



Meeting: **PLANNING COMMITTEE**
Date: **WEDNESDAY 8 MARCH 2017**
Time: **2.00 PM**
Venue: **COUNCIL CHAMBER**
To: **Councillors J Cattanach (Chair), D Peart (Vice Chair),
Mrs L Casling, I Chilvers, J Deans, I Reynolds, 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 8 February 2017 (pages 1 to 8 attached).

6. Planning Applications Received

- 6.1 2016/1482/COU - 3 Low Street, Sherburn In Elmet
(pages 10 to 21 attached)
- 6.2 2016/1258/COU - Land To Rear of The Lodge, 23 Selby Road, Riccall
(pages 22 to 39 attached)
- 6.3 2016/0644/OUT- Main Street, North Duffield, Selby
(pages 40 to 90 attached)
- 6.4 2016/1368/FUL - Old Forge Cottage, Main Street, Church Fenton,
Tadcaster (pages 91 to 115 attached)
- 6.5 2016/0141/COU - Birchwood Lodge, Market Weighton Road, Barlby
Selby (pages 116 to 131 attached)
- 6.6 TPO 3/2016 - Land at East Acres Byram (pages 132 to 137 attached)

Gillian Marshall
Solicitor to the Council

Dates of next meeting
Wednesday 29 March – additional meeting
Wednesday 12 April 2017

For enquiries relating to this agenda please contact Janine Jenkinson on 01757 702268, or email to jjenkinson@selby.gov.uk.

Recording at Council Meetings

Recording is allowed at Council, committee and sub-committee meetings which are open to the public, subject to:- (i) the recording being conducted with the full knowledge of the Chairman of the meeting; and (ii) compliance with the Council's protocol on audio/visual recording and photography at meetings, a copy of which is available on request. Anyone wishing to record must contact the Democratic Services Officer using the details above prior to the start of the meeting. Any recording must be conducted openly and not in secret.

Minutes

Planning Committee

Venue:	Council Chamber
Date:	Wednesday 8 February 2017
Time:	2.00pm
Present:	Councillors J Cattnach (Chair), D Peart (Vice-Chair), D Buckle (substitute for I Reynolds), Mrs E Casling, I Chilvers, J Deans, B Marshall, C Pearson and P Welch
Apologies:	Councillor I Reynolds
Officers present:	Kelly Dawson, Senior Solicitor; Jonathan Carr, Interim Lead Officer (Planning); Ruth Hardingham, Interim Deputy Lead Officer (Planning); Calum Rowley, Senior Planning Officer; Louise Milnes, Principal Planning Officer; Thomas Webster, Principal Planning Officer; Yvonne Naylor, Principal Planning Officer; Keith Thompson, Senior Planning Officer; and Daniel Maguire, Democratic Services Officer
Public:	25
Press:	1

49. DISCLOSURES OF INTEREST

Councillor Buckle declared a non-pecuniary interest in agenda item 6.2 (minute number 53.2) due to him being a member of the Planning Committee of Sherburn in Elmet Parish Council. He confirmed that he had considered the application previously as a member of the Parish Council Planning Committee, and as such would take no part in the discussion or vote on the item but would remain in the meeting.

All Councillors advised that they had received communications in relation to all applications on the agenda. Councillors were advised to ensure all communications were also forwarded to the relevant Planning Officer.

50. CHAIR'S ADDRESS TO THE PLANNING COMMITTEE

The Chair advised the Committee that a request had been received from a member of the public regarding the representations received by Councillors relating to planning application 2015/0683/FUL which had been considered by the Planning Committee on Wednesday 7 September 2016. The Chair requested that Councillors forward any communications relating to this application to Democratic Services. The Chair also reminded Councillors of the requirement that any communications received by them relating to planning applications must be forwarded to the relevant Planning Officer, and that Councillors were required to make a declaration at each meeting outlining what representations they had received.

The Chair updated Councillors regarding planning application 2016/0644/OUT, which had been considered at the Planning Committee meeting on Wednesday 11 January 2017. It was explained that the Committee had resolved to be minded to refuse the application. The Chair explained that following the meeting further discussions between officers and the applicant had taken place which could result in an amended application being submitted. It was confirmed that if an amended application was not forthcoming then the original application would be brought back to the Committee with suggested reasons for refusal.

The Chair advised that application 2016/1368/FUL (agenda item 6.6) had been withdrawn, and that application 2016/1384/FUL (agenda item 6.7) would be considered before 2016/0716/FUL (agenda item 6.5) due to the application having speakers.

51. MINUTES

The Committee considered the minutes of the Planning Committee meeting held on 11 January 2017, and the minutes of the Planning Sub-Committee meeting held on 25 January 2017.

It was noted that Councillor Peart had attended the Planning Sub-Committee meeting, and not Councillor Pearson as stated in the minutes. It was also noted that Yvonne Naylor, Principal Planning Officer, had also been in attendance at the Sub Committee however had not been recorded on the attendance list.

RESOLVED:

To approve the minutes of the Planning Committee meeting held on 11 January 2017, and the minutes of the Planning Sub-Committee meeting held on 25 January 2017 as a correct record subject to the amendments above.

