



Meeting: **PLANNING COMMITTEE**
Date: **WEDNESDAY 9 NOVEMBER 2016**
Time: **2.00 PM**
Venue: **COUNCIL CHAMBER**
To: **Councillors J Cattanach (Chair), D Peart (Vice Chair),
Mrs L Casling, I Chilvers, J Deans, D Mackay, C Pearson,
P Welch and B Marshall.**

Agenda

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

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

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

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

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

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

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

To confirm as a correct record the minutes of the Planning Committee meeting held on 12 October 2016 and the Planning Sub-Committee meetings held on 24 October 2016.
(pages 1 to 17 attached).

6. Planning Applications Received

- 6.1 2016/0783/FUL - Saxon Holme, Coldhill Lane, Saxton
(pages 19 - 32 attached)
- 6.2 2015/1217/FUL - Staynor Hall Development, Bawtry Road, Selby
(pages 33 - 62 attached)
- 6.3 2015/1272/FUL - Staynor Hall Development, Bawtry Road, Selby
(pages 63 - 91 attached)
- 6.4 2016/0491/MLA - The Laurels, York Road, Barlby, Selby
(pages 92 - 100 attached)
- 6.5 2016/0989/COU - Hornington Manor, Oxton Lane, Bolton Percy
(pages 101 - 116 attached)

7. Kellingley Colliery Redevelopment

To inform Members of a forthcoming application which seeks to re-develop the site of the former Kellingley Colliery. (pages 117 - 120 attached)

Gillian Marshall
Solicitor to the Council

Dates of next meeting
Wednesday 7 December 2016 – Planning Committee

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

Recording at Council Meetings

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Planning Committee

Venue:	Council Chamber
Date:	Wednesday 12 October 2016
Time:	2.00 pm
Present:	Councillors Cattanach (Chair), D Peart, Mrs L Casling, I Chilvers, D Buckle (substitute for J Deans), D Mackay, C Pearson, P Welch and B Marshall.
Apologies for Absence:	Councillor J Deans
Officers Present:	Kelly Dawson, Senior Solicitor, Ruth Hardingham, Interim Lead Officer (Planning), Fiona Ellwood, Principal Planning Officer, Thomas Webster, Principal Planning Officer, Keith Thompson, Senior Planning Officer, Calum Rowley, Senior Planning Officer and Janine Jenkinson, Democratic Services Officer.
Public:	16
Press:	1

27. DISCLOSURES OF INTEREST

There were no declarations of interest.

28. CHAIR'S ADDRESS TO THE PLANNING COMMITTEE

The Chair informed the Committee that he had amended the running order of the agenda to consider the items with public speakers ahead of the other applications.

29. SUSPENSION OF COUNCIL PROCEDURE RULES

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

original application, and suggested condition 13 be amended as outlined in the Officer Update Note.

The Senior Planning Officer advised that the proposed variation of condition 13 was considered to be acceptable in respect of the impact on highway safety and residential amenity. Members were recommended to approve the application.

Mr John McCartney spoke in objection to the application.

Colin White, Parish Councillor spoke in objection to the application.

Councillor Mary McCartney, Ward Councillor, spoke in objection to the application.

A discussion took place and members raised concerns in relation to highway safety and detrimental impact on neighbour amenity.

In light of the concerns raised, it was proposed that the following restrictions also be attached to any permission granted:

- *With the exception of internal works, the building works required to carry out the development allowed by this permission must only be carried out within the following times:*

07:30 - 18:00 Monday to Friday

8:00 - 13:00 Saturdays

No working on Sundays or Public Holidays

- *The transportation of materials to/from the site by HGVs over 7.5 tonnes shall only be carried out within the following times:*

09:30 - 15:00 Monday to Friday

09:30 - 12:00 (noon) Saturdays

No deliveries shall take place on Sundays or Public Holidays

The proposal was moved and seconded.

RESOLVED:

To APPROVE the application subject to the restrictions outlined above and delegation given to Officers to agree suitably worded conditions, and the conditions detailed in section 2.10 of the report.

- *The transportation of materials to/from the site by HGVs over 7.5 tonnes shall only be carried out within the following times:*

09:30 - 15:00 Monday to Friday

09:30 - 12:00 (noon) Saturdays

No deliveries shall take place on Sundays or Public Holidays

The proposal was moved and seconded.

RESOLVED:

To APPROVE the application subject to the restrictions outlined above and delegation to Officers to agree suitably worded conditions, and the conditions detailed in section 2.10 of the report.

31.4 Application: 2016/0910/FUL
Location: Proposed 3 bedroom dwelling and 2 no. 1 bedroom flats
Proposal: Land Adjacent to 26 Westfield Crescent, Tadcaster.

The Senior Planning Officer introduced the application and referred the Committee to the information provided in the Update Note. The Update Note outlined two further representations that had been received and reported that the Agent had provided an amended site plan which indicated a gate access to a neighbour's garden.

The application had been brought before the Planning Committee due to being recommended for approval contrary to Policy SP9 and more than 10 objections being received.

Members were advised that the proposal would be located within the defined settlement limits of Tadcaster, and therefore in accordance with Policy SP2A of the Core Strategy. The scale of the development was considered acceptable on garden land and would thereby accord with Policy SP4A.

The Senior Planning Officer advised that on balance, the proposal would be acceptable when assessed against the policies in the National Planning Policy Framework (NPPF), the Selby District Local Plan and the Core Strategy and members were recommended to approve the application.

Mr Baxter, spoke in objection to the application.

Some members raised concerns in relation to the width of a proposed footpath along the northern boundary of 26 Westfield Crescent, loss of amenity for neighbouring properties, overdevelopment, traffic, car parking provision and the proposal being out of character with neighbouring properties.

The Planning Officer's recommendation to approve the application was proposed and seconded. An amendment to refuse the application on the grounds the proposal was

contrary to SP2A and SP4A of the Core Strategy was proposed. The amendment was not seconded and therefore fell accordingly.

The Planning Officer's recommendation to approve the application was put to a vote.

RESOLVED:

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

31.5

Application: 2015/0202/FUL
Location: Low Farm Road
Bolton Percy
Tadcaster
Proposal: Proposed erection of 2 No detached houses with associated garages.

The Principal Planning Officer introduced the application and referred the Committee to the information provided in the Update Note. The Update Note outlined additional consultation responses received from Bolton Percy Parish Council and the Drainage Board and the applicant's response to these representations. Further to these comments, the Principal Planning Officer recommended that an additional condition, as set out in the Update Note be attached to any approval granted.

Members were informed that the application had been brought before the Planning Committee due to the number of representations received contrary to the Officer's recommendation for approval.

The Principal Planning Officer reported that the application had been brought before the Planning Committee in the context of the West Berkshire Case Court of Appeal judgement. Prior to the judgement, the Council had been able to seek a contribution for Affordable Housing under SP9 of the Core Strategy and the Affordable Housing Supplementary Planning Document (SPD) from development under ten residential units. Following the Court judgement, the proposal was contrary to the provisions of the Development Plan. Members were advised that in the context of the Court of Appeal decision, it was considered that the judgement was a material consideration of substantial weight which outweighed the policy requirement to secure an affordable housing contribution.

The Principal Planning Officer advised that having had regard to the Development Plan, all other relevant local and national policy, and all other material planning considerations, it was considered that the application was acceptable and members were therefore recommended to approve the application.

Mr Howlett, the applicant's Agent spoke in support of the application.

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

RESOLVED:

To APPROVE the application, subject to the conditions set out in section 3.0 of the report and the additional condition set out in the Update Note.

31.6

**Application: 2015/0580/EIA
Location: Staynor Hall, Abbotts Road, Selby
Proposal: Reserved Matters application for the erection of No.44 dwellings, community facilities and retail units following outline approval 8/19/1011C/PA (C0/2002/1185).**

The Principal Planning Officer introduced the application and referred the Committee to the information provided in the Update Note. The Update Note outlined an amendment to paragraph 1.2.4 of the report, amended conditions and additional conditions in relation to disabled access, the Community Hall, a Community Centre Car Park, Affordable Housing, retention of retail units, artificial lighting and Community Car Park Disability Bays to be attached to any approved application.

Members were informed that the application had been brought before the Planning Committee because an Environmental Impact Assessment (EIA) development and a Supplementary Environmental Statement had been submitted as part of the application.

The Principal Planning Officer advised members that the proposal was considered to be reflective of the character and appearance of the area and would integrate with the parcels of land already consented to. The application was also considered to be acceptable when assessed against the policies in the National Planning Policy Framework, the Selby District Local Plan and the Core Strategy; members were therefore recommended to approve the application.

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

RESOLVED:

To APPROVE the application, subject to the conditions detailed in section 3.0 of the report, and the amended conditions and additional conditions detailed in the Update Note.

The Chair closed the meeting at 3.55 p.m.

Planning Sub-Committee

Venue:	Committee Room
Date:	Monday 24 October 2016
Time:	10 am
Present:	Councillors Cattanach (Chair), D Peart and B Marshall.
Apologies for Absence:	None.
Officers Present:	Jonathan Carr – Interim Lead Officer - Planning, Calum Rowley – Senior Planning Officer, Jenny Tyreman – Planning Officer, Keith Thompson-Senior Planning Officer, Diane Wilson – Planning Officer, Kelly Dawson – Senior Solicitor, and Janine Jenkinson – Democratic Services Officer.
Public:	0
Press:	0

11. DISCLOSURES OF INTEREST

There were no declarations of interest.

12. CHAIR'S ADDRESS TO THE PLANNING COMMITTEE

The Chair drew members' attention to the information provided in the Officers' Update Note.

13. PLANNING APPLICATIONS RECEIVED

- 13.1 **Application:** **2015/1015/FUL**
 Location: **Bailiff Farm**
 Main Road,
 Temple Hirst, Selby
 Proposal: **Conversion of barn to dwelling, including demolition**
 of outbuildings.

The Planning Officer introduced the report.

Members were informed that the application had been brought before the Planning Sub-Committee as it was considered that although the proposal was contrary to Policy SP9 of the Core Strategy and Criterion 1 of Policy H12 of the Local Plan, there were material considerations which would justify approving the application. The Planning Officer outlined the material considerations detailed in the report.

Members were advised that having assessed the proposal against the relevant planning policies; it was considered that the application was acceptable in respect of its design and impact on the character and appearance of the area, residential amenity, highway safety, climate change, flood risk, nature conservation and protected species and land contamination. The Sub-Committee was therefore recommended to approve the application.

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

RESOLVED:

To APPROVE the application, subject to the conditions detailed in section 2.12 of the report.

- 13.2 **Application:** **2016/0837/FUL**
 Location: **Roall Manor, Roall Lane, Kellington**
 Proposal: **Proposed alteration and conversion of the existing**
 dental clinic and outbuildings to form three
 residential dwellings.

The Senior Planning Officer introduced the application and explained that the application had been brought before the Planning Sub-Committee in the context of the recent Court of Appeal judgement in relation to the West Berkshire Case.

Members were advised that prior to the judgement, the Council had been able to seek a contribution for Affordable Housing under SP9 of the Core Strategy and the Affordable Housing Supplementary Planning Document (SPD) from development under ten residential units. Following the Court judgement, the proposal was contrary to the provisions of the Development Plan. The Senior Planning Officer advised Members that in the context of the Court of Appeal decision, it was considered that the

judgement was a material consideration of substantial weight which outweighed the policy requirement to secure an affordable housing contribution.

The Planning Sub-Committee was informed that the proposal was considered acceptable when assessed against the policies in the National Planning Policy Framework (NPPF), Selby District Local Plan and the Core Strategy. Members were advised that the application was in accordance with the overarching aims and objectives of the NPPF and it was on this basis that permission should be granted.

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

RESOLVED:

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

13.3

Application: 2016/0922/FUL
Location: Land At 7-9 Church Street, Church Street, Riccall
Proposal: Proposed erection of a detached 2 storey house and garage.

The Senior Planning Officer presented the report and explained that the application had been brought before the Sub-Committee in the context of the recent Court of Appeal judgement in relation to the West Berkshire Case.

Members were advised that prior to the judgement, the Council had been able to seek a contribution for Affordable Housing under SP9 of the Core Strategy and the Affordable Housing SPD from development under ten residential units. Following the Court judgement, the proposal was contrary to the provisions of the Development Plan. The Senior Planning Officer advised Members that in the context of the Court of Appeal decision, it was considered that the judgement was a material consideration of substantial weight which outweighed the policy requirement to secure an affordable housing contribution.

The Planning Sub-Committee was informed that the proposal was considered acceptable when assessed against the policies in the NPPF, Selby District Local Plan and the Core Strategy. The Senior Planning Officer advised Members that the application was in accordance with the overarching aims and objectives of the NPPF and it was on this basis that permission should be granted, subject to the conditions set out in the report.

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

RESOLVED:

To APPROVE the application, subject to the conditions detailed in section 3 of the report.

Application: 2016/0899/FUL

13.4 **Location:** **Stonecroft, 17 Garnet Lane, Tadcaster**
Proposal: **Demolition of single dwelling and replace
with two pairs of semi-detached dwellings.**

The Senior Planning Officer presented the report and explained that the application had been brought before the Sub-Committee in the context of the recent Court of Appeal judgement in relation to the West Berkshire Case.

Members were advised that prior to the judgement, the Council had been able to seek a contribution for Affordable Housing under SP9 of the Core Strategy and the Affordable Housing SPD from development under ten residential units. Following the Court judgement, the proposal was contrary to the provisions of the Development Plan. However, the Senior Planning Officer advised Members that in the context of the Court of Appeal decision, it was considered that the judgement was a material consideration of substantial weight which outweighed the policy requirement to secure an affordable housing contribution.

The Planning Sub-Committee was informed that the proposal was considered acceptable when assessed against the policies in the NPPF, Selby District Local Plan and the Core Strategy. The Senior Planning Officer advised Members that the application was in accordance with the overarching aims and objectives of the NPPF and it was on this basis that permission should be granted, subject to the conditions set out in the report.

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

RESOLVED:

To APPROVE the application, subject to the conditions detailed in section 3 of the report.

13.5 **Application:** **2015/1322/COU**
Location: **YMCA Charity Shop**
 4 - 6 New Lane
 Selby
Proposal: **Change of use from retail (A1) to combined use retail (A1), first floor retail (A1) and 3 x residential flats (C3), including external renovation to the shop front.**

The Senior Planning Officer introduced the report and referred the Sub-Committee to the additional information provided in the Update Note. The Update Note outlined comments received from the Council's Environmental Health Officer.

Members were advised that the application had been brought before the Sub-Committee in the context of the recent Court of Appeal judgement in relation to the West Berkshire Case. The Senior Planning Officer reported that prior to the judgement the Council had been able to seek a contribution for Affordable Housing under SP9 of the Core Strategy and the Affordable Housing SPD from development under ten residential units. Following the Court judgement, the proposal was contrary

to the provisions of the Development Plan. However, the Senior Planning Officer advised Members that in the context of the Court of Appeal decision, it was considered that the judgement was a material consideration of substantial weight which outweighed the policy requirement to secure an affordable housing contribution.

The Planning Sub-Committee was informed that the proposal was considered acceptable against the policies in the NPPF, Selby District Local Plan and the Core Strategy. The Senior Planning Officer advised Members that the application was in accordance with the overarching aims and objectives of the NPPF and it was on this basis that permission should be granted, subject to the conditions set out in the report.

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

RESOLVED:

To APPROVE the application, subject to no issues raised by the Council's Contaminated Land Consultant and subject to the conditions detailed in section 3 of the report.

- 13.6 Application: 2016/0868/FUL**
- Location: Elmgarth, and land adjacent to Elmgarth Main Street Appleton Roebuck**
- Proposal: Proposed erection of a five bedroom detached dwelling, which includes new access, up grading of existing access points, the erection of single garages following the demolition of existing double garage and the rebuilding of an existing outbuilding.**

The Planning Officer introduced the report and referred the Sub-Committee to the additional information provided in the Update Note. The Update Note set out amendments to the Officer's report in relation to paragraphs 2.5.5, 2.5.9, 2.5.11 and the Summary.

Members were advised that the application had been brought before the Sub-Committee in the context of the recent Court of Appeal judgement in relation to the West Berkshire Case. The Planning Officer reported that prior to the judgement the Council had been able to seek a contribution for Affordable Housing under SP9 of the Core Strategy and the Affordable Housing SPD from development under ten residential units. Following the Court judgement, the proposal was contrary to the provisions of the Development Plan. However, the Planning Officer advised Members that in the context of the Court of Appeal decision, it was considered that the judgement was a material consideration of substantial weight which outweighed the policy requirement to secure an affordable housing contribution.

The Planning Sub-Committee was informed that the proposal was considered acceptable against the policies in the NPPF, Selby District Local Plan and the Core Strategy. The Planning Officer advised Members that the application was in accordance with the overarching aims and objectives of the NPPF and it was on this basis that permission should be granted, subject to the conditions set out in the report.

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

RESOLVED:

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

- 13.7 Application: 2016/0854/OUT**
- Location: Land Adjacent To Rose Cottage,**
- 19 Ings Lane, Kellington**
- Proposal: Outline application with all matters reserved for**
- erection of a detached 4 bed house and garage.**

The Senior Planning Officer introduced the application and explained that the application had been brought before the Planning Sub-Committee as Officers considered that although the proposal was contrary to the provisions of the Development Plan there were material considerations which would justify approving the application.

Members were advised that the proposed site was located within the defined development limits of Kellington which had been identified as a Designated Service Village in the Core Strategy. The principle of the proposed development was considered to be acceptable having regard to Policy SP2A (b) and SP4 (a) of the Core Strategy Local Plan given the location of the development within the defined development limits of a Designated Service Village. The Senior Planning Officer explained that the Court of Appeal judgement in relation to the West Berkshire Case was considered to be of substantial weight which outweighed the policy requirement to secure an affordable housing contribution.

Members were advised that having regard to Policy SP9 and the Planning Policy Guidance (PPG), on balance, the application was acceptable without requiring a contribution for affordable housing. Members were recommended to approve the application.

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

RESOLVED:

To APPROVE the application, subject to the conditions detailed in section 2.15 of the report.

Development Plan there were material considerations which would justify approving the application.

Members were advised that the proposed site was located within the defined development limits of Eggborough which was identified as a Designated Service Village in the Core Strategy. The principle of the proposed development was considered to be acceptable having regard to Policy SP2A (b) and SP4 (a) of the Core Strategy Local Plan given the location of the development within the defined development limits of a Designated Service Village. The Senior Planning Officer explained that the Court of Appeal judgement in relation to the West Berkshire Case was considered to be of substantial weight which outweighed the policy requirement to secure an affordable housing contribution.

Members were advised that having regard to Policy SP9 and the PPG, on balance, the application was acceptable without requiring a contribution for affordable housing. Members were recommended to approve the application.

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

RESOLVED:

To APPROVE the application, subject to the conditions detailed in section 2.15 of the report.

**13.10 Application: 2016/1075/FUL
 Location: 38 Fox Lane, Thorpe Willoughby, Selby
 Proposal: Proposed erection of new detached dormer bungalow.**

The Senior Planning Officer introduced the report and referred the Sub-Committee to the additional information provided in the Update Note. The Update Note outlined comments that had been received from the Council’s Contaminated Land Advisors.

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

Members were advised that the proposed site was located within the defined development limits of Thorpe Willoughby which was identified as a Designated Service Village in the Core Strategy. The principle of the proposed development was considered to be acceptable having regard to Policy SP2A (b) and SP4 (a) of the Core Strategy Local Plan given the location of the development within the defined development limits of a Designated Service Village. The Senior Planning Officer explained that the Court of Appeal judgement in relation to the West Berkshire Case was considered to be of substantial weight which outweighed the policy requirement to secure an affordable housing contribution.

The Senior Planning Officer advised Members that having had regard to Policy SP9 and the PPG, on balance, the application was acceptable without requiring a

contribution for affordable housing. Members were recommended to approve the application.

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

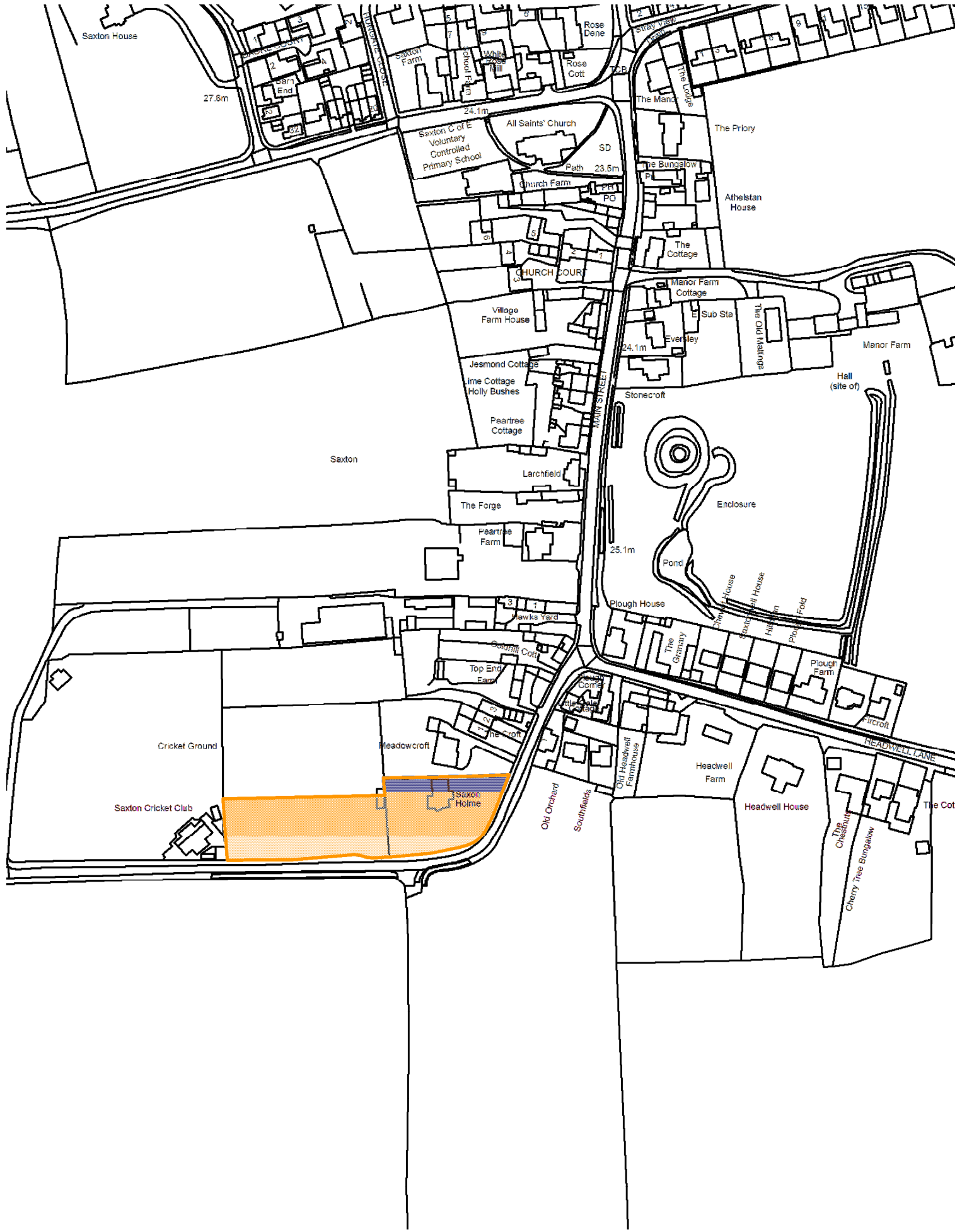
RESOLVED:

To APPROVE the application, subject to the conditions detailed in section 2.15 of the report.

The Chair closed the meeting at 10.55 a.m.

Items for Planning Committee
9 November 2016

Ref	Site Address	Description	Officer	Page
2016/0783/FUL	Saxon Holme Coldhill Lane Saxton Tadcaster	Proposed erection of a new dwelling	FIEL	19-32
2015/1217/FUL	Staynor Hall Development, Bawtry Road, Selby	Erection of a food retail store (Use Class A1) and construction of access road, parking areas and associated infrastructure	KETH	33-62
2015/1272/FUL	Staynor Hall Development, Bawtry Road, Selby	Proposed erection of a public house with restaurant (Use Classes A3 and A4) and manager's accommodation with ancillary access, parking area and associated infrastructure	KETH	63-91
2016/0491/MLA	The Laurels, York Road, Barlby, Selby	Application to modify a section 106 planning obligation under section 106BA following approval of 2015/0586/OUT for outline planning approval with all matters reserved for the erection of a residential development on land north	CARO	92-100
2016/0989/COU	Hornington Manor, Oxton Lane, Bolton Percy	Proposed change of use of agricultural land to self-catered holiday accommodation comprising of 8 No. mobile shepherds' huts.	CARO	101-116



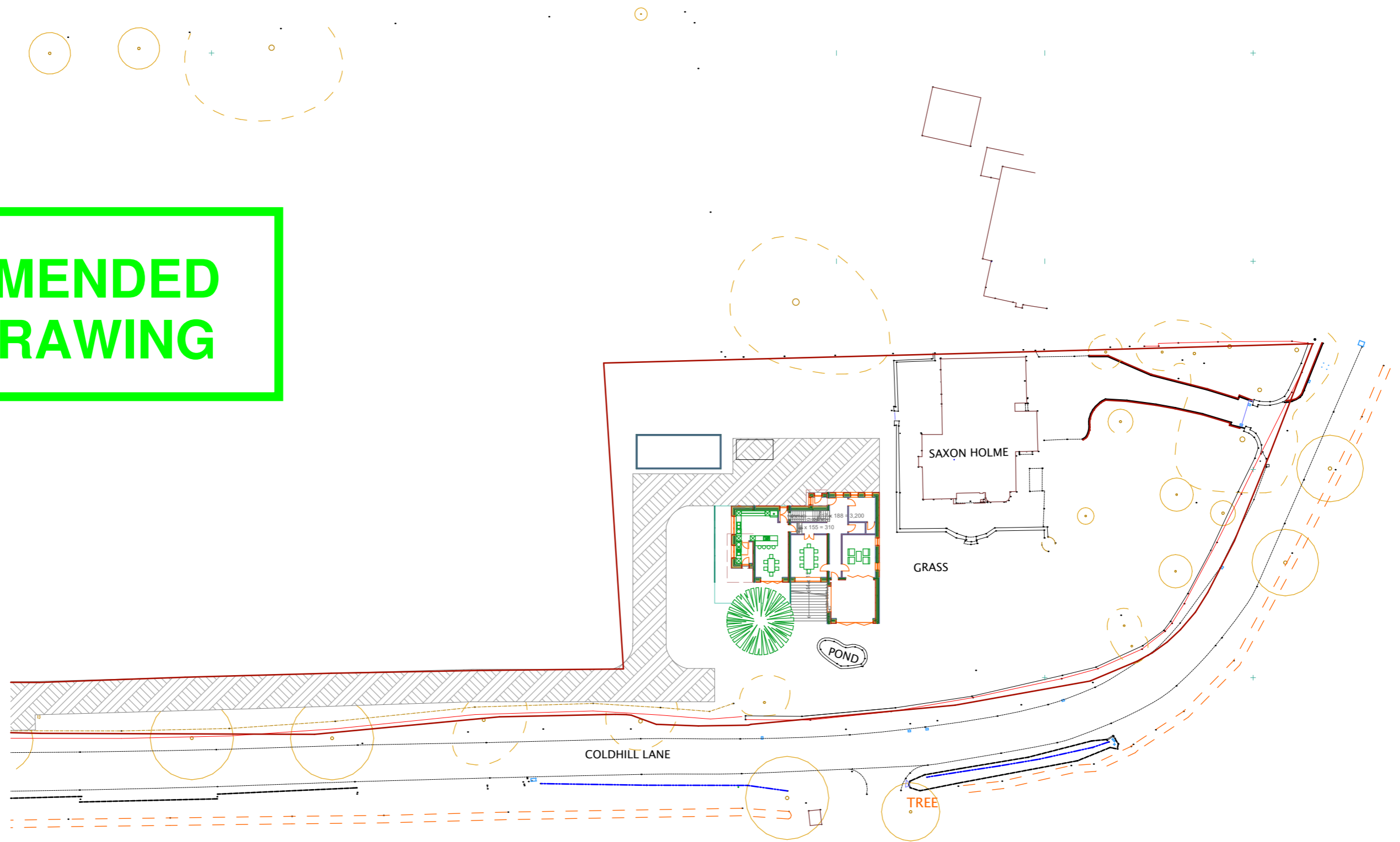
APPLICATION SITE

Item No: 2016/0783/FUL

Address: Saxton Holme, Coldhill Lane, Saxton

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**AMENDED
DRAWING**



RECEIVED
19.10.2016
BUSINESS SUPPORT

SFP Enterprises Ltd

Saxon Holme Coldhill Lane Tadcaster LS24 9TA
T: 0751 555 1476
martyn.fryer@me.com



PROJECT
Saxon Cottage

TITLE
Proposed Site Layout

STAGE
Planning

SCALE
1:500 @ A3

JOB No.
RESI-010

DWG No.
A(20)11

REV
A

DRAWN

CHECKED

DATE
Wednesday, 19 October 2016



Report Reference Number 2016/0783/FUL (8/67/107D/PA)

Agenda Item No: 6.1

To: Planning Committee
Date: 9 November 2016
Author: Fiona Ellwood (Principal Planning Officer)
Lead Officer: Jonathan Carr (Interim Lead Officer – Planning)

APPLICATION NUMBER:	2016/0783/FUL	PARISH:	Saxton Cum Scarthingwell Parish Council
APPLICANT:	Mr John Fryer	VALID DATE:	20th July 2016
		EXPIRY DATE:	14th September 2016
PROPOSAL:	Proposed erection of a new dwelling		
LOCATION:	Saxon Holme Coldhill Lane Saxton Tadcaster North Yorkshire LS24 9TA		

This application has been brought before Planning Committee due to the number of representations received contrary to the officer's recommendation. This matter has also been brought to Planning Committee as in the context of the recent Court of Appeal Judgement in relation to the West Berkshire Case. Prior to this judgement the Council was 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. However, following the recent Court Judgement the proposal is contrary to the provisions of the Development Plan there are material considerations which would justify approving the application without the need to secure an affordable housing contribution.

