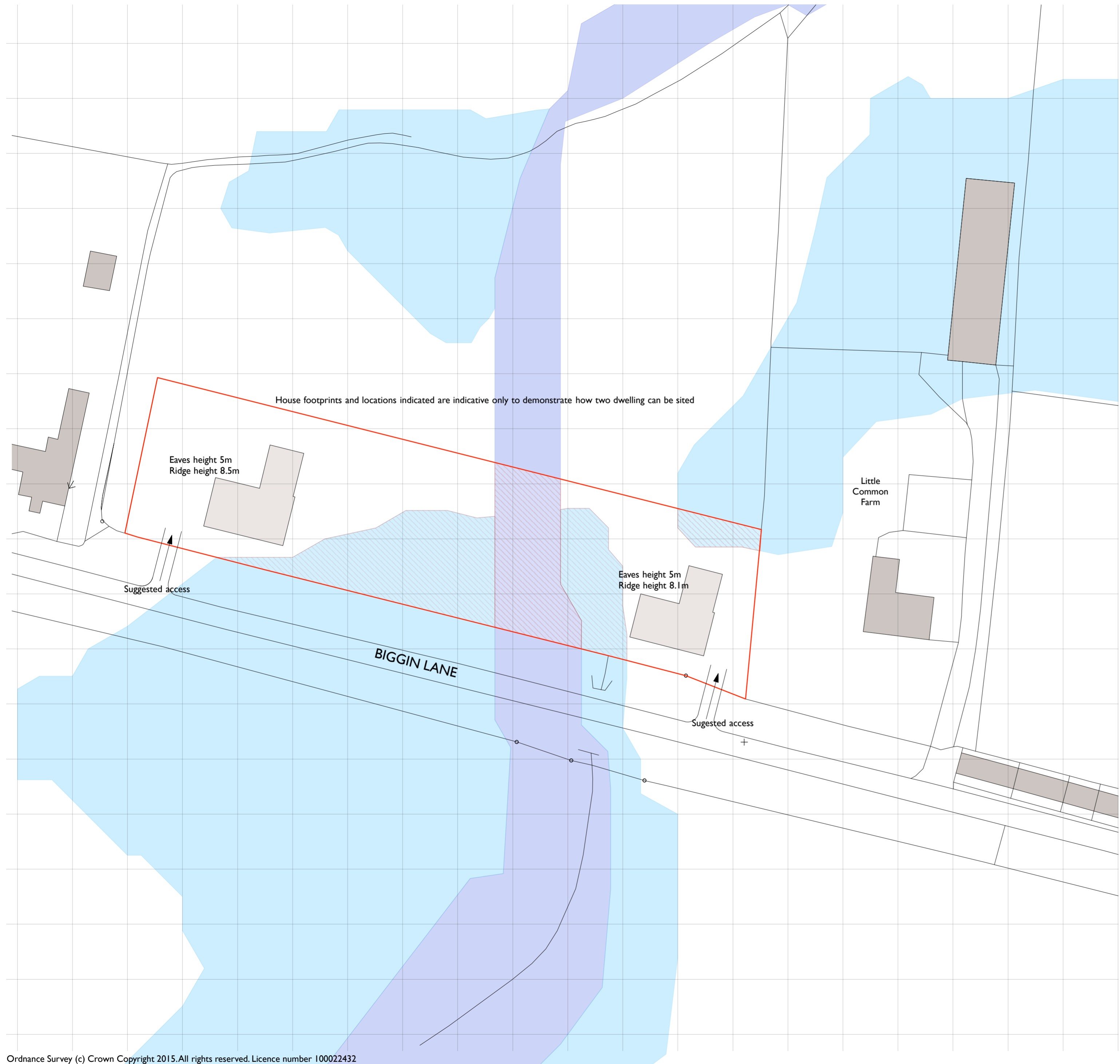


# APPLICATION SITE

**Item No:** 2016/0154/OUT

**Address:** Little Common Farm, Biggin Lane, Biggin

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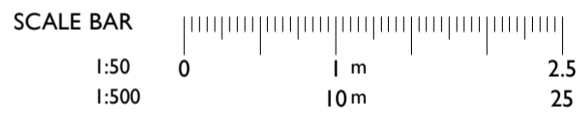
**SITE BLOCK PLAN**

REVISION HISTORY			
REV	DESCRIPTION	DATE	APPROVED

<b>RECEIVED</b>
06.05.2016
<b>BUSINESS SUPPORT</b>

**Flood Map Key**

- Flood Zone 3
- Flood Zone 2
- Areas Hatched in Red - there will be no development in this area

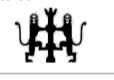


**RIBA WORK STAGE I**

ALL DIMENSIONS MUST BE CHECKED ON SITE AND NOT BE SCALED FROM THIS DRAWING



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**CLIENT**  
P. Ratcliffe-Springal & S Hood

**JOB**  
Land at Biggin

**JOB NO.**  
15030

**DRAWING**  
Proposed Site Block Plan

**DRG NO.** 101      **SCALE** 1:500 @ A2



**DRAWN** RT      **APPROVED**      **DATE** 05/05/16

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**To:** Planning Committee  
**Date:** 13 July 2016  
**Author:** Nigel Gould (Planning Officer)  
**Lead Officer:** Ruth Hardingham (Lead Officer – Planning)

APPLICATION NUMBER:	2016/0154/OUT	PARISH:	Biggin
APPLICANT:	Mrs P Ratcliffe-Springall	VALID DATE:	15th February 2016
		EXPIRY DATE:	11th April 2016
PROPOSAL:	Outline application with all matters reserved for the erection of two detached dwellings on land at Little Fenton Field		
LOCATION:	Land Adj To Little Common Farm Biggin Lane Biggin Leeds West Yorkshire		

This application has been brought before Planning Committee at the request of the Ward Member as they consider the application has merits in helping to maintain the 5 year housing supply. Officers are of the opinion that this is an unsustainable development and location and therefore recommended refusal.

**Summary:**

The application proposes outline planning permission with all matters reserved for the erection of 2no. dwellings. The site is located in an area of open countryside outside the defined development limits of Biggin. The Council has confirmed that the housing policies are up to date, as it now has a 5.8 year supply of deliverable housing land. It is noted that this supply needs to be maintained until the Sites and Policies Local Plan (PLAN Selby) allocates new sites suitable for housing but this should be done in such a way that it does not cause significant harm to acknowledged interests. The Council do not consider that the development of two dwellings outside the development limits of a secondary village with limited resources, to be sustainable and therefore this matter does not warrant an approval. The application site is located outside the development boundary for the village and does not comply with Policy SP2 of the Core Strategy. Also taking account of paragraphs 14, 47 and 49 of the NPPF the principle of development on this site is unacceptable.

**Recommendation**

**This planning application is recommended to be REFUSED subject to reasons for refusal detailed in Paragraph 3.0 of the Report.**

## **1. Introduction and background**

### **1.1 The Site**

- 1.1.1 The application site is flat land and comprises an agricultural field which is open to the road but split from it by a drainage ditch and bounded by mature native tree species. The field totals 2.5 acres in area with the application site measuring 0.8 acres within it and the frontage to Biggin Lane totalling 117 metres.
- 1.1.2 Biggin is defined as a Secondary Village with defined development limits. The northernmost point of the settlement development limit for Biggin, which is contained wholly on the east side of Oxmoor Lane, is over one-third of a kilometre (at approx. 380m) from the application site. The application site is in the open countryside and outside the defined development limits.
- 1.1.3 The site is in three flood zones. Flood Zone 1 is the designation for the majority of the site, but a significant area of approximately 32% crosses the middle of the site and is designated as Flood Zones 2 and 3.

### **1.2 The proposal**

- 1.2.1 Outline application with all matters reserved for the erection of two detached dwellings on land at Little Fenton Field. An indicative layout plan has been submitted which shows that the two dwellings would be at the eastern and western most parts of the application site within Flood Zone 1, in order to avoid any inclusion of built development within Flood Zones 2 and 3. The remainder of the site would be used for garden and paddock areas.
- 1.2.2 Each house would be located approximately 26 metres from the adjoining dwellings to each side of the application site. The distance between them is 65 metres. The two houses are shown as being of 8.1m and 8.5m in height, so two-storey. Separate access points are shown for each dwelling.

### **1.3 Planning History**

- 1.3.1 The following historical applications are considered to be relevant to the determination of this application:
- 1.3.2 Application (2015/1236/OUT) (WDN – 03.02.2016) for an outline application with all matters reserved for the erection of two detached dwellings on land at Little Fenton Field was withdrawn on the 3<sup>rd</sup> February 2016. The agent was advised that the recommendation would be one of refusal. This application is identical to the one which was withdrawn.

### **1.4 Consultations**

- 1.4.1 NYCC Highways Canal Rd  
The Local Highway Authority recommends that Conditions are attached to any permission granted.

#### 1.4.2 Yorkshire Water Services Ltd

None received at the time of writing the report for Committee. An update will be provided should a response to statutory consultation be received.

#### 1.4.3 Selby Area Internal Drainage Board

None received at the time of writing the report for Committee. An update will be provided should a response to statutory consultation be received.

#### 1.4.4 Parish Council

None received at the time of writing the report for Committee. An update will be provided should a response to statutory consultation be received.

### 1.5 **Publicity**

The application was advertised via neighbour notification letters, site notice and press advert as a departure from the Local Plan. Four responses to notification were received at the time of report preparation that raise the following issues:

- The dyke which runs along the edge of Little Fenton Field, parallel to Biggin Lane, stretches from Springwell House to Little Common Farm. It must not be disturbed in any way which could affect or stop the flow of water which runs into the drainage system and septic tank of four nearby properties because it is essential to their system.
- Consideration for water supply should be made as Springwell and Little Common Farm share the supply.
- The proposed dwellings should not encroach or impinge on the existing residences and gardens
- Consideration to be given to the access into the properties
- (Comment received prior to the second neighbour notification showing an indicative layout) As our property adjoins the site on the eastern boundary we feel that it is essential that a layout plan is provided so as to determine the impact on the amenity of our property
- The current application states that the proposed properties could be located far enough from either of the existing properties to avoid impacting upon the amenity of either of the existing houses. Without a site plan, this is impossible to determine.
- The reference to a pre-application enquiry was for a single dwelling
- As the application is now for two dwellings, is it possible that this will create problems when attempting to locate the properties outside of the flood risk areas?
- In principal we have no objection to planning permission but subject to the proposed location of the dwellings

## 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.

### **2.1.1 Selby District Core Strategy Local Plan**

The relevant Core Strategy Policies are:

SP1 - Presumption in Favour of Sustainable Development  
SP2 - Spatial Development Strategy  
SP5 - The Scale and Distribution of Housing  
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 was granted leave to appeal the decision of the High Court to dismiss the Core Strategy Legal Challenge. Leave was 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 decision was handed down on 5 November 2015 which dismissed the appeal; therefore the Core Strategy as the adopted Development Plan is afforded full weight.

The Brewery has subsequently applied for leave to appeal the decision to the Supreme Court. However, this does not alter the fact that the Core Strategy has been found to be the lawfully adopted Development Plan. It should therefore be afforded full weight.

### **2.1.2 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:

ENV1 - Control of Development  
ENV2 - Environmental Pollution and Contaminated Land  
T1 - Development in Relation to Highway  
T2 - Access to Roads

### **2.1.3 National Guidance and Policy – National Planning Policy Framework (NPPF), National Planning Practice Guide (NPPG)**

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 Planning Policy Guidance (PPG), 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.

## **2.2 Key Issues**

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. The impacts of the proposal:
  1. Visual impact on the Character and Form of the locality
  2. Impact on Residential Amenity
  3. Impact on the Highway
  4. Drainage, Flood Risk and Climate Change
  5. Impact on Nature Conservation and Protected Species
  6. Affordable Housing
  7. Land Contamination
  8. CIL
3. Conclusion

## **2.3 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**

- 2.3.1 Policy SP1 of the Selby District Core Strategy Local Plan (2013) 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.
- 2.3.2 Policy SP2 identifies Biggin as being a Secondary Village where limited amounts of residential development may be absorbed inside Development Limits. Policy SP2(b) states: *"that some scope for additional residential development in service villages*

*may be absorbed within the development limits provided that the development meets the requirements of SP4.”*

- 2.3.3 The site is an agricultural field sited on the north side of Biggin Lane, between Spring Well House and Little Common Lane – two large detached properties. The nearest part of the site would be approximately 225m west of the nearest point of the defined development boundary. The application site is located outside the defined Development Limits of South Duffield and therefore does not accord with Policy SP2(b) of the Core Strategy.
- 2.3.4 Policy SP4 (a) states: *“In secondary villages – conversions, replacement dwellings, redevelopment of previously developed land, filling of small linear gaps in otherwise built up frontages, and conversion/redevelopment of farmsteads”* on non-allocated sites. The proposal does not accord with this part of Policy SP4 as the development proposed is outside the development limits.
- 2.3.5 Policy SP4 (c) states: *“In all cases proposals will be expected to protect local amenity, to preserve and enhance the local area and to comply with normal planning considerations...”* Part (d) then states: *“Appropriate scale will be assessed in relation to density, character and form of the local area and should be appropriate to the role and function of the settlement within the hierarchy”*. As the application is in outline it is not possible to judge the impact from this policy aspect but as the proposal fails on the first tests of policy it was not deemed necessary to request any further information on this.
- 2.3.6 The application is for outline permission with all matters reserved for two dwellings at either end of the application site. The indicative plans show the two dwellings approximately 26m away from the existing adjacent dwellings on either side. Whilst this indicative plan carries no real weight the site is washed over by Flood Zones 2 and 3 at the centre of the site, which constrains the location of the two proposed dwellings such that the indicative siting is probably the best that can be achieved – taking aside the policy issues.
- 2.3.7 In light of the above policy context the proposals for residential development are contrary to policy SP2A (b) and (c) of the Core Strategy.
- 2.3.8 The proposal should therefore be refused unless material considerations indicate otherwise. One such material consideration is that despite the Council confirming that housing policies are up to date, as it now has a 5.8 year supply of deliverable housing land, this supply needs to be maintained until the Sites and Policies Local Plan (PLAN Selby) allocates new sites suitable for housing. It is noted that the timescale envisaged for PLAN Selby to be adopted is May 2018 and as such the housing supply needs to be maintained until PLAN Selby is adopted and this should be done in such a way that it does not cause significant harm to acknowledged interests, which are discussed later within this report. Despite this the Council do not consider that the development of two dwellings outside the development limits of a secondary village with limited resources, to be sustainable and therefore this matter does not warrant an approval.
- 2.3.9 The NPPF is another material consideration and this is predicated on the principle that sustainable development is about positive growth and states that the Planning System should contribute to the achievement of sustainable development, with



particular emphasis on boosting significantly the supply of housing. Paragraphs 18 to 219 of the NPPF, taken as a whole, constitute the Government's view of what sustainable development in England means in practice for the planning system.

2.3.10 Sustainability of the Development. In respect of sustainability, the application site lies outside the defined development limits of the village of Biggin which is a Secondary Village as identified in the Core Strategy where there is scope for additional residential growth to support rural sustainability. The village does not contain a post office, general store or primary school and has a limited bus service to Selby. The settlement is poorly served by local services which weigh in favour of a conclusion that in terms of access to facilities and a choice of mode of transport the site is considered as being in an unsustainable location. Core Strategy Background Paper Number 5 – Sustainability Assessment of Rural Settlements (updated February 2010) - considered a wide range of aspects that were marked on four separate categories and then scored. Biggin was not specifically commented on in the report – which is significant in itself – but using the same assessment methodology it would be categorised at the lowest end of the spectrum as 'Less Sustainable'.

2.3.11 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 extends into the countryside and when looking at the development limit boundary this site would effectively create a new indefensible landscaped boundary which would be visually prominent and discordant within the landscape at the northern extremity of the Village.

2.3.12 For these reasons the proposal in this context would set a new boundary with the open countryside around it and is considered unacceptable. It is not considered that the development would be seen within the context of the existing settlement of Biggin.

2.3.13 Having had regard to the above it is considered that the proposal is not acceptable in principle. However, proposals that are unacceptable in principle are still subject to the detailed policy tests both within the Development Plan and the NPPF. This report will now go on to look at these matters of detail by looking at other impacts of the proposal.

## **2.4 Impact on the character and form of the locality**

2.4.1 Relevant policies in respect to design and the impacts on the character of the area include Policies ENV1 (1) and (4) and ENV3 (external lighting) of the Selby District Local Plan, and Policy SP19 "Design Quality" of the Core Strategy. In addition Policy SP8 of the Core Strategy of the Local Plan requires an appropriate housing mix to be achieved.

2.4.2 Significant weight should be attached to Local Plan policies ENV1 and ENV3 as they are consistent with the aims of the NPPF.

2.4.3 Relevant policies within the NPPF, which relate to design, include paragraphs 56, 60, 61, 65 and 200.

- 2.4.4 The application is outline with all matters reserved for future consideration. Notwithstanding this an indicative layout plan has been submitted which illustrates how the applicant considers the site could accommodate two 'L' detached dwellings at either end of the elongated field. It indicates that the dwellings would be two-storey.
- 2.4.5 The character and appearance of the local area is varied comprising a range of house types, development forms and materials but the nearest properties are brick and slate with some architectural merit. The Planning Statement does not indicate the external materials but states that the design would be of a suitable style and materiality for the village and surrounding area, taking particular consideration of the existing cottages along Mill Lane.
- 2.4.6 Having had regard to the indicative layout provided, the surrounding context of the site and taking this aspect in isolation there is nothing to suggest that an appropriate appearance could not be achieved at reserved matters stage.
- 2.4.7 Policy SP8 of the Selby District Core Strategy Local Plan (2013) 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. The Strategic Housing Market Assessment carried out in 2009 is the most up to date strategy. As this proposal is an outline scheme which is seeking to establish if the principle of development is acceptable there are limited details to what the proposed housing mix (or more accurately housing type, as this is for one dwelling) would comprise of. However officers consider that an appropriate housing type could be achieved at reserved matters stage taking into account the housing needs identified within the Strategic Housing Market Assessment.
- 2.4.8 In terms of landscaping the existing site has a mature hedge along the east and western boundaries with a row of mature trees along the frontage to Biggin Lane. The retention of the boundary hedges and as many of the mature trees as possible could form part of the detailed landscaping required as part of the reserved matters, should the recommendation be for approval.
- 2.4.9 Given this it is considered that the proposals demonstrate that the site could incorporate appropriate landscaping in accordance with Policy ENV1 (4) of the Local Plan, Policy SP19 of the Core Strategy and the NPPF.
- 2.4.10 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) of the Local Plan, Policy SP19 of the Core Strategy and the NPPF.

## **2.5 Impact on Residential Amenity**

- 2.5.1 Policy ENV1(1) requires that the District Council take account of "The effect upon... the amenity of adjoining occupiers". It is considered that policy ENV1(1) of the Selby District Local Plan should be given significant weight as one of the core principles of the NPPF is to ensure that a good standard of residential amenity is achieved in accordance with the emphasis within the NPPF.

- 2.5.2 The key considerations in respect of residential amenity are considered to be the potential of the proposal to result in overlooking of neighbouring properties, overshadowing of neighbouring properties and whether oppression would occur from the size, scale and massing of the development proposed.
- 2.5.3 The proposed dwellings would be located approximately 26 metres from the side elevation of the adjoining properties at Little Common Farm (a bungalow) and Spring Well House (a two-storey dwelling).
- 2.5.4 The application is in outline with all matters reserved. As such no further detail is available to show detailed impact. However, in view of the separation distance between existing and proposed dwellings, the proposed development is not considered to cause a significant detrimental impact on the residential amenities of the neighbouring properties and it is therefore considered that the amenity of the adjacent residents would be preserved in accordance with Policy ENV1(1) of the Selby District Local Plan, Policy SP19 of the Core Strategy and the advice contained within the NPPF.
- 2.5.5 The application site is not in a location which would be subject to significant noise impacts from roads or other sources within close proximity to the site. This phase of the development may negatively impact upon nearby residential amenity due to the potential for generation of dust, noise and vibration.
- 2.5.6 Having taken into account the matters discussed above it is considered that the proposal would 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.

## **2.6 Impact on the Highway**

- 2.6.1 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. These policies should be afforded significant weight.
- 2.6.2 Policies ENV1 (2), T1 and T2 of the Local Plan require development to ensure that there is no detrimental impact on the existing highway network or parking arrangements.
- 2.6.3 Policy "SP19 - Design Quality" states "that both residential and non-residential development should meet a series of noted criteria. These include the criteria relating specifically to highways and access namely
- Be accessible to all users and easy to get to and move through;
  - Create rights of way or improve them to make them more attractive to users, and facilitate sustainable access modes, including public transport, cycling and walking which minimise conflicts.
- 2.6.4 NPPF paragraphs 30 and 32 states that encouragement should be given to solutions which support reductions in greenhouse gas emissions and reduce congestion, all developments that generate significant amounts of movement should be supported by a Transport Statement or Transport Assessment, taking

account the opportunities for sustainable transport modes; safe and suitable access to the site can be achieved for all people; and improvements can be undertaken within the transport network that cost effectively limit the significant impacts of the development. Development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe.