52. SUSPENSION OF COUNCIL PROCEDURE RULES

The Committee considered the suspension of Council Procedure Rules 15.1 and 15.6(a) to allow for a more effective discussion when considering planning applications.

RESOLVED:

To suspend Council Procedure Rules 15.1 and 15.6(a) for the duration of the meeting.

53. PLANNING APPLICATIONS RECEIVED

The Committee considered the following planning applications.

53.1 Application: 2016/1257/OUTM
Location: Selby Road, Camblesforth
Proposal: Outline application for residential development including access on field to the north A1041

The Interim Deputy Lead Officer (Planning) presented the report, which had been brought before the Planning Committee due to the proposals being contrary to the Development Plan and the application receiving more than ten representations. The Committee noted the Officer Update Note which highlighted additional representations received since the agenda was published.

The Interim Deputy Lead Officer (Planning) explained that the application was for outline planning permission for a residential development on land to the north of the A1041 in Camblesforth. It was noted that the original scheme provided an indicative layout for 105 dwellings, and the revised scheme provided an indicative layout for 70 dwellings.

The Committee were informed that the application failed the sequential test as alternative sites were available in Camblesforth which could contain the development in a lower risk flood zone. It was also noted that the scale of the development was not appropriate to the size and role of Camblesforth and would be an encroachment into the open countryside, and that the development would detract from and harm the landscape character of land at Camblesforth Hall and Dovecote.

Stuart Anderson, a local resident, addressed the committee to object to the application.

Councillor Mike Jordan addressed the committee, representing Camblesforth Parish Council, to object to the application.

Adrian Hill addressed the committee on behalf of the applicant in support of the application.

The Interim Deputy Lead Officer's recommendation to refuse the application, for the reasons detailed in the report, was moved and seconded.

RESOLVED:

To REFUSE the application for the reasons detailed in paragraph 3 of the officer's report.

53.2 Application: 2016/1008/HPA
Location: The Loft, 26A Low Street, Sherburn in Elmet
Proposal: Proposed extension and alterations to outbuilding to form a domestic garage for ancillary use to host dwelling.

The Senior Planning Officer presented the report, which had been brought before the Committee due to the application having received more than ten representations. The Committee noted the Officer Update Note which included an additional representation received, and an additional condition relating to the external appearance of the development.

It was confirmed that the application was for the alteration and extension of an existing outbuilding to create a domestic garage. The Senior Planning Officer confirmed that, if approved, the garage could only be used for domestic purposes and business use would require separate planning consent. The Senior Planning Officer also confirmed that internal works would not normally require further planning consent.

The Committee noted that paragraph 1.1.2 should read 'Low Street' and not 'Low Road', and that paragraph 2.6.2 should read 'single-storey' and not 'side storey'.

Stephanie Gilbert, a local resident, addressed the Committee to object to the application.

Councillor Paul Doherty addressed the Committee on behalf of Sherburn in Elmet Parish Council to object to the application.

Matthew Askey addressed the Committee on behalf of the applicant to support the application.

The Senior Planning Officer's recommendation to approve the application, subject to conditions contained in the Officer's report, was moved and seconded.

RESOLVED:

To APPROVE the application subject to the conditions detailed in paragraph 4 of the officer's report and the additional condition in the officer's update note.

53.3 Application: 2016/1322/OUTM
Location: Colton Lane, Appleton Roebuck
Proposal: Outline application with means of access for approval (all other matters reserved) for the erection of up to 28 no. new dwellings, together with associated infrastructure and open space provision

The Principal Planning Officer presented the report which had been brought before the Committee due to the number of representations received and that the application was contrary to the Development Plan but that there were material considerations that could justify approval. The Committee noted the Officer Update Note, which included additional representations received since the agenda was published.

The Principal Planning Officer explained that the application was an outline application with all matters reserved for a residential development on land abutting the development limits of Appleton Roebuck, which was a Designated Service Village.

The Principal Planning Officer advised the Committee that an original application had been granted in September 2015, when the Council was unable to evidence a five-year housing land supply, but had been overturned as a result of court submissions made by an objector. It was explained that, following High Court intervention and the quashing of the September 2015 decision, the application was re-considered in September 2016, when the Council could demonstrate that it had a five-year housing land supply, and was refused by the Planning Committee.

The Committee noted that the Council was currently unable to demonstrate that it had a five-year housing land supply, and that the application should be considered in the context of the presumption in favour of sustainable development.

Mr J Tuohy, a local resident, addressed the Committee to object to the application.

Councillor Les Rayment addressed the Committee on behalf of Appleton Roebuck Parish Council to object to the application.

Steve Grimster addressed the Committee on behalf of the applicant to support the application.

The Principal Planning Officer's recommendation to approve the application subject to the conditions detailed in the report was moved and seconded.

RESOLVED:

To APPROVE the application, subject to a Section 106 agreement to secure the provision of 40% of units for affordable housing (at a mix of 70% rent and 30%

intermediate), waste and recycling and provision of on-site recreational open space and the conditions detailed at paragraph 2.23 of the officer's report.