Summary:

The site has an extant planning permission for one dwelling (refer to planning history section 1.3). The planning permission has a technical commencement and therefore remains in perpetuity. This scheme seeks permission only for an alternative design for the dwelling.

The principle of the development, given the planning history, is not a matter for consideration on this application. The initial plans received varied from the approved scheme but amendments have been received which now re-aligns the proposals with the extant permission. Most of the objections to this scheme are based on these differences or the fundamental principle.

When considered against the requirements of the 1990 Town and Country Planning (Listed Buildings and Conservation Areas) Act in which the decision maker has to pay special attention the desirability of preserving or enhancing the character or appearance' of a conservation area, the scheme is concluded to be acceptable.

Having had regard to the development plan, all other relevant local and national policy, and all other material planning considerations, it is considered that the proposed development is acceptable subject to the conditions set out in section 3.

Recommendation

This application is recommended to be APPROVED subject to the conditions as set out in paragraph 3.0.

1. Introduction and background

1.1 The Site

1.1.1 The application site comprises part of the large side garden to 'Saxon Holme', a large detached dwelling on the south west side of Saxton village. The application site includes the western part of the garden and also includes a part of the adjoining land to the west which consists of a large open paddock of mown grass which abuts the cricket club site. The application site is bounded by established hedgerow and trees to the south and by a wall and planting to the north. The western boundary to the red line site is currently open. Within the site there is an existing stable block constructed of breeze block with a tiles roof. The site area is generally flat with a level change between the garden area and the paddock. There is an area of shrubs and ornamental planting on the west side of the garden which would be removed.

1.2.2 Apart from a small strip to the east, the majority of the site is outside the development limits of Saxton, a secondary village. The majority of the site is within the village Conservation Area Boundary, which extends beyond the development limits. The whole of the site lies within the Green Belt which washes over the village and the surrounding countryside. The open paddock to the west was included, under a modification to the local plan, as an area designated as Recreation Open Space under Policy RT1. The site also lies within a Locally Important Landscape Area.

1.2 The proposal

1.2.1 Full planning permission is sought for a revised design for a detached dwelling. The proposed access to the site would be the same as the original scheme and would run along the southern boundary of the paddock parallel to the Coldhill Lane along the hedge line. It would connect into the highway via the existing gate connected to the cricket club access.

1.2.2 The new dwelling would be a large detached property with accommodation arranged over three floors. There would be a lower level floor utilising and increasing the level changes of the site and containing garaging and a bedroom. The driveway would slope down within the site to the garaging. Main living rooms would be on the ground floor with 3 more bedrooms at first floor within a pitched dormer roof design.

1.2.3 The dwelling would be constructed in a mix of materials with magnesium limestone rubble walling for all north-south oriented walls and a pitched roof in slate. The north south walls would penetrate the roof plane and would be finished with limestone laddering. Windows would be powder coated aluminium frames finished in grey and external doors and door frames would be grey stained timber. There would be areas of timber cladding (cedar boarding) on the first floor west elevation and a small section on the north elevation. The driveway would be constructed in crushed limestone with the hardstanding area in reinforced grass 'pocket'.

1.2.4 It should be noted that this scheme as originally submitted extended the red line area significantly beyond the site covered by the extant permission to include a large part of the adjacent paddock. The driveway route was also different being routed along the western

and north sides of the paddock. However, the applicant has amended the red line area and the route of the driveway back to the same as the previous permission.

- 1.2.5 The proposed driveway is linked to the Cricket Club Access who point out that they have not been served notice. Although the application forms indicate Certificate B was served, the applicant was requested to and has re-served this notice following an objection letter from the Cricket Club.

1.3 Planning History

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

- Alterations and extension to existing dwelling (Saxon Holme) including first floor extension over garage – Permitted 2002.
- Erection of an agricultural building on land adjacent to Saxon Holme- Permitted in 2005.
- Works to trees in a Conservation Area – Permitted in 2010.
- The erection of a two storey dwelling with associated garage/studio following the demolition and re build of existing stable block – Approved: 2010/0316/FUL – see note below;

Note: An administrative error was made on the decision notice. Instead of refusal an unconditional planning permission was issued. The final outcome was a Modification Order was confirmed by the Planning Inspectorate under S98 of the 1990 Act to add planning conditions. The Inspector accepted that the development had already started.

As such the starting point for the consideration of this current planning application for a revised dwelling is that there is already an existing extant Planning permission for a detached dwelling which has technically commenced. As such the permission 2010/0316/FUL remains valid in perpetuity and can be completed at any time.

Given the above and the Planning History of the site the Principle of the development of this site has been established and is not a matter for consideration on this scheme.

1.4 Consultations

NYCC Highways Canal Rd -No objections.

Contaminated Land Consultants- Recommend that no contaminated land planning conditions are required for this application based on the currently available information.

Yorkshire Water Services Ltd -No comments received.

Ainsty Internal Drainage Board District. -There are no Board maintained watercourses in the vicinity; as such it is not considered that the proposal will have a material effect on the Board's operations and therefore the Board has no comment to make on this application.

Parish Council

This is a considerable improvement on the proposed by the applicant in 2010 - which proposal we are aware was given approval, though erroneously, by the District Council. The Parish Council would not, therefore, wish to oppose the current application.

That the materials used be in accordance with those already in use in the village, that is to say natural limestone with natural slate or clay pantiles.

That timber window frames be substituted for the presently proposed powder coated aluminium window frames.

1.5 Publicity

The application was advertised by press notice, site notice and neighbour notification resulting in 25 letters of objection including a letter from a group known as 'Save Saxton Green Belt' and a letter on behalf of the Cricket Club.

The grounds of objections are summarised below:

- Site notice has disappeared.
- Development utilises Cricket club access who have not been served notice. The applicant does not own the cricket club access land and would need permission to gain access to the public highway.
- Dotted red line round larger site area is ambiguous.
- Query why new plan has revised access position which encloses a large area of green belt land not previously included in original permission.
- Current development policies must apply afresh to the part of the site not covered by the earlier permission. This would dictate the refusal of the proposal.
- Inappropriate development in the Green Belt.
- Outside development limits/ substantial and unjustified urbanisation of countryside.
- Harm to character and amenity of Saxton village.
- Harm to Locally Important Landscape Area.
- Harm to Recreational Open space.
- Harm to Conservation Area.
- Precedent for other similar development nearby.
- Removal of mature trees and hedgerow.
- Loss of wildlife.
- Village does not need another large 4 bedroom house.
- Excavated material may lead to danger to road users due to mud on road.
- Road is narrow and used by heavy farm traffic– risk to walkers cyclists and horse riders during the build.
- There is a riding school further up the land with paddocks opposite the site – health and safety concerns during build period.
- Query access rights between site owner and cricket club.
- Additional Traffic into the village.
- SDC consistently failing to protect the character of Saxton.
- Could affect main drainage going through the village which is an ongoing problem.
- Permission was not revoked due to the potential expense to Selby.
- The development would destroy the essence of the cricket club character.
- Saxton should be preserved intact.
- Safety concerns regarding the proposed access use by the cricket club and by school children teams and visiting teams.
- Possibility for future dwellings on the paddock.

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:

Policy SP1	Presumption in Favour of Sustainable Development
Policy SP2	Spatial Development Strategy
Policy SP3	Green Belt
Policy SP9	Affordable Housing
Policy SP15	Sustainable Development and Climate Change
Policy SP16	Improving Resource Efficiency
Policy SP18	Protecting and Enhancing the Environment
Policy 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:

Policy ENV1	Control of Development
Policy T1	Development in Relation to Highway
Policy 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. Whether the scheme is appropriate development in the Green Belt and, if not, whether very special circumstances exist sufficient to outweigh the harm by reason of inappropriateness.
3. Impact on heritage assets
4. Layout, scale, landscaping and design and impacts on the character and form of the area.
5. Residential amenity
6. Flood Risk, Drainage and Climate Change
7. Affordable Housing
8. Other Matters

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 SDLP 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 NPPF" and sets out how this will be undertaken.
- 2.3.2 NPPF paragraph 14 contains a presumption in favour of granting planning permission for sustainable development which either accords with the statutory development plan or where the development plan is absent, silent or relevant policies are out-of-date.
- 2.3.3 The Council conceded that it does not currently have a 5 year supply of housing at the Hodgson's Gate Sherburn Public Inquiry and proposals for housing should be considered in the context of the presumption in favour of sustainable development and paragraph 49 of the NPPF. Having had regard to paragraph 49 of the NPPF, it is considered that parts of Policies SP2 and SP4 are out of date in so far as they relates to housing supply.
- 2.3.4 Criteria c) of Policy SP2 limits development 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 where it will enhance or maintain the vitality of rural communities, in accordance with Policy SP13. SP4 also limits residential development within secondary villages to conversions, replacement dwellings, redevelopment of previously developed land, filling in of small linear gaps in otherwise built up frontages, and conversion/redevelopment of farmsteads.
- 2.3.5 The majority of this site lies outside the development limits of Saxton, a secondary village. As such, if this scheme were being considered afresh it would not be acceptable in principle. Its location outside the village limits of a secondary village, in open countryside which is both Green Belt, Conservation Area and within a designated area of Recreation Open is considered to be an unsustainable form of development which should be refused. In light of the above policy context the proposals to develop this land for residential purposes would be contrary to policy SP2A(c) and SP4 a) of the Core Strategy. The proposal should therefore be refused unless material circumstances exist that would indicate otherwise.
- 2.3.6 However, the existing extant planning permission is a material consideration. The fall-back position is such that the previously approved dwelling could be constructed at any time. Given this situation, it is considered that the principle of the development on this site has already been established.
- 2.3.7 The proposed scheme is within the same application site with the same means of access and proposes a similar single large detached dwelling. The only difference is the actual design of the dwelling now proposed which is considered in the following sections of this report.

2.3 Green Belt

2.4.1 The site also lies in the Green Belt. Policy SP2 of the CS states that in Green Belt, including villages washed over by Green Belt, development must conform to Policy SP3 and National Green Belt policies. 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.

2.4.2 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 outweigh the presumption against it.

2.4.3 Paragraph 89 of the NPPF sets out that the construction of new buildings in the Green Belt is inappropriate unless it falls within a number of exceptions. These include the replacement of a building, provided the new building is in the same use and not materially larger than the one it replaces. Although the dwelling has not yet been constructed, the permission has been started. This scheme is for a varied form of dwelling to replace the approved version. The proposed replacement dwelling would be smaller and more compact with a reduced footprint. As such it would not be materially larger than the one it is intended to replace and it therefore represents appropriate development in the Green Belt and can be determined on its own merits.

2.4.4 The proposal is therefore consistent with Policy SP3 of the Core Strategy, with and National Green Belt policies and NPPF paragraphs 88 and 89.

2.5 Impact on the Heritage Assets

2.5.1 Policies ENV1 and ENV28 of the Selby Local Plan, Policies SP18 and SP19 of the Core Selby Strategy and the NPPF require proposals to take account of their impacts on heritage assets. The Local Plan Policies should be afforded significant weight.

2.5.2 In accordance with the NPPF paragraph 128 the Local Planning Authorities require the applicant to describe the significance of any heritage assets affected, including any contribution made by their setting. The Planning (Listed Building and Conservation Areas) Act 1990 requires, with respect to any buildings or land in a Conservation Area, that special attention be paid to the desirability of preserving or enhancing the character or appearance of the area

2.5.3 The applicants have submitted a design and access statement which describes the position of the site within the Saxton Conservation Area and assesses the effect of the design of the development which is intended to take this constraint into account in the careful layout and detailing of the proposals.

2.5.4 Saxton is a village set in a valley surrounded by agricultural Landscape. Its character is derived from the traditional limestone buildings and the most prominent feature of the church. Many of its farmsteads within the village have been redeveloped and there have been many infill plots. There is therefore a mix of traditional and more modern dwellings within the village of varying size, design and materials. Many of the properties have stone walls to the street frontage. The application site is on the western edge of the village fronting Coldhill Lane which is rural in character with hedgerows and trees to the road

frontage. There is only one other dwelling fronting Coldhill Lane which is Saxon Holme. This is an attractive white rendered 1930's house which in itself a classic design of its period.

- 2.5.5 The extant permission which exists for this site is for a large detached dwelling with an extensive floor area set out in an 'L' shaped arrangement with a linked double garage. The building proposed was to be constructed in rough faced limestone under a slate roof. The design had large aluminium glazed areas and cedar cladding on the west elevation. The dwelling would visually dominate this end of the village with its strong rectangular shapes and form and occupy a large proportion of the site.
- 2.5.6 The proposed dwelling is more compact than the previous approved design. The building is broken up by varying elements and materials. It has been designed so that the eaves level along the south elevation would be lower than on other elevations to reduce the height of the main ridge line and also to reduce the apparent height of the property when viewed from Coldhill Lane to the south. The large gables previously incorporated into the north south wing have been replaced with hipped roofing, this equally serves to reduce height and apparent massing. Maximum benefit is made from the existing changes in level across the site [west to east] and between the existing gardens and the adjacent field. Using the existing levels in this way has the benefit of keeping the new building as low as possible in relation to the existing house and also the Coldhill Lane frontage. Moreover, the access to the site from Coldhill Lane would remain as the existing planning approval, giving access to the reduced level garage and concealed hard standing. Cars would not be visible from any direction when viewed from ground level under the design of this application.
- 2.5.7 The proposal overall provides an individual unique modern character property with interest. It would be set within the centre of the site with space between it and the adjacent Saxon Holme. The scale of the dwelling is broken up by the varying forms and materials. It provides an interesting elevational treatment to the south and west which are the most visible publically. Overall the scale and design, when compared with the previous scheme is an improvement. The dwelling would sit well adjacent to the neighbouring 1930's style property adding a further unique style property at this end of the village. The appearance of the site will alter but would be significantly enhanced above the previous scheme creating an attractive development at this end of the village encompassing the new dwelling. As such the character and appearance of this part of the Conservation Area would be enhanced.
- 2.5.8 Having had regard to the above and taking into account Paragraph 135 of the NPPF, it is considered that the proposals are considered acceptable with respect to the impact on designated and non-designated heritage assets in accordance with Policies ENV1 of the Selby Local Plan, Policies SP18 and SP19 of the Selby Core Strategy and the NPPF.

2.6 Layout, Appearance, Scale and Landscaping and the Impact on Character and Form of the Area

- 2.6.1 The relevant policies in respect to design and the impacts on the character of the area include Policies ENV1 (1) and (4) of the Selby District Local Plan and Policy SP19 "Design Quality" of the Core Strategy.
- 2.6.2 Significant weight should be attached to Local Plan policies ENV1 Criterion (1) & (4) and Core Strategy Policies SP8 and SP19 as they are consistent with the aims of the NPPF. In addition relevant paragraphs within the NPPF, which relate to design, include paragraphs 56, 60, 61, 65 and 200.
- 2.6.3 The design of the scheme has been considered in the above section. The new development would be accessed from the existing paddock entrance to the west of the site via a resurfaced track which runs along the southern boundary of the field. The track will be

extended to turn north immediately to the west of the new house and into the garage and proposed new stable block located to the north of the new house.

- 2.6.4 The red line application site has been re-drawn to accurately reflect the original permission. As such there is no difference to the layout and access to the site. Trees and shrubs within the garden area would be removed to facilitate the dwelling but all other boundary trees around the site and along the access are to be retained. No additional trees are proposed for removal on this scheme over and above the original scheme. The modified consent includes a condition requiring the details of the landscaping and boundary treatments to be submitted for approval and sets out a timetable for implementation. This condition can be repeated on this scheme.
- 2.6.5 Overall the layout, appearance, scale and landscaping of this scheme are considered acceptable and therefore there would be no harm to the character and appearance of the locality. Moreover since this scheme would be an improvement on the previous scheme and is contained within the approved site area it would not have any increased impact on the designated Recreation Open Space area or the Locally Important Landscape Area.

2.7 Residential amenity

- 2.7.1 Policy ENV1 of the Selby District Local Plan (2005) requires the District Council to take into account the effect that proposals for development will have on the amenity of adjoining occupiers. Further, one of the twelve core planning principles of the NPPF is to always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings.
- 2.7.2 The amended scheme would not have a greater impact on the adjacent dwelling Saxon Holme. A new stone boundary wall would be erected between the two properties ensuring privacy levels are maintained. The proposed new dwelling does include a large balcony area on its front elevation. However, the parapet wall proposed to its side would ensure that the neighbouring garden was not overlooked from this feature.
- 2.7.3 Overall a satisfactory standard of amenity can be achieved for both the proposed and the existing dwelling. Furthermore the design of the new house has taken even greater care to reduce the apparent massing of the building by incorporating lowered eaves on the south elevation. The size of the southern wing has been reduced with the elimination of a bedroom. The bulk of the building has decreased overall and therefore the impact of a new dwelling on this site upon Saxon Holme is reduced.
- 2.7.4 Therefore the proposal would not cause an detrimental impact on the residential amenities of the existing dwelling and an adequate standard of amenity can be provided for future occupants in accordance with Policy ENV 1 of the Local Plan and the NPPF

2.8 Flood Risk, Drainage and Climate Change

- 2.8.1 Relevant policies in respect to flood risk, drainage and climate change include Policy ENV1(3) of the Selby District Local Plan, and Policies SP15 “Sustainable Development and Climate Change”, SP16 “Improving Resource Efficiency” and SP19 “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.
- 2.8.2 The application site is located in Flood Zone 1 (low probability of flooding) and as such it is not at risk from flooding. In respect of surface water run-off drainage it is proposed for source control of run-off via infiltration systems to a soakaway. Foul water would be disposed of via the existing main sewer.

- 2.8.3 The scheme incorporates the same drainage proposals as the original scheme with a package treatment plant with outflow to a reed bed with soakaway to the paddock. The scheme submitted included a large pond as a water outfall and a wildlife feature. However, due to this feature being outside the application site the scheme has been amended to remove it. No objections are received from the Drainage Board or Yorkshire water and the details are considered acceptable.
- 2.8.4 In respect of energy efficiency, the new house aims to maximize the opportunity for a sustainable design. It is proposed to incorporate a heat recovery ventilation system and also the use of air and ground source heat pumps. Photovoltaic cells and solar panels are also being investigated to contribute to the energy saving aspects of the property. As such the proposals will satisfy Policies SP15 and SP16 of the Core Strategy.
- 2.8.5 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.

2.9 Affordable Housing

- 2.9.1 Core Strategy Policy SP9 and the accompanying Affordable Housing SPD sets out the affordable housing policy context for the District.
- 2.9.2 In the context of the recent Court of Appeal Judgement in relation to the West Berkshire Case the Council is no longer able to seek a contribution for Affordable Housing under SP9 of the Core Strategy and the Affordable Housing SPD. The proposal is contrary to the provisions of the Development Plan but there are material considerations – the High Court decision on the West Berkshire case - which would justify approving the application without the need to secure an affordable housing contribution.
- 2.9.3 The proposed development, although contrary to Policy SP9 of the Core Strategy is considered acceptable without an Affordable Housing contribution.

2.10 Other Matters

- 2.10.1 Most issues raised by objectors are dealt with under the headings above. However where specific comments have been received which fall outside of these categories they are dealt with separately in this section.
- In relation to the site notice, a replacement was erected on site on 1 September.
 - In relation to the Cricket club access, the development scheme provides an acceptable means of access in terms of road safety. The question of a right to use this access is a civil matter between the land owners.
 - Issues in relation to the application red line, the larger site area, have been addressed through revised plans.
 - In terms of precedent, any future application would be considered on its own merits having regard to relevant development plan policies at the time.
 - In terms of the problems relating to construction traffic and mud etc., since there was no condition on the previous permission in relation to a construction management plan, it is not possible to impose one at this stage. Moreover, given the scale of the development for just one dwelling it is not considered that significant harm would be likely to result.
 - In relation to SDC consistently failing to protect the character of Saxton, no case evidence is put forward to substantiate this generalised view.
 - In relation to the view that Saxton should be preserved intact, SDC must consider determine all development applications before them in accordance with the development plan and other material considerations.

2.10.2 Having had regard to the above it is considered that they do not raise any issues of significant weight that would alter the overall conclusion of this report.

2.11 Conclusions

2.11.1 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 proposed development would not result in any harm to acknowledged interests such as heritage Assets, character and appearance of the Conservation Area, residential amenity, flood risk, drainage and climate change.

3.0 Recommendation

This application is recommended to be APPROVED subject to the conditions set out below;

- 1) The development hereby permitted shall be carried out in accordance with the following approved plans: (To be inserted).

Reason: For the avoidance of doubt, and in the interests of proper planning.

- 2) Notwithstanding the details shown on drawing Nos (To be inserted), the dwelling hereby permitted shall not be occupied unless its exterior walls and roofs have been constructed using materials, the details of which have been submitted to and approved in writing by the local planning authority, and only the approved materials shall be utilised.

Reason: To safeguard the character and appearance of the area in accordance with saved Policies ENV1, and ENV25 of the Selby District Local Plan (SDLP), adopted 8 February and Policies SP2 and SP4 of the Selby District Core Strategy (CS), adopted 22 October 2013.

- 3) The stables hereby permitted shall not be used for commercial horse breeding, riding or boarding activities. The stables shall only be used for private use by the occupiers of the dwelling hereby permitted.

Reason: In the interests of residential amenity and highway safety, in accordance with saved SDLP Policies ENV1 and RT9.

- 4) The stables hereby permitted shall not be used unless they have been constructed in accordance with a scheme, detailing their external appearance, which has been submitted to and approved in writing by the local planning authority.

Reason: To safeguard the character and appearance of the area in accordance with saved SDLP Policies ENV1, ENV25 and RT9 and CS Policies SP2 and SP4.

- 5) The dwelling hereby permitted shall not be occupied and the stables hereby permitted shall not be used unless the access to serve the dwelling and the stables has been improved in accordance with a scheme which has been submitted to and approved in writing by the local planning authority. The scheme shall include measures to prevent loose material being drawn onto the public highway.

Reason: In order to provide safe access in accordance with saved SDLP Policies ENV1, RT9 and T2.

- 6) Notwithstanding the details shown on drawing (to be inserted), the dwelling hereby permitted shall not be occupied unless a scheme detailing: (a) any trees or hedges to be removed or retained; (b) the position, species and size of any trees or hedges to be planted; and (c) the location, height, type and materials of any boundary walls or fences to be erected, has been submitted to and approved in writing by the local planning authority. The scheme shall include a timetable for implementation and shall make provision for the replacement, in the same position, of any tree or hedge which, within a period of 5 years, is removed, uprooted or destroyed or dies or, in the opinion of the local planning authority, becomes seriously damaged or defective, with another of the same species and size as that originally planted. The development shall be carried out in accordance with the approved scheme.

Reason: To safeguard the character and appearance of the area in accordance with saved SDLP Policies ENV1, and ENV25, and CS Policy SP18.

4.0 Legal Issues

4.1.1 Planning Acts

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

4.1.2 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.

4.1.3 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.

4.2 Financial Issues

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

5.0 Conclusion

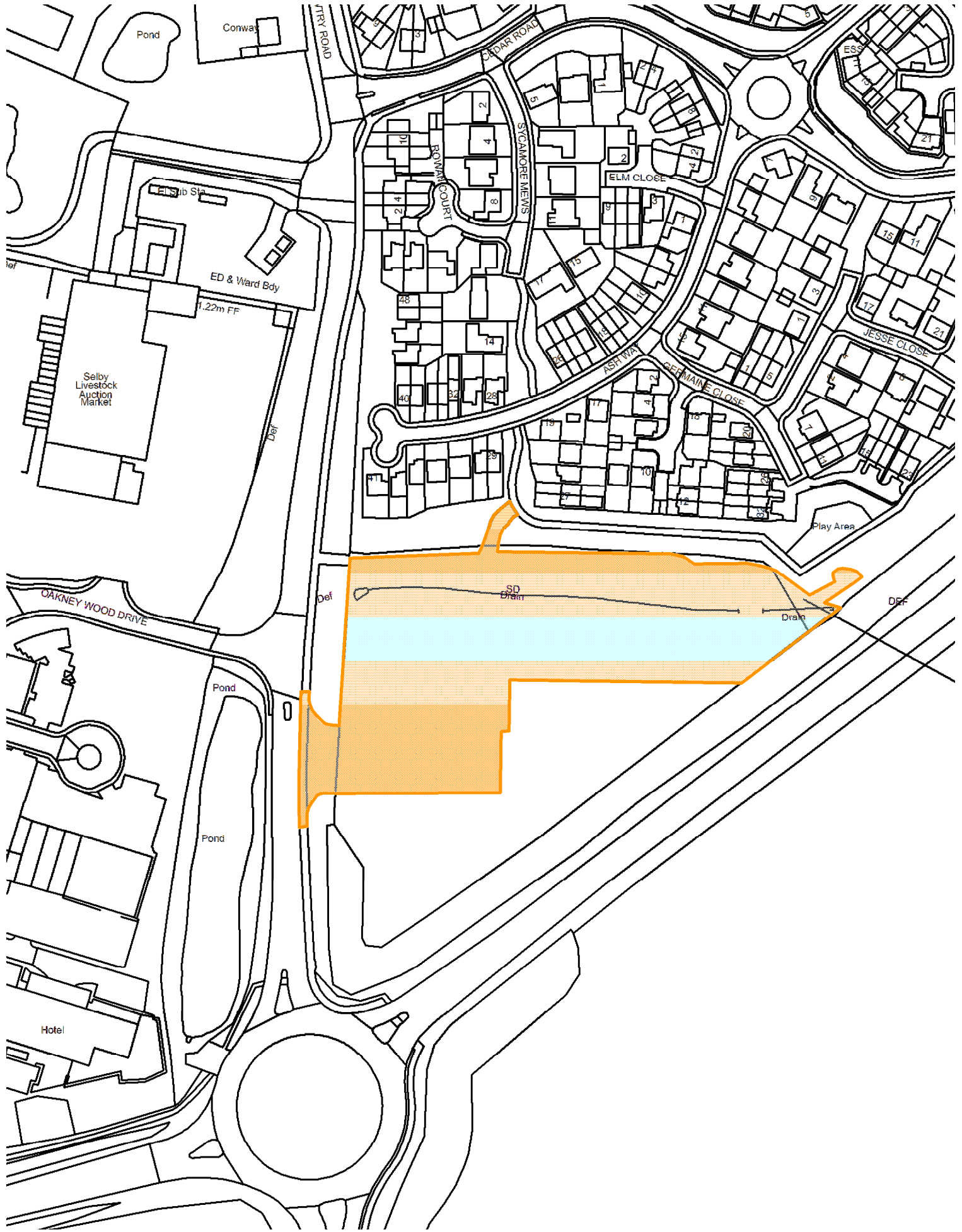
- 5.1 As stated in the main body of the report.