- 2.6.5 Due to the intensity of use and low speeds of this part of Biggin Lane it is considered on balance that the appropriate visibility splays and parking standards could be achieved on a reserved matters application. It is noted that the Highways Officer has no objections.
- 2.6.6 In light of the above and with the addition of conditions for the highway details to be considered at reserved matters, it is considered that the proposals are acceptable and would not be prejudicial to highway safety in accordance with Policies ENV1(2), T1 and T2 of Selby District Local Plan, Policy SP19 of the Core Strategy, the NPPF with respect of transport.

## **2.7 Drainage, Flood Risk and Climate Change**

- 2.7.1 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.
- 2.7.2 The application site is located within Flood Zones 1, 2 and 3. The NPPF states that Flood Zone 2 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 between a 1 in 200 and 1 in 1,000 annual probability of flooding from the sea. Flood Zone 3a has a 1 in 100 or greater annual probability of river flooding or a 1 in 200 or greater annual probability of flooding from the sea. Flood Zone 3b is the functional floodplain where water has to flow or be stored in times of flood.
- 2.7.3 The application is not accompanied by a Sequential Test because it is considered that the dwellings could be readily accommodated within Flood Zone 1, as shown in the indicative layout.
- 2.7.4 In terms of drainage the application states that foul drainage would be provided by means of package sewage treatment plants discharging, subject to Environment Agency agreement, to watercourses. Yorkshire Water and Selby IDB have not responded to the consultation at the time of writing this report.
- 2.7.5 The Planning Statement accompanying the application states that all external surfaces would be permeable to minimise run-off. It also states that attenuation might also be desirable to accept surface water run-off and that this would be agreed by condition to rates confirmed to be acceptable to the IDB.
- 2.7.6 In view of the fact that no objection has been received from statutory consultees and that the proposal can be accommodated within Flood Zone 1, the proposed scheme is considered to be acceptable in terms of flood risk and drainage provision, subject to the inclusion of a condition requiring details of foul and surface water drainage as appropriate.

## **2.8 Impact on nature conservation, protected species and the open countryside**

- 2.8.1 Policy ENV1(5) states that proposals should not harm acknowledged nature conservation interests, or result in the loss of open space of recreation or amenity value, or which is intrinsically important to the character of the area. These policies should be given significant weight as they are consistent with the NPPF.
- 2.8.2 Having had regard to the above it is noted that the application site does not contain significant areas of semi-natural habitat and is not subject to any formal or informal nature conservation designation or known to support any species given special protection under legislation.
- 2.8.3 However, the proposal is in the open countryside which has an intrinsic value for the character of the area. As such, it is considered that the proposal would not accord with Policy ENV1 of the Local Plan, Policy SP18 of the Core Strategy and the NPPF with respect to the impact of the proposal on the open countryside.

## **2.9 Affordable Housing Assessment**

- 2.9.1 Relevant policies in respect to affordable housing mix include Policy SP9 of the Core Strategy, the Affordable Housing SPD, Developer Contributions SPD and paragraph 50 of the NPPF.
- 2.9.2 The recent Court of Appeal Judgement in relation to the West Berkshire Case means that the Council would not be 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, should the application be approved.
- 2.9.3 The applicant has confirmed that they are prepared to provide a proportionate contribution towards off-site affordable housing in accordance with the SPD on Affordable Housing Contributions. This was not taken forward as the proposal fails in terms of principle but the recent Court of Appeal judgement rescinds this need anyway.

## **2.10 Land Contamination**

- 2.10.1 Policies ENV2 of the Local Plan and SP19 of the Core Strategy relate to contamination. These policies should be afforded significant weight.
- 2.10.2 The application is supported by a Screening Assessment which confirms that the risk of contamination is very low. The response from the Councils Contamination Consultants (WPA) has not been received and will be reported to committee as an update. In considering the previous use and the submitted information it is not anticipated that the response from WPA would come to a different conclusion.
- 2.10.3 The proposals are therefore acceptable with respect to contamination in accordance with Policy ENV2 of the Local Plan and Policy SP19 of the Core Strategy.

## **2.11 CIL**

- 2.11.1 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 District.

- 2.11.2 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.
- 2.11.3 CIL charging was formally adopted by the Council on 1 January 2016 and given that the proposals relate to new housing a CIL contribution would be required for this development. However, this cannot be calculated in detail until the reserved matters application setting out the proposed floor space for the development has been submitted. It is therefore necessary – should the recommendation be to approve - to put an informative on the decision notice to make the applicant aware that any subsequent reserved matters application will be CIL liable and as such the appropriate CIL forms will need to be submitted at reserved matters stage.

## **2.12 Conclusion**

- 2.12.1 The application proposes outline planning permission with all matters reserved for the erection of 2no. dwellings. The site is located in an area of open countryside outside the defined development limits of Biggin. The Council has confirmed that the housing policies are up to date, as it now has a 5.8 year supply of deliverable housing land. It is noted that this supply needs to be maintained until the Sites and Policies Local Plan (PLAN Selby) allocates new sites suitable for housing but this should be done in such a way that it does not cause significant harm to acknowledged interests. The Council do not consider that the development of two dwellings outside the development limits of a secondary village with limited resources, to be sustainable and therefore this matter does not warrant an approval. The application site is located outside the development boundary for the village and does not comply with Policy SP2 of the Core Strategy. Also taking account of paragraphs 14, 47 and 49 of the NPPF the principle of development on this site is unacceptable.
- 2.12.2 The proposal is considered to be acceptable in principle in respect of matters of acknowledged importance such as climate change, impact on residential amenity, highway safety, contaminated land and protected species.
- 2.12.3 It is therefore considered that there are adverse impacts of granting planning permission that would significantly and demonstrably outweigh the benefits. The proposal is therefore considered unacceptable when assessed against the policies in the NPPF, in particular Paragraph 14 of the Selby District Local Plan and the Core Strategy. It is on this basis that permission is recommended to be refused.

## **3.0 Recommendation**

This application is recommended to be REFUSED for the following reasons:

01. The application site is located outside the defined development limits of Biggin wherein, in accordance with the overall Spatial Development Strategy for the District, development will be restricted to 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.

The proposal constitutes development between Spring Well House and Little Common Farm on Biggin Lane, Biggin and therefore does not comprise any of the types of development that are acceptable in principle under Policies SP2A (b)(c) or SP4(a) of the Core Strategy. The proposal is therefore contrary to Policies SP2A (b), SP2A (c) and SP4(a) of the Selby District Core Strategy Local Plan and hence the overall Spatial Development Strategy for the District.

### **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 2016/0154/OUT and associated documents.

**Contact Officer: Ruth Hardingham (Lead Officer Planning)**

**Appendices: None**



# APPLICATION SITE

**Item No:** 2016/0189/REM

**Address:** Industrial Chemicals Group Ltd, Canal View, Selby

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# SELBY CHEMICAL WORKS PROPOSED BLOCK PLAN

## Proposed Unit Schedule

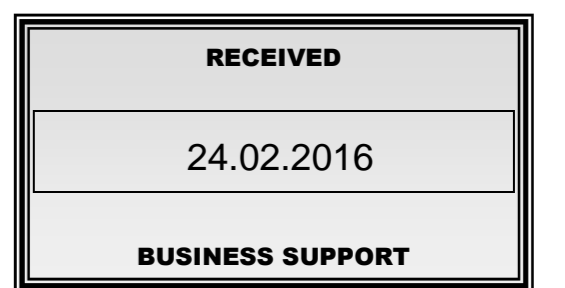
Unit No.	Unit Type	Proposed Use	Gross Internal Floor Area per Unit
1	a	Business Use	1,009m <sup>2</sup> x single storey = 1,009m <sup>2</sup>
2 - 9 (8 Units)	b	Business/General Industrial	150m <sup>2</sup> x single storey = 150m <sup>2</sup> per unit
10 - 13 (4 Units)	c	Business/General Industrial	125m <sup>2</sup> x single storey = 125m <sup>2</sup> per unit
14	d	Business Use	525m <sup>2</sup> x single storey = 525m <sup>2</sup>
15 - 18 (4 Units)	e	Warehousing/General Industrial	1,080m <sup>2</sup> with 10% office space per unit
19	d	Business Use	525m <sup>2</sup> x single storey = 525m <sup>2</sup>
20	f	Warehousing/General Industrial	1,152m <sup>2</sup> with 10% office space
21-23 (3 Units)	g	Warehousing/General Industrial	1,440m <sup>2</sup> with 10% office space per unit

## Parking Schedule

B1/B2	Car parking	1 space/40m <sup>2</sup>
	Cycle parking	1 space/150m <sup>2</sup>
	Lorry	space for deliveries
B8	Car parking	1 space/300m <sup>2</sup> for warehouse and 1 space/40m <sup>2</sup> for office space
	Cycle parking	1 space/400m <sup>2</sup> for warehouse and 1 space/150m <sup>2</sup> for office space
	Lorry	1 space/250m <sup>2</sup>

## Indicative Phasing Plan

Phase 1	tba
Phase 2	tba
Phase 3	tba

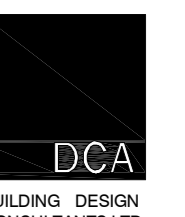


PLANNING ISSUE

PROJECT  
Proposed Development  
at Selby Chemical Works  
Bawtry Road  
Selby  
for Industrial Chemicals Ltd  
SCALE 1:1250@A1 DATE Jan. 2016  
DRAWN CHKD/AUTHD.

David Clarke & Associates

TURRET HOUSE  
TURRET LANE  
RISWICK  
IP4 1DL  
Tel: 01473 215553  
Email: mail@dcaipswich.co.uk



DRAWING NUMBER REVISION  
4413-PL1

© THIS DRAWING MUST NOT BE REPRODUCED IN WHOLE OR IN PART WITHOUT WRITTEN CONSENT. DO NOT SCALE FROM THIS DRAWING. ALL DIMENSIONS ARE TO BE CHECKED AND VERIFIED ON SITE AND ALL DISCREPANCIES REPORTED TO DAVID CLARKE AND ASSOCIATES PRIOR TO CONSTRUCTION WORK TAKING PLACE.  
BLOCK PLAN

**To:** Planning Committee  
**Date:** 13 July 2016  
**Author:** Fiona Ellwood (Principle Planning Officer)  
**Lead Officer:** Jonathan Carr (Interim Lead Officer – Planning)

APPLICATION NUMBER:	2016/0189/REM	PARISH:	Selby Town Council
APPLICANT:	Industrial Chemicals Group Ltd	VALID DATE: EXPIRY DATE:	29th February 2016 30th May 2016
PROPOSAL:	Reserved matters application relating to appearance, landscaping, layout and scale (reserved matters) of approval 2012/0705/FUL Extension of time application for approval 2004/1264/FUL for application under Section 73 to vary time limiting condition on outline approval 8/19/273U/PA (for the expansion of existing chemical works onto land to the south), to extend the time within which reserved matters can be submitted		
LOCATION:	Industrial Chemicals Group Ltd Canal View Selby YO8 8AE		

This application has been brought before Planning Committee due to the original Outline Planning Application being accompanied by an Environmental Statement. As this is a 'subsequent application' and the ecology appraisal is considered as an 'addendum to the ES, the determination of such subsequent applications is not within the delegation scheme.

**Summary:**

The application description is unclear. To clarify, approval of reserved matters is sought relating to the Outline planning permission which was granted in 1994, for the expansion of the chemical works onto the adjoining land to the south. The outline permission has been successively renewed and remains extant. Full details of the planning history are given in section 1.3 of the report.

The principle of the development has already been established through the outline approval reference 8/19/237U/PA & 8/20/352/PA.

The site is the undeveloped land to the south of the Industrials Chemical Group Ltd (ICL) at Canal View, Bawtry Road, Selby. The existing Selby Chemical Plant covers an area of approximately 6.2 hectares (15.32 acres) and contains a range of buildings and plant used in conjunction with the manufacturing, storage and distribution of chemicals (falling within Use Classes B1, B2 & B8). The application site comprises an open parcel of vacant grassland, measuring approximately 7.4 hectares in area, located to the south of ICL's existing chemical works site. It is identified on the Selby Local Plan Proposals Map (2005) as a 'significant employment permission'.

Outline Planning Permission was granted on 11 October 1994 for the expansion of the existing chemical works onto this land to the south. The deadline for the submission of reserved matter details was successively extended with the application for approval of reserved matters required to be made by 7 March 2016. The relevant planning history of the site is explained in more detail under section 1.3 below.

This application seeks approval of Reserved Matters pursuant to Condition 2 of permission reference 2012/0705/FUL, relating to layout, scale, external appearance of buildings and landscaping. A separate application (2016/0190/DOC) for approval of details reserved by conditions 3 & 7 (surface water drainage details), Condition 8 (foul and surface water drainage details) and condition 11 (Boundary treatment details) of planning permission 2012/0705/FUL has been submitted concurrently with the Reserved Matters application and can be dealt with under the current delegation scheme.

The original outline planning application was supported by an Environmental Assessment (EA). The EA covered noise, emissions, waste disposal, traffic generation and access, storage of hazardous chemicals, visual impact and landscaping. Prior to the submission of this reserved matters application, it was advised that the application would be dealt with as a 'subsequent application' under Regulation 8 of the EIA Regulations (2011, as amended). In this instance, only an updated Ecology Assessment was required as an EIA addendum and that landscape and visual impact considerations could be included within the accompanying Planning Statement. Further details and consideration are given under the consideration of the landscape scheme and the updated Ecological Assessment as set out in this report.

This application is therefore to consider the reserved matters with respect to appearance, landscaping, layout, scale, appearance, landscaping and to consider the updated Ecological Assessment. Having assessed the proposals against the relevant policies and the original outline planning permission the proposals are considered acceptable.

## **Recommendation**

**This planning application is recommended to be APPROVED subject to conditions detailed in Paragraph 3 of the Report.**

### **1. Introduction and background**

#### **1.1 The Site**

1.1.1 The application site is an area of undeveloped land lying adjacent to the existing ICL Chemicals site. It is bounded to the east by the canal followed by a retail park with 'Three Lakes' located to the south east. To the west is the railway line, separating the site from a residential area. To the north is the existing ICL Chemicals site beyond which a small pocket of terraced houses and associated amenity land. Additional commercial, industrial and retail units are located further to the north at the Vivars and Prospect Way Industrial Estates.

1.1.2 The site is located within the development limits of Selby town and the majority of the site falls flood zones 2 and 3. The Trans-Pennine Trail runs along the southern east side of the site just beyond its boundary.

1.1.3 The site is bounded to the east by a 2.4m high palisade fence followed by an established Hawthorn hedge located just outside of the site boundary. Further to the east is the canal tow path, followed by the canal and then a retail park that comprises very large warehouse type buildings. 'Three Lakes' is located to the south east of the site.

1.1.4 The western boundary is defined by mixed woodland, scrub and hawthorn, the majority of which is located outside of the site, followed by a railway embankment and the railway line, which separates the site from the residential area further to the west.

## **1.2 The proposal**

1.2.1 The application seeks approval for the layout and scale and appearance of the development and the landscaping of the site.

1.2.3 The proposed development is for an extension to the existing industrial and chemical works and comprises:

- The Erection of buildings for business, general industrial and warehousing purposes;
- Provision of internal estate road, footpaths, car and cycle parking and servicing areas;
- Provision of hard and soft landscaping including boundary treatments; and
- Provision of amenity area for site staff and separate ecological habitat area.

1.2.4 The type and amount of development proposed has had regard to the illustrative masterplan perceived at the outline stage with a total floor space of 14,010.68 sqm.

1.2.5 In summary, the existing planning unit occupied by ICL comprises an industrial chemical works, which includes a range of component parts falling broadly within Class B1 (administrative offices, research & development & laboratories), Class B2 (industrial processes involving the manufacturing, processing & packaging of products) & Class B8 (extensive internal & external storage & distribution areas for bulk & small packaged goods in & goods out).

1.2.5 This overall format has been reflected in the extension area as shown on the proposed masterplan. The range and level of uses in the proposed plan are broadly similar in terms of the general proportion of Class B uses. However, the overall amount of development in this reserved matters application (in terms of overall footprint & scale of buildings) is lower than at the outline planning application stage.

1.2.7 Vehicular access would be from the existing site entrance off Bawtry Road. Further information on the access is given in the planning history section of the report.

1.2.8 Members are advised that the proposals do not contain details of foul and surface. This is because these elements are not reserved matters but are subject to conditions attached to the outline. Therefore such matters will be dealt with separately through an application to discharge the conditions. This should be borne in mind when looking at some of the consultation responses which have been received. Furthermore, some of the consultees have recommended conditions which are either unnecessary or repeat conditions already in place on the outline planning permission. New conditions cannot be imposed at the reserved matters stage unless they are reasonable, necessary and directly related to the matters for which approval is sought.

## **1.3 Planning History**

1.3.1 The following historical applications are considered to be relevant to the determination of this application;

### Application site

8/19/273U/PA - Outline planning permission granted in 11 October 1994 for "the expansion of existing chemical works onto land to the south and on the west side of Selby Canal". EIA development subject to 8 conditions and a Section 106 Agreement requiring .

2004/1264/FUL (Permitted- 21.07.2005) Application under Section 73 to vary time limiting condition on outline approval 8/19/273U/PA (for the expansion of existing chemical works onto land to the south), to extend the time within which reserved matters can be submitted

2012/0705/FUL (Permitted 07.03.2013) Extension of time application for approval 2004/1264/FUL for application under Section 73 to vary time limiting condition on outline approval 8/19/273U/PA (for the expansion of existing chemical works onto land to the south), to extend the time within which reserved matters can be submitted.

2015/1053/DPC (COD - 08.01.2016) Discharge of condition 13 (excavation or other ground works) of approval 2014/0705/FUL.

1.3.2 Planning permission 2012/0705/FUL was subject to 13 planning conditions of which conditions 2 (the reserved matters), 3, 7, 8, 11 and 12 require details to be submitted to and agreed by the local planning authority prior to commencement of the development.

1.3.3 Condition 13 did require details of access to be approved in writing by the Local Planning Authority in consultation with the Highway Authority. The condition states, in part:

“(ii) The existing access shall be improved by increasing the radii’s at the junction of Bawtry Road, clearly marking out the centre line and the erection of a traffic island, should it be deemed necessary. All works shall accord with the approved details unless otherwise agreed in writing by the Local Planning Authority.”

1.3.4 In addition the S106 Agreement relating to the original planning permission for the approved development restricted the use of the site [existing chemical works site and expansion area] to one ownership/operator. The agreement was imposed due the objections from the highway authority at that time and the need for road improvements. The S106 limited the use of the extension site to a single operator with the existing site until the road improvements were done.

1.3.5 Prior to the current site owners acquiring the site, highway improvement works were undertaken to the existing access by the previous site owner. Since acquiring the site, consultation has taken place with the local planning authority and highway authority regarding the need or otherwise for highway improvement to the existing access arrangements to serve the development. The local highway authority has assessed the existing access arrangements and advised that it is suitable for the proposed development and no further improvements are required. Condition 13 (works to existing access) was discharged by Selby District Council on 8th January 2016, under reference 2015/1053/DPC with no improvements required to the existing access arrangement. At the same time the S106 was also annulled by Selby District Council by Deed of Discharge issued in February 2016.

#### Existing Chemical Works site

1.3.6 Permissions have been granted for various incidental developments at the existing chemical works site.

CO/2004/0492 (Permitted- 14.06.2004) Proposed erection of a new spray dryer building; construction of 4 No. intermediate liquid storage tanks; construction of an extension to existing substation building; extension to existing car park; improvement of existing access and installation of two additional bulk storage tanks.

2004/1640/FUL (Permitted - 09.02.2005) Renewal of temporary permission for a portacabin to be used as office accommodation

2005/0090/HAZ (PER - 01.06.2005) Application for Express Consent under the Planning (Hazardous Substances) Act 1990 to vary the quantity and method of storage of two substances (naphthalene and cresol) already in use on site

2005/0489/FUL (PER - 29.06.2005) Proposed erection of a utility building

2009/0216/DEM (PER - 24.04.2009) Application for the prior notification of proposed demolition.

2013/1245/FUL (PER - 10.02.2014) Erection of Storage Building (900 sq m Floorspace) for Use Class B8 Purposes

2014/1202/FUL (PER - 10.02.2015) Erection of an industrial/storage building for use class B2 / B8 purposes and associated servicing area.

1.3.7 In relation to these last two permissions, a technical commencement of the developments was made on site on 28 January 2016 and recorded by Selby District Council.

#### **1.4 Consultations- (All summarised)**

##### **1.4.1 Development Plan Policy**

Principle-

The site was identified as a 'significant employment permission' in the 2005 Selby District Local Plan. The site has an extant outline planning permission (2012/07/FUL) for the expansion of the existing chemical works site onto land to the south, therefore the principle of the development has been established as acceptable on this site.