53.4 Application: 2016/0141/COU
Location: Birchwood Lodge, Market Weighton Road, Barlby
Proposal: Proposed change of use to form grass runway

The Principal Planning Officer presented the application which had been brought before the Committee following a request from the ward councillor, Councillor Karl Arthur.

The application was for a change of use to form a grass runway. The Principal Planning Officer informed the Committee that the land was currently used as a grass runway facilitating flights for up to 28 days per year, and that this had been authorised under a General Permitted Development Order. It was confirmed that the applicant was seeking to increase the number of permitted flights, beyond that which was possible under the General Permitted Development Order.

It was confirmed that the number of flights would be restricted to an average of four take-offs and landings restricted to between 0800 and 1700 on Mondays to Fridays, and that the operation of the runway would be restricted to no more than three days per week.

The Principal Planning Officer advised that a condition had been included which would allow the permission to be granted for a period of two-years and that the applicant would have to submit a new application to extend the permission beyond two-years. It was explained that this was to allow the impact of the runway to be assessed.

The Committee requested an additional condition or amendments to proposed conditions which would require the operator of the runway to maintain records of usage in order to assist officers in monitoring the impact.

Michael McDonald, a local resident, addressed the Committee to object to the application.

Mr Howlett addressed the Committee on behalf of the applicant, to support the application.

A request was made by the Committee to defer a decision on the application to allow for a site visit, as the Committee was concerned about the proximity of adjacent residential properties. This was moved and seconded.

RESOLVED:

To DEFER a decision on the application to allow for a Committee site visit due to concerns about the proximity of adjacent residential properties to be arranged.

**53.5 Application: 2016/1384/FUL
Location: Old Forge Cottage, Main Street, Church Fenton
Proposal: Proposed erection of 1 no dwelling**

The Principal Planning Officer presented the report, which had been brought before the Committee due to the applicant being a district councillor. The Committee noted the Officer Update Note, which included an additional representation from Church Fenton Parish Council.

The application was for the erection of a detached dwelling outside the defined development limits of Church Fenton. The Committee noted that the Council was currently unable to demonstrate that it had a five-year housing land supply, and was advised that the application should be considered in the context of the presumption in favour of sustainable development.

The Principal Planning Officer confirmed that the site was located partly within the Strategic Countryside Gap (SCG) between the east and west sides of Church Fenton, but that most of the proposed dwelling would lie outside the SCG and that this was not considered to be a significant development within the SCG.

It was also confirmed that conditions had been included that would remove permitted development rights, and that any additional buildings (such as extensions and outbuildings) would require the consent of the planning authority.

Mark Newby spoke on behalf of the applicant, in support of the application.

The Principal Planning Officer's recommendation to approve the application, subject to conditions detailed in paragraph 2.15 of the report, was moved and seconded.

RESOLVED:

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

**53.6 Application: 2016/0716/FUL
Location: Land adjacent to 6 Northfield Lane, Church Fenton
Proposal: Proposed erection of a detached bungalow**

The Senior Planning Officer presented the report, which had been brought before the Committee as the proposal was contrary to the Development Plan,

but that there were material considerations which could justify approving the application. The Committee noted the Officer Update Note, which included revised conditions.

The application was for the erection of a detached bungalow with integral garage on a site which was located outside of, but immediately adjacent to, the defined development limits of Church Fenton. The Committee noted that the Council was currently unable to demonstrate that it had a five-year housing land supply, and that the application should be considered in the context of the presumption in favour of sustainable development.

The Senior Planning Officer's recommendation to approve the application, subject to the conditions in paragraph 2.17 of the officer's report and the revised conditions in the Officer Update Note was moved and seconded.

RESOLVED:

To APPROVE the application subject to the conditions in paragraph 2.17 of the officer's report and the revised conditions in the Officer Update Note.

The meeting closed at 4.11pm.

Items for Planning Committee
8 March 2017

Ref	Site Address	Description	Officer	Page
2016/1482/COU	3 Low Street, Sherburn In Elmet	Proposed change of use to fish and chip shop (A5)	CARO	10-21
2016/1258/COU	Land To Rear Of, The Lodge, 23 Selby Road, Riccall	Demolition of outbuildings on site, change of use to allow the siting of 6 no. holiday use only units on land.	KETH	22-39
2016/0644/OUT	Main Street North Duffield Selby	Outline planning application for up to 57 dwellings and a new community football pitch with parking, a changing room/clubhouse to include access (all other matters reserved) at land off York Road	FIEL	40-90
2016/1368/FUL	Old Forge Cottage Main Street Church Fenton Tadcaster	Erection of 6No Dwellings	JETY	91-115
2016/0141/COU	Birchwood Lodge Market Weighton Road Barlby Selby	Proposed change of use to form grass runway	TOWE	116-131
TPO 3/2016	Land at East Acres Byram	Tree Preservation Order (TPO)	YVNA	132-137



APPLICATION SITE

Item No: 2016/1482/COU

Address: 3 Low Street, Sherburn in Elmet

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Report Reference Number: 2016/1482/COU