6.0 Background Documents

- 6.1 Planning Application file reference 2016/0783/FUL and associated documents.

Contact Officer: Fiona Ellwood, Principal Planning Officer

Appendices: None

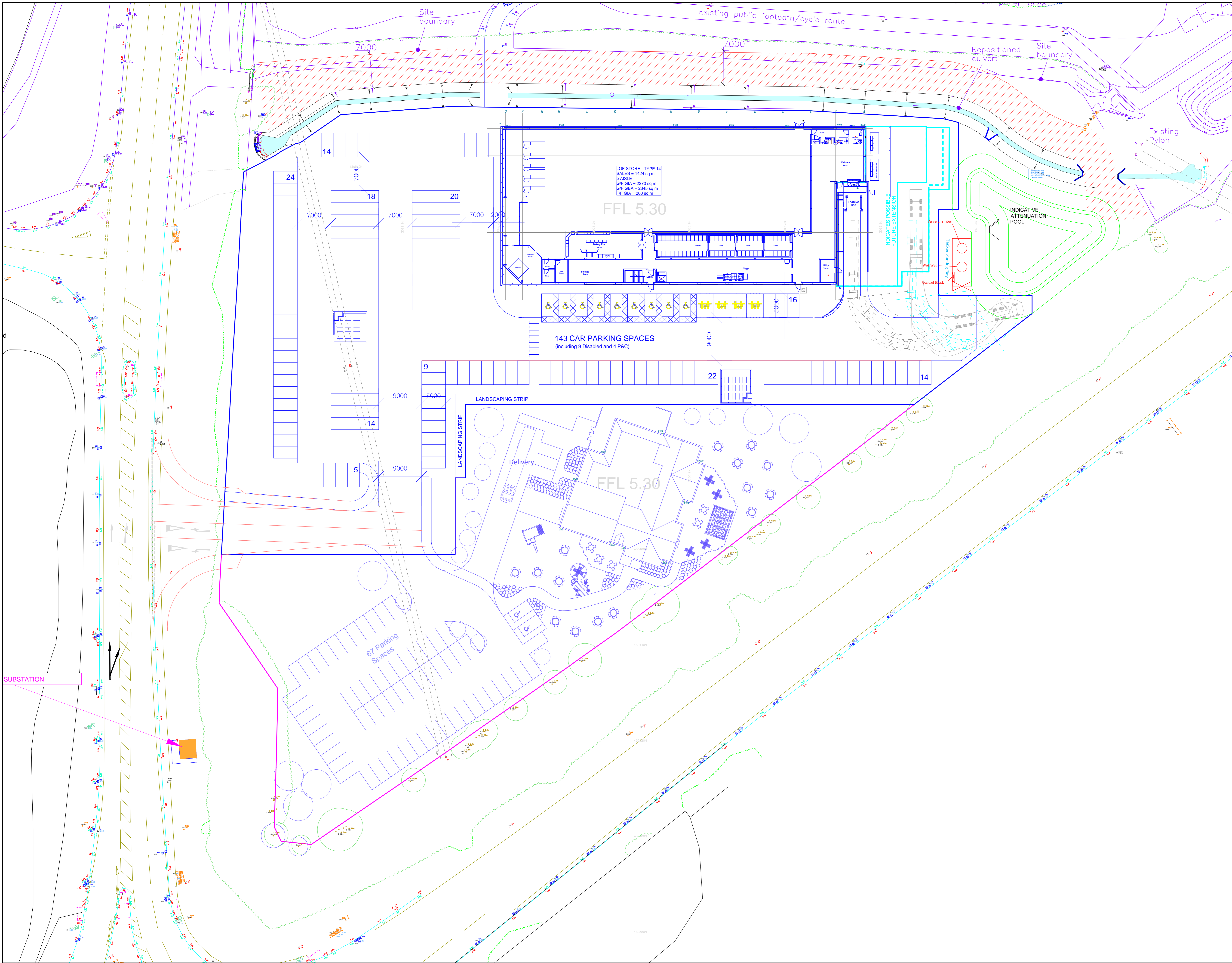


APPLICATION SITE

Item No: 2015/1217/FUL

Address: Staynor Hall Development, Bawtry Road, Selby

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1. Do not scale dimensions from this drawing in either paper or electronic format.
2. To be read in conjunction with all relevant Engineers, Architects and Other drawings and specifications.
3. All building products to be used in strict accordance with the manufacturer's recommendations.
4. Any discrepancies are to be reported to the Engineer immediately.
5. Main Contractor to provide a detailed method statement for all works prior to commencement on site.

RECEIVED
16 Nov 2015
BUSINESS SUPPORT

Rev	Date	Drawn	Description	Chkd



Met Engineers Ltd
Southgate House
Pontefract Road
Stourton, Leeds
West Yorkshire
LS10 1SW
Tel 0113 200 8904
0113 270 1199
e-mail: admin@metengineers.com
www.metengineers.com

Client
The Webster Estate

Project
Staynor Hall, Selby Commercial Site

Title
Layout Plan

Drawn	AA	Checked	ATK	Scale
Date	Jan 15	Date	Jan 15	1:250

Status
Planning

Drawing No	13529/5000/01	Rev	a
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Report Reference Number 2015/1217/FUL

Agenda Item No: 6.2

To: Planning Committee
Date: 9th November 2016
Author: Keith Thompson (Senior Planning Officer)
Lead Officer: Jonathan Carr (Interim Lead Officer – Planning)

APPLICATION NUMBER:	2015/1217/FUL	PARISH:	20
APPLICANT:	Mr S Rogerson	VALID DATE:	4th November 2015
		EXPIRY DATE:	3rd February 2016
PROPOSAL:	Erection of a food retail store (Use Class A1) and construction of access road, parking areas and associated infrastructure		
LOCATION:	Staynor Hall Development, Bawtry Road, Selby		

This application has been brought before Planning Committee as there are more than 10 objections contrary to the Officer recommendation to approve the application.

Summary:

This application seeks full planning permission for the erection of a retail food store (Use Class A1) and construction of access road, parking areas and associated infrastructure on land to the south of Staynor Hall housing development and to the east of Bawtry Road in Selby.

The site is located within the defined Development Limits of Selby and is considered to be in accordance with Policies SP1 and SP2 of Selby Core Strategy and acceptable in principle.

The proposal is considered to be acceptable in respect of flood risk, drainage, contaminated land, design and visual impact, residential amenity, highways and parking, nature conservation and protected species.

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, Selby District Local Plan and Selby Core Strategy.

Recommendation

This planning application is recommended to be APPROVED subject to conditions detailed in Paragraph 3.0 of the Report and a Section 106 Agreement to safeguard land for the provision of a roundabout opposite the Oakney Wood Road access.

1. Introduction and background

1.1 The Site

1.1.1 The application site forms part of the Staynor Hall development site. The overall site was granted outline planning permission in 2005 (CO/2002/1185), as detailed below in Section 1.3.

1.1.2 The site is largely flat and open and has historically been used for agricultural purposes as an arable field with a mature native hedgerow and trees to two sides. It is bounded by the A63 and the roundabout leading to Bawtry Road / the A1041 and by new dwellings on the Staynor Hall estate on Germain Close and Ash Way. On the opposite side of the A1041 is Selby Business Park, which includes small-medium size businesses, a hotel/pub and an auction mart site.

1.2 The proposal

1.2.1 The applicant seeks full planning permission for the erection of a food retail store (Use Class A1) and construction of an access road, parking areas and associated infrastructure which includes an attenuation pool and pump station in the north east corner of the site.

1.2.2 The food store would have a largely rectangular footprint and measure some 75m by 33m and have 1,424m² sales area and gross external floor area 2,345m². The external materials proposed include a grey clad sloping roof, glazing to the Bawtry Road elevation and the entrance elevations, rendered walls painted white and upper sections of walling grey clad. The car park would include 143 no. parking spaces which include 9 no. disabled parking bays 4 no. parent and child bays.

1.2.3 Trading hours are noted in the application form as 8am – 10pm Monday to Saturday and 10am to 5pm Sunday and Bank Holidays.

1.2.4 A culvert that crosses the site would be reposition on the northern periphery of the store. An attenuation pond and pump station is indicated in the north eastern area of the site and would facilitate drainage requirements for the site and occupies an area some 84m². The pumping station would be enclosed with a 2m high mesh panel fence and the pond with a 450mm knee rail fence.

1.2.5 The site is some 1ha in area and within land which was originally designated in Selby District Local Plan under Policy BRAY/2 for employment purposes. The Masterplan which accompanied the Outline permission had indicated the site for employment uses.

1.3 Planning History

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

Application reference CO/2002/1185 (Permitted - 06.06.2005) Outline application for the erection of 1200 dwellings (4 existing to be demolished), employment, public open space, shopping and community facilities (including up to 2,000sq.m. of shops), together with associated footpaths, cycleways, roads, engineering works and landscaping on 56 hectares of land.

Application reference 2015/1272/FUL (Pending Consideration) Proposed erection of a public house with restaurant (Use Classes A3 and A4) and manager's accommodation with ancillary access, parking area and associated infrastructure. This proposal adjoins the application site and is proposed to share the means of access.

1.4 Consultations

1.4.1 Parish Council – Object on highway grounds with the new access near Oakney Wood Road junction. The entrance should be opposite Oakney Wood Road junction.

1.4.2 NYCC Highways and Transportation – Lengthy consideration of the application has been undertaken between NYCC Highways and the applicant's highway engineers. The latest and final comments from NYCC Highways is summarised below. In short, there is no objection to the proposal and conditions and a S106 agreement is recommended.

Originally concerns were raised regarding the design of the proposed site access bearing in mind close proximity of the Oakney Wood Road junction and the A1041/A63 roundabout.

Alternative access arrangements were suggested by NYCC Highways which includes provision of a roundabout opposite Oakney Wood Road or designing the access so that all traffic would be forced to turn left when leaving the site. These alternatives have not been considered by the applicant and the site access is as submitted.

Sufficient grounds to sustain a recommendation of refusal at appeal have been considered and there are two important elements associated with the proposal - A Road Safety Audit and personal injury accidents occurring in the locality.

Taking both factors into consideration NYCC Highways does not consider it could sustain a recommendation of refusal at planning appeal.

Suggested a Section 106 agreement to safeguard the provision of a roundabout opposite Oakney Wood Road access as what was agreed in the original Outline approval application. Ten planning conditions are also recommended to control detail of the construction and operational phase of the proposal.

1.4.3 SDC Environmental Health – No objections subject to a condition to submit a scheme to minimise the impact of noise, vibration, dust and dirt on residential property in close proximity to the site.

- 1.4.4 Yorkshire Water** – No objection in principle subject to conditions to restrict development within an easement of a main line, separate systems of drainage, no piped discharge of surface water.
- 1.4.5 HER Officer** – No objection subject to a condition for a scheme of archaeological mitigation recording.
- 1.4.6 Selby Area Internal Drainage Board** – No objection subject to a condition to control discharge rates.
- 1.4.7 Environment Agency** – No objection subject to condition the measures detailed in the flood risk assessment.
- 1.5 Publicity**
- 1.5.1 The application has been advertised by press and site notice and neighbour letter with 22 objections received and 2 comments of support at the time of writing the report.

Objections

Highway Safety/Access

A large proportion of objections revolve around this point.

Traffic around Staynor Hall/Bawtry Road is already dangerous in peak times where there have been traffic accidents on Bawtry Road,
The new access would be close to Oakney Wood Road junction which is unsafe,
Vehicles to the livestock auction are generally tractors, lorries which leaving the site are slower onto Bawtry Road and on Saturdays are busier,
The Business Park is not fully developed and will add more traffic to Bawtry Road,
An additional roundabout has been suggested to come on the Oakney Wood Road junction, forward
The Masterplan for Staynor Hall provided for a roundabout serving the site and Selby Business Park secured in the S106 agreement,
Inadequate Transport Assessment,
Proposed access would exacerbate the existing congestion and safety on Bawtry Road,
Granting permission would preclude the possibility of a new roundabout.

Principle of Development

Already a good provision of discount store at Aldi and restaurants at Three Lakes Retail Park, why the need for similar uses,
Acknowledged aware of commercial site when purchasing house on Staynor but need cinema, doctors surgery, dentist,
Retail sequential assessment required.

Flood Risk

The site is prone to flood in bad weather.
Justification for the search catchment area,
There is land within flood zone 2 in the Staynor Hall development.

Landscaping

If permitted, the northern part of the site should be landscaped and screened from houses on Staynor,
The footpath linking the site to Staynor should be removed.

Amenity

Noise pollution from the proposal,
Litter from the development will cause an overbearing effect,
The proposed footpath linking the site to neighbouring streets on Persimmon development would allow kids access to the main road,
The footpath would also allow youths to congregate causing anti-social behaviour and people using the pub walking home to the estate,
Noise from the construction phase and deliveries to the store,
Field should be made into a sports field.

Non-planning issues

Would reduce the value of my property

Support

A supermarket and public house would bring more services close to Staynor Hall and reduce traffic as a result,
Would serve the Staynor Hall development residents,
A local shop and pub would improve the local community,
No objection in principle as the site has always been planned for employment development.

Other Points

It would be inappropriate to consider the application independent from the public house application,
The phasing of the Staynor Hall development makes clear that the strategy reflects the masterplan – Proposed development without variation to phasing strategy or masterplan would be unlawful,
Granting of permission would be subject to the possibility of judicial review.

1.6 Environmental Impact Assessment

- 1.6.1 A screening opinion has been undertaken to ascertain if the submission of an Environmental Impact Assessment (EIA) is needed in connection with the proposal. Whilst the proposal is considered to fall within works covered by Schedule 2 of the EIA regulations it is not considered that they would have an impact on the environment significant enough to merit the submission of an EIA.

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
SP14 – Town Centre and Local Services
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
ENV28 – Other Archaeological Remains
EMP2 – Location of Economic Development
EMP6 – Employment Development within Development Limits
BRAY/2 – Employment Allocation
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)

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 National Planning Practice Guidance provides guidance on wide variety of planning issues and the following report is made in light of the guidance in those documents.

2.2 Key Issues

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

- 2.2.1 1. Principle of the Development
- 2.2.1 2. Visual impact on the Character and Form of the locality
- 2.2.1 3. Residential amenity
- 2.2.1 4. Flood risk, drainage and climate change
- 2.2.1 5. Impact on highways
- 2.2.1 6. Nature conservation and protected species
- 2.2.1 7. Trees and Landscaping
- 2.2.1 8. Contamination

2.3 Principle of Development

- 2.3.1 Applications are to be determined in accordance with the Development Plan unless there are material considerations which indicate otherwise.
- 2.3.2 The National Planning Policy Framework (“the NPPF”) is a material consideration which must be taken into account in planning decisions. If the NPPF contains policy guidance that is relevant to this application, the report below will explain this, and consider the extent to which development plan policy is consistent with the NPPF and the weight to be given to that policy.
- 2.3.3 Saved Policies in the Selby District Local Plan 2005 (SDLP) and Selby District Core Strategy 2013 (SDCS) which are discussed below, can be given due weight according to their degree of consistency with the NPPF 2012 (paragraph 215).

2.4 Current Planning Policy Position

- 2.4.1 The Development Plan is the starting point for the determination of any planning application. The Development Plan for the area comprises the saved policies of SDLP and SDCS. The guidance contained within the NPPF and NPPG is also a material consideration in the determination of applications for planning permission.
- 2.4.2 The NPPF (paragraph 14) provides for a presumption in favour of sustainable development. For decision-making this means that development proposals that accord with the development plan should be approved 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 NPPF as a whole, or specific policies within the NPPF indicate development should be restricted.
- 2.4.3 Paragraph 17 of the NPPF sets out 12 core planning principles to underpin plan-making and decision-taking. Importantly in relation to this application are the principles of proactively driving and supporting sustainable economic development; securing high quality design and a good standard of amenity for all existing and future occupants of land and buildings; promoting the vitality of our main urban

areas; supporting the transition to a low carbon future in a changing climate, taking full account of flood risk; contributing to conserving and enhancing the natural environment and reducing pollution; encouraging the effective use of land by reusing land that has been previously developed; promoting mixed use developments and encouraging multiple benefits from the use of land, and; actively managing patterns of growth to make the fullest possible use of public transport, walking and cycling, and focus significant development in locations which are or can be made sustainable.

- 2.4.4 Section 1 of the NPPF outlines the need to secure economic growth in order to create jobs and prosperity. It states that planning should operate to encourage and not act as an impediment to sustainable growth and that significant weight should be placed on the need to support economic growth through the planning system. Economic growth is clearly an important material consideration however it should not be secured by unsustainable means. Economic growth is only one element of the Governments definition of sustainable development as set out in the NPPF.
- 2.4.5 In order to achieve sustainable retail development an application must comply with Section 2 of the NPPF which promotes retail development in a hierarchy of locations and in all cases the vitality and viability of existing town centres should be protected. The NPPF requires LPA's to apply a sequential test to planning applications for main town centre uses (such as retail) that are not in an existing centre and are not in accordance with an up-to-date Local Plan. Applications for main town centre uses should be located in town centres, then in edge of centre locations and only if suitable sites are not available should out of centre sites be considered. When considering edge of centre and out of centre proposals, paragraph 24 of the NPPF states that preference should be given to accessible sites that are well connected to the town centre.
- 2.4.6 When assessing applications for retail development outside of town centres, which are not in accordance with an up-to-date Local Plan, the NPPF states that local planning authorities should require an impact assessment to be carried out (if the development is over a proportionate, locally set floor space threshold). This should include assessment of the impact of the proposal on existing, committed and planned public and private investment in a centre or centres in the catchment area of the proposal; and the impact of the proposal on town centre vitality and viability.
- 2.4.7 The NPPF is clear that where an application fails to satisfy the sequential test or is likely to have significant adverse impact on existing, committed and planned public and private investment or town centre vitality and viability, it should be refused.
- 2.4.8 Section 4 of the NPPF promotes sustainable transport. Developments that generate significant movements should be located where the need to travel will be minimised and the use of sustainable transport modes can be maximised.
- 2.4.9 Policy SP1 of SDCS 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.

- 2.4.10 Policy SP2A of SDCS identifies Selby as being the Principal Town where the majority of new development will be directed and will be the focus for new housing, employment, retail, commercial and leisure facilities.
- 2.4.11 Policy SP13 of SDCS identifies the scale and distribution of economic development throughout the District up to 2027. The precise scale and location of sites in Selby will be informed by an up-to-date Employment Land Availability Assessment and determined through a Site Allocation Local Plan. It is considered that Policies SP1, SP2A and SP13 remain consistent with the NPPF and should therefore be given significant weight.
- 2.4.12 Policy EMP2 of SDLP states that new employment development will be concentrated in and around Selby. In this Policy the wider site is allocated as BRAY/2 East of Bawtry Road, Brayton and 1.6ha. This application site area is just over 1ha.
- 2.4.13 Policy BRAY/2 of SDLP states that proposals will make provision for high quality design, access to be taken off Bawtry Road, establishment of a permanent 20m wide tree belt within the north eastern boundary of the site, incorporation of footpath links and safe cycle tracks including links with adjacent housing and finally an appropriate flood risk assessment.
- 2.4.14 Policy EMP6 of SDLP refers to allocated sites and permits new business development subject to three criteria which includes having no significant adverse effect on existing businesses, highway safety and local amenity and design, materials and landscaping being acceptable. Since the adoption of the SDLP in 2005 the NPPF has defined 'economic development' as development, including those within the B Use Classes, public and community uses and main town centre uses (but excluding housing development). This definition is more prescriptive than the 'employment development' reference in the SDLP. Therefore in this regard the objectives of these SDLP policies should be given significant weight in addition to giving significant weight to the definition of economic development, which includes retail development.
- 2.4.15 An objection refers to the phasing strategy and masterplan associated with the 2005 Outline application and that permitting this proposal would be unlawful. For the reasons noted above the proposed economic development would not undermine the envisaged employment uses for the site in light of current national planning policy advice. The housing development at Staynor Hall is at an advanced stage and the provision of a retail store would be ideally located to service the residents and neighbouring businesses.

2.5 Emerging Planning Policy Position

- 2.5.1 Paragraph 216 of the NPPF identifies that decision-takers may give weight to relevant policies in emerging plans according to: the stage of preparation of the emerging plan; the extent to which there are unresolved objections to relevant policies; and the degree of consistency of the relevant policies in the emerging plan to the policies in the NPPF.
- 2.5.2 PLAN Selby is the Sites and Policies Local Plan which the Council is developing to deliver the strategic vision outlined in the Core Strategy (adopted in 2013). When

PLAN Selby is adopted it will form part of the Local Plan for the District against which planning applications will be assessed.

- 2.5.3 PLAN Selby will incorporate site allocations to promote the growth needs of the District and site specific designations and policies to manage other development proposals.
- 2.5.4 The Council has analysed the results from the consultations and are now finalising the evidence base for PLAN Selby, drafting policies and considering preferred site allocations.
- 2.5.5 The Council anticipates consulting on PLAN Selby - Draft Preferred Options during autumn 2016. The updated Local Development Scheme timetable for the plan has an expected Inspectors Report and Adoption as May 2018. It is therefore considered that no weight is given to this emerging policy document.
- 2.5.6 The application site continues to be located inside the Defined Development Limits of Selby in the SDCS.

2.6 Impact on Selby Town Centre

- 2.6.1 This application proposes the erection of a new retail food store in an out-of-centre location. The principle of retail development on this site would be acceptable if it can be demonstrated that the sequential test can be satisfied and that the retail impact of the proposal on town centre vitality and viability is acceptable. The retail food store proposes a net sales area of up to 1,424 m² and a gross internal area of 2,270m². The proposal thereby falls below the threshold to carry out a retail impact assessment (2,500m²) and there are no locally set retail impact assessment thresholds. It is therefore considered that no further assessment is required on impact assessment as noted in the NPPF.
- 2.6.2 The applicant submitted a retail sequential assessment. Selby Town Centre as defined in the SDLP is focused primarily around the town centres core on Gowthorpe, Brook Street, Finkle Street and The Crescent. The applicant notes there are no sites available within the designated Town Centre capable of accommodating the retail store. The assessment notes the former 'Green's Furniture Shop' on Ousegate but referred to planning history for refusal of assembly and leisure purposes on the site. The former 'Rigid Paper Mill' site was also considered which is edge of Town Centre and the former Civic Centre on Portholme Road also edge of centre. These two sites were considered unsuitable due to the scale of the proposal and being too large for the proposal.
- 2.6.3 The sequential assessment has found that there are no vacant units available within or on the edge of Selby Town Centre that are suitable and available for a retail food store of the size hereby proposed, even when allowing for flexibility in format and scale.
- 2.6.4 The Council's Planning Policy section advised that the information provided in the retail assessment was considered to meet the policy requirements to support the application in terms of the sites suitability for retail.

- 2.6.5 Consideration is also given to the adopted employment policies EMP2, BRAY/2 and EMP6 which notes the allocation of the application site for employment development. The NPPF is given significant weight by confirming its intention for economic development and the proposed retail development would comfortably sit within this policy context, and thus be a suitable development type on this allocated employment site.
- 2.6.6 The Staynor Hall development site includes the provision of 2 small retail shops (circa 70m² total) which were recently approved at the October committee meeting and these would serve the immediate housing development given the location centrally placed within the wider site.
- 2.6.7 To conclude, the site is allocated for 'employment development' in the SDLP which when taken with the latest NPPF interpretation of said development, would include retail development. The proposal would satisfy the NPPF sequential and impact tests.
- 2.6.8 The site is located adjacent to Bawtry Road and lies south of a large housing site which has phases of housing still to be constructed but circa 600 houses are complete. There would be clear linkages to the housing site on foot and the housing site is served by public transport with links to the town centre. It is therefore considered that the proposed scheme satisfies the requirements of paragraph 24 of the NPPF which gives a preference to sites that are accessible and are well connected to the town centre when out of centre development is justified.
- 2.6.9 This proposal is considered to accord with existing Development Plan policies and National Policy guidance, namely Policies EMP2, BRAY/2 and EMP6 of the SDLP, Policies SP1, SP2 and SP13 of the SDCS and the policy guidance contained within the NPPF which actively encourage proposals for economic development and seek to maintain the vitality and viability of town centres by carefully controlling out-of-centre retail.

2.7 Visual impact on the Character and Form of the locality

- 2.7.1 Relevant policies in respect to design and the impacts on the character of the area include Policies ENV1 (1) and (4) of the Selby District Local Plan, and Policy SP19 "Design Quality" of the Core Strategy.
- 2.7.2 Significant weight should be attached to the Local Plan policy ENV1 and Core Strategy Policies SP19 as they are broadly consistent with the aims of the NPPF.
- 2.7.3 Relevant policies within the NPPF, which relate to design, include paragraphs 56, 60, 61, 65 and 200.
- 2.7.4 The NPPG reiterates that development proposals should reflect the requirement for good design set out in national and local policy and sets out how high quality design should be achieved across all forms of development.
- 2.7.5 The application site comprises circa 1ha grassed field located adjacent and to the south of a large housing development which is part occupied with houses and under consideration for further phases of development. There is a mixed use industrial estate to the west called Selby Business Centre, a pub/hotel and a livestock auction

mart to the north of the estate. Bawtry Road divides the site from the established built form to the west and the A63 by-pass enclosing the site along its south-south eastern perimeter. There is established planting along this latter perimeter.

- 2.7.6 There is no specific design criteria for the area in which this proposal should made reference to, although the site is considered to act as a gateway to Selby when approaching from the south or on the by-pass.
- 2.7.7 The store would have a lean-to roof and have one and half storeys and have a modern external finish using clad roof and large elevations of glazing. The building would be similar to many of the Lidl style buildings seen throughout the country and a design that is brand focussed.
- 2.7.8 There would be a significant buffer from the store to houses to the north and given that a car park lies on the western frontage of the site the building would not appear cramped on site. The layout is set out as such to safeguard the potential for a roundabout as indicated in the Masterplan situated opposite Oakney Wood Road and there is a water main sited along the western perimeter of the site. If such a proposal was to be forthcoming in the future as a result of financial buy in from local businesses, some spaces in the car park could be given over for such development without compromising on the parking provision for the store. Given the mixed character of development in the area and the layout of the store, it is considered that the new retail food store hereby proposed would not appear as an unacceptable form of development in this location.
- 2.7.9 The application is accompanied by detailed elevations and plans of the proposed building and the associated access, car parking arrangements and landscaping proposals for the site. The store would measure circa 75m x 33m and include an internal sales area 1,424m². The proposal would have an active frontage facing south-south west, responding to the most active road frontage being Bawtry Road. It is considered that the building would not appear out of scale in this locality which includes two storey houses and mixed scale commercial development and the design and appearance would not detract from the visual amenity of the area.
- 2.7.10 In conclusion, the proposals for a new retail food store is considered to be visually acceptable and would not detract from the character or visual amenity of the surrounding area. This development proposal is therefore considered to accord with Policies ENV1 of SDLP and Policy SP19 of SDCS, the NPPF and NPPG, insofar as these policies relate to matters of design and visual amenity.

2.8 Residential amenity

- 2.8.1 Relevant policies in respect of the effect upon the amenity of adjoining occupiers include Policy ENV1 (1) of the Selby District Local Plan.
- 2.8.2 Significant weight should be attached to ENV1 of the SDLP as it is broadly consistent with the aims of the NPPF to ensure that a good standard of amenity is achieved.
- 2.8.3 In considering residential amenity the key considerations are overlooking, overshadowing, overbearing impacts and separation distances.