Scale and Distribution of Economic Growth

Existing premises and business stock within the District confirm that there is over representation of older industrial floorspace, and a need for additional employment space to meet the needs of the modern economy including diversification into growth areas. The proposal is in line with policy SP13 (Scale and Distribution of Economic Growth) of the Core Strategy as it helping to support and develop the local economy. In addition, the proposed development will be encouraged as it is an intensification and expansion of an existing employment use within the defined development limits.

The layout of the proposed development takes a very similar form to the outline application. The types and quantum's of development proposed, including provision of car and HGV parking, are very similar to the level that was perceived in the outline application.

##### **1.4.2 NYCC Highways**

There are no local highway authority objections to the proposed development. It is however recommended that the following conditions are applied to any planning permission granted:

- **HC-15 PARKING SPACES TO REMAIN AVAILABLE FOR VEHICLE PARKING (NON-RESIDENTIAL).** Notwithstanding the provision of any Town and Country Planning General Permitted or Special Development Order for the time being in force, the areas shown on «drg number 4413-PL1» for parking spaces, turning areas and access shall be kept available for their intended purposes at all times.
- **REASON**  
In accordance with policy # and to ensure these areas are kept available for their intended use in the interests of highway safety and the general amenity of the development.

- HC-28 CONSTRUCTION MANAGEMENT PLAN-No development for any phase of the development shall take place until a Construction Method Statement for that phase has been submitted to, and approved in writing by, the Local Planning Authority in consultation with the Local Highway Authority. The approved Statement shall be adhered to throughout the construction period for the phase. The statement shall provide for the following in respect of the phase:

- 1-the parking of vehicles of site operatives and visitors
- 2-loading and unloading of plant and materials
- 3-storage of plant and materials used in constructing the development
- 4-precautions to prevent mud on the highway
- 5-wheel washing facilities.

#### 1.4.3 Natural England

Based upon the information provided, Natural England advises the Council that the proposal is unlikely to affect any statutorily protected sites or landscapes.

##### Local sites

If the proposal site is on or adjacent to a local site, e.g. Local Wildlife Site, Regionally Important Geological/Geomorphological Site (RIGS) or Local Nature Reserve (LNR) the authority should ensure it has sufficient information to fully understand the impact of the proposal on the local site before it determines the application.

##### Sites of Special Scientific Interest Impact Risk Zones

The Town and Country Planning (Development Management Procedure) (England) Order 2015, which came into force on 15 April 2015, has removed the requirement to consult Natural England on notified consultation zones within 2 km of a Site of Special Scientific Interest (Schedule 5, v (ii) of the 2010 DMPO). The requirement to consult Natural England on "Development in or likely to affect a Site of Special Scientific Interest" remains in place (Schedule 4, w). Natural England's SSSI Impact Risk Zones are a GIS dataset designed to be used during the planning application validation process to help local planning authorities decide when to consult Natural England on developments likely to affect a SSSI. The dataset and user guidance can be accessed from the [data.gov.uk](http://data.gov.uk) website.

#### 1.4.4 Yorkshire Wildlife Trust- First Response

The Ecological survey information may need to be further updated depending on when the development goes ahead. The survey supplied with the present application is dated from 2014 so is already 2 years old. The protected species present are mobile and the latest information will be required for mitigation. The recommendations in Section 7 pages 20-22 of the survey by Adonis Ecology should be conditioned. An Ecological Management plan for the nature area will need to be provided and fully funded by the developer.

##### Yorkshire Wildlife Trust –Second Response

Various concerns about the proposed mitigation for the grass snake population on the site. Grass snakes need to be able to move through quite large areas of habitat, have availability of food such as frogs and other amphibians and also suitable areas for egg laying and hibernation. Issues which need to be clarified to ensure that there is sufficient mitigation for the impact of the development on grass snakes include:

- The mitigation area will need to have boundaries to the wider environment, such as the canal and the Three Lakes Complex, that the snakes can move through. It is not clear from the application if the fences will allow free movement for snakes.

- Grass snakes are very vulnerable to management such as strimming grass or moving piles of vegetation which may be used for egg laying, or disturbing areas used for basking or hibernation. A detailed management plan will be need to be conditioned which will include timetables for any management operations. The suggested management plan on page 20 will need to be more detailed and include a plan showing hibernacula etc and also how management of the areas in the centre of the site by the watercourse will be carried out to protect reptiles and also any water voles that are present.
- Lighting will need to be considered so that the areas that are likely to be used by wildlife such as the edges of the site, the central watercourse and the mitigation area are not affected by light spill. The Ecology Appraisal does not consider connectivity of the site to the wider environment in much detail. It would be useful to know whether the habitats around the site will be present in the future as with the reduction in size of habitat on the site the grass snake population will probably not be sustainable unless other areas can be used.
- A monitoring condition should be included so that it can be shown whether mitigation is successful and changes can be made to the management plan if necessary.

It is possible that the Canal and Waterway Trust may be able to help with appropriately worded conditions, or information on the management of the canal adjacent to the site. Industrial sites can be very valuable for wildlife such as reptiles and water voles as they can be relatively undisturbed and domestic pets such as cats and dogs will not be present.

Yorkshire Wildlife Trust- Third response (16/06/2016) on amended Ecological Appraisal

Many thanks for re-consulting the Yorkshire Wildlife Trust about the new document from Adonis Ecology covering grass snake mitigation. The suggested plans and management actions are thorough and should prevent harm to the grass snake population. I am happy to accept that monitoring in this case may not be essential.

A condition to ensure that all the suggestions are incorporated into the development and the management plan is adhered to should be sufficient.

1.4.5 Canal and River Trust

Impact on an existing Culvert -

The Trust own 'Brickpond culvert' which passes under the canal and continues across the application site. We note that the drainage plans indicate a '7.0m wide easement either side of existing watercourse for maintenance work and biodiversity'. We welcome this approach, as the Applicant needs to ensure that the culvert is protected during and after the works to complete the scheme. Also recommend a condition should the scheme be approved in order to ensure that the culvert is fully protected.

Prior to construction, details of a method statement specifying measures to protect the culvert are submitted to the LPA for approval in order to ensure that the structural integrity of the culvert is protected during the construction process.

We would wish to be consulted on the discharge of any such condition.

Furthermore, the Applicant should note that we require occasional access to the North Culvert headwall for maintenance works and access for monthly length inspections to assess the headwall and ideally up the barrel if above water.

Visual and environmental impact



The application site lies adjacent to the Selby Canal and towpath. It is therefore important that visual and acoustic impacts, associated with the proposed development, on the users of the canal are mitigated. There currently exists a substantial planted area along the boundary of the canal and the application site which helps screen the site. We also consider that the proposed additional planting as indicated by the landscaping plan will further serve to screen the site from the canal and limit the visual and acoustic impacts. However, it is important that such a landscaping scheme along the canal boundary is maintained and we recommend the following condition.

Prior to the commencement of development, a soft landscaping scheme including a landscape management plan shall be submitted to and agreed in writing by the Local Planning Authority and thereafter implemented in accordance with the approved details. The scheme shall indicate the size, species and spacing of planting. Any such planting which within a period of 5 years of implementation of the landscaping dies, is removed, or becomes seriously damaged or diseased shall be replaced in the next planting season with others of a similar size or species.

#### Reason

To ensure that the proposed development contributes to the built environment and ecological value of the waterway corridor.

Such a condition would be consistent with paragraph 58 of the NPPF which recommends that new developments are visually attractive as a result of appropriate landscaping.

#### Other matters

If the Council is minded to grant planning permission, it is requested that the following informative is attached to the decision notice:

The applicant/developer is advised to contact Alan Daines (0113 200 5713) in order to ensure that any necessary consents are obtained and that the works comply with the Canal & River Trust Code of Practice for Works affecting the Canal & River Trust.

#### Canal and River Trust – second response

Further to the agents email confirming that no culverts exist on the application site, we can confirm that a culvert protecting condition will not be required in this instance

#### 1.4.6 The Environment Agency

We have no objection to the details submitted.

Drawing number 4413 PL8 shows that the finished floor levels are all set above 4.85m AOD, as agreed through the outline planning permission, and is also described in section 5.76 of the design and access statement. Also included is an explanation that the buildings will be waterproof to 300mm above ground level. We therefore can confirm that condition 4 is being complied with in the design.

#### 1.4.6 Planning Yorkshire Water Services Ltd

The comments and conditions from the 2004 application still remain valid in this case.

We note this application includes a Drainage Strategy (prepared by Create Consulting Engineers Ltd - Report PP/CS/P13-625/01 Revision D dated 05/02/2016) is satisfactory to Yorkshire Water. The report confirms;

- i) The sewer (rising main) crossing the site is proposed to be diverted. A proposal by the developer to alter/divert a public sewer will be subject to YW requirements and

formal procedure in accordance with Section 185 Water Industry Act 1991. Please note in this case Yorkshire Water would carry out the diversion works at the developers expense and on their behalf.

ii) Foul water will discharge to public combined water sewer located 280m north of the site. The peak pumped foul water discharge must not exceed 3 (three) litres per second.

iii) Surface water to discharge to the ditch at the centre of the site - connection subject to Environment Agency / Local Land Drainage Authority / Internal Drainage Board requirements.

#### 1.4.7 Selby Area Internal Drainage Board

No comments received

#### 1.4.8 Environmental Health –

With regard to the above application it has been noted that the site currently holds a permit issued by the Environment Agency in regard to emissions from its current operations. However, it is not clear from the application if the operations that may take place in the proposed buildings would also be subject to this permit and hence the areas of noise and emissions of odour and pollutants to air need to be considered.

It has been noted that condition 4 states that the reserved matters includes the details of acoustic treatment to each building and I would request that a similar condition be attached to any permission given to agree a scheme to control emissions to air from each building.

#### 1.4.9 North Yorkshire Fire & Rescue Service

At this stage in the planning approval process the fire authority have no 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.

#### 1.4.10 Network Rail

With reference to the protection of the railway, Network Rail has no objection in principle to the development, subject to condition/ requirements in relation to the issues below.

- (i) Fail Safe Use of Crane and Plant – to prevent damage to railway.
- (ii) Excavations/Earthworks- such that no interference with the integrity of that property/ structure can occur
- (iii) Security of mutual boundary
- (iv) Fencing to avoid trespass
- (v) Method statement of construction to prior to works commencing on site.
- (vi) Time periods for Notification of works to Network Rail Asset Protection Manager (OPE) .
- (vii) Where vibro-compaction machinery is to be used in development, details/method statement to be submitted and approved in consultation with Network Rail.
- (viii) No Encroachment of Network Rail land.
- (ix) Trees/Shrubs – specific planting requirements near railway boundary – details given.
- (x) Lighting- details to be agreed to avoid confusion for signals and prevent of dazzling.
- (xi) storage of Hazardous materials and litter

Advise that in particular the boundary fencing, method statements, lighting and landscaping should be the subject of conditions, the reasons for which can include the safety, operational needs and integrity of the railway. For the other matters we would be pleased if an informative could be attached to the decision notice.

I trust full cognisance will be taken in respect of these comments. If you have any further queries or require clarification of any aspects, please do not hesitate to contact myself I would also be grateful if you could inform me of the outcome of this application, forwarding a copy of the Decision Notice to me in due course.

#### 1.4.11 Selby Town Council

No comments received

### 1.5 **Publicity**

- 1.5.1 The application was advertised by way of site notice, newspaper notice and neighbour notification resulting in no public responses.

## 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.

### 2.1. **Selby District Core Strategy Local Plan**

The relevant Core Strategy Policies are:

SP1 - Presumption in Favour of Sustainable Development  
SP2 - Spatial Development Strategy  
SP13 - Scale and Distribution of Economic Growth  
SP15 - Sustainable Development and Climate Change  
SP16 Improving Resource Efficiency  
SP18 Protecting and Enhancing the Environment  
SP19 Design Quality

### 2.2 **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:

ENV1 - Control of Development  
ENV2: Environmental Pollution and Contaminated Land  
ENV3: Outdoor Lighting  
EMP3 - Renewal of Industrial and Business Commitments  
EMP6 - Employment Development  
RT8 - The Trans-Pennine Trail  
T1- Development in relation to Highway  
T2- Access to road  
T7- Provision for Cyclists  
T8: Public Rights of Way

### **2.3 National Guidance and Policy – National Planning Policy Framework (NPPF), National Planning Practice Guide (NPPG)**

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 Planning Policy Guidance (PPG), 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.

### **2.4 Community Infrastructure Levy**

Under the Community Infrastructure Levy (CIL) Regulations, the proposal would not be liable for payment of CIL at the appropriate rate adopted by Selby District Council on 1<sup>st</sup> January 2016.

### **2.5 Key Issues**

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

1. Principle of the development
2. Layout, scale and design
3. Residential Amenity
4. Landscaping
5. Nature Conservation and protected species
6. Any other Matters

### **2.6 Principle of the Development**

2.6.1 Outline planning permission for the site has already been granted with a number of planning conditions. In addition access to the site was also approved as the outline stage. This proposal is the associated reserved matters scheme for the expansion of the chemical works onto this land to the south.

2.6.2 The principle of proposed development was firmly established through the granting of outline planning permission and cannot be revisited under the reserved matters stage. The main consideration is whether the scheme submitted and the type and quantum of development proposed has had regard to the illustrative master plan submitted with the outline application. In this case, with a total floor space of 14,010.68 sq.m.

- 2.6.3 In summary, the existing planning unit occupied by ICL comprises an industrial chemical works, which includes a range of component parts falling broadly within Class B1 (administrative offices, research & development & laboratories), Class B2 (industrial processes involving the manufacturing, processing & packaging of products) & Class B8 (storage & distribution areas for goods in & goods out).
- 2.6.4 This overall format has been reflected in the extension area on the proposed master plan. The range and level of uses are broadly similar on the application site although there is a greater proportion of B1 use and a lower proportion of B8 use on this scheme. However, overall they are sufficiently similar to be within the terms of the outline permission. The quantum of development envisaged on this application (in terms of overall footprint & scale of buildings) is lower than at the outline planning application stage. However, this scheme allows for a more practical arrangement on site with space for vehicle movement, parking and deliveries.
- 2.6.5 It is considered that the proposed scheme falls within the scope of the outline planning permission and reflects the general component uses within the existing operational area and those included in the 2012 master plan.
- 2.6.6 As such the development proposed is broadly in accordance with the outline planning permission and is acceptable in principle.
- 2.6.7 The following section will, go on to consider and assess the reserved matters of appearance, landscaping, layout and scale against the appropriate policy tests in so far as they relate to the reserved matters.

## **2.7 Layout, Scale and Appearance**

- 2.7.1 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 110 "Design Quality" of the Core Strategy. Significant weight should be attached to the Local Plan Policy ENV1 as it is broadly consistent with the aims of the NPPF. Relevant policies within the NPPF, which relate to design include paragraphs 56, 60, 61, 65 and 200.

### Layout

- 2.7.2 The layout of the site has been determined by its shape, topography, existing landscaping within and outside of the site and the location/nature of the surrounding development. The layout makes provision for the retention, of the existing water courses that pass through the site and the retention of the boundary trees, and hedgerows. The layout also provides for the retention of a grassland/ecological habitat area to the south of the site in accordance with the recommendations of the Ecology Survey and Assessment report. The new site access from the existing industrial area leads to a looped estate road and associated footpaths ensuring adequate vehicle/emergency vehicle access throughout the site
- 2.7.3 The site lends itself to the design layout adopted and represents an efficient use of the site, with the buildings orientated east/west, with associated cycle parking, car parking and vehicle manoeuvring areas located adjacent to each building followed by soft landscaping. The layout has been designed so that the buildings are set back away from the site boundary to reduce the impact of the development and allow for woodland landscape buffers along the eastern, southern and western boundaries.
- 2.7.4 The proposed estate road would be 7.5m wide with footway either on one or both sides. A total of 162 car parking spaces are proposed of which 25 spaces would be disabled bays. Dedicated cycle parking (80 no. spaces) is also provided in accordance with North

Yorkshire County Council Highway Authority's standards. HGV and service vehicle parking and turning manoeuvring space would also be provided. A tracking assessment has been undertaken by Create Consulting Engineers Ltd which demonstrates that HGV's can adequately access and manoeuvre within the site.

- 2.7.5 The size and layout of the units are based on typical business, general industrial and warehousing formats that could accommodate a range of users. In accordance with condition 5 of planning permission 2012/0705/FUL, no building has been located within 3m of either side of the centre line sewer, which crosses the site.
- 2.7.6 Overall the site layout is considered acceptable and no objections are raised from consultees including the Highway Authority which would warrant seeking amendments to the basis layout arrangement.

### Scale

- 2.7.7 The site is located within an area characterised by varying scale industrial/commercial/retail warehouse buildings to the north and east. The ICL site contains a number of very large industrial buildings measuring up to 24m in height. To the east of the canal is a retail park that also contains several large scale retail warehouse units. To the west is an established landscape belt followed by the railway embankment and railway line that screens the site from residential development located further to the west.
- 2.7.8 The proposed units would be significantly lower than those of the ICL site and will vary from 5.5m to 8.5m. On the western boundary, the visual impact of the buildings would be mitigated by existing physical features including a railway embankment, natural vegetation and an established tree belt as well as proposed landscaping. On the eastern boundary, the nearest units would be no more than 6.5m in height and would be mitigated by the existing and proposed structural landscape buffer as well as the extent of setback as part of the layout.
- 2.7.9 The footprint of the buildings proposed would use the space on the site well without resulting in a cramped or overdeveloped site. A variety of building would be provided providing overall approximately 14,000 sq m floorspace. The mix would be 22% B1 units, 42%, B2 and 36% B8 Warehousing
- 2.7.10 Given the above context, the development at the scale proposed would result in a much lesser visual impact than the scale of development envisaged when the outline planning permission was renewed which indicated buildings could be up to 15m in height. As such it is considered that the scale of development would be appropriate having regard to the context of the site and surrounding area and the existing and proposed landscaping.

### External Appearance

- 2.7.11 The site is located within an area characterised by varying scale industrial/commercial and retail warehouse buildings in a wide variety of appearances. The proposed buildings will be constructed as simple structures clad with insulated composite profiled steel panel roofing and cladding systems, with profiled fascia and barge flashings, brickwork plinths and associated aluminium windows and doors.
- 2.7.12 Materials generally to be used are as
- profiled composite roof cladding panel system, Gull Grey;
  - profiled composite wall cladding panel system, Merlin Grey or Horizontally laid profiled composite wall cladding panel system, Metallic Silver;
  - Black/Blue engineering facing brickwork plinth with light grey mortar;
  - Aluminium windows/screens/entrance doors, Midnight Blue and Merlin Grey subject to location;

- Steel pedestrian and fire exit door sets, Midnight Blue and Merlin Grey subject to location;
- vehicle access doors, Midnight Blue and Metallic Silver subject to location.

2.7.13 Overall the external appearance would be typical of modern standard industrial buildings which in the context of the site layout and landscaping would provide an acceptable modern and functional appearance.

2.7.14 It is stated by the agents that the new buildings will be developed to comply with/exceed the current Building Regulations Approved Documents requirements, in particular Part L2A Conservation of Fuel and Power in New Buildings other than Dwellings. The scheme is intended to integrate sustainable features into the design. Key sustainable measures proposed include: Efficient building forms, high performance thermal buildings, water metering and monitoring, efficient water use fittings, energy efficient lighting, cycle parking, ecological habitat area, responsible sourcing of materials where possible. As such it is considered the development accords with the majority of the criteria within Policy SP15 of the CS which seeks to ensure development contributes towards reducing carbon emissions and is resilient to the effects of climate change where appropriate.

2.7.15 Overall the details of the scheme in relation to the layout, scale and external appearance of the buildings is considered, for the above reasons to be acceptable and accords with Policy ENV 1 of the Local Plan and Policies SP813, SP14, SP15 and SP19 of the Core Strategy and with the NPPF.

## **2.8 Landscaping**

2.8.1 Policy in respect to landscaping is provided by Policy ENV1 (4) of the Selby District Local Plan and Policy SP19 of the Core Strategy.

2.8.2 The outline planning application included a survey of existing trees on and adjacent to the site. The site mainly comprises grassland divided by a ditch located centrally within the site that runs from east to west. Only a small number of trees are within the site but it is well screened from all sides by existing vegetation, most of which is located outside of the application site. The report accompanying the outline application recommended that the proposed development retains existing trees and hedgerows of merit and recommends additional boundary planting within the site.

2.8.3 Condition 2 pursuant to planning permission 2012/0705/FUL requires details of landscaping of the site to be submitted as part of the reserved matters submission and condition 11 requires details of the proposed boundary treatment (showing height, specification, materials and/or planting) to be submitted and agreed by the local planning authority prior to commencement of development. Two informatives were also appended to the planning permission concerning fencing, trees/shrubs and landscaping. Details of the boundary treatment have been submitted under a separate application where discharge of condition 11 amongst other conditions relating to drainage is sought. As such it is not proposed to include consideration of the boundary treatment in this application.