Agenda Item No: 6.1

To: Planning Committee
Date: 8 March 2017
Author: Calum Rowley (Senior Planning Officer)
Lead Officer: Jonathan Carr (Interim Lead Officer – Planning)

APPLICATION NUMBER:	2016/1482/COU (8/58/112G/PA)	PARISH:	Sherburn In Elmet Parish Council
APPLICANT:	Mr Shaun Best	VALID DATE:	11 January 2017
		EXPIRY DATE:	8 March 2017
PROPOSAL:	Proposed change of use to fish and chip shop (A5)		
LOCATION:	3 Low Street, Sherburn In Elmet, North Yorkshire, LS25 6BG		

This application has been brought before Planning Committee due to there being more than 10 representations which are contrary to the officer recommendation and due to a request by Cllr Buckle who has raised the following concerns:

1. Smell next to the established business;
2. Number of takeaways in Sherburn (10 out of 31 shops);
3. The outlet extractor chimney on a single storey building would have to be much larger (twice the size of the building)

Summary:

The proposal seeks permission for the change of use of the building to a fish and chip shop which falls within the A5 use class (Hot Food Takeaway). The existing use of the building is under an A2 use (Financial & Professional).

The site is located within the commercial zone of Sherburn in Elmet and there are a variety of uses within the surrounding area including A1 (shops), A2 (Financial & Professional Services), A4 (Drinking Establishments) and A5 (Hot Food Takeaway) as well as residential (C3 use class).

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 change of use would not have a detrimental effect on the character and form of the area, residential amenity or highway safety, in accordance with Policies SP1, SP2, SP13, SP14, SP15 and SP19 of the Core Strategy, Policies ENV1, T1 and SHB/5 of the Local Plan and the policies contained within the NPPF.

Recommendation

This planning application is recommended to be APPROVED subject to conditions detailed in Paragraph 2.12 of the Report.

1. Introduction and background

1.1 The Site

- 1.1.1 The application site is located within the defined development limits of Sherburn in Elmet and is within the commercial zone on Low Street.
- 1.1.2 There are a wide range of commercial uses within the surrounding area including A1 (shops), A2 (Financial & Professional Services), A4 (Drinking Establishments) and A5 (Hot Food Takeaway). In addition, there are some residential properties located along Low Street and the surrounding streets which results in a mixed use area in the centre of the village.
- 1.1.3 The building is a brick built property with a hipped roof that is attached to the adjacent commercial premises (dry cleaners) but sits uniquely within its setting.

1.2. The Proposal

- 1.2.1 The proposal seeks the change of use of the existing A2 use (Financial & Professional) to an A5 use (Hot Food Takeaway) and in this instance, a fish & chip shop.
- 1.2.2 Predominantly, the changes proposed are internal to facilitate the proposed use. There would however be some external works to the rear of the building through the creation of an opening for the extraction system.
- 1.2.3 The proposed opening hours would be 11:00 – 13:30 & 16:00 – 21:00 Monday to Friday, 11:00 – 21:00 Saturday and 17:00 – 20:00 Sundays and Bank Holidays with 3 full time and 2-4 part-time staff proposed to be employed through the business.

1.3 Planning History

- 1.3.1 An application (CO/2001/0817) for the proposed installation of an Automatic Teller Machine in the front elevation was approved on 3 October 2001.

- 1.3.2 An application (CO/2003/0275) for proposed alterations to front entrance and installation of external lighting to assist disabled access was approved on 29 April 2003.
- 1.3.3 An application (2015/0744/FUL) for the formation of secure ATM room and installation of secure externally accessed door to existing building and replacement of boundary fence with galvanised palisade was approved on 25 September 2015.
- 1.3.4 An application (2015/0776/ADV) for advertising consent for the installation of 1no. ATM illuminated surround was approved on 15 September 2015.

1.4 Consultations

1.4.1 Parish Council

Object to this application on the grounds that it will have a negative impact on the viability of the village centre. Sherburn has 31 retail units, 8 of which offer hot food takeaways and if this application is passed we will have a far higher percentage of hot food takeaways than either Selby or Tadcaster.

1.4.2 NYCC Highways

No objections to the proposed development

1.4.3 Lead Officer – Environmental Health

This type of cooking operation typically requires industrial extraction. The premises are close to residential properties and therefore strong cooking odours or noise from extraction equipment would affect the amenity of the area. One condition and one informative are recommended.

1.5 Publicity

1.5.1 All immediate neighbours were informed by letter and a site notice was erected which has resulted in 12 letters of support and 41 letters of objection being received at the time of compilation of this report. The letters of support can be summarised as follows:

- More choice available;
- Competition between businesses will be good;
- There used to be three fish & chip shops in the village previously;
- Empty building will be re-used.