- 2.8.4 The nearest houses lie to the north of the application site and form part of the wider housing estate called Staynor Hall. There would be a separation distance from the food store to the nearest house at no. 27 Ash Way of some 27m. This distance is considered sufficient distance to ensure the building does not appear overbearing on this and neighbouring houses. Comments received from objectors relate to noise and disturbance from the development, in particular from deliveries and general addition of a food store in proximity to houses. There would be deliveries to the store and this is indicated to occur on the east elevation of the store. The delivery dock is some 42m from the nearest house at no. 12 Germaine Close and freezer/chiller plant is located near to the dock on the eastern elevation. The latter being some 31m from no. 12 Germaine Close. It is considered this aspect of the proposal would raise no adverse residential amenity issues as a result of the separation distances and given the advice from the Council's Environmental Health Officer who raised no objection.
- 2.8.5 The opening hours are considered acceptable and can be controlled by condition to ensure that the operation of the proposal is within acceptable parameters to ensure no adverse impact on residential amenity. No detail is provided for delivery vehicles times and for the same reason can be secured by condition.
- 2.8.6 It is considered that this arrangement would not result in a significant impact on the occupiers of the neighbouring residential properties in terms of noise and disturbance associated with deliveries and Council's Environmental Health Officer had no objection in this regard.
- 2.8.7 Objections that have been received refer to the footpath connecting the site to Ash Way to the north and thus providing a link to the large housing estate. Reference is made to potential for anti-social behaviour and more movements through the housing estate. Local Plan policy EMP2 seeks linkages from this application site to Staynor Hall and it would provide sustainable and safe passage for customers on foot that will use the food store. It is therefore considered that limited weight is given to the objector's argument on this point. In any event anti-social behaviour that causes undue harm to residents in any location in the District would fall under the ambit of the Police Service.
- 2.8.8 The Council's Environmental Health Officer reviewed the submitted Noise Impact Assessment prepared by Dragonfly consulting and advised that the assessment concluded that noise from the operational phase of the development will be at the No Observable Effect Level and as such the development is compliant with the NPPF. There was no objection to this assessment. The Officer further noted that the development is of a relatively large scale and as such would entail an extended construction phase. This phase may negatively impact upon nearby residential amenity in terms of generation of noise, dust and vibration but may not be deemed to constitute a statutory nuisance. A condition is thereby recommended to seek a scheme to minimise such impact and this would be considered necessary and reasonable.
- 2.8.9 The proposal is therefore considered to accord with Policy ENV1 of SDLP and the NPPF, subject to conditions.

2.9 **Flood risk, drainage and climate change**

- 2.9.1 The NPPF seeks to avoid inappropriate development in areas at risk of flooding by directing development away from areas at highest risk. It requires Local Planning

Authorities to apply a Sequential Test to planning applications in Flood Zones 2 and 3 to ensure that new development is located in areas at the lowest flood risk. Any application for planning permission in Flood Zones 2 or 3 must therefore demonstrate that there are no other reasonably available alternative sites that could be developed within the search area that are at a lower risk of flooding. An exceptions test is then required to be met in order to demonstrate that the development is justified and can be made safe.

- 2.9.2 Relevant policies in respect to flood risk, drainage and climate change include Policy ENV1 (3) of the Selby District Local Plan, and Policies SP15 “Sustainable Development and Climate Change”, SP16 “Improving Resource Efficiency” and SP19 “Design Quality” of the Core Strategy.
- 2.9.3 Significant weight should be attached to the Local Plan Policy ENV1 as it is broadly consistent with the aims of the NPPF.
- 2.9.4 Relevant paragraphs within the NPPF, which relate to flood risk, drainage and climate change include 94 and 95.
- 2.9.5 The site is located within an area designated by the Environment Agency as Flood Zone 3 and must therefore be assessed in line with advice given in the NPPF regarding development and flood risk. Flood Zone 3 comprises land assessed as having a 1 in 100 or greater annual probability of river flooding (>1%), or a 1 in 200 or greater annual probability of flooding from the sea (>0.5%) in any year.
- 2.9.6 Objectors have raised concerns regarding the applicant’s area of search for the sequential test and reference to available land in the Staynor Hall development site in flood zone 2. The Council’s Flood Risk Guidance Note (Sept 2016) states for proposals at edge of town centre’ or ‘out of town centre’ locations, or in settlements without a defined retail area, the search area can be the catchment area that the development is intending to serve (i.e. the target catchment), having regard to the ‘sequential approach’ advocated in NPPF. The NPPF outlines that the flood risk sequential test catchment areas are set by the Local Planning Authority, on this occasion the area has been agreed between the Local Authority Officers and the applicant as 500m from the Staynor Hall Housing development. In order to support the application the Authority must be satisfied that all appropriate mitigation will be agreed with the Environment Agency.
- 2.9.7 Objections on flood risk have been considered in the assessment. Reference is made to land within Flood Zone 2 being available in the Staynor Hall development but land on this site is either allocated for housing, school provision, community centre or small retail shops and is not available for this proposal.
- 2.9.8 The Environment Agency advised that the Authority must satisfy themselves that the flood risk Sequential Test has been undertaken in a transparent way in accordance with the NPPF and NPPG. Officers have considered the information submitted and concur with the conclusion that there are no reasonably available alternative sites in the catchment area that are at a lower risk of flooding that could accommodate the development hereby proposed.
- 2.9.9 With regard to the exception test, the NPPF states at paragraph 102 that it must be demonstrated that the development provides wider sustainability benefits to the

community that outweigh flood risk and a site specific Flood Risk Assessment (FRA) must demonstrate that the development will be safe for its lifetime without increasing flood risk elsewhere and where possible will reduce flood risk overall. Buildings used for shops are identified as 'less vulnerable' uses according to Table 2 (Flood Risk Vulnerability Classification) of the NPPG, and such development within Flood Zone 3a does not need to be subject to the exceptions test.

- 2.9.10 This application is accompanied by a detailed Flood Risk Assessment which demonstrates that the development can be made safe from the risk of flooding and will not increase the risk of flooding elsewhere. The Environment Agency has been consulted in respect of this development proposal and has not objected, subject to a condition that requires the development to be carried out in accordance with the submitted FRA. This includes finished floor levels (FFL) are set no lower than 5.3m above Ordnance Datum (AOD), floors to be of solid construction underlain with 1200g visqueen damp proof membrane, with lapped and taped joints, boilers, gas and electrical meters to be placed a minimum of 700mm above FFL and electrical sockets to be placed a minimum of 300mm above FFL and wired from above.
- 2.9.11 The Internal Drainage Board and Yorkshire Water have been consulted on the application with regards to drainage. Surface water drainage has also been a point raised by objectors. The IDB confirmed that after discussions with the applicant's engineers that the engineers would be submitting a Consent Application to the IDB providing information to support the discharge rate of 40 litres per second. The IDB seeks this to be controlled by condition which would be reasonable and necessary. Yorkshire Water had no objections to the proposal subject to conditions.
- 2.9.12 The pumping station proposed in the north east area of the site would handle foul water from the site and the attenuation pond is noted as an overflow for surface water. There has been no objection from the statutory consultees on this aspect of the proposal.
- 2.9.13 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 hereby sought, building regulations would control aspects of the construction phase, and it is considered that its ability to contribute towards reducing carbon emissions, or scope to be resilient to the effects of climate change would be 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.
- 2.9.14 Therefore having regard to policy SP15 (B) it is considered that the proposal is acceptable.
- 2.9.15 Policy SP16 of the Core Strategy seeks to promote resource efficiency and in particular schemes of non-residential more than 1,000m² should provide a minimum of 10% of total predicted energy requirements from renewable, low carbon or decentralised energy sources (or else in accordance with the most up to date revised national, sub-regional or local targets). No detail has been provided in the application submission to deal with this Policy requirement but can be secured by condition.

2.9.16 It would be reasonable and necessary to secure electric charging facilities on site given the scale of the proposal and the likely modes of transport that would use the site and can be secured by condition.

2.9.17 In conclusion, no objections have been received from Yorkshire Water, the Environment Agency or the IDM (subject to appropriate conditions where necessary) and as such it is considered that this development proposal is acceptable in respect of matters relating to flood risk and foul and surface water drainage and climate change.

2.10 Impact on highways

2.10.1 Paragraph 32 (Section 4) of the NPPF requires that planning decisions take account of whether safe and suitable access to sites can be achieved for all people; and whether improvements can be undertaken within the transport network that cost effectively limit the significant impacts of the development. It states that development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe.

2.10.2 Policy in respect to 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.

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

2.10.4 The proposal includes a new site access created off Bawtry Road. There has been a significant amount of objections to this aspect of the proposal and these are noted above and have been considered in the assessment of the application. North Yorkshire County Council Highways have considered the impact of the proposal on the highway network. As noted above they do not recommend a refusal of the application and their comments are expanded upon in the following paragraphs.

2.10.5 They advise that the Road Safety Audit provided an independent assessment of the potential road safety problems associated with the scheme. Some design issues were raised which the applicant can satisfactorily address as part of the detailed design. However, no issues were raised regarding the likely interaction of vehicles exiting the three junctions.

2.10.6 Over the last 3 years there have been 4 recorded accidents at the Oakney Wood Road junction. Three of these accidents were a result of vehicles failing to cancel their left turn indicator on exiting the A1041/A63 roundabout. This led to vehicles waiting to exit Oakney Wood Road junction believing the approaching vehicles were going to turn left into the junction and pulling out into their path. NYCC Highways do not consider that vehicles turning right from the application site would contribute to this accident pattern.

2.10.7 Furthermore, queuing traffic which presently occurs at the Oakney Wood Road junction during the PM peak period and the impact the development will have on this existing problem. The impact has to be considered in relation to Paragraph 32 of the NPPF which states that,

"Development should only be prevented or refused on highway grounds where the impacts of development are severe."

- 2.10.8 When considering whether or not the impact of development traffic will be severe in terms of queuing, NYCC Highways considers that queuing at any arm of a junction will not cause issues at further key junctions and queuing will only occur for a short period.
- 2.10.9 The term, 'severe' can itself be interpreted as very great. If the traffic from a development is not considered to have a very great impact on the above then NYCC Highways do not consider that a development can be interpreted as having a severe impact and thus the Highway Authority are unlikely to issue a recommendation of refusal on those grounds.
- 2.10.10 As Oakney Wood Road is a cul de sac queues are contained within the business park development. Queues are also mainly associated with a half hour period at the end of the working day. What also needs to be taken into consideration is that the trips generated by the supermarket are unlikely to be "new trips" to the network. Instead they will be either "Pass-By" trips i.e, traffic already passing the site which will call in. "Diverted" trips i.e. already on the network but making a small diversion to the store. "Transferred" trips i.e. trips already being made to an existing store but will transfer to the new store.
- 2.10.11 Taking all these factors into consideration NYCC Highways does not consider that the proposal would have a "severe" impact on the operation of the Oakney Wood Road junction. NYCC Highways are also mindful of planning application number 2015/1272/FUL for a public house and restaurant on the adjacent site. However this type of development is not likely to be a significant trip generator within the peak periods and as such the cumulative impact of both proposals does not create a cause for concern.
- 2.10.12 NYCC Highways advised of suggested conditions which are reasonable and necessary to control the development. They also advised on securing via a S106 agreement for the safeguarding of land for a roundabout as indicated in the Masterplan for the site. It is considered that a new S106 Agreement would be acceptable in this instance.
- 2.10.13 The proposed site access based on the advice provided by NYCC Highways and taking account of representations received, it is considered, on balance that the proposal would accord with Policies ENV1(2), T1 and T2 of Selby District Local Plan, Policy SP19 of the Core Strategy and the NPPF.
- 2.10.14 Parking provision for new development is set out in Selby Local Plan. For retail development the parking standards would equate to circa 117 parking spaces for a store in an urban area more than 1,000m² and given the adoption date of the Plan these are maximums which have since been removed. Cycle provision would equate to 12 cycle bays for staff and 3 bays for customers with a total of 15 cycle bays required. The site layout plan does not indicate any secure cycle provision. Given the proposed parking provision equates to 142 vehicles there is capacity on site to provide the cycle bay provision and this can be secured by condition.

2.10.15 Significant objections have been received with regards to the impact of the development on highway safety. Reference is made to the inadequacies of the Transport Assessment, issues raised in the Road Safety Audit and the general unacceptability of the proposed access in this location. NYCC Highways as highway authority have duly assessed the concerns and objections raised and these are noted in the consultation comments and assessment. The conclusion is that the impact of the proposal on the highway is not considered to be severe. Improvements can be undertaken within the transport network that can cost effectively limit the significant impacts of the development by way of the suggested highway conditions. On balance, the highway assessment has considered the proposed impacts and in accordance with the NPPF, the proposal is not considered to have residual cumulative impacts that are severe and thus should not be prevented or refused on highway grounds.

2.11 Nature conservation and protected species

2.11.1 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 NPP and accompanying PPG in addition to the Habitat Regulations and Bat and Great Crested Newt Mitigation Guidelines published by Natural England.

2.11.2 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.

2.11.3 The application is accompanied with a Water Vole Survey as the site includes a ditch that runs along the northern perimeter of the site. The survey notes that the ditch is approximately 1m wide and 30cm deep and the flow is extremely slow to almost static. No evidence of water voles are recorded within the application site in addition to brown rat, wood mouse, bank and field vole, otters or mink.

2.11.4 A Phase 1 Habitat Survey was submitted to assess the impact on wildlife on the site and no ecology issues were raised as a result.

2.11.5 No further survey work was recommended. It is therefore considered that the proposed development would not adversely affect protected species in accordance with Policies ENV1(5) of Selby District Local Plan and SP18 of the Core Strategy and the NPPF.

2.12 Trees and Landscaping

2.12.1 Selby District Local Plan Policy ENV1(4) requires development to consider approaches on landscaping within the site and taking account of its surroundings.

2.12.2 Policy SP19(e) requires that proposals look to incorporate new landscaping as an integral part of the scheme.

2.12.3 The submitted master site plan indicates a landscaping strip along the southern area of the site and a detailed landscaping plan shows planting along the Bawtry Road perimeter and on part of the northern perimeter. The species and location of

the planting is considered to be acceptable and would accord with Policies ENV1(4) of Selby District Local Plan and SP19 of the Core Strategy.

2.13 Contamination

2.13.1 Policies ENV2 of the Local Plan and SP19 of the Core Strategy relate to contamination. These policies should be afforded significant weight.

2.13.2 The land comprises an agricultural field with no known former industrial uses on the site. Nevertheless, a Phase 1 and 2 geo environmental assessment report has been submitted with the application and raises no adverse issues for the development and for future occupiers of the food store. No recommendations were suggested and it is therefore considered that the proposed development would not raise adverse contamination issues for the development.

2.14 Conclusion

2.14.1 The proposed development is considered to accord with Development Plan policies and national policy guidance which actively encourages proposals for economic development and seeks to maintain the vitality and viability of town centres by carefully controlling out-of-centre retail.

2.14.2 It is considered that there are no other more sequentially preferable sites within Selby Town Centre that are available and suitable for the scale of retail food store hereby proposed and as a result it is considered that the proposed development passes the sequential test criteria.

2.14.3 The new retail food store is considered to be visually acceptable and would not detract from the character or visual amenity of the surrounding area. It is considered that the proposal would not give rise to any significant or unacceptable issues relating to noise and disturbance for the nearby neighbouring occupiers. The proposals are also considered to be acceptable in respect of matters relating to access, parking and highway safety, flood risk and drainage, nature conservation and land contamination, subject to appropriate conditions where necessary.

2.14.4 The proposed scheme is therefore considered to accord with the relevant policies of Selby District Local, Selby Core Strategy, the policy guidance contained within the National Planning Policy Framework and the National Planning Practice Guidance.

3.0 Recommendation

This application is recommended to be Granted 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 proposal hereby permitted shall not be used for any use other than one falling within the definition of Class A1 of the Town and Country Planning Use Classes Order 1987 (as amended) for the sale of convenience goods.

Reason:

In order to protect the vitality and viability of Selby Town Centre in accordance with Policies SP1, SP2 and SP13 of Selby Core Strategy and Section 2 of the NPPF.

03. Notwithstanding the provisions of Class A of Part 3 of Schedule 2 of The Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification), the net sales area of the Use Class A1 development in the building shall not exceed 1,444 square metres.

Reason:

In order to protect the vitality and viability of Selby Town Centre in accordance with Policies SP1, SP2 and SP13 of Selby Core Strategy and Section 2 of the NPPF.

04. The retail unit hereby permitted shall not be subdivided into separate Use Class A1 retail units.

Reason:

In order to protect the vitality and viability of Selby Town Centre in accordance with Policies SP1, SP2 and SP13 of Selby Core Strategy and Section 2 of the NPPF.

05. The materials to be used in the construction of the external surfaces of the development hereby permitted shall be those specified on Drawing no. 8238-20-04. Any variation to these details shall be submitted to and approved in writing by the Local Planning Authority before development commences. Development shall then be carried out in accordance with the approved details.

Reason:

To ensure appropriate materials are used in the interests of the visual amenity of the area in accordance with Policies ENV1 of Selby District Local Plan and Policy SP19 of Selby Core Strategy.

06. All hard and soft landscape works shall be carried out in accordance with the approved details as shown on Drawing No. 2522/4. The works shall be carried out prior to the occupation of any part of the development or in accordance with a programme of implementation if this has been previously agreed in writing by the Local Planning Authority.

Reason:

In the interests of a well-designed landscape scheme in accordance with Policies ENV1 of Selby District Local Plan and Policy SP19 of Selby Core Strategy.

07. If, within a period of 5 years from the date of planting of any tree, shrub or hedge shall die, become diseased or be removed, it shall be replaced with others of similar size and species unless the Local Planning Authority gives written consent to any variation.

Reason:

To ensure that there is a well laid out scheme of healthy trees and shrubs, in accordance with Policy SP15 of Selby Core Strategy.

08. There shall be no goods delivered to the retail unit outside the hours of 07:00 - 22:00 Monday to Friday, 08:00 -13:00 Saturday and 08:00 to 10:00 on Sundays/Bank Holidays.

Reason:

To protect the amenity of the adjoining and nearby properties in accordance with Policy ENV1 of the Selby District Local Plan.

09. Opening hours for the retail unit shall not be outside the hours 08:00 to 22:00 hours Monday to Saturday and 10:00 to 17:00 hours Sunday and Bank/Public Holidays.

Reason:

To protect the amenity of the adjoining and nearby properties in accordance with Policy ENV1 of the Selby District Local Plan.

10. Unless otherwise agreed in writing by the local planning authority, no building or other obstruction (including new tree planting) shall be located over or within 5 (five) metres of the line of the main, which crosses the site.

Reason:

In order to allow sufficient access for maintenance and repair work at all times and protect the pipe from future tree root infestation in accordance with Policy SP15 of Selby Core Strategy.

11. Before development commences 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.

Reason:

To ensure that the site is properly drained and surface water is not discharged to the foul sewerage system which will prevent overloading in accordance with Policy SP15 of Selby Core Strategy.

12. 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 in accordance with Policy SP15 of Selby Core Strategy.

13. Before occupancy of the retail food store, 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.

14. 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 in consultation with the Highway Authority. The works shall be implemented in accordance with the approved details and programme.

Reason:

In accordance with Policies T1 and T2 of Selby and in the interests of highway safety.

15. No part of the development to which this permission relates shall be brought into use until the carriageway and any footway/footpath from which it gains access shall be constructed to base course 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 in consultation with the Highway Authority before any part of the development is brought into use.

Reason:

In accordance with Policy T1 and T2 of Selby District Local Plan and to ensure safe and appropriate access and egress to the premises, in the interests of highway safety and the convenience of prospective users of the highway.

16. There shall be no movement by construction or other vehicles between the highway and the application site (except for the purposes of constructing the initial site access) until that part of the access extending 20 metres into the site from the carriageway of the existing highway has been made up and surfaced in accordance with the approved details and the published Specification of the Highway Authority. All works shall accord with the approved details unless otherwise approved in writing by the Local Planning Authority in consultation with the Highway Authority. Any damage during use of the access until the completion of all the permanent works shall be repaired immediately.

INFORMATIVE

You are advised that a separate licence will be required from the Local 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 Selby District 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.

17. No part of the development shall be brought into use until the existing access on to Bawtry Road has been permanently closed off and the highway restored. These works shall be in accordance with details which have been approved in writing by the Local Planning Authority in consultation with the Highway Authority. No new access shall be created without the written approval of the Local Planning Authority in consultation with the Highway Authority

INFORMATIVE

These works shall include, where appropriate, replacing kerbs, footways, cycleways and verges to the proper line and level.

Reason:

In accordance with Policies T1 and T2 of Selby District Local Plan and in the interests of highway safety.

18. 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 required highway improvement works, listed below, have been submitted to and approved in writing by the Local Planning Authority in consultation with the Highway Authority.

(ii) A programme for the completion of the proposed works has been submitted. The required highway improvements shall comply with the recommendations of the Stage 1/2 Road Safety Audit dated April 2015 and include:

- a. Provision of right turn lane and site access on Bawtry Road.
- b. Provision of footway on western side of Bawtry Road between the Oakney Wood Road access and the northbound bus stop, to include a pedestrian island at the Oakney Wood junction access.
- c. Re-surfacing of Bawtry Road within the extents of the right turn lane.

Reason:

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

19. There shall be no excavation or other groundworks, except for investigative works, or the depositing of material on the site until the following highway works have been constructed in accordance with the details approved in writing by the Local Planning Authority under condition number 18:

- a. Provision of right turn lane and access on Bawtry Road.

- b. Provision of footway on western side of Bawtry Road between the Oakney Wood Road access and the northbound bus stop, to include a pedestrian island at the Oakney Wood junction access.
- c. Re-surfacing of Bawtry Road within the extents of the right turn lane.

Reason:

In accordance with Policies T1 and T2 of Selby District Local Plan and in the interests of the safety and convenience of highway users.

- 20. No part of the development shall be brought into use until the approved vehicle access, parking, manoeuvring and turning areas have been constructed in accordance with the submitted drawing (Reference 13529/5000/01 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 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.

- 21. There shall be no HCVs brought onto the site until a survey recording the condition of the existing highway has been carried out in a manner approved in writing by the Local Planning Authority in consultation with the Highway Authority.

Reason:

In accordance with Policies T1 and T2 of Selby District Local Plan and in the interests of highway safety and the general amenity of the area.

- 22. Prior to the development being brought into use, a Travel Plan shall have been submitted to and approved in writing by the Local Planning Authority in consultation with the Highway Authority. This shall include:

- (i) the appointment of a travel co-ordinator
- (ii) a partnership approach to influence travel behaviour
- (iii) measures to encourage the use of alternative modes of transport other than the private car by persons associated with the site
- (iv) provision of up-to-date details of public transport services
- (v) continual appraisal of travel patterns and measures provided through the travel plan
- (vi) improved safety for vulnerable road users
- (vii) a reduction in all vehicle trips and mileage
- (viii) a programme for the implementation of such measures and any proposed physical works
- (ix) procedures for monitoring the uptake of such modes of transport and for providing evidence of compliance.

The Travel Plan shall be implemented and the development shall thereafter be carried out and operated in accordance with the Travel Plan.

Reason:

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

23. There shall be no excavation or other groundworks, except for investigative works or the depositing of material on the site, until details of measures to maintain the free flow of traffic on the highway network have been approved in writing by the Local Planning Authority in consultation with the Highway Authority and the development shall thereafter be carried out and operated in accordance with the Construction Traffic Management Plan. The measures shall include but not be limited to:
- 1) Details of the routes to be used by HCV construction traffic.
 - 2) Traffic Management Plan
 - 3) Loading/unloading of materials and plant.
 - 4) Storage of materials and plant.
 - 5) Parking of contractors vehicles
 - 6) Programme for the works
 - 7) Measures to prevent mud/dirt being deposited on the highway.

Reason:

In accordance with Policies T1 and T2 of Selby District Local Plan and to avoid interference with the free flow of traffic and to secure safe and appropriate access and egress to the site in the interests of safety and convenience of highway users and the amenity of the area.

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

Reason:

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

25. The development permitted by this planning permission shall only be carried out in accordance with the approved flood risk assessment (ref-13529-5000) and the following mitigation measures detailed within the FRA:

1. Finished floor levels are set no lower than 5.3m above Ordnance Datum (AOD).
2. Floor to be of solid construction, underlain with 1200g visqueen damp proof membrane, with lapped and taped joints.
3. Boilers, gas and electrical meters to be placed a minimum of 700mm above finished floor level.
4. Electrical sockets to be placed a minimum of 300mm above FFL and wired from above.

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 to increase the resilience of the structure to flooding facilitating faster post flood recovery in accordance with Policy SP15 of Selby Core Strategy.

26. Details of any flood lighting shall be submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details for the lifetime of the development.

Reason:

In order to protect the living conditions of neighbouring residents, in accordance with Policy ENV1 of Selby District Local Plan.

27. No development shall take commence until a Written Scheme of Investigation has been submitted to and approved in writing by the Local Planning Authority. The scheme shall include an assessment of significance and research questions; and:

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

Reason:

In order to safeguard archaeological remains in accordance with Section 12 of the NPPF as the site is of archaeological interest.

28. No development shall take place other than in accordance with the Written Scheme of Investigation approved under condition 27.

Reason:

In order to safeguard archaeological remains in accordance with Section 12 of the NPPF as the site is of archaeological interest.

29. 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 27 and the provision made for analysis, publication and dissemination of results and archive deposition has been secured.

Reason:

In order to safeguard archaeological remains in accordance with Section 12 of the NPPF as the site is of archaeological interest.

30. No part of the development shall be brought into use until secure cycle parking facilities for the proposed retail unit to accommodate all cyclists likely to visit the premises have been provided in accordance with details to be submitted to and

approved in writing by the Local Planning Authority. The cycle parking facilities shall thereafter be retained.

Reason:

In order to provide a sustainable development in accordance with Policy T1 of Selby District Local Plan.

31. Development shall not commence until a scheme, detailing the treatment of all surface water flows from parking areas and hardstandings through an oil interceptor, reedbed or alternative treatment system, has been submitted to and approved in writing by the Local Planning Authority. Use of the parking areas/hardstandings shall not commence until the works comprising the approved treatment scheme have been completed. Roof water shall not pass through the treatment scheme. Treatment shall take place prior to discharge from the treatment scheme. The treatment scheme shall be retained, maintained to ensure efficient working and used throughout the lifetime of the development.

Reason:

To prevent pollution of the water environment in accordance with Policy SP15 of Selby Core Strategy.

32. Prior to occupation of the development hereby permitted, details of charging points for electric cars and for mobility scooters shall be submitted to and approved in writing by the Local Planning Authority, and thereafter shall be provided in accordance with the approved details and subsequently retained for that purpose.

Reason:

To encourage the use of low emission vehicles, in turn reducing CO2 emissions and energy consumption levels in accordance with Policy SP15 of Selby Core Strategy.