2.8.4 The scheme submitted retains most of the existing trees and the development has been designed so that the proposed buildings would be set away from existing trees both within and adjacent to the site where possible.

2.8.5 A detailed landscaping scheme has also been submitted with this application. This includes a 10m wide woodland belt to be planted along the edge of the eastern boundary which would strengthen the established Hawthorn hedge just outside of the site adjacent to the canal tow path. The western boundary is already defined by mixed woodland, scrub and hawthorn, the majority of which is located outside of the site. The existing landscaping that

is located along the western boundary and within the site will be retained and a landscape buffer proposed to allow for natural succession to take place.

- 2.8.6 The southern corner of the site comprises grassland and swamp with areas of dense scrub and woodland along its western boundary. This area is proposed to be set aside as an ecological habitat area for reptiles and wildlife. All existing vegetation, trees and features would be retained and maintained within this area which would be enhanced for reptiles and amphibians by the creation of hibernacula/habitat piles to provide additional reptile habitat, in line with the recommendations with the Ecology Assessment and Report prepared by Adonis Ecology. This is discussed in the next section of this report.
- 2.8.7 Hedge planting is proposed along the northern boundary of the site, with the estate road lined with hedging and large growing trees with maintained grassland proposed within the residual areas.
- 2.8.8 In accordance with the network rail informatives appended to the planning permission, a 1.8m high trespass proof fence is proposed adjacent to the Network Rail boundary with the proposed hedge and tree planting within this area selected to accord with Network Rails list of 'acceptable' tree species. Network Rail has been consulted on the proposals and their comments and requests made were already included and agreed within the scheme in relation to the species. However, amended plans have been received which make clear on the plans that the acceptable species and the planting specification only are included.
- 2.8.9 Details of the proposed hard surface treatment are specified on the landscaping drawing and comprise permeable block paving for the parking and turning areas for the business/general industrial units; concrete surfacing for the warehousing/general industrial units; black asphalt for the roadways and paths; and the paths around the units to be pre-cast concrete paving slabs.
- 2.8.10 In summary, the landscaping plan proposes an appropriate hard and soft landscaping scheme for the site, including suitable boundary treatments, in accordance with the requirements of conditions 2 and 11 and the informatives appended to the planning permission. It would result in structural planting belts within the site and around its edges which will help to soften and provide a green setting for the new development. Overall the scheme is considered to integrate well with its surroundings and would create a suitable transition between the built up area and the countryside to the south.
- 2.8.11 The proposals therefore demonstrate that the site would incorporate appropriate landscaping in accordance with Policies ENV1(4) of the Local Plan, Policy SP19 of the Core Strategy and the NPPF.

## **2.9 Residential Amenity**

- 2.9.1 Policy in respect to impacts on residential amenity is provided by ENV1 of the Local Plan and Paragraph 200 of the NPPF. In addition Policy ENV2 states that proposals for new development that would give rise to unacceptable levels of noise, nuisance or contamination will not be permitted unless satisfactory remedial or preventative measures are incorporated into the scheme.
- 2.9.2 The effects of the layout, scale and appearance of the development on residential amenity are an important consideration. The nearest residential dwellings are those to the west on the other side of the railway line around Westbourne Road. Although unoccupied, there are also dwellings to the north adjacent to the chemical works site access at Bawtry Road. Due to the separation distances and the boundary screening it is not considered the buildings proposed would impact on the living conditions in relation to overlooking, overshadowing or an overbearing effect.



- 2.9.3 However, there is the potential for nuisance from noise, odours or other emissions from the site. The Environmental Health Officer has suggested the areas of noise and emissions of odour and pollutants to air need to be considered.
- 2.9.4 It is noted that the original outline consent (Ref: 8/19/273/u/PA) included at conditions 6, 7 and 8 a requirement for submission of acoustic treatment and for noise limitations. The subsequent renewal permission 2004/1264/FUL also had requirements in relation to dust and noise emissions at conditions 2 (iii) and 4. The most recent renewal did not repeat these conditions. This may have been due to the single ownership of the site and the fact that the current site holds an EA permit.
- 2.9.5 The recent rescinding of the Section 106 agreement in relation to access improvements means that this permission is no longer tied to a single owner. As such any conditions or limitations which apply to the operation of the existing chemical site would not apply to this site. Given the altered master plan layout now proposed, there could be multiple users, with no restrictions on hours of operation, noise levels or emissions. It is therefore considered appropriate, due to the concerns of the Environmental Health Officer to add an appropriate condition in relation to acoustic insulation and emissions to ensure there are no detrimental effects from the development to nearby residents.
- 2.9.6 This has been discussed with the applicant and appropriate conditions agreed. It is recommended that the conditions are applicable only to the intended B2 or B 8 uses since by definition B1 Use Class are restricted to uses that can operate within any residential area without detriment to the amenity of that area by reason of noise, vibration, smell, fumes, smoke, soot, ash, dust or grit. Any uses that generate significant noise & odours by definition would not fall within Class B1. Therefore, it should not be necessary to seek to control any such units in this way.
- 2.9.7 In the case of the B2 and B8 buildings, these are likely to be developed and marketed individually and therefore it would not be appropriate to impose 'pre-commencement of development' conditions which could impose unnecessary constraints. Once an occupier has acquired a building(s), specific measures would then need to be provided depending on the intended use. The fitting out of such modern utilitarian commercial buildings in this way should not be problematical. Appropriately worded conditions are included at section 3 of this report.
- 2.9.8 Subject to these conditions to ensure future users incorporate adequate mitigation measures to ensure noise, odours or emissions are dealt with it is considered that the proposal would not cause significant detrimental impact on the residential amenities of the area in accordance with policy ENV 1 of the Local Plan and the NPPF.

## **2.10 Impact on Nature Conservation and Protected Species**

- 2.10.1 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.
- 2.10.2 In accordance with Regulation 8 of the EIA Regulations (2011, as amended) and the required EIA Addendum and with informative 7 pursuant to planning permission 2012/0705/FUL, the updated Ecology Assessment submitted comprised A Phase 1 Habitat Survey, Water Vole Check and Reptile Survey. This was undertaken by Adonis Ecology.
- 2.10.3 The southern corner of the site comprises grassland and swamp with areas of dense scrub and woodland along its western boundary. This area is proposed to be set aside as an ecological habitat area for reptiles and wildlife. All existing vegetation, trees and features would be retained and maintained within this area which would be enhanced for reptiles

and amphibians by the creation of hibernacula/habitat piles to provide additional reptile habitat, in line with the recommendations with the Ecology Assessment and Report prepared by Adonis Ecology.

- 2.10.4 The Ecology Assessment concludes that subject to the implementation of impact avoidance measures for birds, bats, Otter, Water Vole and Hedgehogs and other small mammals, and with the reptile translocation strategy undertaken as described in the Ecology Report, it should be possible for the proposed development to proceed with minimal risk of harm to these species.
- 2.10.5 Furthermore, the ecology report concludes that if some or all of the suggested enhancements are implemented, the site could be enhanced for wildlife on completion, with a net gain for biodiversity. In light of the Ecology Assessment, the proposals are considered acceptable in environmental terms as the development would respect local wildlife/biodiversity interest and the surrounding environment thus complying with national and local policy objectives seeking to conserve and enhance the natural environment.
- 2.10.6 Following further consideration and discussions with Yorkshire Wildlife Trust, the plans and management actions have been amended and improved. YWT now consider that the suggested plans and management actions are thorough and should prevent harm to the grass snake population. They consider that a condition to ensure that all the suggestions are incorporated into the development and the management plan is adhered to should be sufficient.
- 2.10.7 The proposed landscaping, together with the ecological habitat area within the southern corner of the site would result in the retention of the majority of the trees, together with significant new areas of woodland planted along the site boundaries and definition of the estate roads with hedge and tree planting. The landscaping proposals will provide an attractive setting for the proposed development and are considered to comply with national and local policy objectives for the conservation and enhancement of the natural environment.
- 2.10.8 Having had regard to the above it is considered that the proposal would accord with Policy ENV1 and ENV2 of the Local Plan, Policy SP18 of the Core Strategy and the NPPF with respect to nature conservation and protected species.

## **2.11 Conclusion**

- 2.11.1 The principle of residential development on this site has already been established through the original outline approvals renewed as described in the planning history above.
- 2.11.2 This application is therefore to consider the reserved matters with respect to appearance, landscaping, layout, scale, appearance, landscaping and to consider the updated Ecological Assessment. Having assessed the proposals against the relevant policies and the original outline planning permission the proposals are considered acceptable.

## **3.0 Recommendation**

This application is recommended to be Granted subject to the following conditions;

This application is recommended to be Granted subject to the following conditions;

- 01 Unless otherwise agreed in writing by the Local Planning Authority, no part of the development shall be brought into use until the approved vehicle access has been constructed in accordance with the approved plans and none of the buildings shall be brought into use until the approved parking, manoeuvring and turning areas

serving that building have been constructed in accordance with the approved plans. Once created these areas shall be maintained clear of any obstruction and retained for their intended purpose at all times.

Reason:

In accordance with Policies ENV1, T1 and T2 of the Selby District Local Plan and to provide for appropriate on-site vehicle facilities in the interests of highway safety and the general amenity of the development and to allow the development to proceed in phases if required.

- 02 Notwithstanding the provision of any Town and Country Planning General Permitted or Special Development Order for the time being in force, the areas shown on the approved plans for parking spaces, turning areas and access shall be kept available for their intended purposes at all times, unless otherwise agreed in writing by the Local Planning Authority.

Reason

In accordance with policy T1 and ENV1 of the Selby District Local Plan and to ensure these areas are kept available for their intended use in the interests of highway safety and the general amenity of the development.

- 03 Only the materials indicated on the submitted plans and application details shall be utilised in the construction of the external skin of the walls and the roof of the buildings hereby approved, unless otherwise agreed in writing by the Local Planning Authority.

Reason:

In the interests of visual amenity and in order to comply with Policy ENV1 of the Selby District Local Plan, Policy SP19 of the Selby District Core Strategy Local Plan and the National Planning Policy Framework (NPPF).

- 04 Details of any external lighting if proposed, should be submitted to and agreed in writing with the Local Planning Authority prior to installation and installed in accordance with the approved details.

Reason:

In the interests of Ecology, Rail Safety and Amenity in accordance with Policy ENV1 of the Selby District Local Plan.

- 05 The scheme of landscaping and trees planting shown on Drawing Number LSDP 11274.01 Rev C; shall be carried out in its entirety within the period of twelve months beginning with the date on which development is commenced, or within such longer period as may be agreed in writing with the Local Planning Authority and shall thereafter be retained. All trees, shrubs and bushes shall be adequately maintained for the period of five years beginning with the date of completion of the scheme and any planting which within a period of 5 years of implementation of the landscaping dies, is removed, or becomes seriously damaged or diseased shall be replaced in the next planting season with others of similar size or species'.

Reason:

To secure the satisfactory implementation of the proposal, having had regard to Policy ENV1 of the Selby District Local Plan and to allow the development to proceed in phases if required.

- 06 The recommendations and mitigation measures detailed in the Extended Phase One Habitat Survey dated December 2015 and the Ecological Response dated 18 May 2016 by Adonis Ecology Ltd shall be carried out in full prior to the commencement of the development hereby approved with the exception of the small strip of land north of the existing fence indicated as Ephemera/shorti perennial on the plan at Appendix 1 (Figures and Photographs) of the above report.

Reason:

To mitigate against the loss of existing biodiversity and nature habitats and to comply with Policy ENV1 of the LP and SP18 of the CS and the NPPF.

- 07 Prior to the occupation of each building to be used for Class B2 general industrial or Class B8 storage and distribution purposes, details of a scheme for controlling noise emissions from any activity or external plant and equipment shall be submitted to approved in writing by the Local planning Authority. The approved measures shall be installed prior to the use commencing and thereafter retained as approved to comply with the submitted specification unless agreed otherwise in writing with the Local Planning Authority.

Reason:

In the interests of amenity in accordance with Policy ENV1 of the Selby District Local Plan.

- 08 Prior to the occupation of each building to be used for Class B2 general industrial or Class B8 storage and distribution purposes, details of a scheme for the control of fumes and odours shall be submitted to and approved in writing by the Local Planning Authority. The approved measures shall be installed prior to the use commencing and thereafter shall be operated and maintained in accordance with the manufacturer's instructions unless otherwise agreed in writing with the Local Planning Authority.

Reason:

In the interests of amenity in accordance with Policy ENV1 of the Selby District Local Plan.

- 09 The development hereby permitted shall be carried out in accordance with the plans/drawings listed below unless otherwise agreed in writing by the Local Planning Authority;

Dwg No. HP1 Location Plan

Dwg No SLP1 Site Location Plan

Dwg No PL1 Block Plan

Dwg No PL6 Units 1,14 and 19

Dwg No PL5 Units 2-14

Dwg No PL2 Units 15-18

Dwg No PL3 Units 20-21

Dwg No PL4 Units 22-23

Dwg No PL 7 Roof Plans

Dwg No PL8 Floor Levels

Dwg No PL9 Site Sections

Dwg No LSDP 11274.01 Rev C; Hard and Soft Landscaping and Boundary Treatment Details

Reason:

To ensure that no departure is made from the details approved and that the whole of the development is carried out, in order to ensure the development accords with Policy ENV1 of the Local Plan.

## INFORMATIVES

### CANAL AND RIVER TRUST

The applicant/developer is advised to contact Alan Daines (0113 200 5713) in order to ensure that any necessary consents are obtained and that the works comply with the Canal & River Trust Code of Practice for Works affecting the Canal & River Trust.

### NETWORK RAIL

#### Fail Safe Use of Crane and Plant

All operations, including the use of cranes or other mechanical plant working adjacent to Network Rail's property, must at all times be carried out in a "fail safe" manner such that in the event of mishandling, collapse or failure, no materials or plant are capable of falling within 3.0m of the nearest rail of the adjacent railway line, or where the railway is electrified, within 3.0m of overhead electrical equipment or supports.

#### Excavations/Earthworks

All excavations/ earthworks carried out in the vicinity of Network Rail property/ structures must be designed and executed such that no interference with the integrity of that property/ structure can occur. If temporary works compounds are to be located adjacent to the operational railway, these should be included in a method statement for approval by Network Rail. Prior to commencement of works, full details of excavations and earthworks to be carried out near the railway undertaker's boundary fence should be submitted for the approval of the Local Planning Authority acting in consultation with the railway undertaker and the works shall only be carried out in accordance with the approved details. Where development may affect the railway, consultation with the Asset Protection Project Manager should be undertaken. Network Rail will not accept any liability for any settlement, disturbance or damage caused to any development by failure of the railway infrastructure nor for any noise or vibration arising from the normal use and/or maintenance of the operational railway. No right of support is given or can be claimed from Network Rails infrastructure or railway land.

#### Security of Mutual Boundary

Security of the railway boundary will need to be maintained at all times. If the works require temporary or permanent alterations to the mutual boundary the applicant must contact Network Rail's Asset Protection Project Manager.

#### Fencing

Because of the nature of the proposed developments we consider that there will be an increased risk of trespass onto the railway. The Developer must provide a suitable trespass proof fence adjacent to Network Rail's boundary (minimum approx. 1.8m high) and make provision for its future maintenance and renewal. Network Rail's existing fencing / wall must not be removed or damaged. The proposed 1.8m anti-climb fencing should meet this requirement.

#### Method Statements/Fail Safe/Possessions

Method statements may require to be submitted to Network Rail's Asset Protection Project Manager at the below address for approval prior to works commencing on site. This should include an outline of the proposed method of construction, risk assessment in relation to the railway and construction traffic management plan. Where appropriate an asset protection agreement will have to be entered into. Where any works cannot be carried out in a "fail-safe" manner, it will be necessary to restrict those works to periods when the railway is

closed to rail traffic i.e. “possession” which must be booked via Network Rail’s Asset Protection Project Manager and are subject to a minimum prior notice period for booking of 20 weeks. Generally if excavations/piling/buildings are to be located within 10m of the railway boundary a method statement should be submitted for NR approval.

### OPE

Once planning permission has been granted and at least six weeks prior to works commencing on site the Asset Protection Project Manager (OPE) MUST be contacted, contact details as below. The OPE will require to see any method statements/drawings relating to any excavation, drainage, demolition, lighting and building work or any works to be carried out on site that may affect the safety, operation, integrity and access to the railway.

### Vibro-impact Machinery

Where vibro-compaction machinery is to be used in development, details of the use of such machinery and a method statement should be submitted for the approval of the Local Planning Authority acting in consultation with the railway undertaker prior to the commencement of works and the works shall only be carried out in accordance with the approved method statement.

### ENCROACHMENT

The developer/applicant must ensure that their proposal, both during construction, and after completion of works on site, does not affect the safety, operation or integrity of the operational railway, Network Rail and its infrastructure or undermine or damage or adversely affect any railway land and structures. There must be no physical encroachment of the proposal onto Network Rail land, no over-sailing into Network Rail air-space and no encroachment of foundations onto Network Rail land and soil. There must be no physical encroachment of any foundations onto Network Rail land. Any future maintenance must be conducted solely within the applicant’s land ownership. Should the applicant require access to Network Rail land then must seek approval from the Network Rail Asset Protection Team. Any unauthorised access to Network Rail land or air-space is an act of trespass and we would remind the council that this is a criminal offence (s55 British Transport Commission Act 1949). Should the applicant be granted access to Network Rail land then they will be liable for all costs incurred in facilitating the proposal.

### Trees/Shrubs/Landscaping

Where trees/shrubs are to be planted adjacent to the railway boundary these shrubs should be positioned at a minimum distance greater than their predicted mature height from the boundary. Certain broad leaf deciduous species should not be planted adjacent to the railway boundary. Any hedge planted adjacent to Network Rail’s boundary fencing for screening purposes should be so placed that when fully grown it does not damage the fencing or provide a means of scaling it. No hedge should prevent Network Rail from maintaining its boundary fencing. Lists of trees that are permitted and those that are not permitted are provided below and these should be added to any tree planting conditions:

#### Acceptable:

Birch (*Betula*), Crab Apple (*Malus Sylvestris*), Field Maple (*Acer Campestre*), Bird Cherry (*Prunus Padus*), Wild Pear (*Pyrs Communis*), Fir Trees – Pines (*Pinus*), Hawthorne (*Cretaegus*), Mountain Ash – Whitebeams (*Sorbus*), False Acacia (*Robinia*), Willow Shrubs (*Shrubby Salix*), Thuja Plicatata “Zebrina”

#### Not Acceptable:

Acer (*Acer pseudoplatanus*), Aspen – Poplar (*Populus*), Small-leaved Lime (*Tilia Cordata*), Sycamore – Norway Maple (*Acer*), Horse Chestnut (*Aesculus Hippocastanum*), Sweet Chestnut (*Castanea Sativa*), Ash (*Fraxinus excelsior*), Black poplar (*Populus nigra* var, *betulifolia*), Lombardy Poplar (*Populus nigra* var, *italica*), Large-leaved lime (*Tilia platyphyllos*), Common lime (*Tilia x europea*).

### Lighting

Where new lighting is to be erected adjacent to the operational railway the potential for train drivers to be dazzled must be eliminated. In addition the location and colour of lights must not give rise to the potential for confusion with the signalling arrangements on the railway. Detail of any external lighting should be provided as a condition if not already indicated on the application.

### Hazardous Materials

The materials contained within the site subject to the applicants control should be stored and processed in a way which prevents over spilling onto Network Rail land and should not pose excessive risk to fire. If hazardous materials are likely to be sited on the land then Network Rail must be further contacted by the applicant.

### Heaping, Dust and Litter

It should be noted that because of the nature of the proposals we would not want to see materials piled against our boundary. Items to be heaped on site should be kept away from the boundary an equal distance as the pile is high to avoid the risk of toppling and damaging or breaching our boundary. We also have concerns over the potential for dust clouds and rubbish created from the processing at the site affecting the railway signal sighting. Therefore adequate measures for preventing dust and rubbish blowing onto Network Rail property are to be in operation. Network Rail is required to recover all reasonable costs associated with facilitating these works.