The letters of objection detailing material planning considerations can be summarised as follows:

- Another take away is not needed in the village and there is no demand for one;
- Site should be used for alternative purposes;
- The site is unsuitable for parking and there is insufficient parking in Sherburn already;

- Impact on other businesses through grease, odours and smells resulting in loss of customers;
- Lack of other facilities within Sherburn;
- The existing building at No 3 Low St was (and is) a very old and lovely building which needs sympathetic use and development;
- Erosion of the character of the village;
- The proposal will encourage anti-social behaviour and litter;
- The proposal could lead to the failure of two businesses due to the small customer base;
- Increase in traffic.

2.0 Report

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

2.2 Selby District Core Strategy Local Plan

The relevant Core Strategy Policies are:

SP1:	Presumption in Favour of Sustainable Development
SP2:	Spatial Development Strategy
SP13:	Scale and Distribution of Economic Growth
SP14:	Town Centres and Local Services
SP15:	Sustainable Development and Climate Change
SP19:	Design Quality

2.3 Selby District Local Plan

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

The relevant Selby District Local Plan Policies are:

ENV1:	Control of Development
ENV2:	Environmental Pollution and Contaminated Land
T1:	Development in Relation to Highway
SHB/5:	Additional Retail Floorspace and service/commercial uses in Sherburn Local Centre

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

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

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

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

2.5 Key Issues

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

- 1) Principle of development
- 2) Impact on the Character and Form of the Area
- 3) Impact on Residential amenity
- 4) Impact on the Highway
- 5) Archaeology

2.6 Principle of the Development

2.6.1 Policy SP1 of the Core Strategy outlines that "when considering development proposals the Council will take a positive approach that reflects the presumption in favour of sustainable development contained in the National Planning Policy Framework" and sets out how this will be undertaken. Policy SP1 is therefore consistent with the guidance in Paragraph 14 of the NPPF.

2.6.2 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.

- 2.6.3 Whether it is necessary or appropriate to ensure that schemes comply with Policy SP15 (B) is a matter of fact and degree depending largely on the nature and scale of the proposed development. Having had regard to the nature and scale of the proposal, it is considered that its ability to contribute towards reducing carbon emissions, or scope to be resilient to the effects of climate change is so limited that it would not be necessary and, or appropriate to require the proposals to meet the requirements of criteria of SP15 (B) of the Core Strategy.
- 2.6.4 Therefore having had regard to Policy SP15 (B) it is considered that the proposal is acceptable.
- 2.6.5 Policy SP2 provides the spatial development strategy for the district and advises that Sherburn in Elmet is designated as a Local Service Centre where further housing, employment, retail, commercial and leisure growth will take place appropriate to the size and role of the settlement.
- 2.6.6 Policy SP13B of the Core Strategy supports the re-use of existing premises within defined development limits and criteria D adds that in all cases, development should be sustainable and be appropriate in scale and type to its location, not harm the character of the area and seek a good standard of amenity.
- 2.6.7 Policy SP14 states that within Sherburn in Elmet, local shopping facilities and services will be maintained and enhanced by encouraging a wider range of retail, service and leisure facilities to meet the needs of the local catchment area, provided proposals are of an appropriate scale and would not have a detrimental effect on the vitality and viability of Selby town as the main focus for town centre uses.
- 2.6.8 Paragraph 70 of the NPPF states that planning decisions should guard against the unnecessary loss of valued facilities and services, particularly where this would reduce the community's ability to meet its day-to-day needs.
- 2.6.9 Policy SHB/5 of the Local Plan supports proposals for the establishment or extension of retail uses and commercial uses within the defined local centre of Sherburn in Elmet provided the proposals are of a scale and character appropriate to Sherburn in Elmet; would not create conditions prejudicial to highway safety; and the proposals would not have a significant adverse effect on residential amenity or the character and appearance of the area.
- 2.6.10 The site is located within the defined development limits of Sherburn in Elmet and the proposal is for a change of use from an A2 use (Financial & Professional) to an A5 use (Hot Food Takeaway). The predominant changes are internal but there would be external alterations to the rear of the building by virtue of the installation of an extraction system.
- 2.6.11 The proposals would result in the re-use of an existing building within development limits. It is noted that the building has laid empty for a number of months and it is located within the centre of the village.

2.6.12 The proposals are therefore considered acceptable in principle in this location, in accordance with Policies SP1, SP2, SP13 and SP14 of the Core Strategy, Policy SHB/5 of the Local Plan and the guidance as set out in the NPPF.

2.7 Design and Impact of the Character of the Area

2.7.1 Relevant policies in respect to design and the impacts on the character of the area include Policies ENV1 (1) and (4) and SHB/5 (1) of the Selby District Local Plan and Policies SP13D and SP19 of the Core Strategy.

2.7.2 Significant weight should be attached to the Local Plan Policies ENV1 and SHB/5 as they are broadly consistent with the aims of the NPPF. Relevant policies within the NPPF, which relate to design include paragraphs 56, 60, 61 and 65.

2.7.4 The application site is located within the commercial zone of Sherburn in Elmet and is visible from Low Street. There are a wide range of commercial uses within the surrounding area including A1 (shops), A2 (Financial & Professional Services), A4 (Drinking Establishments) and A5 (Hot Food Takeaway). In addition, there are some residential properties located along Low Street and the surrounding streets which results in a mixed use area in the centre of the village.