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

(To be inserted as part of the decision notice)

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

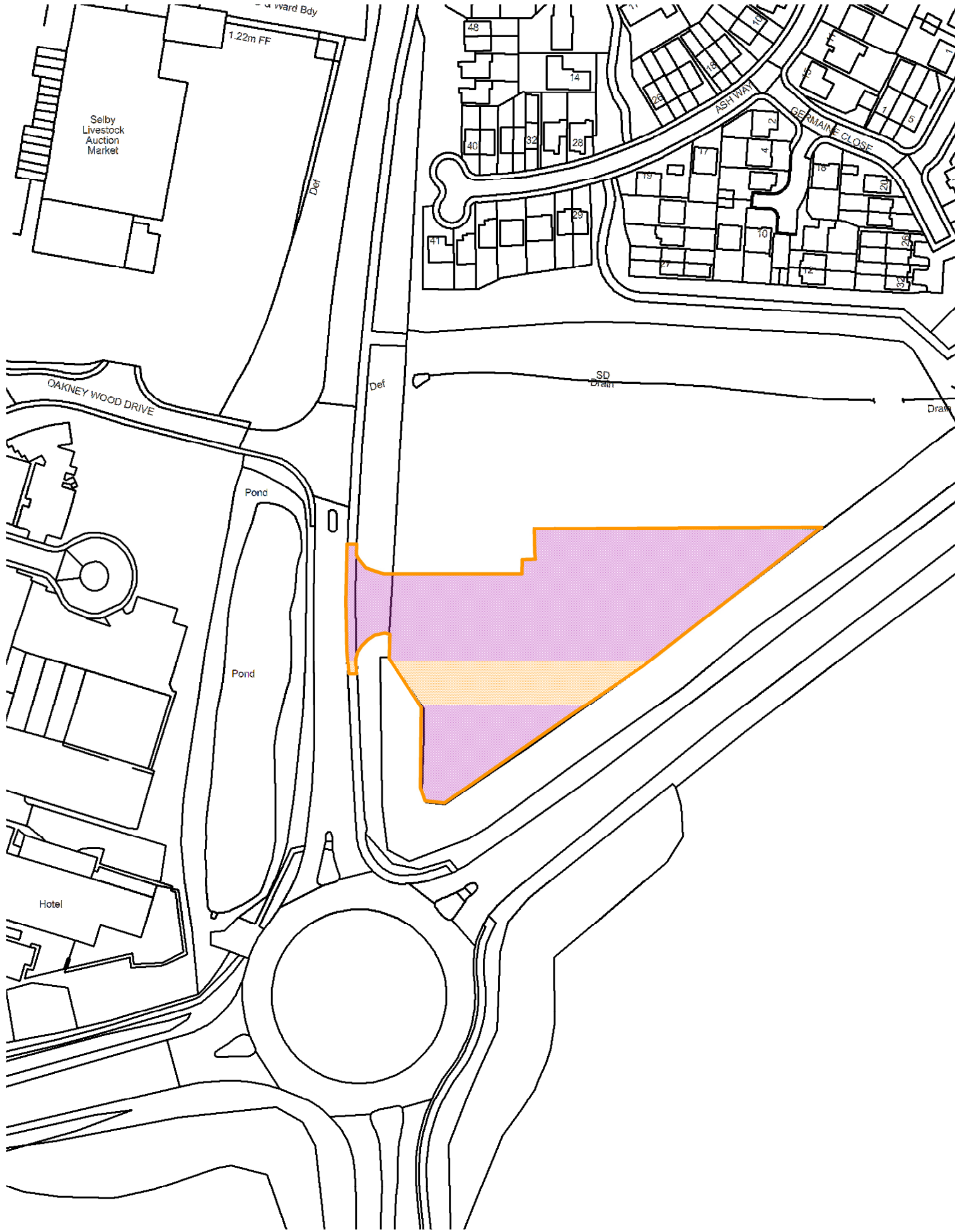
4.1 As stated in the main body of the report.

5. Background Documents

5.1 Planning Application file reference 2015/1217/FUL and associated documents.

Contact Officer: Mr Keith Thompson (Senior Planning Officer)

Appendices: None

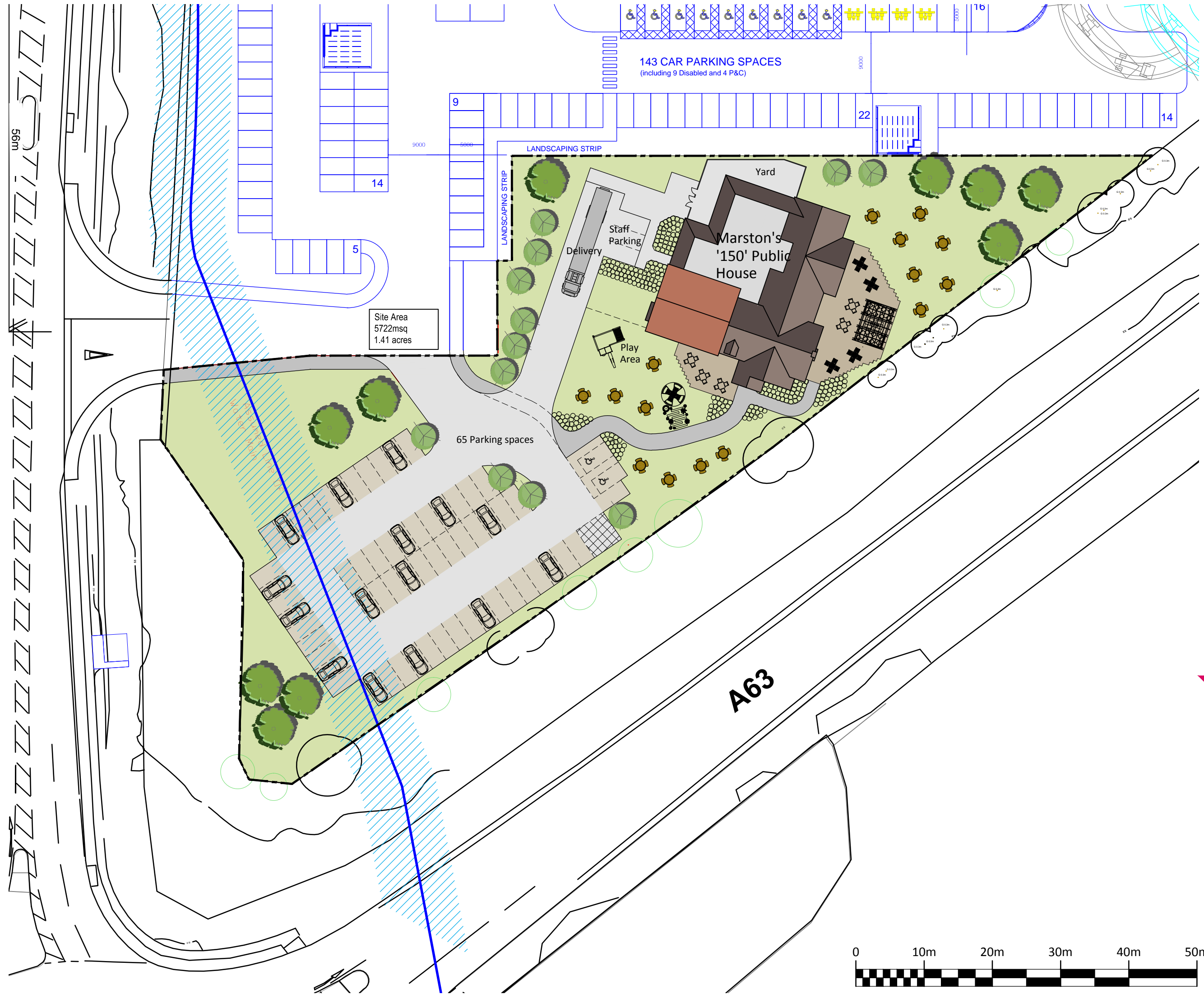


APPLICATION SITE

Item No: 2015/1272/FUL

Address: Staynor Hall Development, Bawtry Road, Selby

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Site Area
5722msq
1.41 acres

143 CAR PARKING SPACES
(including 9 Disabled and 4 P&C)

LANDSCAPING STRIP

Marston's
'150' Public House

Staff Parking

Delivery

Play Area

Yard

65 Parking spaces

A63

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A 03.02.15 SITE LAYOUT REVISED TO SUIT NEW ROAD LAYOUT.
B 17.02.15 BUILDING MODEL REVISED.
C 16.10.15 SITE LAYOUT REVISED.
D 27.10.15 ADDITIONAL GABLE ADDED.
E 28.10.15 2NO. PARKING SPACES & RED LINE REMOVED.

MRK
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RECEIVED
17 November 2015
BUSINESS SUPPORT



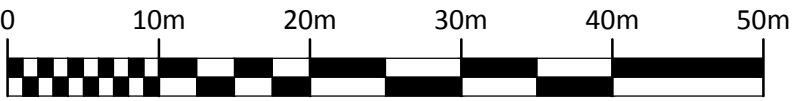
JWA Architects Limited
Robert Tresham House,
Clipston, Market Harborough,
Leicestershire LE16 9RZ
T +44 (0) 1858 525343
F +44 (0) 1858 525527
E office@jwa-architects.co.uk
W www.jwa-architects.co.uk

Client: **Barnes**
CONSTRUCTION

Project: MARSTON'S PH
BAWTRY ROAD/ A63
SELBY

Drawing: PROPOSED
SITE LAYOUT

Purpose: Date: 05.01.15
Scale: 1:500@A3 Drawn: MRK
Dwg. No: H7556/55 Revision: E





Report Reference Number 2015/1272/FUL

Agenda Item No: 6.3

To: Planning Committee
Date: 9th November 2016
Author: Keith Thompson (Senior Planning Officer)
Lead Officer: Jonathan Carr (Interim Lead Officer – Planning)

APPLICATION NUMBER:	2015/1272/FUL	PARISH:	Selby Town Council
APPLICANT:	Mr S Rogerson	VALID DATE:	19th November 2015
		EXPIRY DATE:	14th January 2016
PROPOSAL:	Proposed erection of a public house with restaurant (Use Classes A3 and A4) and manager's accommodation with ancillary access, parking area and associated infrastructure		
LOCATION:	Staynor Hall Development, Bawtry Road, Selby		

This application has been brought before Planning Committee as there are more than 10 objections contrary to the Officer recommendation to approve the application.

Summary:

This application seeks full planning permission for the erection of a public house with restaurant (Use Classes A3 and A4) and manager's accommodation with ancillary access, parking area and associated infrastructure on land to the south of Staynor Hall housing development and to the east of Bawtry Road in Selby.

The site is located within the defined Development Limits of Selby and is considered to be in accordance with Policies SP1 and SP2 of the Selby Core Strategy and acceptable in principle.

The proposal is considered to be acceptable in respect of flood risk, drainage, contaminated land, design and visual impact, residential amenity, highways and parking, nature conservation and protected species.

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, Selby District Local Plan and Selby Core Strategy.

Recommendation

This planning application is recommended to be APPROVED subject to conditions detailed in Paragraph 3.0 of the Report and a Section 106 Agreement to safeguard land for the provision of a roundabout opposite the Oakney Wood Road access.

1. Introduction and background

1.1 The Site

1.1.1 The application site forms part of the Staynor Hall development site. The overall site was granted outline planning permission in 2005 (CO/2002/1185), as detailed below in Section 1.3.

1.1.2 The site is largely flat and open and has been used for agricultural purposes as an arable field with a mature native hedgerow and trees to two sides. It is bounded by the A63 and the roundabout leading to Bawtry Road / the A1041 and by new dwellings on the Staynor Hall estate on Germain Close and Ash Way. On the opposite side of the A1041 is Selby Business Park, which includes small-medium size businesses, a hotel/pub and an auction mart site.

1.2 The proposal

1.2.1 The applicant seeks full planning permission for the erection of a public house with restaurant (Use Classes A3 and A4) and manager's accommodation with ancillary access, parking area and associated infrastructure.

1.2.2 The building would be circa 650m², two storey and comprise dining areas, WCs, cellar, bar service areas and ancillary rooms on the ground floor and the manager's accommodation with 2 bedrooms, changing rooms, office and ancillary rooms on the second floor. The car park would include 64 no. parking spaces which include 2 no. disabled parking bays and 3 no. staff parking bays.

1.2.3 Opening hours have not been noted on the application form or have delivery hours.

1.2.4 The site is some 0.56ha in area and within land which was originally designated in Selby District Local Plan under Policy BRAY/2 for employment purposes. The Masterplan which accompanied the Outline permission had indicated the site as employment uses.

1.3 Planning History

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

Application reference CO/2002/1185 (Permitted - 06.06.2005) Outline application for the erection of 1200 dwellings (4 existing to be demolished), employment, public open space, shopping and community facilities (including up to 2,000sq.m. of shops), together with associated footpaths, cycleways, roads, engineering works and landscaping on 56 hectares of land.

Application reference 2015/1217/FUL (Pending Consideration) Erection of a food retail store (Use Class A1) and construction of access road, parking areas and associated infrastructure.

1.4 Consultations

1.4.1 Parish Council – Object on highway grounds with the new access near Oakney Wood Road junction. The entrance should be opposite Oakney Wood Road junction.

1.4.2 North Yorkshire Highways and Transportation – Lengthy consideration of the application has been undertaken between NYCC Highways and the applicant's highway engineers. The latest and final comments from NYCC Highways is summarised below. In short, there is no objection to the proposal and conditions and a S106 agreement is recommended.

This Application has been considered as a stand-alone application and cumulatively with planning application number 2015/1217/FUL for a proposed food retail store on the adjacent site.

As a stand-alone application the proposal is not considered to be a significant traffic generator in the peak traffic periods and thus not detrimental to the operation of the local highway network. When the site is considered cumulatively the Local Highway Authority (LHA) did not find a sustainable reason to recommend a refusal on highway grounds for the following reason.

Originally concerns were raised regarding the design of the proposed site access bearing in mind close proximity of the Oakney Wood Road junction and the A1041/A63 roundabout.

Alternative access arrangements were suggested by NYCC Highways which includes provision of a roundabout opposite Oakney Wood Road or designing the access so that all traffic would be forced to turn left when leaving the site access. These alternatives have been not been considered by the applicant and the site access is as submitted.

Sufficient grounds to sustain a recommendation of refusal at appeal have been considered and there are two important elements associated with the proposal - A Road Safety Audit and personal injury accidents occurring in the locality.

Taking both factors into consideration NYCC Highways does not consider it could sustain a recommendation of refusal at planning appeal.

Suggested a Section 106 agreement to safeguard the provision of a roundabout opposite Oakney Wood Road access as what was agreed in the original Outline approval application. Ten planning conditions are also recommended to control detail of the construction and operational phase of the proposal.

1.4.3 SDC Environmental Health – No objections subject to conditions to control the Construction Management Plan in addition to conditioning a scheme to control noise, vibration, dust and dirt before site preparation and construction work.

- 1.4.4 **Yorkshire Water** – No objection in principle subject to conditions to restrict development within an easement of a main line, separate systems of drainage, no piped discharge of surface water and the flood risk and drainage strategy.
- 1.4.5 **HER Officer** – No objection subject to a condition for a scheme of archaeological mitigation recording.
- 1.4.6 **Selby Area Internal Drainage Board** – No objection subject to a condition to control surface water discharge rates.
- 1.4.7 **Environment Agency** – No objection subject to condition the measures detailed in the flood risk assessment.

1.5 Publicity

- 1.5.1 The application has been advertised by press and site notice and neighbour letter with 22 objections received and 1 comments of support at the time of writing the report.

Objections

Highway Safety/Access

A large proportion of objections revolve around this point.

Traffic around Staynor Hall/Bawtry Road is already dangerous in peak times where there have been traffic accidents on Bawtry Road,
 The new access would be close to Oakney Wood Road junction which is unsafe, Vehicles to the livestock auction are generally tractors, lorries which leaving the site are slower onto Bawtry Road and on Saturdays are busier,
 The Business Park is not fully developed and will add more traffic to Bawtry Road, An additional roundabout has been suggested to come on the Oakney Wood Road junction, forward
 The Masterplan for Staynor Hall provided for a roundabout serving the site and Selby Business Park secured in the S106 agreement,
 Inadequate Transport Assessment,
 Proposed access would exacerbate the existing congestion and safety on Bawtry Road,
 Granting permission would preclude the possibility of a new roundabout,
 Pre-existing highway issues caused on the Selby Business Park and future development on this site.

Principle of Development

Already a good provision of discount store at Aldi and restaurants at Three Lakes Retail Park, why the need for similar uses,
 Acknowledged aware of commercial site when purchasing house on Staynor but need cinema, doctors surgery, dentist.
 Retail sequential assessment required.

Flood Risk

Justification for the search catchment area,
 There is land within flood zone 2 in the Staynor Hall development.
 The site is prone to flood in bad weather

Landscaping

If permitted, the northern part of the site should be landscaped and screened from houses on Staynor,

The footpath linking the site to Staynor should be removed.

Amenity

Noise pollution from the proposal,

Litter from the development will cause an overbearing effect,

Noise from the construction phase and deliveries to the store,

Field should be made into a sports field.

Non-planning issues

Would reduce the value of my property.

Support

A public house would bring more services close to Staynor Hall and reduce traffic as a result,

Would serve the Staynor Hall development residents,

A local shop and pub would improve the local community.

No objection in principle as the site has always been planned for employment development

Other Points

It would be inappropriate to consider the application independent from the Lidl application,

The phasing of the Staynor Hall development makes clear that the strategy reflects the masterplan – Proposed development without variation to phasing strategy or masterplan would be unlawful.

Granting of permission would be subject to the possibility of judicial review.

1.6 Environmental Impact Assessment

- 1.6.1 A screening opinion has been undertaken to ascertain if the submission of an Environmental Impact Assessment (EIA) is needed in connection with the proposal. Whilst the proposal is considered to fall within works covered by Schedule 2 of the EIA regulations it would not exceed the threshold of 1ha.

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
SP14 – Town Centre and Local Services
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
ENV28 – Other Archaeological Remains
EMP2 – Location of Economic Development
EMP6 – Employment Development within Development Limits
BRAY/2 – Employment Allocation
T1 - Development in Relation to Highway
T2 - Access to Roads
VP1 – Parking Provision

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

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 National Planning Practice Guidance provides guidance on wide variety of planning issues and the following report is made in light of the guidance in those documents.

2.2 Key Issues

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

- 2.2.1 1. Principle of the Development
- 2.2.1 2. Visual impact on the Character and Form of the locality
- 2.2.1 3. Residential amenity
- 2.2.1 4. Flood risk, drainage and climate change
- 2.2.1 5. Impact on highways
- 2.2.1 6. Nature conservation and protected species
- 2.2.1 7. Trees and Landscaping
- 2.2.1 8. Contamination

2.3 Principle of Development

- 2.3.1 Applications are to be determined in accordance with the Development Plan unless there are material considerations which indicate otherwise.
- 2.3.2 The National Planning Policy Framework (“the NPPF”) is a material consideration which must be taken into account in planning decisions. If the NPPF contains policy guidance that is relevant to this application, the report below will explain this, and consider the extent to which development plan policy is consistent with the NPPF and the weight to be given to that policy.
- 2.3.3 Saved Policies in the Selby District Local Plan 2005 (SDLP) and Selby District Core Strategy 2013 (SDCS) which are discussed below, can be given due weight according to their degree of consistency with the NPPF 2012 (paragraph 215).

2.4 Current Planning Policy Position

- 2.4.1 The Development Plan is the starting point for the determination of any planning application. The Development Plan for the area comprises the saved polices of SDLP and SDCS. The guidance contained within the NPPF and NPPG is also a material consideration in the determination of applications for planning permission.
- 2.4.2 The NPPF (paragraph 14) provides for a presumption in favour of sustainable development. For decision-making this means that development proposals that accord with the development plan should be approved 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 NPPF as a whole, or specific policies within the NPPF indicate development should be restricted.
- 2.4.3 Paragraph 17 of the NPPF sets out 12 core planning principles to underpin plan-making and decision-taking. Importantly in relation to this application are the principles of proactively driving and supporting sustainable economic development; securing high quality design and a good standard of amenity for all existing and future occupants of land and buildings; promoting the vitality of our main urban

areas; supporting the transition to a low carbon future in a changing climate, taking full account of flood risk; contributing to conserving and enhancing the natural environment and reducing pollution; encouraging the effective use of land by reusing land that has been previously developed; promoting mixed use developments and encouraging multiple benefits from the use of land, and; actively managing patterns of growth to make the fullest possible use of public transport, walking and cycling, and focus significant development in locations which are or can be made sustainable.

- 2.4.4 Section 1 of the NPPF outlines the need to secure economic growth in order to create jobs and prosperity. It states that planning should operate to encourage and not act as an impediment to sustainable growth and that significant weight should be placed on the need to support economic growth through the planning system. Economic growth is clearly an important material consideration however it should not be secured by unsustainable means. Economic growth is only one element of the Governments definition of sustainable development as set out in the NPPF.
- 2.4.5 In order to achieve sustainable town centre development an application must comply with Section 2 of the NPPF which promotes such development in a hierarchy of locations and in all cases the vitality and viability of existing town centres should be protected. The NPPF requires LPA's to apply a sequential test to planning applications for main town centre uses (such as pubs and restaurants) that are not in an existing centre and are not in accordance with an up-to-date Local Plan. Applications for main town centre uses should be located in town centres, then in edge of centre locations and only if suitable sites are not available should out of centre sites be considered. When considering edge of centre and out of centre proposals, paragraph 24 of the NPPF states that preference should be given to accessible sites that are well connected to the town centre.
- 2.4.6 When assessing applications for town centre development outside of town centres, which are not in accordance with an up-to-date Local Plan, the NPPF states that local planning authorities should require an impact assessment to be carried out (if the development is over a proportionate, locally set floor space threshold). This should include assessment of the impact of the proposal on existing, committed and planned public and private investment in a centre or centres in the catchment area of the proposal; and the impact of the proposal on town centre vitality and viability.
- 2.4.7 The NPPF is clear that where an application fails to satisfy the sequential test or is likely to have significant adverse impact on existing, committed and planned public and private investment or town centre vitality and viability, it should be refused.
- 2.4.8 Section 4 of the NPPF promotes sustainable transport. Developments that generate significant movements should be located where the need to travel will be minimised and the use of sustainable transport modes can be maximised.
- 2.4.9 Policy SP1 of SDCS 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.

- 2.4.10 Policy SP2A of SDCS identifies Selby as being the Principal Town where the majority of new development will be directed and will be the focus for new housing, employment, retail, commercial and leisure facilities.
- 2.4.11 Policy SP13 of SDCS identifies the scale and distribution of economic development throughout the District up to 2027. The precise scale and location of sites in Selby will be informed by an up-to-date Employment Land Availability Assessment and determined through a Site Allocation Local Plan. It is considered that Policies SP1, SP2A and SP13 remain consistent with the NPPF and should therefore be given significant weight.
- 2.4.12 Policy EMP2 of SDLP states that new employment development will be concentrated in and around Selby. In this Policy the wider site is allocated as BRAY/2 East of Bawtry Road, Brayton and 1.6ha. This application site includes 0.56ha of the overall allocated site.
- 2.4.13 Policy BRAY/2 of SDLP states that proposals will make provision for high quality design, access to be taken off Bawtry Road, establishment of a permanent 20m wide tree belt within the north eastern boundary of the site, incorporation of footpath links and safe cycle tracks including links with adjacent housing and finally an appropriate flood risk assessment.
- 2.4.14 Policy EMP6 of SDLP refers to allocated sites and permits new business development subject to three criteria which includes having no significant adverse effect on existing businesses, highway safety and local amenity and design, materials and landscaping being acceptable. Since the adoption of the SDLP in 2005 the NPPF has defined 'economic development' as development, including those within the B Use Classes, public and community uses and main town centre uses (but excluding housing development). This definition is more prescriptive than the 'employment development' reference in the SDLP. Therefore in this regard the objectives of these SDLP policies should be given significant weight in addition to giving significant weight to the definition of economic development, which includes town centre development such as pubs and restaurants.
- 2.4.15 An objection received on the application refers to the phasing strategy and masterplan associated with the 2005 Outline application and that permitting this proposal would be unlawful. For clarity, this planning application is submitted for full permission unconnected to the Outline permission. For the reasons noted above the proposed economic development would not undermine the envisaged employment uses for the site in light of current national planning policy advice. The housing development at Staynor Hall is at an advanced stage and the provision of a public house/restaurant would be ideally located to service the residents.

2.5 Emerging Planning Policy Position

- 2.5.1 Paragraph 216 of the NPPF identifies that decision-takers may give weight to relevant policies in emerging plans according to: the stage of preparation of the emerging plan; the extent to which there are unresolved objections to relevant policies; and the degree of consistency of the relevant policies in the emerging plan to the policies in the NPPF.

- 2.5.2 PLAN Selby is the Sites and Policies Local Plan which the Council is developing to deliver the strategic vision outlined in the Core Strategy (adopted in 2013). When PLAN Selby is adopted it will form part of the Local Plan for the District against which planning applications will be assessed.
- 2.5.3 PLAN Selby will incorporate site allocations to promote the growth needs of the District and site specific designations and policies to manage other development proposals.
- 2.5.4 The Council has analysed the results from the consultations and are now finalising the evidence base for PLAN Selby, drafting policies and considering preferred site allocations.
- 2.5.5 The Council anticipates consulting on PLAN Selby - Draft Preferred Options during autumn 2016. The updated Local Development Scheme timetable for the plan has an expected Inspectors Report and Adoption as May 2018. It is therefore considered that no weight is given to this emerging policy document.
- 2.5.6 The application site continues to be located inside the Defined Development Limits of Selby in the SDCS.

2.6 **Impact on Selby Town Centre**

- 2.6.1 This application proposes the erection of a new public house/restaurant in an out-of-centre location. The principle of use class A3 and A4 development on this site would be acceptable if it can be demonstrated that the sequential test can be satisfied and that the impact of the proposal on town centre vitality and viability is acceptable. The development falls significantly short of the 2,500m² noted in the NPPF for impact assessments and there are no locally set retail impact assessment thresholds. It is therefore considered that no further assessment is required on impact assessment as noted in the NPPF.
- 2.6.2 The applicant submitted a retail sequential assessment. Selby Town Centre as defined in the SDLP is focused primarily around the town centres core on Gowthorpe, Brook Street, Finkle Street and The Crescent. The applicant notes there are no sites available within the designated Town Centre capable of accommodating the proposed development. The assessment notes the former 'Green's Furniture Shop' on Ousegate but referred to planning history for refusal of assembly and leisure purposes on the site. The former Civic Centre on Portholme Road on edge of centre was considered to be too large for the proposal and not sequentially preferable over the application site.
- 2.6.3 The sequential assessment has found that there are no vacant units available within or on the edge of Selby Town Centre that are suitable and available for a public house/restaurant of the size hereby proposed, even when allowing for flexibility in format and scale.
- 2.6.4 The Council's Planning Policy section advised that the information provided in the retail assessment was considered to meet the policy requirements to support the application in terms of the sites suitability for a town centre use.

- 2.6.5 Consideration is also given to the adopted employment policies EMP2, BRAY/2 and EMP6 which notes the allocation of the application site for employment development. The NPPF is given significant weight by confirming its intention for economic development and the proposed development would comfortably sit within this policy context, and thus be a suitable development type on this allocated employment site.
- 2.6.6 The Staynor Hall development site includes the provision of 2 small retail shops (circa 70m² total) which were recently approved at the October committee meeting and these would go some way to serve the immediate housing development given the location centrally placed within the wider site.
- 2.6.7 To conclude, the site is allocated for 'employment development' in the SDLP which when taken with the latest NPPF interpretation of said development, would include town centre development. The proposal would satisfy the NPPF sequential and impact tests.
- 2.6.8 The site is located adjacent to Bawtry Road and lies south of a large housing site which has phases of housing still to be constructed but circa 600 houses are complete. There would be clear linkages to the housing site on foot and the housing site is served by public transport with links to the town centre. It is therefore considered that the proposed scheme satisfies the requirements of paragraph 24 of the NPPF which gives a preference to sites that are accessible and are well connected to the town centre when out of centre development is justified.
- 2.6.9 The proposal would accord with Policy EMP6 of SDLP by virtue of having no significant adverse effect on existing business given the separation distances which is discussed further below, highway safety and amenity, also discussed further below.
- 2.6.10 This proposal is considered to accord with existing Development Plan policies and National Policy guidance, namely Policies EMP2, BRAY/2 and EMP6 of the SDLP, Policies SP1, SP2 and SP13 of the SDCS and the policy guidance contained within the NPPF which actively encourage proposals for economic development and seek to maintain the vitality and viability of town centres by carefully controlling out-of-centre uses.

2.7 Visual impact on the Character and Form of the locality

- 2.7.1 Relevant policies in respect to design and the impacts on the character of the area include Policies ENV1 (1) and (4) of the Selby District Local Plan, and Policy SP19 "Design Quality" of the Core Strategy.
- 2.7.2 Significant weight should be attached to the Local Plan policy ENV1 and Core Strategy Policies SP19 as they are broadly consistent with the aims of the NPPF.
- 2.7.3 Relevant policies within the NPPF, which relate to design, include paragraphs 56, 60, 61, 65 and 200.
- 2.7.4 The NPPG reiterates that development proposals should reflect the requirement for good design set out in national and local policy and sets out how high quality design should be achieved across all forms of development.