## **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**

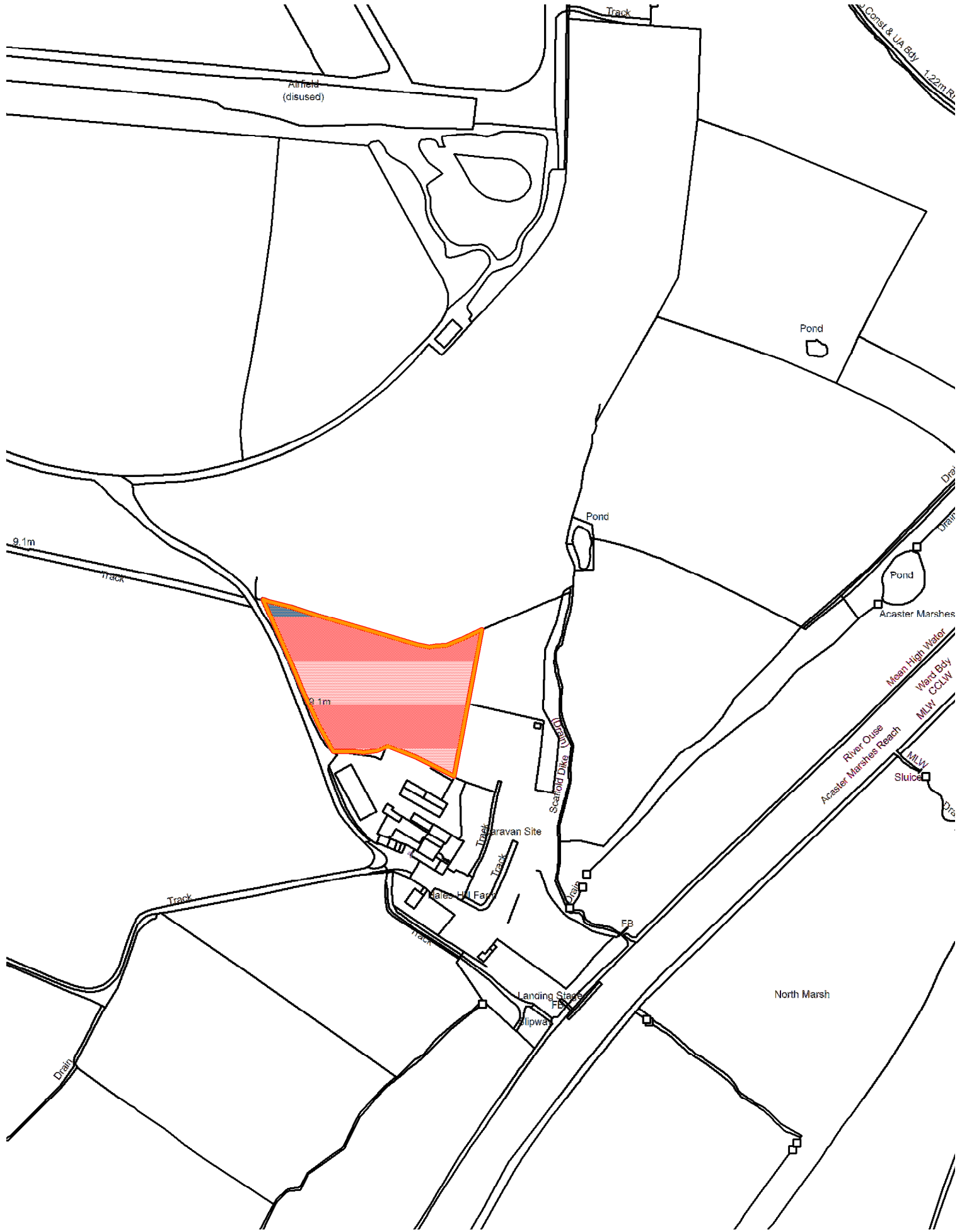
4.1 As stated in the main body of the report.

## **5. Background Documents**

5.1 Planning Application file reference 2016/0189/REM and associated documents.

**Contact Officer: Jonathan Carr (Lead Officer Planning)**

**Appendices: None**



# APPLICATION SITE

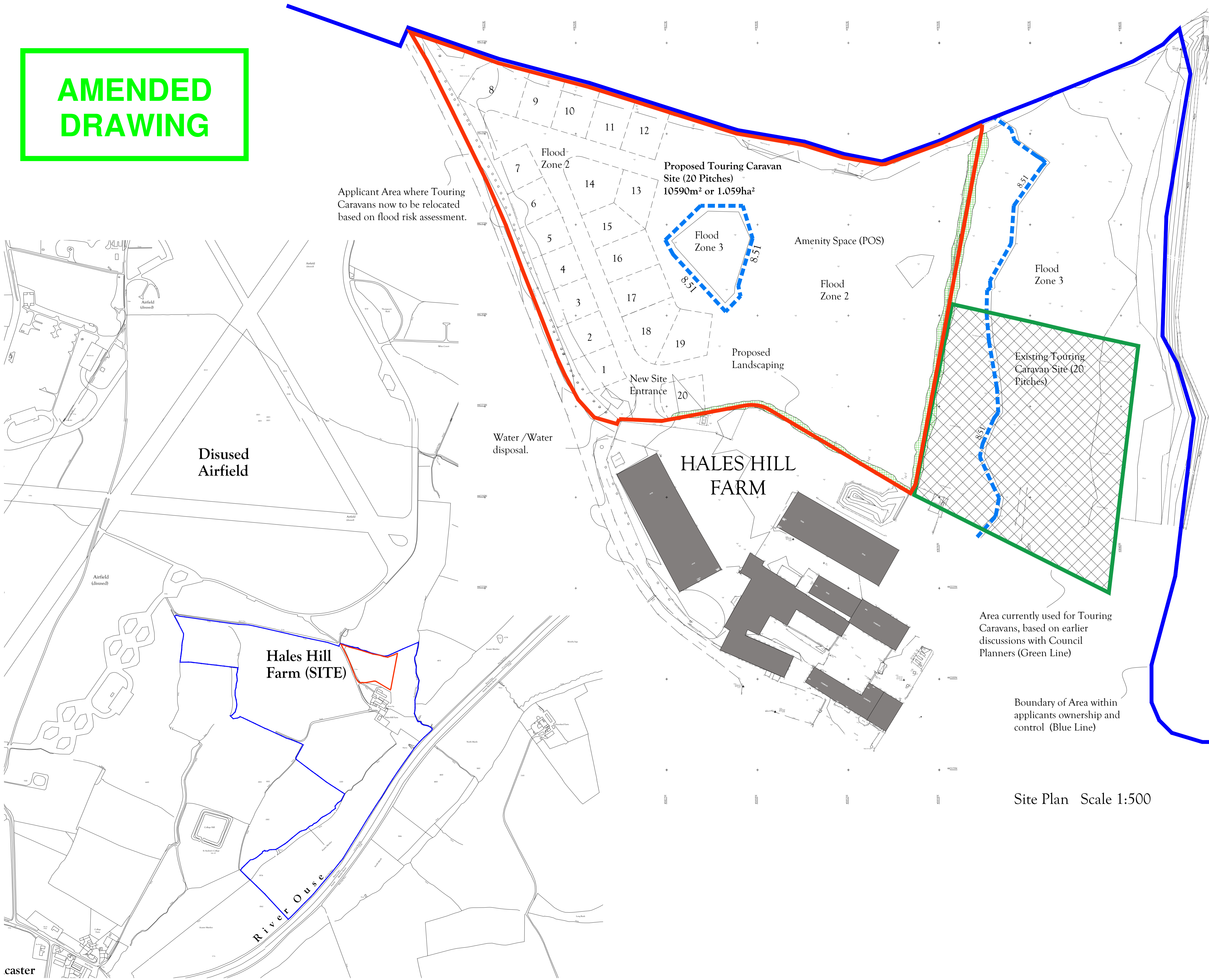
**Item No:** 2016/0098/COU

**Address:** Hales Hill Farm, Back Lane, Acaster Selby

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**AMENDED  
DRAWING**



**PLEASE NOTE:**  
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**THE PARTY WALL ACT 1996**  
The Party Wall Act does not affect any requirement for Planning Permission or Building Regulation Approval for any work undertaken. Likewise, having Planning Permission and/or Building Regulation Approval does not negate the requirements under the Party Wall Act. The Party Wall Act 1996 gives you rights and responsibilities whichever the side of the 'wall' you are on i.e. whether you are planning/doing work on a relevant structure or if your neighbour is.

The Party Wall Act comes into effect if someone is planning to do work on a relevant structure, for the purposes of the Act 'party wall' does not just mean the wall between two semi-detached properties, it covers:

- \* A wall forming part of only one building but which is on the boundary line between two (or more) properties.
- \* A wall which is common to two (or more) properties, this includes where someone built a wall and a neighbour subsequently built something butting up to it.
- \* A garden wall, where the wall is astride the boundary line (or butts up against it) and is used to separate the properties but is not part of any building.
- \* Floors and ceilings of flats etc.
- \* Excavation near to a neighbouring property.

As with all work affecting neighbours, it is always better to reach a friendly agreement rather than resort to any law. Even where the work requires a notice to be served, it is better to informally discuss the intended work, consider the neighbours comments, and amend your plans (if appropriate) before serving the notice. If there is any doubt please consult planning & design partnership or a party wall surveyor.

**AMENDED  
DRAWING**

RECEIVED  
**04.07.2016**  
BUSINESS SUPPORT

Rev A: Drawing amended to include wider boundary

**The Planning & Design Partnership**  
PLANNING.ARCHITECTURE.INTERIORS.LANDSCAPE  
The Chicory Barn Studio,  
The Old Brickyards, Moor Lane, Stamford Bridge,  
York, The East Riding Of Yorkshire, YO41 1HU.  
Telephone 01759 373656 Fax 01759 371810  
E-mail: [chicorybarn@the-pdp.co.uk](mailto:chicorybarn@the-pdp.co.uk)  
website: [www.the-pdp.co.uk](http://www.the-pdp.co.uk)

Client	Mr Wilson Hales Hill Farm, Acaster Malbis	
Project	Hales Hill Caravan Park	
Drawing	Block Plan and Topographical Survey	
Date	June 2016	Drawn PAR JAH
Scale	1:500, 1:1250 @ A1	Rev. A
Status	PLANNING	
Drwg. No.	YEW / 277 / 51 / 001	

caster

Location Plan Scale 1:1250

Site Plan Scale 1:500



Report Reference Number 2016/0098/COU

Agenda Item No: 5.6

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**To:** Planning Committee  
**Date:** 13<sup>th</sup> July 2016  
**Author:** Yvonne Naylor (Principal Planning Officer)  
**Lead Officer:** Jonathan Carr (Lead Officer – Planning)

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APPLICATION NUMBER:	2016/0098/COU (8/80/4D/PA)	PARISH:	Acaster Selby
APPLICANT:	Mr Ian Wilson	VALID DATE:	10 <sup>th</sup> February 2016
		EXPIRY DATE:	6 <sup>th</sup> April 2016
PROPOSAL:	Change of use of land from agricultural to touring caravan site following relocation of site from adjacent field		
LOCATION:	Hales Hill Farm, Back Lane, Acaster Selby, York, YO23 7BW		

This application has been brought to Planning Committee on the basis that the scheme is for development that is considered to be inappropriate development within the Green Belt, the acceptability of which is dependent upon the demonstration of very special circumstances.

**Summary:**

The application seeks consent for the change of use of the site from agricultural to touring caravan site which is a relocation of an existing use from an adjacent field. A total of 20 touring van sites are shown on the submitted plan alongside an area of amenity space and some bands of proposed landscaping on the boundaries to enhance existing planting. Access is to be taken from a new site entrance which would be created from the current farm access / yard.

Having had regard to the development plan, all other relevant local and national policy, consultation responses and all other material planning considerations, it is considered that the proposal would not fall within any of the categories of development considered as appropriate development within the Green Belt and therefore the development is contrary the advice contained with the NPPF. The proposal is therefore considered to be inappropriate development within the Green Belt, which is harmful by definition and should not be permitted unless there are very special circumstances to justify the development. An assessment of the harms from the proposal has identified that the proposal would cause harm by reason of its inappropriateness in the Green Belt. No other harm would arise by the development.

A case for very special circumstances has been submitted .The circumstances put forward are considered to be very special circumstances that would clearly outweigh definitional harm caused by the development.

The proposed development would not have a significant detrimental impact on the visual impact on the Green Belt, design, character and form, impact on visual amenity and the impact on residential amenity of the occupants of neighbouring properties. Therefore having had regard to Policies ENV1 and RT12 of the Selby District Local Plan and Policies SP1, SP3, SP15 and SP19 of the Core Strategy and the advice contained with NPPF the proposal is considered acceptable on balance.

### **Recommendation:**

**This application is recommended to be APPROVED subject to the conditions at Section 2.21 of this Report.**

## **1. Introduction and background**

### **1.1 The Site**

1.1.1 The application site is located within the countryside and within the defined Green Belt to the north east of Acaster Selby in close proximity to the River Ouse.

1.1.2 The site is currently grassed with defined boundaries partly defined through existing planting.

1.1.3 There is a public right of way (H1-12B) to the east of the application site.

1.1.5 The site is located largely within Flood Zone 2 and part in Flood Zone 3.

### **1.2. The Proposal**

1.2.1 The application seeks consent for the change of use of the site from agricultural to touring caravan site which is a relocation of an existing use from an adjacent field.

1.2.2 A total of 20 touring van sites are shown on the submitted plan alongside an area of amenity space and some bands of proposed landscaping on the boundaries to enhance existing planting.

1.2.3 Access is to be taken from a new site entrance which would be created from the current farm access / yard.

### **1.3 Planning History**

1.3.1 The following historical applications are considered to be relevant to the determination of this application.

1.3.2 A series of applications for use of land at Hailes Hill Farm for caravans have been considered by the Authority. The following historic applications for caravan operations on land in control of the applicants at the Farm have been considered since the 1970s, these were as follows:

- CO/1974/31984 - Caravan Park For 15 Seasonal & 20 Touring Caravans
- CO/1978/31985 - Change Of Use Of Agricultural Land For Pitching Of Tents & Touring Caravans
- CO/1986/1257 (REF - 04.11.1986) PROPOSED USE OF LAND FOR A CARAVAN AND CAMPING RALLY FROM THE 23RD MAY 1987 TO THE 30TH MAY 1987 AT
- 006/0522/CPE (REF - 30.06.2006) Application for Certificate of Lawfulness for existing use for static and seasonal caravans with a capacity of 50
- 2007/0618/FUL (PER - 08.08.2007) Proposed erection of a replacement shower and toilet block for existing caravan park

1.3.3 Subsequently, the existing operations at the site secured lawful use via application 2006/1065/CPE for a "Certificate of lawfulness for the use of 1.22 Ha of land for caravan site including static and touring caravans on land" at the farm was granted on the 03.11.2006.

1.3.4 Earlier submissions have been made to seek to relocate caravans from parts of the site at the highest flood risk under the following applications:

- 2007/1257/COU (REF - 07.01.2008) Change of Use of part of field SE5842/3230 from agriculture to caravan site
- 2008/1237/COU (REF - 04.02.2009) Change of Use of part of field SE5842/3230 from agriculture to caravan site

1.3.5 Application 2007/1257/COU related to land to the east of the current application site and was refused for the following reasons:

“The proposal by virtue of its design, form and location would constitute inappropriate development in the Green Belt, where in there is a presumption against development except in very special circumstances, which have not been demonstrated in this instance. The proposal is therefore contrary to the guidance in PPG2 and Policy GB2 of the Selby District Local Plan”.

and

“The proposal by virtue of its location, design and layout would detract from the open character and visual amenity of the Green Belt location contrary to Policy GB4 of the Selby District Local Plan”.

and

“The applicant has failed to provide sufficient information with the application in respect to Sequential Test applied for high-risk flood areas to enable the Local Planning Authority to make a full assessment of the proposal in terms of Planning Policy Statement 25. It is therefore considered that the application is unacceptable and contrary to PPS25 and ENV5 of the Selby District Local Plan”.

- 1.3.6 Whereas, Application 2008/1237/COU again related to the land to the east of the current application site which was accompanied by additional information but was again refused on the similar following grounds by the Council:

“The development constitutes inappropriate development within the Green Belt, wherein there is a presumption against such development, unless there are very special circumstances, which have not been demonstrated in this case. The proposal is therefore contrary to Policy GB2 of the Selby District Local Plan and the guidance within Planning Policy Guidance Note 2: Green Belts.”

and

“The proposal, by virtue of its location, design, layout, and insufficient screening, would detract from the open character and visual amenity of the Green Belt, contrary to Policy GB4 of the Selby District Local Plan.

and

“The applicant has failed to provide sufficient information with the application in respect of the Sequential Test to enable the Local Planning Authority to make a full assessment of the proposal in terms of Planning Policy Statement 25. It is therefore considered that the application is unacceptable and contrary to the guidance contained in PPS25.”

- 1.3.7 In terms of applications for uses not related to Caravan operations, then consents have been issued for the following:

- CO/1979/31987 (PER) Conversion Of Single Storey Farm Building Into Two Letting Accommodation Units
- CO/1979/31986 (PER) Building For Use As Three Units Of Letting Accommodation
- PN/1993/0006 (NOOBJ - 11.03.1993) Erection of a general purpose agricultural building
- 2004/0377/FUL (REF - 12.07.2004) Proposed erection of a four bedroomed agricultural dwelling

1.3.8 There have been no previous applications for caravan use of the land subject of the current application.

## **1.4 Consultations**

### **1.4.1 Acaster Selby Parish Council**

The P.C. resolved to support this application, as it secures existing Local Business, and is in accordance with our draft local plan, providing diversification with greater protection from the effects of flooding.

### **1.4.2 Public Rights Of Way Officer**

Requested an informative "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."

### **1.4.3 NYCC Highways Canal Rd**

There are no local highway authority objections to the proposed development

## **1.5 Publicity**

A site notice was erected and replaced following observations by officers that the original notice had been removed. As there are no immediate adjoining occupiers no neighbour letters were sent. No comments were received on the application within the statutory time period.

## **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 22<sup>nd</sup> 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
- SP3 - Green Belt
- SP15 - Sustainable Development and Climate Change
- SP18 - Protecting and Enhancing the Environment
- SP19 - Design Quality

2.2.2 Under the Community Infrastructure Levy (CIL) Regulations, the proposal would not be liable for payment of CIL at the appropriate rate adopted by Selby District Council on 1<sup>st</sup> January 2016.

## **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:

- ENV1 - Control of Development
- T1 - Development in Relation to Highway
- T2 - Access to Roads
- RT12 - Touring Caravan and Camping Facilities

## **2.4 National Guidance and Policy – National Planning Policy Framework (NPPF), National Planning Practice Guide (NPPG)**

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 Planning Policy Guidance (PPG), 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.

## **2.5 Key Issues**

2.5.1 The key issues in the determination of this application are considered to be:

- 1) The presumption in favour of sustainable development and reducing carbon emissions.
- 2) Principle of the Development with the Green Belt
- 3) Harm to the Purposes of Including Land within the Green Belt
- 4) Design and Impact on the Green Belt and Character of the Area
- 5) Flood Risk
- 6) Residential amenity
- 7) Highways and Public Rights of Way
- 8) Nature Conservation Issues
- 9) Drainage
- 10) Landscaping
- 11) Contamination
- 12) Assessment of Harm to the Green Belt
- 13) Case for Very Special Circumstances

## **2.6 The Presumption in Favour of Sustainable Development and Reducing Carbon Emissions.**

2.6.1 Relevant policies in respect to the presumption in favour of sustainable development and reducing carbon emissions and the effect of climate includes Policies SP1 and SP15 (B) of the Core Strategy and Paragraph 14 of the NPPF.

2.6.2 Whether it is necessary or appropriate to ensure that schemes comply with Policy SP15 (B) is a matter of fact and degree depending largely on the nature and scale of the proposed development. Having had regard to the nature and scale of the proposal it is considered that its ability to contribute towards reducing carbon emissions, or scope to be resilient to the effects of climate change is so limited that it would not be necessary and, or appropriate to require the proposals to meet the requirements of criteria of SP15 (B) of the Core Strategy.

2.6.3 The site is located outside the defined development limits of Acaster Selby and is located within the Green Belt and the proposal is for the change of use of land from agricultural use to touring caravan site following relocation from adjacent site. There



is nothing within the Local Plan or NPPF to identify this type of development as being unsustainable. However, the NPPF makes it clear that the presumption of sustainable development does not override the presumption against inappropriate development in the Green Belt.

## **2.7 Principle of the development in the Green Belt.**

- 2.7.1 Relevant policies in respect to the principle of the development in the Green Belt are Policy SP3 of the Core Strategy and NPPF paragraphs 88 and 89.
- 2.7.2 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 appropriate, 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 harm to the green belt and any other harm identified.
- 2.7.3 Inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.
- 2.7.4 Paragraph 89 and 90 establishes what is appropriate development with the Green Belt
- 2.7.5 The application form states that application is for the change of use of land from agricultural use to touring caravan site following relocation of site from adjacent field. A total of 20 touring van sites are shown on the submitted plan alongside an area of amenity space and some bands of proposed landscaping on the boundaries to enhance existing planting. Access is to be taken from a new site entrance which would be created from the current farm access / yard.
- 2.7.6 In terms of building operations Section 55 of the Town and Country Planning Act 1990 states that “‘development,’ means the carrying out of building, engineering, mining or other operations in, on, over or under land, or the making of any material change in the use of any buildings or other land”.
- 2.7.7 Section 29 (1) of Caravan Sites and Control of Development Act 1960 states that “‘caravan’ means any structure designed or adapted for human habitation which is capable of being moved from one place to another (whether by being towed, or by being transported on a motor vehicle or trailer) and any motor vehicle so designed or adapted, but does not include any railway rolling stock which is for the time being on rails forming part of a railway system, or any tent. Section 13 (2) of the Caravan Sites

Act 1968 states that “For the purposes of Part I of the Caravan Sites and Control of Development Act 1960, the expression “caravan” shall not include a structure designed or adapted for human habitation which falls within paragraphs (a) and (b) of the foregoing subsection if its dimensions when assembled exceed any of the following limits, namely— (a)length (exclusive of any drawbar): 60 feet (18.288 metres); (b) width: 20 feet (6.096 metres); and (c)overall height of living accommodation (measured internally from the floor at the lowest level to the ceiling at the highest level): 10 feet (3.048 metres).”