2.7.5 The existing building on the site is a brick built, 1 ½ storey building with a hipped roof which appears to have been constructed specifically for its previous use as a bank and it sits uniquely within the village as well as retaining some of the original features. The comment from an objector regarding the original building has been noted and the applicant has confirmed that there would be no changes to the front elevation of the building as originally proposed and this can be controlled via condition.

2.7.6 The proposal seeks to change the use of the building to an A5 (Hot Food Takeaway) from its current A2 (Financial and Professional Services) use. The only external alteration proposed is the provision of a new commercial flue on the rear of the building, full details of which would need to be conditioned. However, it is considered that an appropriate scheme could be agreed to ensure that views of this would be minimal when viewed from Low Street. No other external alterations are proposed with the existing fenestration on the front elevation.

2.7.7 Given the existing and proposed commercial use of the building, it is considered that the proposal would not have a significant or detrimental impact on the character or appearance of the area and the proposal is therefore in accordance with Policies SP13 and SP19 of the Core Strategy, Policies ENV1 and SHB/5 of the Selby District Local Plan and the advice contained within the NPPF.

2.8 Impact on Residential Amenity

2.8.1 Policies ENV1 (1) and SHB/5 (3) requires that the District Council take account of "The effect upon... the amenity of adjoining occupiers". It is considered that Policies ENV1 (1) and SHB/5 (3) of the Selby District Local Plan should be given significant

weight as one of the core principles of the NPPF is to ensure that a good standard of residential amenity is achieved in accordance with the emphasis within the NPPF. In addition, Core Strategy Policies SP13D and SP19 require developments to achieve a good standard of amenity.

- 2.8.2 In this instance, the key considerations in respect of residential amenity are considered to be the potential of the proposal to result in odour and smells emanating from the building.
- 2.8.3 The comments contained within the letters of objection regarding the potential of the development to encourage anti-social behaviour and litter as well as impacts through grease, odours and smells have been noted.
- 2.8.4 The site, as noted in previous sections, is located within the Sherburn in Elmet commercial zone where there are a range of commercial uses. The application form submitted with the application state the proposed opening hours which are:

11:00 – 13:30 & 16:00 – 21:00 Monday to Friday

11:00 – 21:00 Saturday

17:00 – 20:00 Sundays and Bank Holidays

These opening hours are considered to be acceptable and could be secured by way of condition. It is noted that the proposed opening hours would not exceed the opening hours of other commercial premises in the surrounding area.

- 2.8.5 Regarding odour and noise, the Lead Officer for Environmental Health has stated that “This type of cooking operation typically requires industrial extraction. The premises are close to residential properties and therefore strong cooking odours or noise from extraction equipment would affect the amenity of the area.” The EH Officer recommends one condition regarding details of the extraction system and one informative be attached to any permission granted which allows the LPA controls over the suitability of the system to prevent noise and odour.
- 2.8.6 The concerns regarding anti-social behaviour and littering have not been quantified with any evidence and as such, it is considered that the proposals are acceptable in this respect.
- 2.8.7 As such, the proposed development is considered not to cause a significant detrimental impact on the residential amenities of the neighbouring properties, and to provide a good standard of amenity subject to the attached conditions and the proposal is therefore in accordance with Policies ENV1 (1) and SHB/5 (3) of the Selby District Local Plan, Policies SP13 and SP19 of the Core Strategy and the NPPF.

2.9 Impact on the Highway

- 2.9.1 Policies ENV1(2), SHB/5 (2) and T1 of the Local Plan require development to ensure that there is no detrimental impact on the existing highway network or parking arrangements. Paragraph 32 of the NPPF states that decisions should take account of

whether safe and suitable access to the site can be achieved for all people. Policy SP19 in respect to highway safety states that development should 'be accessible to all users and easy to get to and move through' and 'facilitate sustainable access modes'.

2.9.2 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.

2.9.3 The comment regarding parking at the site is noted. However, there are a number of off-road public parking spaces within the village centre which serve the day to day needs of the village and the application site does not have its own car park. The Highways Officer has not raised any objections to the proposed development and has not requested any conditions be attached to any permission granted.

2.9.4 It is considered that the proposed use would not significantly add to the volume of traffic or parking provision within the village centre and the proposal is therefore considered to be in accordance with Policies ENV1(2), SHB/5 (2) and T1 of the Local Plan, Policy SP19 of the Core Strategy and Paragraphs 32 and 39 of the NPPF.

2.10 Archaeology

2.10.1 It is noted that the site is located within an Archaeology Consultation Zone. However, having regard to the nature of the proposal inasmuch that it involves a change of use of an existing building, it is considered that there would not be an impact on any potential archaeology within the site.

2.11 Conclusion

2.11.1 The proposal seeks permission for the change of use of the building to a fish and chip shop which falls within the A5 use class (Hot Food Takeaway). The existing use of the building is under an A2 use (Financial & Professional).

2.11.2 The site is located within the commercial zone of Sherburn in Elmet and there are a variety of uses within the surrounding area including A1 (shops), A2 (Financial & Professional Services), A4 (Drinking Establishments) and A5 (Hot Food Takeaway) as well as residential (C3 use class).