- 2.7.5 The application site comprises circa 0.56ha grassed field located to the south of a large housing development which is part occupied with houses and under consideration for further phases of development. There is a mixed use industrial estate to the west called Selby Business Centre, a pub/hotel and a livestock auction mart to the north of the estate. Bawtry Road divides the site from the established built form to the west and the A63 by-pass enclosing the site along its south-south eastern perimeter. There is established planting along this latter perimeter.
- 2.7.6 There is no specific design criteria for the area in which this proposal should made reference to, although the site is considered to act as a gateway to Selby when approaching from the south or on the by-pass.
- 2.7.7 The proposal would have a two storey and single element which derives from historical precedents including the coaching inn, tavern and public house and integrates these within a contemporary concept of eating and drinking as a social, family event. The materials proposed include render, timber and brickwork with red plain tiles to the two storey element and grey to the lower roofs. A number of different walling, roofing and cladding materials are proposed to add interest to the external form and appearance of the proposal.
- 2.7.8 There would be a significant buffer from the proposal of some 95m to houses to the north and the site has a spacious layout with hard and soft landscaping around the building and on the edge of the car park. Given the mixed character of development in the area and the layout of the proposal would not appear as an unacceptable form of development in this location.
- 2.7.9 The application is accompanied by detailed elevations and plans of the proposed building and the associated access, car parking arrangements and landscaping proposals for the site. The store would measure circa 25m x 25m and have outdoor seating and play area round its edge. The proposal would have an active frontage facing west, responding to the most active road frontage being Bawtry Road. It is considered that the building would not appear out of scale in this locality which includes two storey houses and mixed scale commercial development and the design and appearance would not detract from the visual amenity of the area.
- 2.7.10 In conclusion, the proposals for a public house/restaurant is considered to be visually acceptable and would not detract from the character or visual amenity of the surrounding area. This development proposal is therefore considered to accord with Policies ENV1 of SDLP and Policy SP19 of SDCS, the NPPF and NPPG, insofar as these policies relate to matters of design and visual amenity.

2.8 Residential amenity

- 2.8.1 Relevant policies in respect of the effect upon the amenity of adjoining occupiers include Policy ENV1 (1) of the Selby District Local Plan.
- 2.8.2 Significant weight should be attached to ENV1 of the SDLP as it is broadly consistent with the aims of the NPPF to ensure that a good standard of amenity is achieved.

- 2.8.3 In considering residential amenity the key considerations are overlooking, overshadowing, overbearing impacts and separation distances.
- 2.8.4 The nearest houses lie to the north of the application site and form part of the wider housing estate called Staynor Hall. There would be a separation distance from the proposal to the nearest houses of some 95m. This distance is considered sufficient distance to ensure the building does not appear overbearing on this and neighbouring houses. Comments received from objectors relate to noise and disturbance from the development, in particular from deliveries and general addition of a public house in proximity to houses. There would be deliveries to the building and this is indicated to occur on the west elevation of the building. It is considered this aspect of the proposal would raise no adverse residential amenity issues as a result of the separation distances and given the advice from the Council's Environmental Health Officer who raised no objection.
- 2.8.5 No opening hours have been submitted however given the separation distances from houses to the north, detail can be controlled by condition to ensure that the operation of the proposal is within acceptable parameters to ensure no adverse impact on residential amenity. No detail is provided for delivery vehicles times and for the same reason can be secured by condition.
- 2.8.6 It is considered that this arrangement would not result in a significant impact on the occupiers of the neighbouring residential properties in terms of noise and disturbance associated with deliveries and Council's Environmental Health Officer had no objection in this regard.
- 2.8.7 The Council's Environmental Health Officer reviewed the submitted Noise Impact Assessment prepared by Dragonfly consulting and advised that the assessment concluded that noise from the operational phase of the development will be at the No Observable Effect Level and as such the development is compliant with the NPPF. There was no objection to this assessment. The Officer further noted that the development is of a relatively large scale and as such would entail an extended construction phase. This phase may negatively impact upon nearby residential amenity in terms of generation of noise, dust and vibration but may not be deemed to constitute a statutory nuisance. A condition is thereby recommended to seek a scheme to minimise such impact and this would be considered necessary and reasonable.
- 2.8.8 The application site will require flood lighting and would be acceptable in principle, however the detail can be controlled by condition in the interests of the visual amenity and character of the area.
- 2.8.9 The proposal is therefore considered to accord with Policy ENV1 of SDLP and the NPPF, subject to conditions.

2.9 **Flood risk, drainage and climate change**

- 2.9.1 The NPPF seeks to avoid inappropriate development in areas at risk of flooding by directing development away from areas at highest risk. It requires Local Planning Authorities to apply a Sequential Test to planning applications in Flood Zones 2 and 3 to ensure that new development is located in areas at the lowest flood risk. Any application for planning permission in Flood Zones 2 or 3 must therefore demonstrate that there are no other reasonably available alternative sites that could be developed within the search area that are at a lower risk of flooding. An

exceptions test is then required to be met in order to demonstrate that the development is justified and can be made safe.

- 2.9.2 Relevant policies in respect to flood risk, drainage and climate change include Policy ENV1 (3) of the Selby District Local Plan, and Policies SP15 “Sustainable Development and Climate Change”, SP16 “Improving Resource Efficiency” and SP19 “Design Quality” of the Core Strategy.
- 2.9.3 Significant weight should be attached to the Local Plan Policy ENV1 as it is broadly consistent with the aims of the NPPF.
- 2.9.4 Relevant paragraphs within the NPPF, which relate to flood risk, drainage and climate change include 94 and 95.
- 2.9.5 The site is located within an area designated by the Environment Agency as Flood Zone 3 and must therefore be assessed in line with advice given in the NPPF regarding development and flood risk. Flood Zone 3 comprises land assessed as having a 1 in 100 or greater annual probability of river flooding (>1%), or a 1 in 200 or greater annual probability of flooding from the sea (>0.5%) in any year.
- 2.9.6 The Council’s Flood Risk Guidance Note (Sept 2016) states for proposals at edge of town centre’ or ‘out of town centre’ locations, or in settlements without a defined retail area, the search area can be the catchment area that the development is intending to serve (i.e. the target catchment), having regard to the ‘sequential approach’ advocated in NPPF. The NPPF outlines that the flood risk sequential test catchment areas are set by the Local Planning Authority, on this occasion the area has been agreed between the Local Authority Officers and the applicant as 500m from the Staynor Hall Housing development. In order to support the application the Authority must be satisfied that all appropriate mitigation will be agreed with the Environment Agency.
- 2.9.7 Objections have been received on the application with regards to flood risk and have been considered in the assessment. Reference was made to land within Flood Zone 2 being available in the Staynor Hall development but it is considered that land on this site is either allocated for housing, school provision, community centre or small retail shops and is not available for this proposal.
- 2.9.8 The Environment Agency advised that the Authority must satisfy themselves that the flood risk Sequential Test has been undertaken in a transparent way in accordance with the NPPF and NPPG. Officers have considered the information submitted and concur with the conclusion that there are no reasonably available alternative sites in the agreed catchment area that are at a lower risk of flooding that could accommodate the development hereby proposed.
- 2.9.9 With regard to the exception test, the NPPF states at paragraph 102 that it must be demonstrated that the development provides wider sustainability benefits to the community that outweigh flood risk and a site specific Flood Risk Assessment (FRA) must demonstrate that the development will be safe for its lifetime without increasing flood risk elsewhere and where possible will reduce flood risk overall. Buildings used for restaurants are identified as ‘less vulnerable’ uses according to Table 2 (Flood Risk Vulnerability Classification) of the NPPG, and such development within Flood Zone 3a does not need to be subject to the exceptions

test. Drinking establishments are identified as 'more vulnerable' and need to be subject to the exception test.

- 2.9.10 This application is accompanied by a detailed Flood Risk Assessment which demonstrates that the development can be made safe from the risk of flooding and will not increase the risk of flooding elsewhere. The Environment Agency has been consulted in respect of this development proposal and has not objected, subject to a condition that requires the development to be carried out in accordance with the submitted FRA. This includes finished floor levels (FFL) are set no lower than 5.3m above Ordnance Datum (AOD), floors to be of solid construction underlain with 1200g visqueen damp proof membrane, with lapped and taped joints, boilers, gas and electrical meters to be placed a minimum of 700mm above FFL and electrical sockets to be placed a minimum of 300mm above FFL and wired from above.
- 2.9.11 The wider sustainability benefits to the community have been considered and would be provision of a service in proximity of a significantly large housing estate in a location that is well connected on foot to this catchment area, in addition to good public transport connections to the town centre. The proposal would also provide economic and employment opportunities for the area which are positive sustainability benefits to the community. It is therefore considered on balance, that the exception test has been passed.
- 2.9.12 The Internal Drainage Board and Yorkshire Water have been consulted on the application with regards to drainage. Surface water drainage has also been a point raised by objectors. The IDB confirmed that after discussions with the applicant's engineers that the engineers would be submitting a Consent Application to the IDB providing information to support the discharge rate of 40 litres per second. The IDB seeks this to be controlled by condition which would be reasonable and necessary. Yorkshire Water had no objections to the proposal subject to conditions.
- 2.9.13 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 hereby sought, building regulations would control aspects of the construction phase, and it is considered that its ability to contribute towards reducing carbon emissions, or scope to be resilient to the effects of climate change would be 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.
- 2.9.14 Therefore having regard to policy SP15 (B) it is considered that the proposal is acceptable.
- 2.9.15 It would be reasonable and necessary to secure electric charging facilities on site given the scale of the proposal and the likely modes of transport that would use the site and can be secured by condition.
- 2.9.16 In conclusion, no objections have been received from Yorkshire Water, the Environment Agency or the IDM (subject to appropriate conditions where necessary) and as such it is considered that this development proposal is acceptable in respect of matters relating to flood risk and foul and surface water drainage and climate change.

2.10 Impact on highways

- 2.10.1 Paragraph 32 (Section 4) of the NPPF requires that planning decisions take account of whether safe and suitable access to sites can be achieved for all people; and whether improvements can be undertaken within the transport network that cost effectively limit the significant impacts of the development. It states that development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe.
- 2.10.2 Policy in respect to 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.
- 2.10.3 Significant weight should be attached to the Local Plan Policy ENV1 as it is broadly consistent with the aims of the NPPF.
- 2.10.4 The proposal includes a new site access created off Bawtry Road. There has been a significant amount of objections to this aspect of the proposal and these are noted above and have been considered in the assessment of the application. North Yorkshire County Council Highways have considered the impact of the proposal on the highway network. As noted above they do not recommend a refusal of the application and their comments are expanded upon in the following paragraphs.
- 2.10.5 They advise that the Road Safety Audit provided an independent assessment of the potential road safety problems associated with the scheme. Some design issues were raised which the applicant can satisfactorily address as part of the detailed design. However, no issues were raised regarding the likely interaction of vehicles exiting the three junctions.
- 2.10.6 Over the last 3 years there have been 4 recorded accidents at the Oakney Wood Road junction. Three of these accidents were a result of vehicles failing to cancel their left turn indicator on exiting the A1041/A63 roundabout. This led to vehicles waiting to exit Oakney Wood Road junction believing the approaching vehicles were going to turn left into the junction and pulling out into their path. NYCC Highways do not consider that vehicles turning right from the application site would contribute to this accident pattern.
- 2.10.7 Furthermore, queuing traffic which presently occurs at the Oakney Wood Road junction during the PM peak period and the impact the development will have on this existing problem. The impact has to be considered in relation to Paragraph 32 of the NPPF which states that,
- "Development should only be prevented or refused on highway grounds where the impacts of development are severe."
- 2.10.8 When considering whether or not the impact of development traffic will be severe in terms of queuing, NYCC Highways considers that queuing at any arm of a junction will not cause issues at further key junctions and queuing will only occur for a short period
- 2.10.9 The term, severe can itself be interpreted as very great. If the traffic from a development is not considered to have a very great impact on the above then

NYCC Highways do not consider that a development can be interpreted as having a severe impact and thus the Highway Authority are unlikely to issue a recommendation of refusal on those grounds.

2.10.10 As Oakney Wood Road is a cul de sac queues are contained within the business park development. Queues are also mainly associated with a half hour period at the end of the working day. What also needs to be taken into consideration is that the trips generated by the supermarket are unlikely to be "new trips" to the network. Instead they will be either "Pass-By" trips i.e, traffic already passing the site which will call in. "Diverted" trips i.e. already on the network but making a small diversion to the store. "Transferred" trips i.e. trips already being made to an existing store but will transfer to the new store.

2.10.11 Taking all these factors into consideration NYCC Highways does not consider that the proposal would have a "severe" impact on the operation of the Oakney Wood Road junction. NYCC Highways are also mindful of planning application number 2015/1272/FUL for a public house and restaurant on the adjacent site. However this type of development is not likely to be a significant trip generator within the peak periods and as such the cumulative impact of both proposals does not create a cause for concern.

2.10.12 NYCC Highways advised of suggested conditions which are reasonable and necessary to control the development. They also advised on securing via a S106 agreement for the safeguarding of land for a roundabout as indicated in the Masterplan for the site. It is considered that a new S106 Agreement would be acceptable in this instance.

2.10.13 The proposed site access based on the advice provided by NYCC Highways and taking account of representations received, it is considered, on balance that the proposal would accord with Policies ENV1(2), T1 and T2 of Selby District Local Plan, Policy SP19 of the Core Strategy and the NPPF.

2.10.14 Parking provision for new development is set out in the Selby Local Plan. The submitted plans indicate 64 parking spaces which includes 3 staff parking spaces and 2 disabled parking bays. The site layout plan does not indicate any secure cycle provision. There is capacity on site to provide the cycle bay provision and this can be secured by condition. NYCC Highways had no objection to the parking provision on the site.

2.11 **Nature conservation and protected species**

2.11.1 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 NPP and accompanying PPG in addition to the Habitat Regulations and Bat and Great Crested Newt Mitigation Guidelines published by Natural England.

2.11.2 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.

2.11.3 The application is accompanied with a Water Vole Survey as the site includes a ditch that runs along the northern perimeter of the site. The survey notes that the ditch is approximately 1m wide and 30cm deep and the flow is extremely slow to almost static. No evidence of water voles are recorded within the application site in addition to brown rat, wood mouse, bank and field vole, otters or mink.

2.11.4 A Phase 1 Habitat Survey was submitted to assess the impact on wildlife on the site and no ecology issues were raised as a result.

2.11.5 No further survey work was recommended. It is therefore considered that the proposed development would not adversely affect protected species in accordance with Policies ENV1(5) of Selby District Local Plan and SP18 of the Core Strategy and the NPPF.

2.12 Trees and Landscaping

2.12.1 Selby District Local Plan Policy ENV1(4) requires development to consider approaches on landscaping within the site and taking account of its surroundings.

2.12.2 Policy SP19(e) requires that proposals look to incorporate new landscaping as an integral part of the scheme.

2.12.3 There is a detailed landscaping plan which shows planting around the building and safeguarding existing planting on the southern boundaries. The species and location of the planting is considered to be acceptable and would accord with Policies ENV1(4) of Selby District Local Plan and SP19 of the Core Strategy.

2.13 Contamination

2.13.1 Policies ENV2 of the Local Plan and SP19 of the Core Strategy relate to contamination. These policies should be afforded significant weight.

2.13.2 The land comprises an agricultural field with no known former industrial uses on the site. Nevertheless, a Phase 1 and 2 geo environmental assessment report has been submitted with the application and raises no adverse issues for the development and for future occupiers of the food store. No recommendations were suggested and it is therefore considered that the proposed development would not raise adverse contamination issues for the development.

2.14 Conclusion

2.14.1 The proposed development is considered to accord with Development Plan policies and national policy guidance which actively encourages proposals for economic development and seeks to maintain the vitality and viability of town centres by carefully controlling out-of-centre town centre uses.

2.14.2 It is considered that there are no other more sequentially preferable sites within Selby Town Centre that are available and suitable for the scale of the proposal hereby proposed and as a result it is considered that the proposed development passes the sequential test criteria.

- 2.14.3 The proposed public house/restaurant is considered to be visually acceptable and would not detract from the character or visual amenity of the surrounding area. It is considered that the proposal would not give rise to any significant or unacceptable issues relating to noise and disturbance for the nearby neighbouring occupiers. The proposals are also considered to be acceptable in respect of matters relating to access, parking and highway safety, flood risk and drainage, nature conservation and land contamination, subject to appropriate conditions.
- 2.14.4 The proposed scheme is therefore considered to accord with the relevant policies of Selby District Local, Selby Core Strategy, the policy guidance contained within the National Planning Policy Framework and the National Planning Practice Guidance.

3.0 Recommendation

This application is recommended to be Granted 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 materials to be used in the construction of the external surfaces of the development hereby permitted shall be those specified on Drawing no. 8238-20-04. Any variation to these details shall be submitted to and approved in writing by the Local Planning Authority before development commences. Development shall then be carried out in accordance with the approved details.

Reason:

To ensure appropriate materials are used in the interests of the visual amenity of the area in accordance with Policies ENV1 of Selby District Local Plan and Policy SP19 of Selby Core Strategy.

03. All hard and soft landscape works shall be carried out in accordance with the approved details as shown on Drawing Nos. H7556/56 and 2522/4. The works shall be carried out prior to the occupation of any part of the development or in accordance with a programme of implementation if this has been previously agreed in writing by the Local Planning Authority.

Reason:

In the interests of a well-designed landscape scheme in accordance with Policies ENV1 of Selby District Local Plan and Policy SP19 of Selby Core Strategy.

04. If, within a period of 5 years from the date of planting of any tree, shrub or hedge shall die, become diseased or be removed, it shall be replaced with others of similar size and species unless the Local Planning Authority gives written consent to any variation.

Reason:

To ensure that there is a well laid out scheme of healthy trees and shrubs, in accordance with Policy SP15 of Selby Core Strategy.

05. There shall be no goods delivered to the building outside the hours of 07:00 - 22:00 Monday to Friday, 08:00 -13:00 Saturday and 08:00 to 10:00 on Sundays/Bank Holidays.

Reason:

To protect the amenity of the adjoining and nearby properties in accordance with Policy ENV1 of the Selby District Local Plan.

06. Opening hours for the development shall not be outside the hours 11:00 to 23:00 hours Monday to Saturday and 12:00 to 22:30 hours Sunday and Bank/Public Holidays.

Reason:

To protect the amenity of the adjoining and nearby properties in accordance with Policy ENV1 of the Selby District Local Plan.

07. Before development commences 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.

Reason:

To ensure that the site is properly drained and surface water is not discharged to the foul sewerage system which will prevent overloading in accordance with Policy SP15 of Selby Core Strategy.

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 in accordance with Policy SP15 of Selby Core Strategy.

09. The development permitted by this planning permission shall only be carried out in accordance with the approved drainage layout plan drawing number 13529/5000/04 Rev C.

Reason:

In the interest of satisfactory and sustainable drainage in accordance with Policy SP15 of Selby Core Strategy.

10. 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 in consultation with the Highway Authority. The works shall be implemented in accordance with the approved details and programme.

Reason:

In accordance with Policies T1 and T2 of Selby and in the interests of highway safety.

11. No part of the development to which this permission relates shall be brought into use until the carriageway and any footway/footpath from which it gains access shall be constructed to base course 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 in consultation with the Highway Authority before any part of the development is brought into use.

Reason:

In accordance with Policy T1 and T2 of Selby District Local Plan and to ensure safe and appropriate access and egress to the premises, in the interests of highway safety and the convenience of prospective users of the highway.

12. There shall be no movement by construction or other vehicles between the highway and the application site (except for the purposes of constructing the initial site access) until that part of the access extending 20 metres into the site from the carriageway of the existing highway has been made up and surfaced in accordance with the approved details and the published Specification of the Highway Authority. All works shall accord with the approved details unless otherwise approved in writing by the Local Planning Authority in consultation with the Highway Authority. Any damage during use of the access until the completion of all the permanent works shall be repaired immediately.

INFORMATIVE

You are advised that a separate licence will be required from the Local 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 Selby District 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.

13. No part of the development shall be brought into use until the existing access on to Bawtry Road has been permanently closed off and the highway restored. These works shall be in accordance with details which have been approved in writing by the Local Planning Authority in consultation with the Highway Authority. No new access shall be created without the written approval of the Local Planning Authority in consultation with the Highway Authority

INFORMATIVE

These works shall include, where appropriate, replacing kerbs, footways, cycleways and verges to the proper line and level.

Reason:

In accordance with Policies T1 and T2 of Selby District Local Plan and in the interests of highway safety.

14. 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 required highway improvement works, listed below, have been submitted to and approved in writing by the Local Planning Authority in consultation with the Highway Authority.

(ii) A programme for the completion of the proposed works has been submitted. The required highway improvements shall comply with the recommendations of the Stage 1/2 Road Safety Audit dated April 2015 and include:

- a. Provision of right turn lane and site access on Bawtry Road.
- b. Provision of footway on western side of Bawtry Road between the Oakney Wood Road access and the northbound bus stop, to include a pedestrian island at the Oakney Wood junction access.
- c. Re-surfacing of Bawtry Road within the extents of the right turn lane.

Reason:

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

15. There shall be no excavation or other groundworks, except for investigative works, or the depositing of material on the site until the following highway works have been constructed in accordance with the details approved in writing by the Local Planning Authority under condition number 18:

- a. Provision of right turn lane and access on Bawtry Road.
- b. Provision of footway on western side of Bawtry Road between the Oakney Wood Road access and the northbound bus stop, to include a pedestrian island at the Oakney Wood junction access.
- c. Re-surfacing of Bawtry Road within the extents of the right turn lane.

Reason:

In accordance with Policies T1 and T2 of Selby District Local Plan and in the interests of the safety and convenience of highway users.

16. No part of the development shall be brought into use until the approved vehicle access, parking, manoeuvring and turning areas have been constructed in accordance with the submitted drawing (Reference 13529/5000/01 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 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.

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

Reason:

In accordance with Policies T1 and T2 of Selby District Local Plan and in the interests of highway safety and the general amenity of the area.

18. Prior to the development being brought into use, a Travel Plan shall have been submitted to and approved in writing by the Local Planning Authority in consultation with the Highway Authority. This shall include:

- (i) the appointment of a travel co-ordinator
- (ii) a partnership approach to influence travel behaviour
- (iii) measures to encourage the use of alternative modes of transport other than the private car by persons associated with the site
- (iv) provision of up-to-date details of public transport services
- (v) continual appraisal of travel patterns and measures provided through the travel plan
- (vi) improved safety for vulnerable road users
- (vii) a reduction in all vehicle trips and mileage
- (viii) a programme for the implementation of such measures and any proposed physical works
- (ix) procedures for monitoring the uptake of such modes of transport and for providing evidence of compliance.

The Travel Plan shall be implemented and the development shall thereafter be carried out and operated in accordance with the Travel Plan.

Reason:

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

19. There shall be no excavation or other groundworks, except for investigative works or the depositing of material on the site, until details of measures to maintain the free flow of traffic on the highway network have been approved in writing by the Local Planning Authority in consultation with the Highway Authority and the development shall thereafter be carried out and operated in accordance with the Construction Traffic Management Plan. The measures shall include but not be limited to:

- 1) Details of the routes to be used by HCV construction traffic.
- 2) Traffic Management Plan
- 3) Loading/unloading of materials and plant.
- 4) Storage of materials and plant.
- 5) Parking of contractors vehicles
- 6) Programme for the works
- 7) Measures to prevent mud/dirt being deposited on the highway.

Reason:

In accordance with Policies T1 and T2 of Selby District Local Plan and to avoid interference with the free flow of traffic and to secure safe and appropriate access and egress to the site in the interests of safety and convenience of highway users and the amenity of the area.

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

Reason:

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

21. The development permitted by this planning permission shall only be carried out in accordance with the approved flood risk assessment (ref-13529-5000) and the following mitigation measures detailed within the FRA:

1. Finished floor levels are set no lower than 5.3m above Ordnance Datum (AOD).
2. Floor to be of solid construction, underlain with 1200g visqueen damp proof membrane, with lapped and taped joints.
3. Boilers, gas and electrical meters to be placed a minimum of 700mm above finished floor level.
4. Electrical sockets to be placed a minimum of 300mm above FFL and wired from above.

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 to increase the resilience of the structure to flooding facilitating faster post flood recovery in accordance with Policy SP15 of Selby Core Strategy.

22. Details of any flood lighting shall be submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details for the lifetime of the development.

Reason:

In order to protect the living conditions of neighbouring residents, in accordance with Policy ENV1 of Selby District Local Plan.

23. No development shall take commence until a Written Scheme of Investigation has been submitted to and approved in writing by the Local Planning Authority. The scheme shall include an assessment of significance and research questions; and:

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

Reason:

In order to safeguard archaeological remains in accordance with Section 12 of the NPPF as the site is of archaeological interest.

24. No development shall take place other than in accordance with the Written Scheme of Investigation approved under condition 23.

Reason:

In order to safeguard archaeological remains in accordance with Section 12 of the NPPF as the site is of archaeological interest.

25. 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 23 and the provision made for analysis, publication and dissemination of results and archive deposition has been secured.

Reason:

In order to safeguard archaeological remains in accordance with Section 12 of the NPPF as the site is of archaeological interest.

26. No part of the development shall be brought into use until secure cycle parking facilities for the proposed retail unit to accommodate all cyclists likely to visit the premises have been provided in accordance with details to be submitted to and approved in writing by the Local Planning Authority. The cycle parking facilities shall thereafter be retained.

Reason:

In order to provide a sustainable development in accordance with Policy T1 of Selby District Local Plan.

27. Development shall not commence until a scheme, detailing the treatment of all surface water flows from parking areas and hardstandings through an oil interceptor, reedbed or alternative treatment system, has been submitted to and approved in writing by the Local Planning Authority. Use of the parking areas/hardstandings shall not commence until the works comprising the approved treatment scheme have been completed. Roof water shall not pass through the treatment scheme. Treatment shall take place prior to discharge from the treatment scheme. The treatment scheme shall be retained, maintained to ensure efficient working and used throughout the lifetime of the development.

Reason:

To prevent pollution of the water environment in accordance with Policy SP15 of Selby Core Strategy.

28. The development permitted by this planning permission shall only be carried out in accordance with the approved Construction Environmental Management Plan dated April 2016.

Reason:

To protect the amenity of the adjoining and nearby properties in accordance with Policy ENV1 of the Selby District Local Plan.

29. Development shall not commence until a scheme, detailing the treatment of all surface water flows from parking areas and hardstandings through an oil interceptor, reedbed or alternative treatment system, has been submitted to and approved in writing by the Local Planning Authority. Use of the parking areas/hardstandings shall not commence until the works comprising the approved treatment scheme have been completed. Roof water shall not pass through the treatment scheme. Treatment shall take place prior to discharge from the treatment scheme. The treatment scheme shall be retained, maintained to ensure efficient working and used throughout the lifetime of the development.

Reason:

To prevent pollution of the water environment in accordance with Policy SP15 of Selby Core Strategy.

30. Prior to occupation of the development hereby permitted, details of charging points for electric cars and for mobility scooters shall be submitted to and approved in writing by the Local Planning Authority, and thereafter shall be provided in accordance with the approved details and subsequently retained for that purpose.

Reason:

To encourage the use of low emission vehicles, in turn reducing CO2 emissions and energy consumption levels in accordance with Policy SP15 of Selby Core Strategy.