2.7.8 No specific details of the caravans have been provided given that the site is to be used by touring caravans, renting a pitch from the applicants for defined periods of time. However, if the vans were within the definitions noted above the proposal would be considered to be inappropriate development within the Green Belt which is harmful by definition and should not be permitted unless there are very special circumstances to justify the development.

## **2.8 Harm to the Purposes of Including Land within the Green Belt**

2.8.1 Having had regard to each of the purposes of including land in the Green Belt it is considered that the proposals do not result in the sprawl of large built up areas due to the proposed scheme being within located next to existing residential dwellings. Furthermore it is not considered that the proposals would result in neighbouring towns merging into one another, would not encroach into the countryside and the site is not derelict and would therefore not assist in urban regeneration. In addition the proposals would preserve the setting and special character of historic towns hence there would be no conflict with the purposes of including land in the Green Belt in accordance with the NPPF.

## **2.9 Design and Impact on the Green Belt and Character of the Area**

2.9.1 Relevant policies in respect to the design and impact on the Green Belt and character and form of the area are Policy ENV1 of the Selby District Plan and RT12(1), Policies SP18 and SP19 of the Core Strategy and Paragraphs 14 and 64 of the NPPF.

2.9.2 In terms of the impact on the open character and visual amenity of the Green Belt, when looking at this issue it is worth considering what is meant by the term ‘openness’. In this context openness is considered to be the absence of built structure. Hence, any new built structure would have the potential to detract from openness. However, the degree to which the proposal would detract from openness depends not only on its size, scale and mass but also its relationship to existing built form.

2.9.3 However, in this case the caravans will be touring caravans and as such they are temporary, moveable structures. Although there will be an access track running through the site this would not be fenced nor are an amenity provision such as toilet blocks proposed as part of the scheme as such there would be no permanent impact on the character of the area of the green belt or non visual amenity. , The scheme would

also re-locate the touring caravans from the adjacent site, which is not as well screened and although lawful (via longevity of use) does have a more significant impact on openness than the proposed scheme.

2.9.4 As such it is considered that the proposed scheme is not considered to have detrimental impact on the openness and the visual amenity of the Green Belt or on the character of the area.

2.9.10 The proposed scheme therefore accords with Policy ENV1 and RT12(1) of the Selby District Plan, policies SP3, SP18 and SP19 of the Core Strategy and the advice contained within NPPF.

## **2.10 Flood Risk**

2.10.1 Relevant policies in respect to flood risk include Policies SP15, SP16, SP19 of the Core Strategy, and paragraphs 94, 95, 100, 101 and 103 of the NPPF.

2.10.2 The overall aim should be to steer new development to Flood Zone 1. Where there are no reasonably available sites in Flood Zone 1, local planning authorities allocating land in local plans or determining planning applications for development at any particular location should take into account the flood risk vulnerability of land uses (see table 2) and consider reasonably available sites in Flood Zone 2, applying the Exception Test if required (see table 3). Only where there are no reasonably available sites in Flood Zones 1 or 2 should the suitability of sites in Flood Zone 3 be considered, taking into account the flood risk vulnerability of land uses and applying the Exception Test if required.

2.10.3 The application site is located within Flood Zone 2 with an area of land within Flood Zone 3 in the central part of the site.

2.10.4 Land within Flood Zone 2 therefore having, between a 1 in 100 1 in 1000 annual probability of river flooding (1% - 0.1%) in Table 1 of the Technical Guidance to the NPPF) or 1 in 200 or greater annual probability of flooding from the sea (>0.5%) in any year. Whereas land in flood Zone 3b is defined as functional flood plain and comprises land where water has to flow or be stored in times of flood. Local planning authorities should identify in their Strategic Flood Risk Assessments areas of functional floodplain and its boundaries accordingly, in agreement with the Environment Agency. All land outside Selby Urban area and defined as Flood Zone 3 is defined as functional flood plain and Zone 3B and it is generally land which would flood with an annual probability of 1 in 20 (5%) or greater in any year, or is designed to flood in an extreme (0.1%) flood.

2.10.5 In terms of the application site then the area of Flood Zone 3b land is a lower area of land in the central part of the site, however the submitted Layout Plan shows 20 pitches within the Flood Zone 2 area alongside amenity space and no development within the Flood Zone 3b area.

- 2.10.6 The relocation of the caravan provision to this part of the applicants' ownership will relocate the caravans from a Flood Zone 3b area of land closer to the River. The agent has advised that the touring caravans were located next to the river which is low lying and prone to significant and rapid flooding. He has also advised that the flooding has "got substantially worse over recent years to the extent that touring caravans had to be moved at very short notice including during the night".
- 2.10.7 Table 1 of the NPPF Technical Guidance notes that appropriate uses in Zone 2 are "Essential infrastructure and the water-compatible, less vulnerable and more vulnerable uses, as set out in table 2, are appropriate in this zone. The highly vulnerable uses are only appropriate in this zone if the Exception Test is passed" and that all development proposals in this zone should be accompanied by a flood risk assessment. The aim of this policy approach is to seek opportunities to reduce the overall level of flood risk in the area through the layout and form of the development, and the appropriate application of sustainable drainage systems.
- 2.10.8 The proposed use of the site for touring caravans that are to be used for holiday or short term use would be considered under Table 2 of the Technical Guidance as a "more vulnerable" use as such subject to a specific warning and evacuation plan being in place the use would be considered acceptable in Flood Zone 2 subject to the consideration of the Sequential and Exception Tests should be applied.
- 2.10.9 In addition the Technical Guidance notes that applications for within Flood Zone 2 that are to be used for holiday or short-let caravans and camping, should be subject to a specific warning and evacuation plan.
- 2.10.10 The applicants have submitted information as part of the application in relation to the Sequential Test and have stated that there are no other areas within the applications ownership which are at a lower flood risk and meet the requirements for the proposals. They have sought to argue that therefore that there is no requirement for them to pass the Exceptions Test as they have shown the site to be sequentially acceptable.
- 2.10.11 Having considered the submitted information then the application site is preferable to the current site of the caravans and the purpose of the application is to relocate the caravans from the current site to a less vulnerable Flood Zone, as such the Exception Test does not need to be passed or considered. In addition there are clear benefits associated with the relocation of the use from its current position within Flood Zone 3b where any flood event could lead to caravans being taken into the flood waters resulting in risk of damage to life, property and infrastructure as the debris moves through flood waters.
- 2.10.12 In terms of a warning and evacuation plan, then the agents have sought to argue that the temporary nature of the use and residents being able to be evacuated at short notice following warnings would be practicable. A formal scheme for managing such a situation has not been provided as part of the application but could be secured via condition on any consent.

2.10.13 As such the proposed scheme is therefore considered to be acceptable in terms of flood risk and therefore accords with Policies SP15, SP16, SP19 of the Core Strategy and the advice contained within the NPPF.

## **2.11 Impact on Residential Amenity**

2.11.1 Relevant policies in respect to residential amenity are Policy ENV1 (1) and RT12 (7) of the Local Plan. RT12(7) notes that schemes for caravan sites should be of scale in terms of the number of pitches so as to be in proportion with the locally resident population. In respect to the NPPF it is noted that one of the Core Principles of the framework is to always seek to secure a good standard of amenity.

2.11.2 The key considerations in respect of residential amenity are considered to be the potential of the proposal to result in, noise, odour, overlooking of neighbouring properties, overshadowing of neighbouring properties and whether oppression would occur from the sheer size, scale and massing of the development proposed.

2.11.3 Due to the orientation, siting and distance away from neighbouring properties (namely Hailes Hill Farm itself) the proposed scheme is considered to have detrimental impact on the amenities of adjacent neighbours through overshadowing, overlooking and oppression. In addition the scale of the proposed development, given its remote location would be considered contrary to policy RT12 (7).

2.11.4 The proposed scheme therefore accords with Policy ENV1 (1) and RT12 (7) of the Local Plan and the advice contained within the NPPF.

## **2.12 Highway and Public Rights of Way**

2.12.1 Relevant policies in respect to highway safety are Policies ENV1, RT12 (5) , RT12 (4), T1 and T2 of the Selby District Local Plan, Policy SP19 of the Core Strategy and paragraphs 30, 32, 34, 35 and 39 of the NPPF. RT12 (5) notes that scheme should not impact on amenity in terms of highways safety, whereas RT12 (4) seeks to ensure the site has access to the road network. .

2.12.2 The Highways Officer has raised no objections to the development and comments from the PROW Officer note the relationship to the adjacent right of way, thus he requests an informative on any consent.

2.12.3 The scheme will require a new access in the site from the farm access / yard and no details have been provided on the surface materials proposed for the access itself. The surfacing treatment for this access could be confirmed via condition on any consent.

2.12.4 On this basis the scheme is considered to accord with Policies ENV1 (2), RT12 (5) , RT12 (4), T1 and T2 of the Selby District Local Plan, Core Strategy Policy SP19 and the NPPF.

## **2.13 Nature Conservation Issues**

- 2.13.1 Relevant policies in respect to nature conservation issues and protected species include Policy ENV1 (5) and the Selby District Local Plan and Policy SP18 of the Core Strategy the Habitat Regulations.
- 2.13.2 The site is not a protected site for nature conservation or is known to support, or be in close proximity to any site supporting protected species or any other species of conservation interest.
- 2.13.3 As such it is considered that the proposed would not harm any acknowledged nature conservation interests and therefore accord with the requirements of the Habitats Regulations 2010, and ENV1(5) of the Selby District Local Plan, Policy SP18 of the Core Strategy and the NPPF.

## **2.14 Drainage**

- 2.14.1 Policy ENV1(3) requires in considering application account should be taken on the “the capacity of local services and infrastructure to serve the proposed , or the arrangements to be made for the upgrading , or providing services infrastructure”. Policy SP15 (d) of the Core Strategy Local Plan require proposals to take account surface water implications from development.
- 2.14.2 The application form confirms that foul waste will be managed via a septic tank and surface water will be managed via soakaways. No specification has been provided for the septic tank provision nor has a location within the site been defined and no specific detail on the soakways provision is provided.
- 2.14.3 In this context it is consider appropriate to require via condition further details of the proposed septic tank location and specific and further details on soakaway provision / design, as such the scheme would be considered to accord with Policy ENV1(3) of the Local Plan and Policy SP15 of the Core Strategy.

## **2.15 Landscaping**

- 2.15.1 Selby District Local Plan Policy ENV1(1) requires development to take account of the effect upon the character of the area, with ENV1(4) requiring the standard of layout, design and materials to respect the site and its surroundings. Policy RT12 (2) also notes that landscaping should be sought from development where appropriate.
- 2.15.2 Policy SP19 requires that “Proposals for all new development will be expected to contribute to enhancing community cohesion by achieving high quality design and have regard to the local character, identity and context of its surroundings including historic townscapes, settlement patterns and the open countryside. Both residential and non-residential development should meet the following key requirements:

- a) Make the best, most efficient use of land without compromising local distinctiveness, character and form.
- b) Positively contribute to an area's identity and heritage in terms of scale, density and layout;

Significant weight should be attached to the Local Plan policy ENV1 and RT12 (2) and Core Strategy Policy SP19 is broadly consistent with the aims of the NPPF. Relevant policies within the NPPF, which relate to design, include paragraphs 56, 60, 61, 65 and 200. NPPF, paragraph 56, states the Government attaches great importance to the design of the built environment. Good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people.

2.15.3 The submitted layout plan shows additional landscaping provision as part of the proposals but this is not a full detailed scheme. There would be substantial benefit from enhanced landscaping of the site in terms of mitigating the impact of the site on the character of the area and in terms of green belt impact so a condition would be appropriate in this instance. Subject to such a condition the scheme is considered acceptable in landscaping terms and in accordance with Policy ENV1 and RT12(2) of the Selby District Local Plan.

## **2.16 Contaminated Land**

2.16.1 Relevant policies in respect to contaminated land are Policies ENV1 and ENV2 of the Selby District Local Plan, Policy SP19 of the Core Strategy and the advice contaminated within the NPPF

2.16.2 The application site is not identified as an area of potentially contaminated land and there was no evidence of any storage having occurred on the site which would have led to potential contamination however the site is close proximity to an farm yard where contamination may have occurred. As such the Local Planning Authority should seek to take a precautionary approach to contaminated land and would place a condition on any consent in case any contamination is found while works are underway.

2.16.7 As such the proposed scheme therefore accords with Policies ENV1 and ENV2 of the Selby District Local Plan, Policy SP19 of the Core Strategy and the advice contaminated within the NPPF

## **2.17 Assessment of Harm to the Green Belt**

2.17.1 In order to assess whether the proposal would result in any other harm than the definitional harm by means of inappropriateness it is important to undertake the 'normal tests' applied to any planning submission. In considering the harm it is considered that substantial harm arises by reason of inappropriateness in accordance with the guidance in paragraph 87 of the NPPF There are no other harms apart from the definitional harm by means of inappropriateness which arise by virtue of the proposed development to the Green Belt

## **2.18 Case for Very Special Circumstances**

2.18.1 The NPPF differs from the guidance in PPG2 (now replaced by the NPPF) in that the requirement for the applicant to provide a case to show what very special circumstances exist is not included. However, the Core Strategy makes it clear that it is for the applicant to demonstrate very special circumstances.

2.18.2 The applicant has submitted a case for very special circumstances which involves the following:

1. The current site floods and the new proposed location is in a lower area of flood risk as it is in flood zone 2.
2. Relocation of the existing provision from the functional flood plan to a lower flood zone thus reducing the potential damage from debris dragged into flood waters in the event of flood which if this occurred could result in loss of life, damage to property and damage to infrastructure

2.18.3 The relocation of the use from Flood Zone 3b should be afforded substantial weight as there is a clear and real potential for damage to occur if the site floods and debris is taken into the watercourse. In addition flooding of the current site clearly impacts on its operation which has been deemed lawful via Certificates (ref 2006/1065/CPE).

2.18.4 It is considered when balancing the above together that the proposed scheme demonstrates very special circumstances which would clearly outweigh the harm to the Green Belt by reason of inappropriateness.

## **2.19 Conclusion**

2.19.1 Having had regard to the development plan, all other relevant local and national policy, consultation responses and all other material planning considerations, it is considered that the proposal would not fall within any of the categories of development considered as appropriate development within the Green Belt and therefore the development is contrary to the advice contained within the NPPF. The proposal is therefore considered to be inappropriate development within the Green Belt, which is harmful by definition and should not be permitted unless there are very special circumstances to justify the development. An assessment of the harms from the proposal has identified that the proposal would cause harm by reason of its inappropriateness in the Green Belt. No other harm would arise by the development.

2.19.2 A case for very special circumstances has been submitted. The circumstances put forward, namely the benefits of relocation of the use from Flood Zone 3B in terms of reduced damage and debris potentially entering the watercourse and operational improvements to the use are considered to amount to very special circumstances that would clearly outweigh the definitional harm to the Green Belt of caused by the development.



2.19.3 The proposed development would not have a significant detrimental impact on the visual impact on the Green Belt, design, character and form, impact on visual amenity and the impact on residential amenity of the occupants of neighbouring properties. Therefore having had regard to Policies ENV1 and RT12 of the Selby District Local Plan and Policies SP1, SP3, SP15 and SP19 of the Core Strategy and the advice contained with NPPF the proposal is considered acceptable on balance.

## 2.21 Recommendation

**This application is recommended to be APPROVED subject to the following conditions:**

01. The development for which permission is hereby granted shall be begun within a period of three years from the date of this permission.

Reason:

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

02. The site hereby consented shall only be used by a maximum of 20 touring caravans at any one time and there shall be no static caravans located within the application site.

Reason:

For the avoidance of doubt and to limit the extent of caravans utilising the area.

03. Prior to the commencement of development details of the materials to be used in the construction of the pitches and access road for the development hereby approved shall be submitted to and approved in writing by the Local Planning Authority, and only the approved materials shall be utilised.

Reason:

In the interests of visual amenity and in order to comply with Policy ENV1 of the Selby District Local Plan.

04. No development shall take place until full details of the proposed means of disposal of foul and surface water drainage, including details of any balancing works, have been submitted to and approved by the Local Planning Authority. The scheme shall be implemented as approved.

Reason:

To ensure that the development can be properly drained and in the interest of satisfactory and sustainable drainage and in accordance with Policies SP15, SP16 and SP19 of the Core Strategy.

05. Prior to the commencement of development the approval of the Local Planning Authority is required to a full scheme of boundary treatments and landscaping and tree planting for the site, indicating inter alia the number, species, heights on planting and positions of all trees, shrubs and bushes. Such scheme as approved in writing by the Local Planning Authority shall be carried out in its entirety within the period of twelve months beginning with the date on which development is commenced, or within such longer period as may be agreed in writing with the Local Planning Authority. All trees, shrubs and bushes shall be adequately maintained for the period of five years beginning with the date of completion of the scheme and during that period all losses shall be made good as and when necessary.

Reason:

To safeguard the rights of control by the Local Planning Authority in the interests of amenity having had regard to Policy ENV1 and RT12(2) of the Selby District Local Plan.

06. Prior to development, a scheme for the reinstatement of the existing caravan site to agricultural use (as shown cross hatched and outlined in green on plan Ref YEW/277/51/001 Rev A) shall be submitted to the Local Planning Authority. This should include details of the works to be undertaken, proposed methods of reinstatement, a timetable of works.

Reason:

To ensure that the existing site is reinstated to agricultural condition and all works undertaken to facilitate its use as a caravan site are removed and in the interest of local amenity in accordance with Policy ENV1 of the Selby District Local Plan.

07. In the event that contamination is found at any time when carrying out the approved development that was not previously identified, it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken and where remediation is necessary a remediation scheme must be prepared, which is subject to the approval in writing of the Local Planning Authority. Following completion of measures identified in the approved remediation scheme a verification report must be prepared, which is subject to the approval in writing of the Local Planning Authority.

Reason:

To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.

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

- Location Plan Ref YTA1 dated February 2016 as received 3<sup>rd</sup> February 2016
- Block Plan and Topographical Survey Ref YEW/277/51/001 dated March 2015 as received 10<sup>th</sup> February 2016

Reason:

For the avoidance of doubt

Informatives

- Coal
- PROW Informative - 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](mailto: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."