2.11.3 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 change of use would not have a detrimental effect on the character and form of the area, residential amenity or highway safety, in accordance with Policies SP1, SP2, SP13, SP14, SP15 and SP19 of the Core Strategy, Policies ENV1, T1 and SHB/5 of the Local Plan and the policies contained within the NPPF.

2.12 Recommendation

This planning application is recommended to be APPROVED subject to the following conditions.

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

Reason:

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

02. The use hereby permitted shall only be open to customers between the following hours, as stated on the submitted application form:

11:00 – 13:30 & 16:00 – 21:00 Monday to Friday

11:00 – 21:00 Saturday

17:00 – 20:00 Sundays and Bank Holidays

Reason:

In conjunction with the requested hours of operation and having had regard to Policies ENV1 (1) and SHB/5 (3) of the Selby District Local Plan.

03. Prior to commencement of the development, a scheme containing full details of arrangements for internal air extraction, odour and noise control, and discharge to atmosphere from cooking operations, including any external ducting and flues, shall be submitted to and approved in writing by the Local Planning Authority to ensure no adverse smells or noise emanates from the extraction system. The works detailed in the approved scheme shall be installed in their entirety before the use hereby permitted is commenced. The equipment shall thereafter be maintained in accordance with the manufacturer's instructions and operated at all times when cooking is being carried out unless otherwise agreed beforehand in writing with the Local Planning Authority.

Reason:

In order to protect the amenity of the neighbourhood in accordance with Policies ENV1 (1) and SHB/5 (3) of the Selby District Local Plan, Policies SP13 and SP19 of the Core Strategy and the NPPF.

04. There shall be no alterations and/or changes to the windows on the front elevation without the prior written consent of the Local Planning Authority.

Reason:

In order to safeguard the rights of control of the Local Planning Authority and in the interests of the character and appearance of the area, having had regard to Policies ENV1 and SHB/5 of the Selby District Local Plan and Policies SP13 and SP19 of the Core Strategy.

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

(to be inserted with the decision notice)

Reason

For the avoidance of doubt.

INFORMATIVE

The proposed fish and chip shop will require food business registration with Selby District Council if they intend to store, prepare, distribute or sell food on the premises. This will require compliance with food hygiene regulations, in particular (EC) Regulation 852/2004, Annex II.

3.1 Legal Issues

3.1.1 Planning Acts

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

3.1.2 Human Rights Act 1998

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

3.1.3 Equality Act 2010

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

3.2 Financial Issues

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

4. Conclusion

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

5. Background Documents

- 5.1 Planning Application file reference 2016/1482/COU and associated documents.

Contact Officer: Calum Rowley (Senior Planning Officer)

Appendices: None



APPLICATION SITE

Item No: 2016/1258/COU

Address: Land rear of The Lodge, 23 Selby Road, Riccall

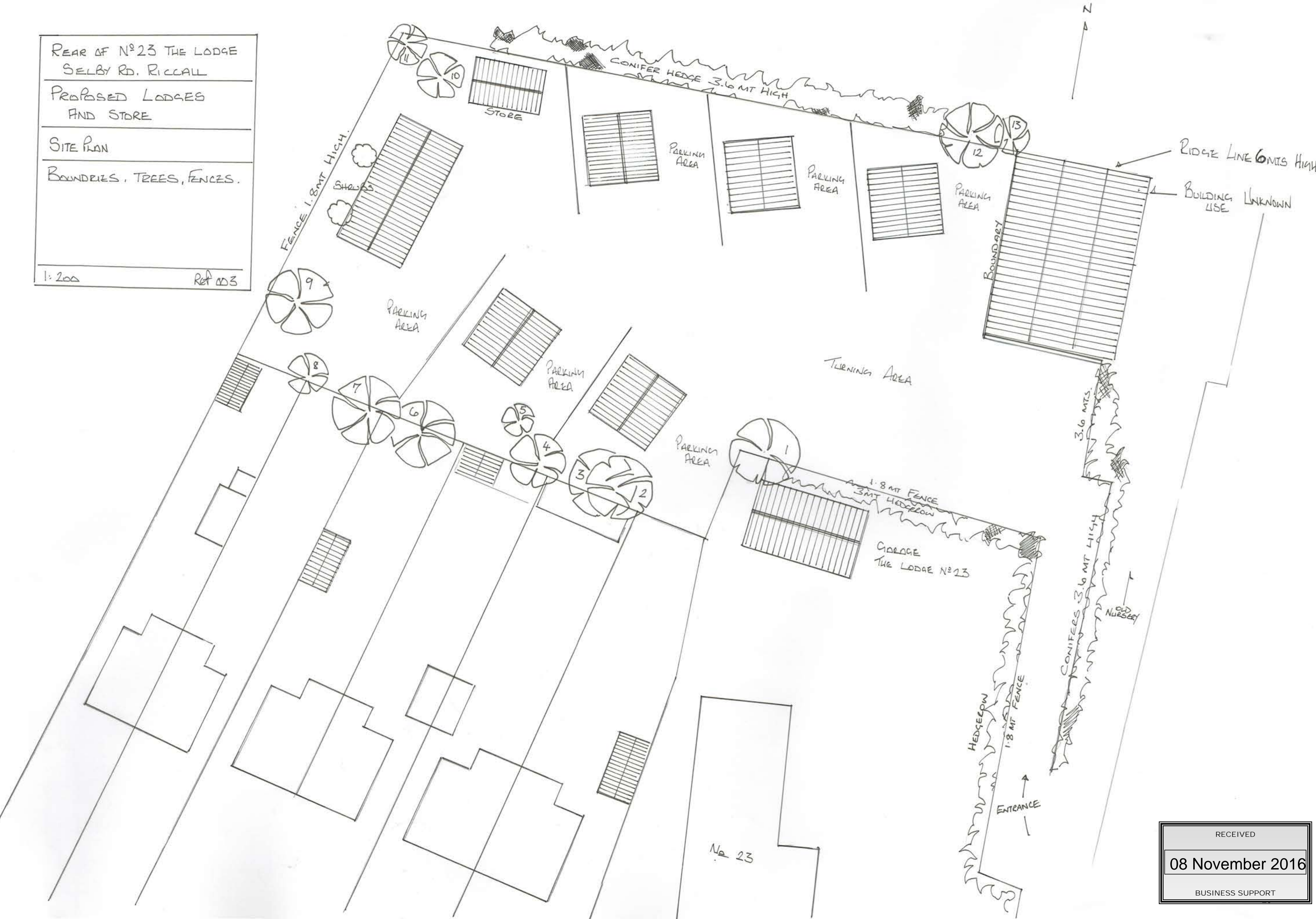
REAR OF N^o 23 THE LODGE
 SELBY RD. RICCALL