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

(To be inserted as part of the decision notice)

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

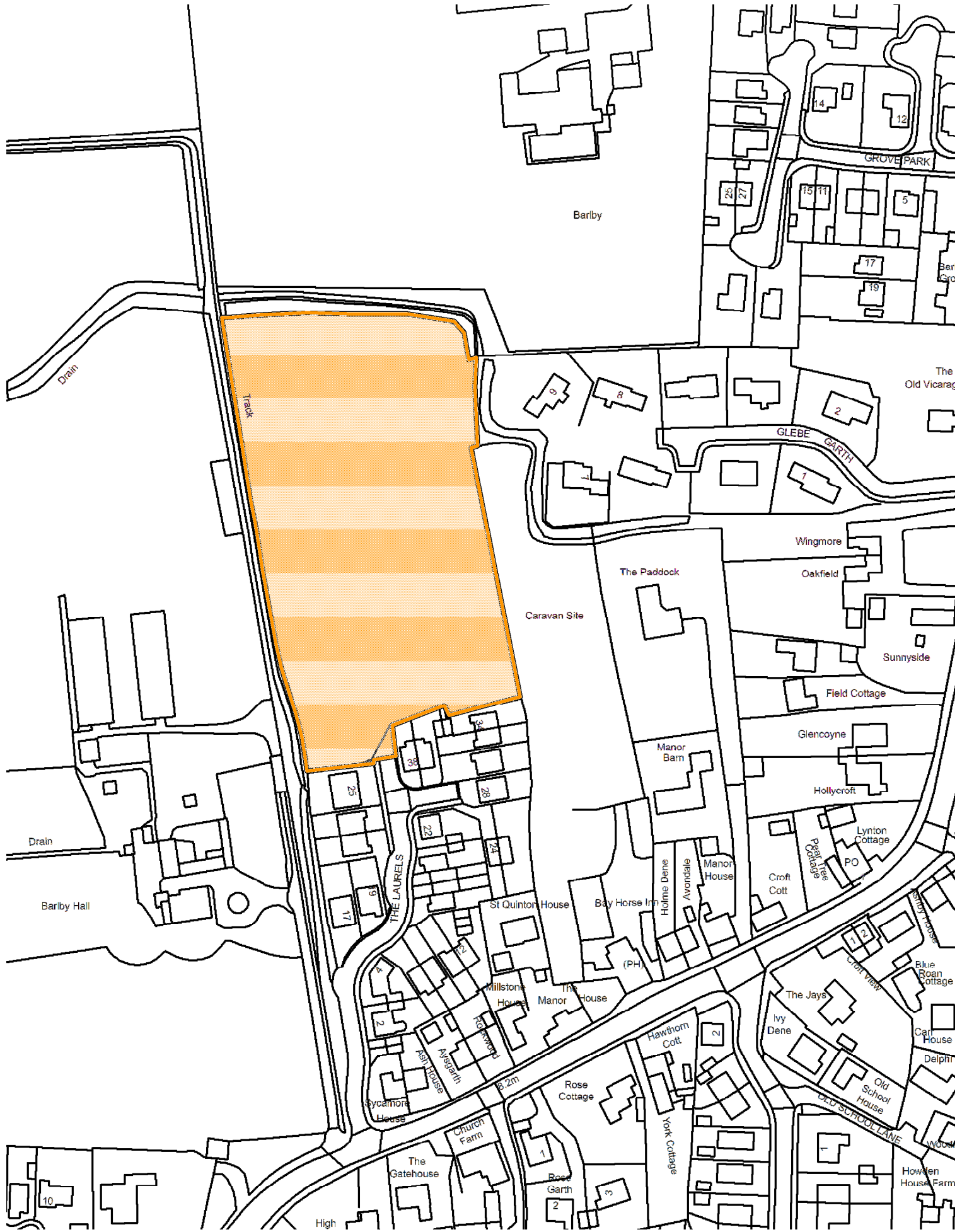
- 4.1 As stated in the main body of the report.

5. Background Documents

- 5.1 Planning Application file reference 2015/1217/FUL and associated documents.

Contact Officer: Mr Keith Thompson (Senior Planning Officer)

Appendices: None

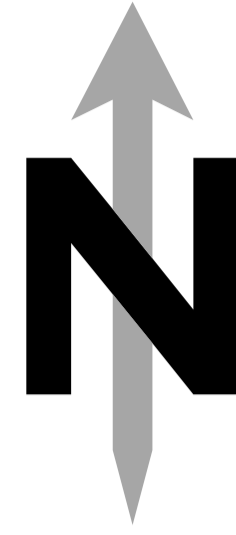


APPLICATION SITE

Item No: 2016/0491/MLA

Address: The Laurels, York Road, Barby

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W	WHIXLEY	3
B	BEDALE	4
M	MIDDLEHAM	3
H	HEPTON	8
D	DENBY	3
AF2		6
AF3		8
TOTAL		35

REVISIONS

CLIENT DANIEL GATH HOMES

DRAWING TITLE SITE LAYOUT

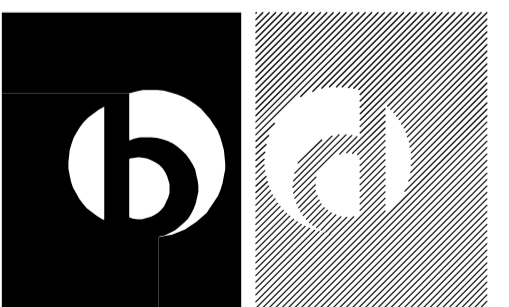
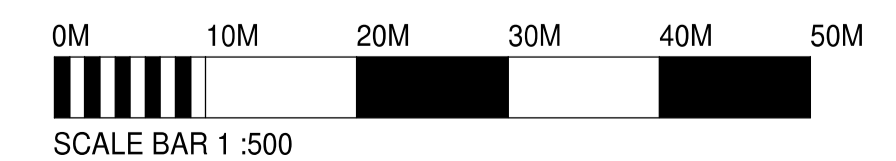
PROJECT:
PROPOSED DEVELOPMENT OFF
THE LAURELS
YORK ROAD
BARLBY

DRAWING No: 016 / 016 / SL

DRAWING DATE: APRIL 2016

DRAWN BY: IKB SCALE: 1:500 @ A1

RECEIVED
28 April 2016
BUSINESS SUPPORT



BARRATON
DESIGN STUDIO

BARRATON DESIGN STUDIO
UNIT 1
BRANCROFT FARM
BAWTRY ROAD
AUSTERFIELD
DONCASTER
SOUTH YORKSHIRE
DN10 6EZ
TEL: 01302 771188
EMAIL: ianbarraton30@gmail.com

Report Reference Number 2016/0491/MLA

Agenda Item No: 6.4

To: Planning Committee
Date: 9 November 2016
Author: Calum Rowley (Senior Planning Officer)
Lead Officer: Jonathan Carr (Interim Lead Officer – Planning)

APPLICATION NUMBER:	2016/0491/MLA (8/16/697C/PA)	PARISH:	Barlby And Osgodby Parish Council
APPLICANT:	Daniel Gath Homes	VALID DATE: EXPIRY DATE:	28 April 2016 26 May 2016 (EOT to 21 October 2016)
PROPOSAL:	Application to modify a section 106 planning obligation under section 106BA following approval of 2015/0586/OUT for outline planning approval with all matters reserved for the erection of a residential development on land north of		
LOCATION:	The Laurels, York Road, Barlby, Selby, North Yorkshire, YO8 5JH		

This matter has been brought to Planning Committee for consideration due to the applicant seeking a lower affordable housing contribution than what Members agreed to on the original outline consent planning reference: 2015/0586/OUT which was a 40% on-site affordable housing contribution.

Summary:

Under Section 106BA of the Planning Act 1990 developers may seek to modify their obligations that may have been agreed with local planning authorities. In this case the applicant has sought to modify the agreement so that they can provide less affordable housing on site. Such cases should be determined on the basis of what amount of affordable housing can be accommodated without making the scheme unviable. The evidence used is therefore financial in nature and the Council normally seeks the input from the District Valuer to provide specialist advice. The application has sought to initially reduce the on-site 40% affordable housing contribution to 6% (2 units).

Following discussions, the DVS has concluded that 17% (6 units) on-site affordable housing can be provided with a viability review mechanism which allows the affordable housing units to be increased or decreased in line with market conditions at the time.

This approach has not been agreed by the applicant who considers that their original offer of 6% (2 units) is affordable.

Recommendation:

The application is recommended to be REFUSED.

1.0 Introduction and Background

- 1.1 The application site extends to 1.2 hectares in area located to the north of 'The Laurels' residential estate outside the defined development limits of Barlby but immediately adjacent to them.
- 1.2 The application was approved at Planning Committee on 29 July 2015 subject to the applicant entering into a Section 106 Agreement which included, amongst other things, the provision of 40% Affordable Housing within the site.
- 1.3 This application seeks to reduce the amount of affordable housing units on the site from that previously agreed (40%) to a figure of 6% which equates to 2 units within the site.

2.0 Planning History

- 2.1 Planning permission 2015/0586/OUT was issued on the 3 December 2015 for the following:

“Application for outline planning permission with all matters reserved for the erection of a residential development (illustrative layout shows 37 dwellings) and laying out of associated roads and recreation open space”

- 2.2 A S106 was signed by the Landowners / Applicants on the 3 December 2015 securing the delivery of:
 - Affordable Housing On Site at 40% of Units arising from the development;
 - Education Contribution;
 - Provision of On Site Recreational Open Space; and
 - Waste and Recycling Contribution.

3.0 Assessment

- 3.1 The following section outlines the:
 - Scope of Submissions and Consideration under S106BA;
 - Summary of Appellants Case on Submission under S106BA;
 - Advice from District Valuer to Local Planning Authority; and
 - Officer Conclusion.

3.2 Scope of Submissions and Consideration under S106BA

- 3.2.1 The Growth and Infrastructure Act inserted Sections 106BA, BB and BC into the 1990 Town and Country Planning Act. These sections introduce a new application and appeal procedure for the review of planning obligations on planning permissions which relate to the provision of affordable housing.

Obligations which include a "requirement relating to the provision of housing that is or is to be made available for people whose needs are not adequately served by the commercial housing market" are within scope of this new procedure.

- 3.2.2 In April 2013 the Department of Communities and Local Government (DCLG) issued a Guidance Document entitled "Section 106 affordable housing requirements", and sets the context for the associated legalisation. It notes that
- 3.2.3 "The Government encourages a positive approach to planning to enable appropriate, sustainable development to come forward wherever possible. The National Planning Policy Framework establishes that the planning system ought to proactively drive and support sustainable economic development. It also requires that local planning authorities should positively seek to meet the development needs of their area.
- 3.2.4 Unrealistic Section 106 agreements negotiated in differing economic conditions can be an obstacle to house building. The Government is keen to encourage development to come forward, to provide more homes to meet a growing population and to promote construction and economic growth. Stalled schemes due to economically unviable affordable housing requirements result in no development, no regeneration and no community benefit. Reviewing such agreements will result in more housing and more affordable housing than would otherwise be the case".
- 3.2.5 It is also stated in the Guidance that "The new application and appeal procedures do not, in any way, replace existing powers to renegotiate Section 106 agreements on a voluntary basis. The application and appeal procedure will assess the viability of affordable housing requirements only. It will not reopen any other planning policy considerations or review the merits of the permitted scheme."
- 3.2.6 The ability to make submissions under the above noted sections was subject to subject to a 'sunset clause' killing off the changes after 30 April 2016 unless otherwise extended.
- 3.2.7 On the 11th April 2016 DCLG confirmed that any application or appeal underway as of the 30th April 2016 under section 106BA should still be considered by the Local Planning Authority or Planning Inspectorate.

3.3 Summary of Appellants Case on Submission under S106BA

- 3.3.1 Under the submissions made by the Applicants, under application 2016/0491/MLA, the Applicants have provided an updated Viability Assessment. This Assessment provided a case for the scheme to provide a 6% (2 units) contribution for affordable housing, which they considered to be viable alongside the other contributions noted in the signed S106 Agreement. The applicant in their supporting statement argue that the current returns at 40% affordable housing provision renders the scheme financially unviable as it does not deliver an acceptable return to both the Landowner and Developer. As such, the affordable housing contribution is therefore a significant barrier to the delivery of

the development within the five year period including that of market and affordable housing.

3.4 Advice from District Valuer to Local Planning Authority

3.4.1 Following submission of the updated Viability Appraisal to the Authority in April 2016 the District Valuer (Cecilia Reed) was instructed to review the updated submission and to advise the Council.

3.4.2 Advice received on 2nd June 2016 from the District Valuer set out a series of key differences between the parties in terms of appropriate developer profit levels, abnormal costs, finance costs, construction costs, contingency levels, baseline sales values and professional fees, and ultimately concluded that:

“Factoring all the changes to the inputs into my appraisal, the planning compliant scheme, of 35 dwellings where 7 are allocated as shared ownership and 7 are allocated as socially rented, generates a land value of £535,000 which is £20,000 above the my opinion benchmark land value. [As such] I conclude the scheme is able to deliver the full on site 40% affordable homes policy, education contribution and waste and recycling contribution. I therefore disagree with the applicant’s view that the scheme can only viably provide a 6% on site affordable housing contribution.”

3.4.3 The applicant submitted a rebuttal to the District Valuer’s initial comments which raised concerns in regards to the discrepancies in gross development value, contingency, build costs, abnormal costs, project phasing, arrangement fee, market value, land value and developer profit.

3.4.4 A meeting was held between the District Valuer and the Applicant on 29 July 2016. The DV has advised that the applicant’s agent has not agreed to the revision of Affordable Housing following the meeting. The DVS adds that “The agent can recommend 2 affordable units (unchanged) and my (significant) revision is that the scheme can provide 6 affordable units (17%).” The reason for the reduction is a result of adopting the transfer rates instead of discounted market values.

3.4.5 In addition, the DVS in their report stated that “The developer has sought clarification from Broadacres, a registered provider in the region. I spoke with someone from Broadacres, they insist that the maximum they will pay for a shared ownership dwelling is the price in the SPD, and whatever this equates to in terms of a % of MV will be the shared ownership percentage that they will dispose of, and this will remain in perpetuity, there will be no profit by them (and crucially no clawback to the developer). They inform me that this is a council directive, and as much as there may be a market for disposing a 70% share, they are not able to do this.” As such, the adopted SPD transfer values have been used for the calculation for both the shared ownership and the socially rented properties. The DV advises that “...this significantly reduces the Development Value and directly impacts on the viability which when coupled with other evidence and changes will lead to a significant reduction in the affordable housing provision on site.”

- 3.4.6 The DVS report concludes that "...the scheme is not viable with 40% on site affordable home provision. Factoring all the changes to the inputs into my appraisal, it is my conclusion that the scheme can afford 6 on site affordable homes, and it is assumed these will comprise four 2-bedroom and two 3-bedroom properties, equally split between the tenure types of shared ownership and socially rented.
- 3.4.7 In addition, "For the affordable housing I have adopted the transfer rates in the February 2014 Selby Affordable Housing SPD. It is recommended that there is a review mechanism should the developer achieve better revenues than anticipated, in order the Council can re-coup a proportion of any increase."

3.5 Officer's Conclusion

3.5.1 Under S106BA then the Council has 28 days to determine any submission made to it unless an extension in this timescale is agreed with the Applicants. There is an extension of time agreed until 21 October 2016.

3.5.2 The relevant section within Policy SP9 of the Core Strategy states:

"A. The Council will seek to achieve a 40/60% affordable/general market housing ratio within overall housing delivery.

B. 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 (or sites of 0.3 ha) or more.

E. An appropriate agreement will be secured at the time of granting planning permission to secure the long-term future of affordable housing. In the case of larger schemes, the affordable housing provision will be reviewed prior to the commencement of each phase.

The actual amount of affordable housing, or commuted sum payment 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. Further guidance will be provided through an Affordable Housing SPD."

3.5.3 This applicant has provided a case for the scheme to provide a 6% (2 units) contribution for affordable housing, which they considered to be viable alongside the other contributions noted in the signed S106 Agreement. The applicant in their supporting statement argue that the current returns at 40% affordable housing provision renders the scheme financially unviable as it does not deliver an acceptable return to both the Landowner and Developer.

3.5.4 The advice of the District Valuer to the Council was clear that in her view the scheme is not viable with 40% on site affordable home provision and it is her conclusions that the scheme can afford 6 on site affordable homes which equates to a 17% affordable housing on the site with a viability review mechanism. The DVS assumes these properties will comprise four 2-bedroom

and two 3-bedroom properties, equally split between the tenure types of shared ownership and socially rented.

- 3.5.5 Having viewed the viability appraisal submitted by the applicants (written by Vernon & CO), it appears that a number of the inputs do not look accurate as historic house prices have been relied upon with no growth model to show the value of these houses in the current market.
- 3.5.6 It is noteworthy that a comparable scheme (Barley Fields) which is located approximately 0.7 miles from the application site are being advertised with prices as much as £145,000 more than is being forecast in the applicants viability report which is a material consideration.
- 3.5.7 In addition, some of the items in the 'abnormal costs' list are not accurate such as ecology and renewable energy. These are pre-requisites for the applicants securing planning permission and the cost of securing a planning consent are not exceptional costs and these elements should therefore not be considered as abnormal costs to the scheme. In addition, the proposed water pumping station is an improvement work by the applicant to enhance their development and is therefore not considered to be an abnormal cost.
- 3.5.8 Furthermore, the applicant's viability assessment has not provided a breakdown of the individual materials for the proposed development and has assumed a generic cost per sq ft for affordable housing. This is the same approach that has been taken for the market housing. The cost of each individual material (e.g. roof tiles, window frames, types of bricks etc) is required. This information will be known to the applicant as details of the materials are required to discharge the materials condition attached to the outline permission (2015/0586/OUT).
- 3.5.9 As such, Officer's consider that the figures supplied in the viability assessment by the applicant cannot be supported. Officers would support the DVS recommendation of 17% affordable housing with a viability review mechanism on the site. This would allow the Council to form a true picture of the sales prices for new build properties in this location, secure the appropriate level of affordable housing and bring the scheme into compliance with the Core Strategy Local Plan. Equally, the viability review will work both ways, and if there is a dramatic dip in the house prices and they are selling for less than the applicants are suggesting, then that would be picked up in the review.
- 3.5.10 The Planning Practice Guidance states that
- "Where local planning authorities are requiring affordable housing obligations or tariff style contributions to infrastructure, they should be flexible in their requirements. Their policy should be clear that such planning obligations will take into account specific site circumstances."
- 3.5.11 The applicants have confirmed that the 40% on-site affordable housing contribution renders the site unviable and it is therefore a significant barrier to the delivery of the development within the five year period including that of market and affordable housing which is a view that is shared by the DVS. As such, Officer's feel is a material consideration in determining whether or not a reduced contribution should be accepted.

4.0 Conclusion

- 4.1 The applicant has not agreed to the Council's revised figure of 17% (6 units) on-site affordable housing provision which also included a viability review mechanism. This figure has been offered following discussions between the applicant, the Council and the DVS who have undertaken an appraisal of the information submitted and consider that 17% is deliverable.

5.0 Recommendation

- 5.1 The application is recommended to be **REFUSED** for the following reason:

01. The applicant has failed to demonstrate that the proposed development will provide the appropriate level of affordable housing, taking account the district wide maximum amount of 40%, and the financial viability of the proposal. The proposal is therefore contrary to Policy SP9 of the Core Strategy and the NPPF.

6.1 Legal Issues

6.1.1 Planning Acts

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

6.1.2 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.

6.1.3 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.

6.2 Financial Issues

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

7. Conclusion

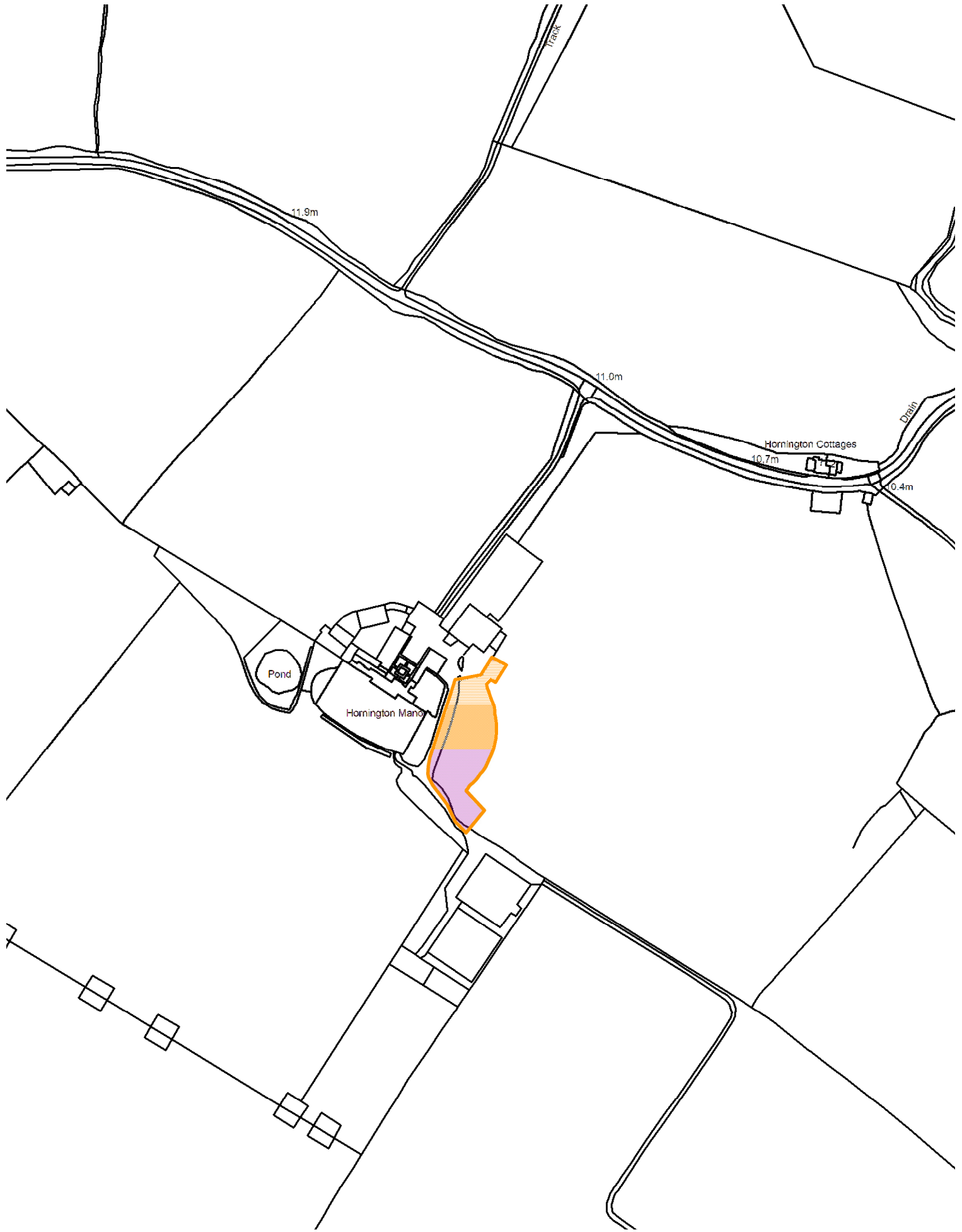
- 7.1 As stated in the main body of the report.

8. Background Documents

- 8.1 Planning Application file reference 2016/0491/MLA and associated documents.

Contact Officer: Calum Rowley (Senior Planning Officer)

Appendices: None

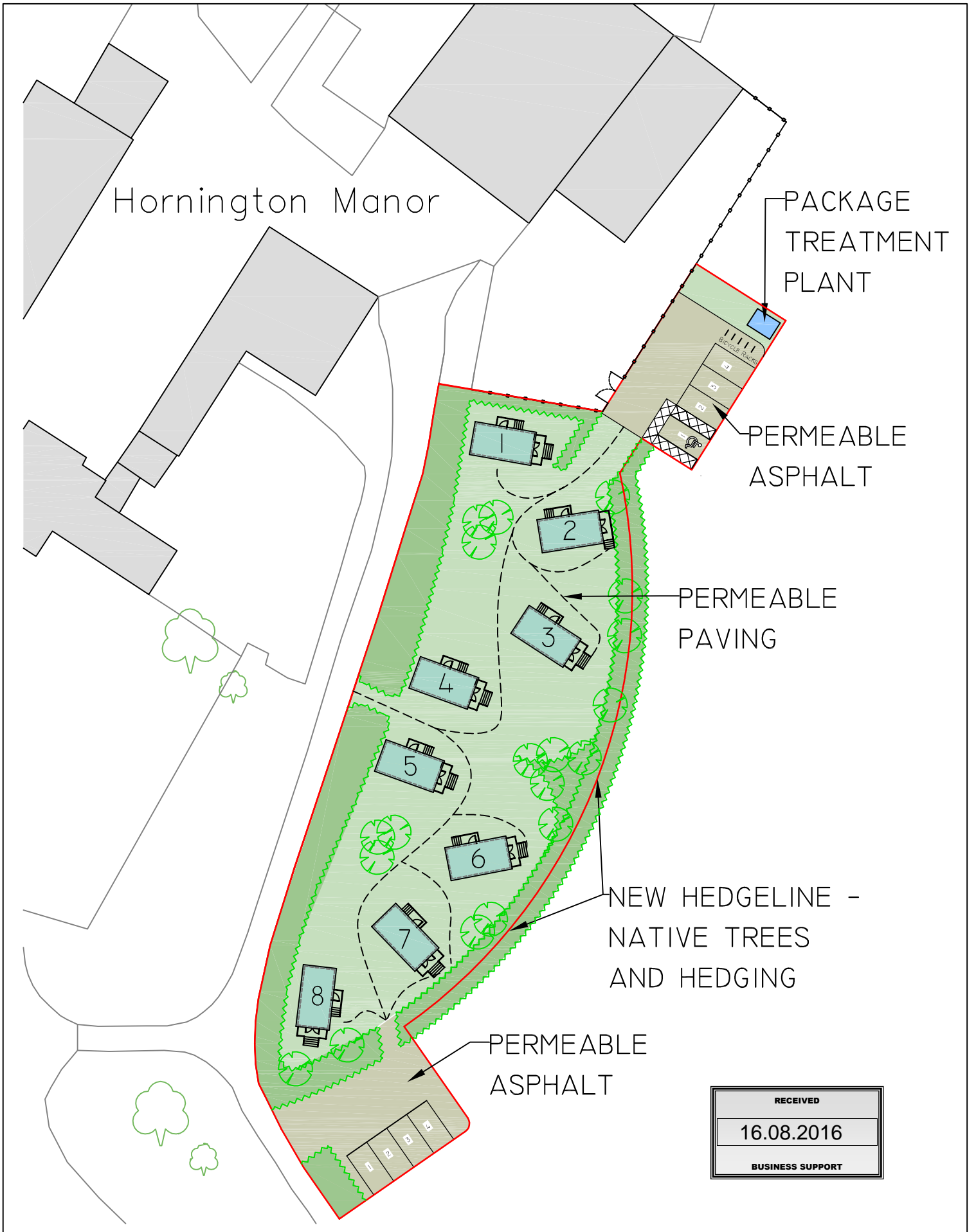


APPLICATION SITE

Item No: 2016/0989/COU

Address: Hornington Manor, Oxton Lane, Bolton Percy

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PROJECT ADDRESS HORNINGTON MANOR OXTON LANE BOLTON PERCY YO23 7AS	SCALE 1:500 @ A4	FINE BLACK LINE LIMITED BACK STUDIO 46 WOODLANDS AVENUE HARROGATE HG2 7SJ (M) 07896 320234 COMPANY REGN No: 6993202	ATTENTION! <ul style="list-style-type: none"> THIS DRAWING WAS PRODUCED IN FULL BY FINE BLACK LINE LIMITED COPYRIGHT - IN WHOLE AND IN PART - REMAINS WITH FINE BLACK LINE LIMITED DO NOT SCALE THESE DRAWINGS VERIFICATION OF DIMENSIONS MUST BE ACHIEVED ON SITE PRIOR TO THE COMMENCEMENT OF WORKS 	
	DATE MARCH 2016		102	

To: Planning Committee
Date: 9 November 2016
Author: Calum Rowley (Senior Planning Officer)
Lead Officer: Jonathan Carr (Interim Lead Officer – Planning)

APPLICATION NUMBER:	2016/0989/COU 8/78/71Z/PA	PARISH:	Bolton Percy Parish Council
APPLICANT:	Mr Simon Spinks	VALID DATE:	23 August 2016
		EXPIRY DATE:	18 October 2016
PROPOSAL:	Proposed change of use of agricultural land to self catered holiday accommodation comprising of 8No. mobile shepherds' huts.		
LOCATION:	Hornington Manor, Oxton Lane, Bolton Percy, York, North Yorkshire, YO23 7AS		

This application has been brought before Planning Committee as Officers consider that although the proposal is contrary to Policy RT11 of the Local Plan, little weight should be given to Policy RT11 because of the clear conflict of Policy RT11 with Policy SP13 of the Core Strategy and the core planning principles set within the NPPF all of which are more up to date than Policy RT11 of the Selby District Local Plan and which acknowledge tourism development, in principle, is appropriate within the open countryside. These are considered to be material planning considerations which outweigh the conflict with RT11 of the Local Plan.