### **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.

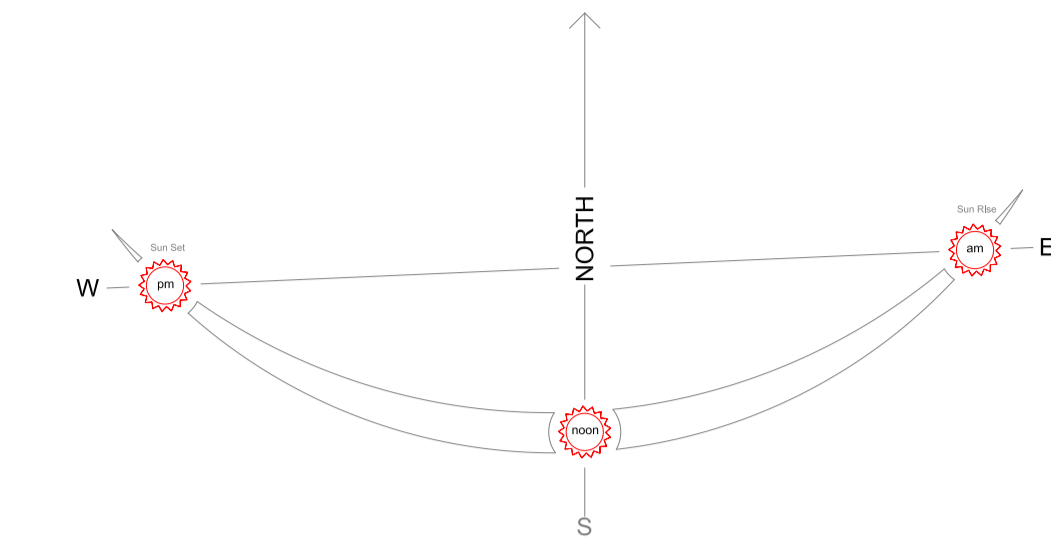
### **5. Background Documents**

5.1 Planning Application file reference 2016/0098/COU and associated documents.

**Contact Officer: Jonathan Carr (Lead Officer – Planning)**

**Appendices:** None.

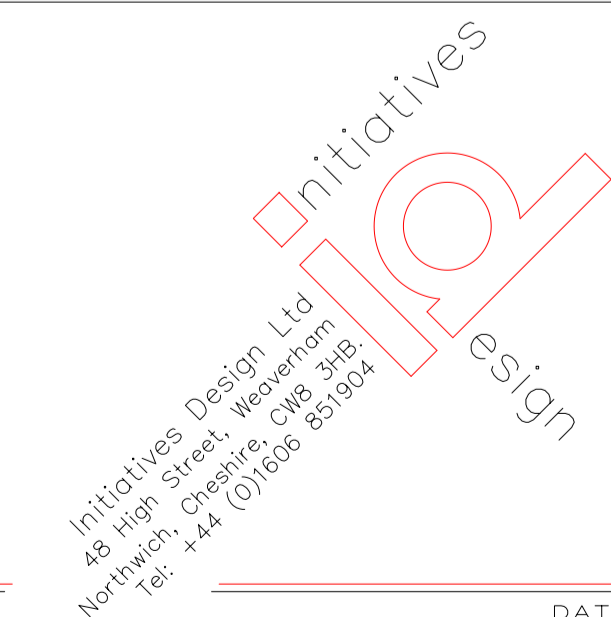




SITE AREA = 5,466m<sup>2</sup> (1.35 ACRE)

Indicative Site layout  
1:200  
SHOWING EXISTING LEVELS

PLANNING APPLICATION DRAWING



DRAWING TITLE INDICATIVE SITE LAYOUT	DATE 30/03/2016
CLIENT CBRE MANCHESTER	SCALE AS SHOWN @ A1
PROJECT PROPOSED RESIDENTIAL DEVELOPMENT LAND AT SHERBURN-IN-ELMET	FILE NAME PLANNING01
DRAWING NO 740\CBRE\200\02	DRAWN BY RAJ
	REV 138



PROPOSED RESIDENTIAL DEVELOPMENT - LAND SOUTH OF MOOR LANE, SHERBURN-IN-ELMET, WEST YORKSHIRE  
INDICATIVE ARRANGEMENTS

RECEIVED  
31 March 2016  
BUSINESS SUPPORT

**To: Planning Committee**  
**Date: 13 July 2016**  
**Author: Ruth Hardingham (Principal Planning Officer)**  
**Lead Officer: Richard Sunter (Lead Officer – Planning)**

APPLICATION NUMBER:	2016/0359/OUT 8/58/1060/PA	PARISH:	Sherburn In Elmet Parish Council
APPLICANT:	Jackson Trust	VALID DATE:	5th April 2016
		EXPIRY DATE:	5th July 2016
PROPOSAL:	Outline application to include access (all other matters reserved) for erection of up to 20 dwellings		
LOCATION:	Land South Of Moor Lane Sherburn In Elmet North Yorkshire		

The application has been requested to be heard by Planning Committee by Councillor Buckle for the following reasons: that the field is flooded most of the year, the application site has attracted natural wildlife to the area and Sherburn has exceeded its 5 year supply.

**Summary:**

The application seeks outline planning permission, including access, for residential development with layout, scale, appearance and landscaping reserved for future consideration on land at Moor Lane, Sherburn in Elmet. The indicative layout plan shows how the applicant envisages the application site could accommodate up to 20 dwellings.

The application site is located within the defined Development Limits of Sherburn in Elmet which is a Local Service Centre and the proposals would accord with Policies SP2 and SP4 of the Core Strategy Local Plan (2013).

It is considered that an acceptable proposal could be designed so that it would achieve an appropriate layout, landscaping, scale and appearance at reserved matters stage so as to respect the character of the local area, and not significantly detract from highway safety and residential amenity. The proposals are also considered to be acceptable in respect of, the impact on flooding, drainage and climate change, heritage assets, protected species, contaminated land and affordable housing.

Having had regard to the above, it is considered that, on balance, the proposal would be acceptable when assessed against the policies in the NPPF, the Selby District Local Plan and the Core Strategy.

It is on this basis that permission is recommended to be approved.

## **Recommendation**

**This planning application is recommended to be APPROVED subject delegation being given to Officers to complete the Section 106 agreement to secure 40% on-site affordable housing provision, on-site Recreational Open Space and a waste and recycling contribution and subject to the conditions detailed in paragraph 2.23 of the Report.**

### **1. Introduction and Background**

#### **1.1 The Site**

- 1.1.1 The application site is located immediately south of Moor Lane and is located within the defined development limits of Sherburn in Elmet.
- 1.1.2 The application site is approximately 0.55 hectares and is roughly square in shape. The site's northern boundary is formed by Moor Lane. To the east it is bound by a landscape buffer, immediately beyond which is the A162. The application site is bound by the B1222 road to the south and existing modern residential development lies to the west.
- 1.1.3 The application site comprises a vacant greenfield site, which is relatively flat. However, the B1222 to the south is set approximately 2m higher than the site therefore the proposed site access at the south-west corner of the site would be gently sloping. There are a number of trees situated along the eastern and southern site boundaries however these are located outside the application site.
- 1.1.4 There is an open watercourse (Bishop Dyke) that runs parallel with the northern and western site boundaries.
- 1.1.5 The application site is located predominately within Flood Zone 1 which is at the lowest risk of flooding.

#### **1.2. The Proposal**

- 1.2.1 The application seeks outline planning permission, including access, for residential development with layout, scale, appearance and landscaping reserved for future consideration at Moor Lane, Sherburn in Elmet. An indicative layout plan has been submitted with the application and this indicative layout plan shows how the applicant envisages the application site could accommodate up to 20 dwellings.
- 1.2.2 Vehicular access to the application site would be provided via a purpose built access at the south west corner of the site.
- 1.2.3 It is proposed that the development would comprise a mix of semi-detached dwellings and apartments.



### **1.3 Planning History**

- 1.3.1 The following historical applications that are considered to be relevant to the determination of this application.
- 1.3.2 A full planning application for the erection of an electricity substation was granted approval on 29<sup>th</sup> April 2008.

### **1.4 Consultations**

#### **1.4.1 Parish Council**

No comments have been received.

#### **1.4.2 Natural England**

Natural England has no comments to make on this application.

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. Natural England advise LPAs to obtain specialist ecological or other environmental advice when determining the environmental impacts of development.

It is recommended that reference is made to Natural England's SSSI Impact Risk Zones (available on Magic and as a downloadable dataset) prior to consultation with Natural England.

#### **1.4.3 NYCC Highways**

In assessing the submitted proposals and reaching its recommendation the Local Highway Authority has taken into account the following matters:

It is the policy of the County Council that 'Any street which is being developed to serve six or more properties shall be capable of being laid out to a minimum standard, so that a street can be constructed which can be adopted as a highway maintainable at public expense'.

Before construction begins the developer must either:-

Complete payment of the estimated cost of highway works in accordance with the Notice served under the Advance Payments Code, or

Enter into a Section 38 Agreement which provides a bond for due completion of the works.

Where a developer wishes the streets to remain private, the highway authority may enter into planning obligations with the developer under section 106 of the Town and Country Planning Act 1990,16 which requires the developer to construct the new streets to the authority's standards and to maintain them in good condition at all times. Such a planning obligation enables the developer to avoid making payments under the Advance Payments Code, as the highway authority can then be satisfied that the streets will not fall into such a condition that a Private Streets

Work Scheme will be needed. The planning obligation thus provides exemption to the developer from making advance payments under section 219(4)(e) of the Highways Act 1980.

Therefore as long as the applicant is aware of the above, the Local Highway Authority recommends that conditions are attached to any permission granted.

#### 1.4.4 Yorkshire Water Services

The following comments are made:

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

##### Drainage

The submitted Flood Risk Assessment (prepared by enzygo - Report SHF.1035.003.HY.R.001.A dated March 2016) confirms; i) Foul water will discharge to public foul sewer via gravity located to the west of the site.

ii) Surface water to discharge to Spring Drain (watercourse) - connection subject to Environment Agency / Local Land Drainage Authority / Internal Drainage Board requirements

With the above in consideration; Yorkshire Water has no objection in principle to:

- i) The proposed separate systems of drainage on site and off site.
- ii) The proposed point of discharge of foul to the respective 300mm diameter foul public sewer to the west of the site.

as submitted on drawing SHF.1035.003.D dated March 2016 that has been prepared by enzygo.

The submitted drawing shows surface water proposed to be drained to watercourse.

The developer should also note that the site drainage details submitted have not been approved for the purposes of adoption or diversion. If the developer wishes to have the sewers included in a sewer adoption/diversion agreement with Yorkshire Water (under Sections 104 and 185 of the Water Industry Act 1991), they should contact our Developer Services Team (tel 0345 120 84 82, fax 01274 303 047) at the earliest opportunity. Sewers intended for adoption and diversion should be designed and constructed in accordance with the WRc publication 'Sewers for Adoption - a design and construction guide for developers' 6th Edition, as supplemented by Yorkshire Water's requirements.

##### Notes:

There is a sewage pumping station (SPS) outfall to watercourse, under the control of Yorkshire Water, located near to the site. Vehicular access, including with large tankers, could be required at any time.

The proximity of the existing sewage pumping station (SPS) and outfall to the site may mean a loss of amenity for future residents / workers. In order to minimise the risk of odour, noise and nuisance, industry standards recommend that habitable

buildings should not be located within 15 (fifteen) metres of the existing SPS/outfall. To reduce the visible impact of the installation, the erection (by the developer) of suitable screening is advised.

Restrictions on surface water disposal from the site may be imposed by other parties. The Council 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.

#### 1.4.5 Lead Policy Officer

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. Previous Levels of Growth and the Scale of the Proposal

##### 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 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 20 dwellings is on land that is inside the defined Development Limits of Sherburn in Elmet as defined on the Policies Map of the SDLP. The proposal is therefore in accordance with Policy SP2 of the Core Strategy.

##### 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. The NPPF aim of boosting and maintaining the supply of housing is a material consideration when evaluating planning applications. This application would provide additional dwellings to housing supply, although it needs to be proved by the applicant that the site can contribute dwellings within the next 5 years of the supply period.

### 3. 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. To date, Sherburn in Elmet has seen 91 dwellings built in the settlement since the start of the Plan Period in April 2011 and has extant approvals for 711 dwellings, giving a total of 802. CS policy SP5 sets a minimum dwelling target for Sherburn in Elmet of 790 dwellings.

While the level of development in the settlement may have exceeded its minimum target, the scale of this individual proposal, at 20 dwellings, is considered to be appropriate to the size and role of a settlement designated as a Local Service Centre in the Core Strategy.

#### 1.4.6 Education Directorate North Yorkshire County Council

Please see the attached pro-forma regarding a s106 developer contribution levy should this be appropriate outside of CIL charging arrangements. As you will see based on the proposed 20 2+ bedroom properties a shortfall of school places would arise as a result of this development and a developer contribution would, under s.106 arrangements, be sought for primary education facilities. This contribution would be £67,980. A developer contribution would not be sought for secondary school facilities at this time.

Please note that should the density of the site change we would recalculate this based on data available at the time of request. This may show an increase the amount the contribution sought and in some circumstances generate the requirement for additional land.

NB: This contribution cannot be levied due to CIL.

#### 1.4.7 Lead Officer-Environmental Health

The proposed development is close to busy roads and from the information provided by the applicant in the Hepworth Acoustics report number P16-026-R01-V01 mitigation would be required to protect the amenity of the neighbourhood. It is suggested that a planning condition is attached to any permission granted.

#### 1.4.8 North Yorkshire Fire & Rescue Service

At this stage in the planning approval process the fire authority have no observation to the proposed development as it appears to comply with the requirement B5 of Schedule 1 to the Building Regulations 2000 (as amended) access and facilities for the fire service.

1.4.9 Yorkshire Wildlife Trust

The Ecological Appraisal by Bowland Ecology for this application has been reviewed. A number of protected species such as water vole, otter and potentially great crested newt could be impacted by a development on the site. An Ecological management plan based on the recommendations on pages 13-15 of the survey should be conditioned and put in place before development goes ahead. Enhancing any SUDS for biodiversity would be valuable.

1.4.10 Designing Out Crime Officer

Response has been provided in order to highlight any crime and disorder issues in the vicinity of the proposed development and to identify design solutions that will help to reduce vulnerability to crime if and when a more detailed proposal is drawn up.

No documents have been submitted with this application to show how the applicants have considered crime prevention in respect of their proposal. At this stage, it is fully appreciated that the application is indicative and only seeking to establish the principle of development. However, if the application is successful and a reserved matters application submitted, it would be assessed on the design and layout. Specific concerns have been raised and can be found in the full consultation response.

1.4.11 North Yorkshire And York Primary Care Trust

No comments received.

1.4.12 North Yorkshire Flood Risk Officer

A surface water discharge rate of 5l/s is agreed with the IDB and thus presenting SuDS that can be adopted by Yorkshire Water will satisfy the remainder of the unresolved issues we have with the application and allows the planning authority to fulfil its statutory obligation to ensure that there are clear arrangements in place for ongoing maintenance over the lifetime of the development. It is recommended that a condition is attached to any permission granted.

1.4.13 Council's Contaminated Land Consultant

The report is generally compliant with current relevant technical guidance.

1.4.14 Selby Area Internal Drainage Board

The formal approval of the discharge structure and rate will be provided through approval of the Consent Application now submitted, awaiting payment.

However, the IDB have considered the proposed discharge rate and in principle there are no objections on behalf of the Selby Area IDB to the 5 litres per second proposed discharge as this is generally the lowest most practical discharge rate from a maintenance point of view.

It should be noted that formal approval can only be provided through approval of Consent which is normally at detailed design stage.

1.4.15 North Yorkshire County Council Historic Environment Team

The Archaeological Assessment undertaken by CFA Archaeology has been read with interest. The proposed development site lies within a rich archaeological landscape or Iron Age/Romano-British settlement.

Therefore, it is 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 is advised that a planning condition is attached to any permission granted.

#### 1.4.16 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 by Enzygo, dated June 2016, ref: SHF.1035.003.HY.001.A submitted with this application are implemented and secured by way of a planning condition on any planning permission.

### 1.5 **Publicity**

1.5.1 The application was advertised by site notice, neighbour notification letter and advertisement in the local newspaper and has resulted in one letter of representation being received at the time of the compilation of this report.

- This area of Moor Lane has always been known as the flood plain. When the last development was started we endured months of pile driving by Redrow as the last was so unstable to build to foundations on.
- Concerns that it may be difficult for the new properties to get insurance.
- The traffic in Sherburn is a cause for concern, at certain times of the day it can be really difficult crossing the main road to get up into the village as it doesn't have a pelican crossing.
- Concerns that GP's are under so much pressure to start off with, it can take up to three weeks to get an appointment, no wonder people go to A&E!
- Concerns that recent development has led to over development which has significantly changed the local character of the area.
- The existing sewerage system can no longer cope.
- Local schools are at breaking point.
- Selby District Council has a five year plan which clearly states that Sherburn has taken more than its fair share of developments and district allocation.

## 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 22<sup>nd</sup> 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**

The relevant Core Strategy Policies are as follows:

SP1:	Presumption in Favour of Sustainable Development
SP2:	Spatial Development Strategy
SP4:	Management of Residential Development in Settlements
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:

ENV1:	Control of Development
ENV2:	Environmental Pollution and Contaminated Land
T1:	Development in Relation to Highway
T2:	Access to Roads
ENV28:	Other Archaeological Remains
RT2:	Recreational Open Space
CS6:	Developer Contributions to Infrastructure and Community Facilities

## **2.4 National Guidance and Policy – National Planning Policy Framework (NPPF), National Planning Practice Guide (PPG)**

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 Planning Policy Guidance (PPG), 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.

## **2.5 Other Policies/Guidance**

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

## **2.6 Key Issues**

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

1. The Principle of Development
2. Layout, appearance, scale and landscaping
4. Flood Risk, drainage, climate change and energy efficiency
5. Highways
6. Residential amenity
7. Impact on nature conservation and protected species
8. Affordable housing
9. Community Infrastructure Levy
10. Recreational open space
11. Education, healthcare, waste and recycling
12. Contaminated land and ground conditions
13. Designing out Crime
14. Impact on Heritage Assets
15. Other Issues

## **2.7 Principle of Development**

2.7.1 Policy SP1 of the Selby District Core Strategy Local Plan (2013) 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.

2.7.2 Policy SP2 identifies Sherburn in Elmet as being 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.

2.7.3 In terms of the principle of development and appropriateness of the location for residential development then Policy SP4 (a) states that in Local Service Centres and Designated Service Villages development is acceptable in principle within development limits where for "conversion, replacement dwellings, redevelopment of previously developed land, and appropriate scale development on greenfield land (including garden land and conversion / redevelopment of farmsteads".



2.7.4 The application site is located inside the defined Development Limits of Sherburn in Elmet which is a Local Service Village and therefore given the scale of development proposed the residential development of the site accords with Policy SP2A of the Core Strategy, subject to consideration of the impacts of the development.

## **2.8 Identifying the Impacts of the Proposal**

2.8.1 The following sections of this report identify the impacts of the proposal:

### **2.9. Layout, Appearance, Scale and Landscaping**

2.9.1 Relevant policies in respect to design and the impacts on the character of the area include Policies ENV1 (1) and (4) and ENV3 (external lighting) of the Selby District Local Plan, and Policy SP19 “Design Quality” of the Core Strategy. In addition Policy SP8 of the Core Strategy of the Local Plan requires an appropriate housing mix to be achieved.

2.9.2 Significant weight should be attached to Local Plan Policies ENV1 and ENV3 as they are 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. Paragraphs 126 to 141 of the NPPF relate to conserving and enhancing the historic environment.

2.9.4 The application is outline with layout, appearance, scale and landscaping reserved for future consideration. Notwithstanding this an indicative layout plan has been submitted which illustrates how the applicant considers the site could accommodate up to 20 dwellings with provision for internal access roads and parking provision. The character and appearance of the local area is varied comprising a wide range of house types, development forms and materials. The Planning Supporting Statement states that it is proposed to develop the site with residential dwellings, comprising a mix of house types and sizes.

2.9.5 It is considered that the proposals could incorporate appropriate materials and detailed design finishes and internal layout at reserved matters stage which would respect and be in keeping with the character of the local area.

2.9.6 Policy SP8 of the Selby District Core Strategy Local Plan (2013) 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. The Strategic Housing Market Assessment carried out in 2009 is the most up to date strategy. As this proposal is an outline scheme which is seeking to establish if the principle of development is acceptable there are limited details to what the proposed housing mix would comprise of. The supporting information submitted by the applicant stipulates that the indicative layout shows a mix of including apartments and semi-detached properties. Officers consider that an appropriate mix of housing could be achieved at reserved matters stage taking into account the housing needs identified within the Strategic Housing Market Assessment.

2.9.7 In terms of landscaping, this is reserved for future consideration. The submitted indicative layout plan highlights that soft landscaping could be provided between the

car parking and houses with lawned garden areas to the rear of each property. However, it is considered in principle a suitable landscaping scheme could come forward at reserved matters stage but this would require a substantial reworking of the indicative scheme.

2.9.8 Having had regard to all of the above elements it is considered that in terms of the internal arrangement an appropriate design could be achieved at reserved matters stage that would be acceptable in terms of the requirements of Policies ENV1(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, 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 predominately within Flood Zone 1 which is at the lowest risk of flooding. Local residents have raised concerns in relation to flooding and the local sewerage system being at capacity.

2.10.3 The applicants Flood Risk Assessment has considered the potential impact of the development on surface water runoff rates, given the increase in impermeable areas post-development. It is specified that these rates have been calculated, and it has been demonstrated that surface water can be managed, such that flood risk to and from the application site following development would not increase. It is provided that this would be achieved through appropriately sized attenuation, with an outfall to watercourse. It is proposed in the FRA that foul flow discharges to the combined sewer network/pumping station located to the west of the application site, with foul flows is anticipated at 1.1l/s. It is confirmed that a connection to the foul sewer should be achievable by a gravity fed connection. It is concluded that the FRA demonstrates that the proposed development would be operated with minimal risk from flooding, and would not increase flood risk elsewhere and it is stated that the development should therefore not be precluded on the grounds of flood risk or drainage. The Environment Agency has been consulted on the proposals and Members will be updated at Committee on any comments received.

2.10.4 In terms of drainage the application states that surface water will be disposed of by a sustainable drainage system (SUDs). The submitted Planning Statement states that as the proposed development would result in an increase in the exposed impermeable surface across the application site it is proposed that a suitable form of SUDS would be utilised, including appropriately attenuation, with an outfall to the watercourse. North Yorkshire County Council's Flood Risk has stated that they have no objections in principle subject to the inclusion of a planning condition on any permission granted, relating to a detailed design and associated management and maintenance plan of surface water drainage for the site based on sustainable drainage principles before any development commences.