Summary:

The application proposes the change of use of agricultural land to self-catered holiday accommodation comprising 8no mobile shepherds' huts. The application therefore seeks the provision of tourist accommodation within a rural area. The application is considered to be of direct benefit to the rural economy and is therefore in accordance with Policies SP2 and SP13 of the Selby District Local Plan and acceptable, on balance, in principle in this location.

As the site is located within the countryside and outside of the development limits of settlements the proposal would not comply with Policy RT11 and is therefore considered to be contrary to the Selby District Local Plan. However it is considered that little weight should be given to Policy RT11 because of the clear conflict of Policy RT11 with Policy SP13 of the Core Strategy, the core planning principles set within the NPPF which is more up to date than Policy RT11 of the Selby District Local Plan and which acknowledge

tourism related development is appropriate within the open countryside. These are considered to be material planning considerations which outweigh the conflict with Policy RT11. As such the proposal, on balance, is considered acceptable in principle.

The proposed scheme is not considered to cause a significant detrimental impact on the character of the open countryside. The design, scale and layout of the proposed scheme are considered to be acceptable. Impacts of acknowledged importance such as sustainability, drainage, residential amenity, impact on the setting of the nearby Listed Building and impact on the highway network are all considered acceptable subject to appropriate conditions.

Recommendation:

This planning application is recommended to be APPROVED subject to conditions detailed in Paragraph 2.15 of the Report.

1.1 The Site

- 1.1.1 The application site covers an area of approximately 0.33 hectares and currently comprises agricultural land for the grazing of sheep. There is a strong hedgerow on the western, north western and southern boundaries.
- 1.1.2 The current use of the site is predominantly agricultural however there have been recent applications that have been implemented which diversify this use to an events venue and holiday lets, in addition to the continued use of the site for agricultural purposes.
- 1.1.3 The site is set significantly back from the highway and is accessed off Oxton Lane. It lies between Bolton Percy and Tadcaster and is located outside the defined development limits of both. The site is therefore located within the open countryside.

1.2. The Proposal

- 1.2.1 The proposal seeks the change of use of part of the existing agricultural land to self-catered holiday accommodation comprising 8no shepherds' huts.
- 1.2.2 The proposed shepherds' huts would measure 6.1 metres in length, 3.1 metres in width. The cabins would have a height of 3.45 metres and would consist of timber, clad in waney-edged boards with a natural finish.
- 1.2.3 The access to the site would be taken from the existing access into the site from Oxton Lane with car parking provided for 8no vehicles as well as bicycle racks.
- 1.2.4 A new hedgeline to include native trees and hedging is proposed to the eastern boundary with permeable asphalt for the car parking areas and permeable paving within the site.

1.3 Planning History

- 1.3.1 An application (CO/1994/1194) for the partial demolition of existing brick built barn and erection of new agricultural building was approved on 14 October 1994.

- 1.3.2 An application (CO/1994/1195) for Listed Building Consent for the partial demolition of existing brick built barn, erection of new agricultural building and the re-roofing of part of existing outbuilding was approved on 14 October 1994.
- 1.3.3 Applications (2010/1037/FUL & 2010/1038/LBC) for Full & Listed Building Consent for the conversion of redundant agricultural buildings to form one office and showroom (B1); conversion of redundant agricultural building (stable) to form two holiday lets; conversion of redundant agricultural buildings and alteration to existing dwelling house including erection of entrance lobby to form three holiday lets and one dwelling; erection of boiler house and store building; creation of car parking area with associated landscaping and the erection of entrance sign were withdrawn on 15 December 2010.
- 1.3.4 Applications (2010/0203/LBC & 2011/0205/FUL) for Full & Listed Building Consent to facilitate conversion and alteration of existing redundant agricultural buildings to holiday lets, conversion of part of existing dwelling to holiday lets, conversion of redundant agricultural building to farm office and interpretative display area. Minor alterations to listed farmhouse. Construction of boiler house. Associated landscaping works was approved on 30 June 2011.
- 1.3.5 An application (2012/0347/DPC) for the discharge of conditions 2 (materials), 3 (door and window details), 4 (colour details), 12 (external lighting) and 13 (landscaping scheme) of approval 2011/0205/FUL (8/78/71K/PA) had a decision on 10 May 2012.
- 1.3.6 An application (2012/0349/DPC) for the discharge of conditions 2 (materials), 3 (details of doors, windows etc) and 4 (colour details) of approval 2011/0203/LBC (8/78/71L/LB) had a decision on 10 May 2012.
- 1.3.7 Applications (2014/1034/FUL & 2015/1042/LBC) for retrospective Full & Listed Building Consent for the erection of a stand-alone shelter in courtyard within curtilage of listed manor house was approved on 28 November 2014.
- 1.3.8 Applications (2015/0495/FUL & 2015/0553/LBC) for Full & Listed Building Consent for the proposed conversion of existing workshop outbuilding (in the curtilage of a listed building) to form holiday let business and erection of a lightweight link between listed building and workshop and formation of new opening into listed building was approved on 8 December 2015.
- 1.3.9 Applications (2015/0844/FUL & 2015/0927/LBC) for Full & Listed Building Consent for the proposed extension to stables holiday accommodation was approved on 20 October 2015.
- 1.3.10 Applications (2015/1398/COU & 2015/1406/LBC) for the retrospective change of use of barn and workshop from Sui Generis (Agriculture) to Sui Generis mixed use (Agriculture and Celebratory Events with toilet facilities) was approved on 6 July 2016.
- 1.3.11 An application (2016/1057/DOC) for the discharge of conditions 02 (materials) and 03 (doors, windows) of approval 2015/0495/FUL (8/78/71S/PA) is currently pending decision.

1.3.12 An application (2016/1071/DOC) for the discharge of conditions 02 (materials) and 03 (doors, windows) of approval 2015/0553/LBC (8/78/71T/LB) had a decision on 15 September 2016.

1.4 Consultations

1.4.1 Parish Council

The observations of the councillors of the above Parish Council are as follows:

1. Very concerned about the amount of accommodation the owners of Hornington Manor have submitted over the past few years, and this application is a step too far.
2. Alteration over the year's from a Farm House with associated farm buildings, has now turned into a large barn for a Wedding Venue, cottages for holiday accommodation which wasn't the design when the Spinks family took over the farm.
3. This application is out of character completely, and the councillors object strongly to this application, and hope the planners will take into consideration the original listed building farm house.
4. Councillors feel if this plan is granted that it will lead to more agricultural land being taken over for more holiday accommodation.

1.4.2 Yorkshire Water

No comments received.

1.4.3 Ainsty Internal Drainage Board

This application sits outside the Ainsty Internal Drainage Board district. However the Board does have assets adjacent to the site in the form of The Foss; this watercourse is known to be subject to high flows during storm events. The Board have no objection to this development in principal subject to a condition in respect of soakaways.

1.4.4 NYCC Highways

No objections to the proposed development.

1.4.5 Lead Officer-Environmental Health

Comments are awaited and Members will be updated at Planning Committee.

1.5 Publicity

1.5.1 Given the rural nature of the site, no neighbouring properties were consulted. However, a site notice was erected and an advert was placed in the local press which has resulted in no letters of representation being received.

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:

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

Policy ENV1:	Control of Development
Policy ENV2:	Environmental Pollution and Contaminated Land
Policy RT11:	Tourist Accommodation
Policy T1:	Development in relation to the highway network
Policy T2:	Access to Roads.

2.4 National Guidance and Policy – National Planning Policy Framework (NPPF)

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 key issues in the consideration of this application are considered to be:

- 1) Principle of the Development
- 2) Impact on Heritage Assets
- 3) Impact of the proposal on the Character of the Area
- 4) Impact of the proposal on Residential Amenity
- 5) Impact of the proposal on Highway Safety
- 6) Flood Risk and Drainage matters
- 7) Impact on Nature Conservation
- 8) Other Issues

2.6 The Principle of the Development

- 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 Policy SP2 states that development in the countryside will be limited to the replacement or extension of existing buildings, the reuse of buildings preferably for employment purposes and well-designed new buildings which would contribute towards and improve the local economy and where it will enhance or maintain the viability of rural communities in accordance with Policy SP13 or meets rural affordable housing need or other special circumstances.
- 2.6.3 Policy SP13 states that in rural areas sustainable development on both Greenfield and previously developed site which brings sustainable economic growth through local employment opportunities or expansion of growth through local employment opportunities or expansion of businesses and enterprise will be supported including for example rural tourism and leisure development as well as the diversification of agriculture.
- 2.6.4 Paragraph 28 of the NPPF states that planning should support sustainable tourism and leisure developments that benefit businesses in rural areas, communities and visitors, and which respect the character of the countryside. This should include supporting the provision and expansion of tourist and visitor facilities in appropriate locations.
- 2.6.5 There are no specific policies relating to the provision of types of tourist accommodation within the Selby District Local Plan. However Policy RT11 of the Local Plan sets the criteria for proposals for serviced or non-serviced tourist accommodation, including extensions to existing premises.
- 2.6.6 The site is located outside defined development limits and is therefore within the open countryside. The application seeks planning permission for tourist accommodation by way of the siting of 8no mobile shepherds' huts at Hornington Manor which has a historic use for agriculture. As the site is located outside the defined development limits of a settlement the proposal would not comply with Policy RT11 and is therefore considered to be contrary to the Selby District Local Plan.

- 2.6.7 However, it is considered that little weight should be given to Policy RT11 because of the clear conflict of Policy RT11 with Policy SP13 of the Core Strategy and the core planning principles set within the NPPF all of which are more up to date than Policy RT11 of the Selby District Local Plan and which acknowledge tourism development and the diversification of agriculture, in principle, is appropriate within the open countryside. These are considered to be material planning considerations which outweigh the conflict with RT11 of the Local Plan. This is a consistent approach that has been taken with applications of a similar nature within the district.
- 2.6.8 Tourism accommodation is considered to be appropriate development within a rural area and would contribute to the rural economy through the creation of jobs and through visitors staying at the site who may use shops or facilities in the local villages/ towns. The Supporting Statement advises that the site "...supports local caterers, florists, photographers, hair and beauty specialists, cake makers, musicians, stationers, cleaning staff, and more."
- 2.6.9 Although the site is not situated immediately adjacent to a settlement, it is considered that one of the main reasons people choose to visit self-contained holiday accommodation such as that proposed is their open, isolated location and the links they provide to the countryside. In addition, Hornington Manor has an established use as a wedding venue and in many instances, guests prefer to stay on the same site. The site currently has the capacity for 32 guests with planning permission for a further 4 double bedrooms. Further to this, Hornington Manor hosts corporate visits as it is still a working farm and these visits include overnight stays from clients.
- 2.6.10 The site is located approximately 3km from Tadcaster which provides a good range of facilities and is also less than 10km from the centre of York. The location of the site would give visitors of the site good access to the A64 which provides easy access to the A1(M) and therefore, providing good access to surrounding towns and villages where shops and services can be accessed. It is therefore considered that the proposed development would provide visitors with a pleasant environment from which they can benefit from easy access to the countryside and services, which is advocated by the NPPF as well as allowing corporate guests and wedding guests the opportunity to stay on site.
- 2.6.10 The proposal would therefore accord with the National Planning Policy Framework, and the Core Strategy. The submitted proposal is therefore considered, on balance, to be acceptable in principle.

2.7 Impact on Heritage Assets

- 2.7.1 The proposal affects the setting of the Manor House, a Grade II Listed Building. Whilst considering proposals which affect the setting of a listed building regard is to be made of S16 (2) and S66 (1) of the Planning (Listed Building and Conservation Area 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'.
- 2.7.2 Relevant policies in respect to the impact on Heritage Assets include Policy ENV1 of the Selby District Plan, Policies SP18 and SP19 of the Core Strategy and

Section 12 of the NPPF. Significant weight should be given to Policy ENV1 as it is broadly consistent with the aims of the NPPF.

- 2.7.3 No works are proposed to the Listed Building and it is considered that the application site, although adjacent to the Listed Building, is not within the curtilage as it falls under a separate use (agricultural compared to residential). Notwithstanding this, it is considered that the design and scale of the proposed shepherds' huts are acceptable and would respect to the past and current use of the agricultural land for sheep farming. As such, on balance, the proposal is not considered to have an adverse effect on the setting of Hornington Manor.
- 2.7.4 A Heritage Assessment has been submitted as part of the Supporting Statement which justifies the scheme with respect to its impact on the setting of the Listed Buildings. The Planning Statement considers that "This self-contained proposal limits the development to outside the curtilage of the Listed building whilst remaining close enough to ensure ease of access and minimal 'spread' of development."
- 2.7.5 The proposal is therefore considered to sustain the listed building's architectural and historic interest which would ensure that the building's heritage is retained and preserved. The proposal is therefore considered to accord with Policy ENV1 of the Selby District Plan, Policies SP18 and SP19 of the Core Strategy and the advice contained within the NPPF.

2.8 Impact of the proposal on the Character of the Area

- 2.8.1 Relevant policies in respect of design and impact on the character of the area include Policy ENV1 (1) and (4) of the Selby District Local Plan and Policy SP19 of the Core Strategy.
- 2.8.2 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 to 64.
- 2.8.3 The site is surrounded predominately by open agricultural fields with the main building (Hornington Manor) located immediately to the North West along with several outbuildings which are agricultural in appearance. To the south of the application site are converted agricultural buildings which are occupied by light industrial use.
- 2.8.4 The site is well landscaped from Oxton Lane with further landscaping within the site through hedgerows which separate the parcels of land. The application site is bounded by a hedgerow on the boundary to the road on the norther western, western and southern boundaries with open agricultural land to the east. The proposal includes the planting of new native trees and hedging along the eastern boundary which will complement the existing boundaries.
- 2.8.5 The proposed shepherds' huts would be built using timber, clad in waney-edged boards with a natural finish. In addition, the submitted Planning Statement identifies that "The introduction of these huts also pays homage to the history – and current use - of the site as a sheep farm. The link with the sheep rearing and wool

production on the farm adds relevance to a proposal that will blend naturally into the rural surroundings.”

- 2.8.6 The shepherds’ huts would be set back from the highway and in close proximity to the built form of Hornington Manor which reduces the visual impact on the area. It is considered that it is not uncommon to find such proposals within the countryside demonstrating that the harm arising from such development can normally be mitigated through design and landscaping.
- 2.8.7 The shepherds’ huts would be well spaced out and the site soft landscaped thereby facilitating its integration into its setting. It is considered that due to the design, layout and additional landscaping the proposal would not significantly affect the character of the area subject to an appropriate condition.
- 2.8.8 As such having had regard to the design of the proposal it is considered that the proposal would achieve a high quality of design and would not have a significant adverse effect on the character of the area and is therefore in accordance with Policies and ENV1 of the Selby District Local Plan, Policies SP18 and SP19 of the Core Strategy and the NPPF.

2.9 Impact of the Proposal on Residential Amenity

- 2.9.1 Relevant policies in respect to impacts on residential amenity include Policies ENV1(1) and ENV2 of the Local Plan. This Local Plan policy should be afforded significant weight given that it does not conflict with the NPPF.
- 2.9.2 In respect to the NPPF it is noted that one of the twelve core planning principles of the NPPF is to always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings.
- 2.9.3 The key considerations in respects of residential amenity are considered to be the potential of the proposal to result in disturbance, overshadowing and to be overbearing.
- 2.9.4 The nearest neighbouring properties are located approximately 300 metres to the north east with further properties approximately 750 metres to the east (Station Farm) with the village of Bolton Percy approximately 1km to the east of the application site. As such, given the nature of the proposal and the separation distance to the nearest residential property, it is considered that the proposal would not have a significant or adverse impact on the amenity of residential properties, in accordance with Policy ENV1(1) of the Selby District Local Plan and the NPPF.

2.10 Impact of the Proposal on Highway Safety

- 2.10.1 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 and that parking and access arrangements are satisfactory. It is considered that these policies of the Selby District Local Plan should be given significant weight as they are broadly in accordance with the emphasis within the NPPF.
- 2.10.2 With respect to parking, paragraph 39 of the NPPF states that when setting local parking standards for residential and non-residential development, local planning

authorities should take into account the accessibility of the development; the type, mix and use of development; the availability of and opportunities for public transport; local car ownership levels; and an overall need to reduce the use of high-emission vehicles.

2.10.3 Access to the site would be taken from the existing access into Hornington Manor from Oxton Lane with parking provision within the site for 8no vehicles and bicycle racks on permeable asphalt. The Highways Officer has raised no objection to the proposed works and as such on the basis of the above, It is considered that the proposed scheme is acceptable and is in accordance with Policies ENV1(2), T1 and T2 of the Local Plan and the NPPF.

2.11 Flood Risk, Drainage and Climate Change

2.11.1 Relevant policies in respect to drainage, climate change and flood risk include Policy ENV1(3) of the Local Plan and Policies SP15 and SP16 of the Core Strategy. Significant weight should be attached to Local Plan Policy ENV1 as it is broadly consistent with the aims of the NPPF. Relevant paragraphs within the NPPF which relate to flood risk, drainage and climate change include paragraphs 94 and 95.

2.11.2 Policy SP15 (B) states that to ensure development contributes toward reducing carbon emissions and are resilient to the effect of climate change schemes should where necessary or appropriate meet 8 criteria set out within the policy.

2.11.3 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. 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.

2.11.4 The application site is in Flood Zone 1 which is of low probability of flooding and as such, a Flood Risk Assessment is not required to be submitted.

2.11.5 The proposals provide that foul water is to be discharged to a package treatment plant which would be located within the proposed parking area on site. In addition, the application form states that surface Water would be discharged of via a soakaway.

2.11.6 Yorkshire Water has not responded to the consultation and the Ainsty Internal Drainage Board has advised that they welcome the approach to surface water disposal, it is not clear that this will be effective and have requested a condition in respect of soakaways.

2.11.7 The proposal would not have significant impact on flood risk, drainage and the sewerage system. Having had regard to the above, subject to the inclusion of conditions 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.

2.12 Impact on Nature Conservation

2.12.1 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.

2.12.2 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. The Addendum to the Supporting Statement advises that the "...extensive planting of native hedging around the site will increase habitat for wildlife."

2.12.3 It is therefore considered that the proposal would accord with Policy ENV1 of the Local Plan and the NPPF with respect to nature conservation.

2.13 Other Issues

2.13.1 The applicant has submitted an addendum to the original Supporting Statement which provides further justification for the proposed shepherds' huts and also provides a background to the business. In this addendum, it advises that the existing site brings in significant investment through jobs, spending in the local economy and the diversity of the agricultural business.

2.13.2 The Parish Council raised concerns regarding potential future applications for additional holiday accommodation. However, only the current application can be assessed and any future application would be determined on its own merits in accordance with planning policy at the time.

2.14 Conclusion

2.14.1 The application proposes the change of use of agricultural land to self-catered holiday accommodation comprising 8no mobile shepherds' huts. The application therefore seeks the provision of tourist accommodation within a rural area. The application is considered to be of direct benefit to the rural economy and is therefore in accordance with Policies SP2 and SP13 of the Selby District Local Plan and acceptable, on balance, in principle in this location.

2.14.2 As the site is located within the countryside and outside of the development limits of settlements the proposal would not comply with Policy RT11 and is therefore considered to be contrary to the Selby District Local Plan. However it is considered that little weight should be given to Policy RT11 because of the clear conflict of Policy RT11 with Policy SP13 of the Core Strategy, the core planning principles set within the NPPF which is more up to date than Policy RT11 of the Selby District Local Plan and which acknowledge tourism related development is appropriate within the open countryside. These are considered to be material planning considerations which outweigh the conflict with Policy RT11. As such the proposal, on balance, is considered acceptable in principle.

2.14.3 The proposed scheme is not considered to cause a significant detrimental impact on the character of the open countryside. The design, scale and layout of the

proposed scheme are considered to be acceptable. Impacts of acknowledged importance such as sustainability, drainage, residential amenity, impact on the setting of the nearby Listed Building and impact on the highway network are all considered acceptable subject to appropriate conditions.

2.15 Recommendation

It is therefore recommended that the application be APPROVED subject to the conditions detailed below:

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 materials to be used in the construction of the external surfaces of the shepherds' huts hereby approved shall match those as shown on drawing number 3281/002P L3 which was received on 16 August 2016.

Reason:

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

03. There shall be no external lighting. If at any date in the future lighting is required then a scheme shall be submitted to and agreed in writing with the Local Planning Authority.

Reason:

In the interests of residential amenity, the visual amenity of the area and highway safety in accordance with policies ENV1, EMP7, EMP8, S4, T1 and T2 of the Selby Local Plan.

04. 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.

05. 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.

06. Before development is commenced full details of the proposals for the disposal of surface water drainage, including the results of any necessary percolation tests, shall be submitted to and approved in writing by the Local Planning Authority. Only the approved scheme shall be implemented. The shepherds' huts hereby approved shall not be brought into use until the scheme for the discharge of surface water has been implemented. The implemented scheme shall be retained for the lifetime of the development.

Reason:

To ensure the adequate provision for drainage from the proposed development, having had regard to Policy ENV1 of the Selby District Local Plan.

07. Prior to the occupation of the first shepherd hut, the package treatment plant for foul water shall be installed and connected to the shepherds' huts and shall be in accordance with drawing number 3281 002P L3 (received 16 August 2016), the information submitted on the FDA1 form and manufacturers details, both of which were received by the Council on 23 August 2016. The package treatment plant shall be maintained and retained for the lifetime of the development unless otherwise approved in writing by the Local Planning Authority.

Reason:

In the interest of satisfactory and sustainable drainage, in order to comply with Policy ENV1 of the Selby District Local Plan.

08. The shepherds' huts hereby approved shall not be occupied as a person's sole or main place of residence and the owners/occupiers shall maintain an up-to-date register of the names of all owners/occupiers of the of the shepherds' huts on the site, and their main home addresses.

Reason:

To ensure that the approved holiday accommodation is not used for permanent residential occupation.

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

- Location Plan: 3281 002P L1
- Planning Layout: 3281 002P L2
- General: 3281 002P L3

Reason:

For the avoidance of doubt.

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

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 the conflicting matters of 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 2016/0989/COU and associated documents.

Contact Officer: Calum Rowley (Senior Planning Officer)

Appendices: None



MEMBERS BRIEFING NOTE

KELLINGLEY COLLIERY REDEVELOPMENT

9th November 2016

1. Introduction

- 1.1 The presentation (given by Barton Willmore) is intended to inform Members of a forthcoming application which seeks to re-develop the site of the former Kellingley Colliery.
- 1.2 The re-development would involve the demolition and clearance of nearly all of the existing structures, and the erection of a mixed-use employment park. The methane gas works extraction buildings, and the sub-station which are located at the centre of the site, are, however, being retained.
- 1.3 The total floorspace of the proposed development will be 155,473sqm. It will comprise the following uses:
 - 7,592sqm of Office space (B1 Use)
 - General industrial (B2 Use)
 - Storage and Distribution (B8 Use)
 - Up to 5,000sqm of Retail space (A1 Use) to accommodate a food store.
- 1.4 Landscaping is proposed for the existing wooded area along the northern boundary.
- 1.5 The height of the tallest building will be approximately 25m above ground level (to ridge).
- 1.6 The application will be accompanied by an Environmental Impact Assessment (EIA) because the site is larger than the 5ha threshold for indicative screening criteria, set out in Schedule 2, 10 (a) of the EIA Regulations
- 1.7 The landowner is Harworth Estates Ltd, being represented by Barton Willmore.

2.0 Site Location

- 2.1 The site is located 1.5km to the east of Knottingley and 1.1km to the south of Beal. Although located within the boundary of Selby District Council, it abuts the administrative boundary with Wakefield District Council.
- 2.2 The northern boundary of the site is framed by the A645 (Weeland Road), and a collection of residential properties, known as Glebelands.
- 2.3 The eastern part of the site is framed by Sudforth Lane, which has agricultural land just beyond.
- 2.4 Southmoor Lane forms the western boundary of the site with Calder Grange Farm being immediately adjacent to this point.
- 2.5 The southern boundary line comprises the Leeds- Wakefield trainline and the Aire and Calder Navigation, which forms part of the canal system of the River Aire and River Calder.
- 2.6 In addition to the varied boundary characteristics, the site is located near important pieces of infrastructure and two villages:
 - A depot, a sewage pumping station and Brears and Kellingley Farms are all located to the north, as is the River Aire (600m away).
 - Knottingley Town and Ferrybridge Village are located to the west
 - Southmoor Energy Farm is located to the south, and has an extant planning permission (NY/2013/0128/ENV) for an energy (from waste) centre.

3.0 Site Description

- 3.1 The Site, which has an irregular shape, covers an area of 61.4ha and, for many years, was home to Kellingley Colliery, the last deep coal mine in Britain. It closed on the 18th December 2015.
- 3.2 The main colliery processing plant is located within the centre and south of the site, with a wooded area located along part of the northern boundary. A conveyor crosses the entire site in an east-west trajectory. A car park and other associated buildings are located in the northern part of the site; these are accessed by Kellingley Road which enters the site from the north, and heads south.
- 3.3 There a number of buildings and substations in the centre of the site that are used for methane gas works extraction. They are still in use and will continue to extract gas for approximately 9-10 years.
- 3.4 Two mine shaft buildings are also located within the centre of the site.
- 3.5 The Miner's Rescue Centre, a disused building, is located in the north - eastern part of the site. There are also three lagoons, and three

capped lagoons, located within the site (to the east) and are surrounded by grasslands and small areas of shrubbery.

4.0 Relevant Planning History

- 4.1 There is a complicated site history to Kellingley Colliery. Over the years, a number of additional buildings/machinery has been erected, in addition to the original permission in 1950's which allowed for exploratory boreholes to be sunk, and the subsequent permissions in the 1960's for the installation of two shafts.
- 4.2 The majority of this additional development was delivered through permitted development rights for Colliery sites.
- 4.3 Since Kellingley Colliery closed down in December 2015, work has commenced on clearing the site of its machinery and most of the existing structures. Provided that all this work is completed within 24 months from the day of the closure, then this work can be carried out as Permitted Development under Schedule 2, Part 17, and Class A of the General Permitted Development Order (GPDO) 2015.
- 4.4 As mentioned in paragraph 2.6, an application for the Southmoor Energy Centre (LPA Ref: NY/2013/0128/ENV) was approved in February 2015. It comprises an 'energy from waste' facility that is capable of producing 26MW of electricity and heat, and could potentially be connected to the future businesses of this proposed mixed-use, employment led development.

5.0 Conclusion

- 5.1 Members are respectfully asked to note the content of this briefing note and Barton Willmore's presentation. You are also invited to ask questions.

Appendix A

Site Plan of Kellingley Colliery Site



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



John Cattanach (C)
Cawood and Wistow
 01757 268968
jcattanach@selby.gov.uk



Dave Peart (C)
Camblesforth & Carlton
 01977 666919
dpear@selby.gov.uk



Liz Casling (C)
Escrick
 01904 728188
 cllr.elizabeth.casling@northyorks.gov.uk



Donald Mackay (C)
Tadcaster
 01937 835776
mackaydon@fsmail.net



Christopher Pearson (C)
Hambleton
 01757 704202
cpearson@selby.gov.uk



Ian Chilvers (C)
Brayton
 01757 705308
ichilvers@selby.gov.uk



James Deans (C)
Derwent
 01757 248395
jdeans@selby.gov.uk



Brian Marshall (L)
Selby East
 01757 707051
bmarshall@selby.gov.uk



Paul Welch (L)
Selby East
 07904 832671
pwelch@selby.gov.uk

Substitute Councillors



Richard Sweeting (C)
Tadcaster
07842 164034
rsweeting@selby.gov.uk



Ian Reynolds (C)
Riccall
01904 728524
cllrireynolds@selby.gov.uk



Debbie White (C)
Whitley
01757 228268
dewhite@selby.gov.uk



Mike Jordon (C)
Camblesforth & Carlton
01977 683766
mjordon@selby.gov.uk



David Hutchinson (C)
South Milford
01977 681804
dhutchinson@selby.gov.uk



David Buckle (C)
Sherburn in Elmet
01977 681412
dbuckle@selby.gov.uk



Robert Packham (L)
Sherburn in Elmet
01977 681954
cllrbpackham@selby.gov.uk



Stephanie Duckett (L)
Barlby Village
01757 706809
sduckett@selby.gov.uk

(C) – Conservative (L) – Labour