2.10.5 Yorkshire Water and the Internal Drainage Board have been consulted on the proposals. Yorkshire Water have confirmed that they have no objections subject to the inclusion of planning conditions attached to any permission granted. The Internal Drainage Board have concluded in their response that the IDB would have

no objections to the principle of this proposed development and that consent from the IDB would be required for any proposed surface water discharge into any watercourses in, on, under or near the site. The Environment Agency have been consulted on the proposals and have confirmed that there are no objections to the proposals providing conditions are attached in order to ensure that finished floor levels would be set 300mm above existing ground levels and an 8 metre easement would be provided as per section 4.3.3 of the submitted Flood Risk Assessment, which would be free from all development (including fences etc) to allow for inspection and maintenance of existing flood defences.

2.10.6 It is noted that in complying with the 2013 Building Regulations standards, the development will achieve compliance with criteria (a) to (b) of Policy SP15(B) and criterion (c) of Policy SP16 of the Core Strategy.

2.10.7 Therefore the proposal would not have significant impact on flood risk, drainage and the sewerage system. Having had regard to the above, the proposed scheme is therefore considered acceptable in accordance with Policy ENV1(3), Policies SP15 and SP16 of the Core Strategy and the NPPF with respect to flood risk, drainage and climate change, subject to attached conditions.

## **2.11 Highways**

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. The Local Plan policies should be afforded significant weight.

2.11.2 The application seeks outline planning permission including access for residential development. The indicative layout shows that access to the application site is proposed from the B1222 via a priority junction. Residents have raised concerns in regards to proposed increase in traffic.

2.11.3 The application is accompanied by a Transport Statement which sets out the suitability of the proposed access. The Statement stipulates that the indicative site master plan illustrates a 20 dwelling scheme supported by 31 car parking spaces. It is confirmed that two car parking spaces would be provided for each house in the form of private driveways. It is stated that parking for the apartments would be provided to the front of one of the apartment blocks in a 7 space parking area; and undercroft parking to the second apartment block providing a further 8 spaces. It is stipulated that the proposed access would provide 5.5m wide access, with 2m footways on either side and 6m radii would be provided at the junction. The Statement concludes that a vehicle swept path analysis has been undertaken which demonstrates that a large family car and refuge vehicle can access and travel safely around the site. It is anticipated that 7 and 8 two-way trips would be generated by the proposed development during both the morning and evening peak hours respectively. It is concluded that the local highway network will be able to accommodate the number of trips generated by the proposed development.

2.11.5 The North Yorkshire Highways Officer has confirmed that there are no objections subject to conditions attached to any permission granted. The Police Architectural Liaison Officer has raised concerns regarding the safety of the proposed undercroft

parking arrangements, however the North Yorkshire Highways Officer has not raised this as a concern.

2.11.7 The level of parking provision, including visitor spaces would be determined in detail at reserved matters stage and there is nothing to suggest that an appropriate level of parking provision could not be achieved.

2.11.8 It is therefore considered that, subject to no objections being received from North Yorkshire Highways the scheme would be acceptable and in accordance with policies ENV1(2), T1 and T2 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 Policy 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 indicative separation distances between existing and proposed dwellings and within the site are acceptable so as to ensure that no significant detriment would be caused through overlooking, overshadowing or creating an oppressive outlook.

2.12.3 The Lead Officer- Environmental Health has been consulted on the proposals and has stated that given that the application site is close to busy roads and the information submitted with the application in the Hepworth Acoustics report concludes that mitigation would be required to protect amenity of the neighbourhood if planning permission is to be granted a suitably worded condition would need to be attached in relation to noise mitigation. Yorkshire Water have confirmed that given the proximity of the existing sewerage pumping station and the outfall to the site may mean a loss of amenity for future residents. In order to minimise the risk of odour, noise and nuisance, industry standards recommend that habitable buildings should not be located within 15 metres of the existing SPS/outfall.

2.12.4 Having taken into account the matters discussed above it is considered that an appropriate scheme can 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 Relevant policies in respect to nature conservation include Policies ENV1(5) of the Selby District Local Plan and Policy SP18 "Protecting and Enhancing the Environment" of the Core Strategy. Policy ENV1 should be afforded substantial weight as it is broadly consistent with the aims of the NPPF.

2.13.2 Protected Species are protected under the 1981 Wildlife and Countryside Act and the Conservation of Habitats and Species Regulations 2010. The presence of a protected species is a material planning consideration.

- 2.13.3 The application site is not a formal or informal designated protected site for nature conservation or is known to support, or be in close proximity to any site supporting protected species or any other species of conservation interest.
- 2.13.4 In respect of the requirements of the Habitats Regulations 2010 it is noted that as a competent authority the local planning authority should have regard to the requirements of the Directive so far as they might be affected by those functions. The directive allows “derogation” from the requirements of the Directive where there are reasons of “overriding public interest, including those of a social or economic nature and beneficial consequences of primary importance for the environment” and provided that there is ‘no satisfactory alternative’ and the proposal would not be ‘detrimental to the maintenance of the population of the species concerned at a favourable conservation status in their natural range’.
- 2.13.5 The NPPF recognises the need for the planning system to contribute to and enhance the natural and local environment by recognising the wider benefits of ecosystem services and minimising impacts on biodiversity and providing net gains in biodiversity where possible. Paragraph 118 of the NPPF states that when determining planning applications, local planning authorities should aim to conserve and enhance biodiversity and if significant harm results 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.
- 2.13.6 The application is accompanied by an Extended Phase 1 Habitat Appraisal. The Appraisal has confirmed that there are no statutory sites on or within 1.5km of the application site. It is stipulated that there are two non-statutory sites, Sites of Importance for Nature Conservation (SINCs), on or within 1.5 km of the site. The Survey stipulates that the application site comprises a small field with an outgrown hedgerow on the eastern and southern boundaries and ditches on the northern and western boundaries. The Appraisal concludes that the proposed works would have no impact upon any statutory sites or non-statutory sites. Habitats on site were found to be common and well represented within the local landscape. It is concluded by the Appraisal that habitats identified on the application site to be affected by the proposed scheme include poor semi-improved grassland, with ditch habitats likely to be impacted if no mitigation is undertaken and confirmed that root zones of trees within the plantation woodland on the southern and eastern boundaries may be affected by the works. The appraisal states that the proposed development is likely, without mitigation, to impact on protected species but it recommends a number of measures which should be adopted to ensure that any potential adverse impacts to wildlife are avoided. Therefore it is appropriate to attach a condition to any permission granted to ensure that these mitigation measures are carried out in strict accordance with the survey recommendations.
- 2.13.7 Natural England has not raised any objections. Yorkshire Wildlife Trust (YWT) has confirmed that that an ecological management plan based on the recommendations on pages 13-15 of the survey should be conditioned and put in place before development goes ahead. The findings of the Phase 1 Habitat Appraisal are considered to be reasonable and proportionate to the biodiversity interest of the site.

2.13.8 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 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 policy goes on to state that the actual amount of affordable housing to be provided is a matter for negotiation at the time of a planning application, having regard to any abnormal costs, economic viability and other requirements associated with the development.

2.14.3 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 40% 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.

2.14.4 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 Community Infrastructure Levy**

2.15.1 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 District.

2.15.2 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.

2.15.3 CIL charging was formally adopted by the Council on 1 January 2016 and given that the proposals relate to new housing a CIL contribution would be required for this development. However, this cannot be calculated in detail until the reserved matters application setting out the proposed floor space for the development has been submitted. It is therefore necessary to put an informative on the decision notice to make the applicant aware that any subsequent reserved matters application will be CIL liable and as such the appropriate CIL forms will need to be submitted at reserved matters stage.

2.15.4 The introduction of CIL would not impact on the on-site recreational open space provision, affordable housing provision, the waste and recycling contribution which

would still need to be secured through a Section 106 agreement. However, the contributions towards education, healthcare, off-site recreational open space can no longer be required at this stage as they are covered by the CIL payment.

2.15.5 The proposals are therefore acceptable with respect to the contributions to be secured via Section 106 and CIL and in accordance with policy.

## **2.16 Recreational Open Space**

2.16.1 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.

2.16.2 The indicative layout plan demonstrates that the site could incorporate on-site recreational open and this would be secured in the inclusion of any Section 106 agreement.

2.16.3 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.

## **2.17 Education, Healthcare, Waste and Recycling**

2.17.1 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.

2.17.2 Having consulted North Yorkshire County Council Education and the Primary Care Trust, a contribution of £67, 980 towards education facilities has been requested but cannot be levied due to CIL.

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

## **2.18 Contamination and Ground Conditions**

2.18.1 Policies ENV2 of the Local Plan and SP19 of the Core Strategy relate to contamination. The applicant has submitted a Phase 1 Contaminated Land Assessment. The submitted assessment has been reviewed by the Council's Contaminated Land consultant and it has been confirmed that the submitted report is policy compliant subject to the inclusion of planning conditions to any permission granted.

2.18.2 The proposals are therefore acceptable with respect to contamination in accordance with Policy ENV2 of the Local Plan and Policy SP19 of the Core Strategy.

## **2.19 Designing out Crime**

- 2.19.1 Paragraphs 58 and 69 of the NPPF states that amongst other things 'planning policies and decisions, in turn should aim to achieve places which promote safe and accessible environments where crime and disorder, and the fear of crime, do not undermine quality of life or community cohesion.' In addition Policy SP19 of the Core Strategy requires crime prevention to be taken into account.
- 2.19.2 The proposed indicative layout demonstrates that dwellings could have active frontages and the dwellings could be positioned so that car parking areas, areas of open space and public footpaths have natural surveillance. Private space for each plot could be clearly demarcated through appropriate boundary treatment so that occupants can distinguish their defensible private space.
- 2.19.3 The Police Architectural Liaison Officer has commented on the application and made a series of recommendations which the applicants should take into account within any detailed scheme. The proposal therefore accords with Policy SP19 of the Core Strategy and the core principles and design objectives set out in the National Planning Policy Framework.

## **2.20 Impact on Heritage Assets**

- 2.20.1 Relevant policies in respect to the impact on the historic environment and archaeology include Policies SP18 of the Selby District Core Strategy Local Plan and Policy ENV28 of the Selby District Local Plan. Policy ENV28 should be afforded significant weight as it is broadly compliant with the NPPF. Section 12 of the NPPF requires Local Planning Authorities to identify and assess the particular significance of any heritage asset that may be affected by a proposal taking account of available evidence and any necessary expertise.
- 2.20.2 The applicant has submitted a Heritage Assessment to assess the impact of the proposed development. The desk-based study has demonstrated that no known cultural heritage assets are recorded within the proposed development. It is concluded that there are, however, records of cropmarks within the buffer zone and many more in the wider landscape that are indicative of Iron Age/Romano-British settlement and agricultural activity. It is also concluded that the on-going excavation of such features just to the south-west of the buffer zone has identified a high density of features relating to settlement and agricultural activity. It is stated that medieval activity within the buffer zone is attested to by Bishop Dike and ridge and furrow cultivation features whilst the map regression identified potential drainage features close to site likely of the post-medieval period. The Assessment concludes that it is possible, therefore, that hitherto unknown heritage assets, particularly of these periods, could be preserved within the proposed development area and it is concluded that any requirement for archaeological mitigation measures to avoid, reduce and offset the potential effects of the proposed development would need to be agreed in advance with the North Yorkshire Historic Environment Record Service.
- 2.20.3 The County Archaeologist has stated that a scheme of archaeological mitigation recording should be undertaken in response to the ground disturbing works associated with the development proposal. However it is considered by officers that given the information provided within the desk based study there is sufficient information to understand the nature of the archaeology to allow the use of a condition for archaeological recording prior to development.



2.20.4 It is therefore considered that having had regard to Policy ENV28 of the Selby District Local Plan (2005), Policy SP18 of the Selby District Core Strategy Local Plan (2013) and Paragraph 135 of the NPPF it is considered that, on balance, any harm to the non-designated archaeological features, subject to the attached condition would be outweighed by the benefits of the proposal.

## **2.21 Other Issues**

2.21.1 Residents have raised concerns that local schools and doctor surgeries are at capacity. It is considered that the proposal would levy a CIL contribution towards local infrastructure.

2.21.2 Residents have raised concerns that it may be difficult for the new properties to get insurance. It is confirmed that the application site lies within Flood Zone 1 and insurance would not be a material planning consideration in the determination of these proposals.

## **2.22 Conclusion**

2.22.1 The application seeks outline planning permission, including access, for residential development with layout, scale, appearance and landscaping reserved for future consideration on land at Moor Lane, Sherburn In Elmet. The indicative layout plan shows how the applicant envisages the application site could accommodate up to 20 dwellings.

2.22.2 The application site is located within the defined Development Limits of Sherburn in Elmet which is a Local Service Centre and the proposals would accord with Policies SP2 and SP4 of the Core Strategy Local Plan (2013).

2.22.3 It is considered that an acceptable proposal could be designed so that it would achieve an appropriate layout, landscaping, scale and appearance at reserved matters stage so as to respect the character of the local area, and not significantly detract from highway safety and residential amenity. The proposals are also considered to be acceptable in respect of, the impact on flooding, drainage and climate change, heritage assets, protected species, contaminated land and affordable housing.

2.22.4 Having had regard to the above, it is considered that, on balance, the proposal would be acceptable when assessed against the policies in the NPPF, the Selby District Local Plan and the Core Strategy.

## **2.23 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 affordable housing provision, on-site Recreational Open Space and a waste and recycling contribution and subject to the conditions detailed below:**

01. Approval of the details of the (a) appearance b) layout, (c) scale and (d) landscaping of the site (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.

02. 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.

03. 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.

04. The development shall be carried out in complete accordance with the mitigation measures set out in the Flood Risk Assessment by enzygo environmental consultants received 21<sup>st</sup> June 2016.

Reason:

In the interests of flood risk to accord with the NPPF.

05. No dwelling shall be occupied until a scheme to demonstrate that at least 10% of the energy supply of the development has been secured from decentralised and renewable or low-carbon energy sources including details and a timetable of how this is to be achieved, including details of physical works on site, has been 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 in accordance with Policy SP16 of the Core Strategy.

06. The development hereby permitted shall be carried out in accordance with findings and mitigation measures outlined in the Ecology Appraisal by bowland ecology dated 15<sup>th</sup> November 2015.

Reason:

In the interests on nature conservation interest and the protection of protected species and in order to comply with Policy ENV1(5) of the Local Plan and Policy SP18 of the Selby District Core Strategy Local Plan (2013).

07. 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.

08. 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 with 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 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 in accordance with Policies T1 and T2 of the Selby District 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.

09. 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 T1 and T2 of the Selby District Local and to ensure safe and appropriate access and egress to the dwellings, in the interests of highway safety and the convenience of prospective residents.

10. There shall be no access or egress between the highway and the application site by any vehicles other than via the existing access with the public highway at Moor Lane. The access shall be maintained in a safe manner

which shall include the repair of any damage to the existing adopted highway occurring during construction.

Reason:

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

11. There shall be no access or egress by any vehicles between the highway and the application site until full details of any measures required to prevent surface water from non-highway areas discharging on to the existing or proposed highway together with a programme for their implementation have been submitted to and approved in writing by the Local Planning Authority. The works shall be implemented in accordance with the approved details and programme.

Reason:

In accordance with Policies T1 and T2 of the Selby District Local and in the interests of highway safety

12. No development for any phase of the development shall take place until a Construction Method Statement for that phase has been submitted to, and approved in writing by, the Local Planning Authority. The approved Statement shall be adhered to throughout the construction period for the phase. The statement shall provide for the following in respect of the phase:
  - a. the parking of vehicles of site operatives and visitors
  - b. loading and unloading of plant and materials
  - c. storage of plant and materials used in constructing the development
  - d. measures to control the emission of dust and dirt during construction
  - e. HGV routing

Reason:

In accordance with Policies T1 and T2 of the Selby District Local 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.

13. No development shall take place within the application site until the applicant has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation which has been submitted by the applicant and approved in writing by the Local Planning Authority.

Reason:

The site is of archaeological interest and to ensure compliance with Policy ENV28 of the Selby District Local Plan and Section 12 of the NPPF as the site is of archaeological interest.

14. Construction work shall not begin until a written scheme for protecting the proposed noise sensitive development from noise has been submitted to and approved in writing by the Local Planning Authority. The scheme shall ensure that the noise level in the gardens of the proposed properties shall not exceed 50 dB LAeq (16 hours) 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 as such except as may be agreed in writing by the Local Planning Authority. Construction work shall not begin until a written scheme for protecting the internal environment of the dwellings from noise has been submitted to and approved in writing by the Local Planning Authority. The scheme shall ensure that the building envelope of each plot is constructed so as to provide sound attenuation against external noise. The internal noise levels achieved shall not exceed 35 dB LAeq (16 hour) inside the dwelling between 0700 hours and 2300 hours and 30 dB LAeq (8 hour) 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 as such except as may be agreed in writing by the Local Planning Authority. The aforementioned written scheme shall demonstrate that the noise levels specified will be achieved.

Reason: To protect the amenity of the area.

15. The development permitted by this planning permission shall only be carried out in accordance with the approved flood risk assessment (FRA) by Enzygo, dated June 2016, Ref: SHF.1035.003.HY.001.A and the following mitigation measures detailed within the FRA:
  1. Finished floor levels will be set 300mm above existing ground levels.
  2. An 8 metre easement will be provided as per section 4.3.3 of the FRA, which will be free from all development (including fences etc) to allow for inspection and maintenance of existing flood defences.

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 and to ensure that there will always be access for large machinery required by the Environment Agency to carry out maintenance works to the banks and the watercourse.

16. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) 2015 or any order revoking and re-enacting that Order with or without modification, no structure shall be erected within 8 metres of the top of the bank of Bishop Dyke.

Reason

In order that the Environment Agency can continue to carry out their on-going maintenance activities on Bishop Dyke, and can access the area with large machinery.

17. 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 (or any subsequent update or replacement for that document).

Reasons:

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.

18. No development shall commence on site until a detailed site investigation report (to include soil contamination analysis), a remedial statement and an unforeseen contamination strategy have been submitted to and agreed in writing by the Local Planning Authority. The development shall be carried out in strict accordance with the agreed documents and upon completion of works a validation report shall be submitted certifying that the land is suitable for the approved end use.

Reason:

To secure the satisfactory implementation of the proposal, having had regard to Policy ENV2 of the Selby District Local Plan and the NPPF.

19. Prior to development, an investigation and risk assessment (in addition to any assessment provided with the planning application) must be undertaken to assess the nature and extent of any land contamination. The investigation and risk assessment must be undertaken by competent persons and a written report of the findings must be produced. The written report is subject to the approval in writing of the Local Planning Authority. The report of the findings must include:

- i. a survey of the extent, scale and nature of contamination (including ground gases where appropriate);
- ii. an assessment of the potential risks to:
  - human health,
  - property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes,
  - adjoining land,
  - groundwaters and surface waters,

- ecological systems,
- archaeological sites and ancient monuments;
- an appraisal of remedial options, and proposal of the preferred option(s).

This must be conducted in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11'.

Reason:

To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.

20. Prior to development, a detailed remediation scheme to bring the site to a condition suitable for the intended use (by removing unacceptable risks to human health, buildings and other property and the natural and historical environment) shall be prepared and is subject to the approval in writing of the Local Planning Authority. The scheme shall include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works and site management procedures. The scheme must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.

Reason:

To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.

21. Prior to first occupation or use, the approved remediation scheme shall be carried out in accordance with its terms and a verification report that demonstrates the effectiveness of the remediation carried out shall be produced and be subject to the approval in writing of the Local Planning Authority.

Reason:

To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems.

22. In the event that contamination is found at any time when carrying out the approved development that was not previously identified, it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken and where remediation is necessary a remediation scheme must be prepared, which is subject to the approval in writing of the Local Planning Authority. Following completion of measures identified in the approved remediation scheme a verification report must be



prepared, which is subject to the approval in writing of the Local Planning Authority.

Reason:

To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.

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

(to be inserted when the decision is issued).

#### INFORMATIVES:

01. Given the proximity of the existing sewerage pumping station and the outfall to the site may mean a loss of amenity for future residents. In order to minimise the risk of odour, noise and nuisance, industry standards recommend that habitable buildings should not be located within 15 metres of the existing SPS/outfall.
02. The applicant should be aware that any works or structures, in, under, over or within 8 metres of the top of the bank of Bishop Dike, designated a 'main river' may require a permit under the Environmental Permitting (England and Wales) Regulations 2010 from the Environment Agency. This was formerly called a Flood Defence Consent. Some activities are also now excluded or exempt. A permit is separate to, and in addition to, any planning permission granted. Further details and guidance are available on the GOV.UK website: <https://www.gov.uk/guidance/flood-risk-activities-environmental-permits>.
03. Any surface water discharge into any watercourses in, on, under or near the site requires Consent from the Drainage Board.

### **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 2015/0359/OUT and associated documents.

**Contact Officer: Ruth Hardingham (Interim Deputy Lead Officer Planning)**

**Appendices: None**

## **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.

## Planning Committee 2016-17



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