PROPOSED LODGES
 AND STORE

SITE PLAN

BOUNDRIES, TREES, FENCES.

1:200 Ref 003



RECEIVED
 08 November 2016
 BUSINESS SUPPORT



Report Reference Number 2016/1258/COU (8/15/303B/PA)

Agenda Item No: 6.2

To: Planning Committee
Date: 8th March 2017
Author: Mr Keith Thompson (Senior Planning Officer)
Lead Officer: Jonathan Carr (Interim Lead Officer – Planning)

APPLICATION NUMBER:	2016/1258/COU 8/15/303B/PA	PARISH:	Riccall Parish Council
APPLICANT:	Claire Northern	VALID DATE:	9th November 2016
		EXPIRY DATE:	4th January 2017
PROPOSAL:	Demolition of outbuildings on site, change of use to allow the siting of 6 no. holiday use only units on land to rear of		
LOCATION:	Land To Rear Of, The Lodge, 23 Selby Road, Riccall, York, North Yorkshire		

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

Summary:

The proposed development is for the demolition of outbuildings on the site and change of use of the land for the siting of 6 no. holiday lodges is considered to be acceptable in accordance with Policies SP1, SP2 and SP13 of the Core Strategy and RT12 of Selby District Local Plan and the National Planning Policy Framework.

Recommendation

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

1. Introduction and background

1.1 The Site

- 1.1.1 The application site is a parcel of open land situated circa 5 miles north of Selby and south east of Riccall on the eastern side of the A19. The site is bound by a hedgerow on the northern perimeter with a dwelling sited beyond. The western perimeter has a wooden fence with a residential garden beyond. Along the southern boundary there is some planting, 2m high wooden fencing and rear gardens belonging to houses that lie on Selby Road. On the eastern boundary there is a hedgerow, a lane and former Norwood Nurseries.
- 1.1.2 The site lies outside defined developments and therefore is located in open countryside.
- 1.1.3 The site is situated within Flood Zone 1 which is at low probability of flooding.

1.2 The proposal

- 1.2.1 The proposal is for the demolition of three outbuildings on the site and the change of use of the land for the siting of 6 no. holiday lodges and erection of a bin store.
- 1.2.2 Vehicular access to the site would be taken off Selby Road via an existing lane that leads to the site via an existing access. This lane is also shared with several dwellings and the former Norwood Nurseries.
- 1.2.2 The lodges would be single storey and measure circa 11.8m x 5.8m x 2m to eaves and 3.1m to ridge height for lodge type A and 6m x 5.8m x 2.1m to eaves and 3.1m to ridge height for lodge type B and would be sited around the perimeter of the site with parking to the side of each lodge and a turning area situated near the entrance of the site. The lodges would be sited on a concrete pad and a bin storage area is included.
- 1.2.3 The lodges would be brought on to the site and assembled and sited in place on site.
- 1.2.4 A landscaping scheme has been submitted which indicates new planting along the southern and western perimeter of the site with laurel and silver birch.

1.3 Planning History

- 1.3.1 The following historical applications are considered to be relevant to the determination of this application.
- CO/2002/0853 (Refused - 16.06.2003) Proposed erection of 2 No. detached dwellings with garages.
 - CO/1982/03073 (Permitted – 14.7.192) Use Of Buildings For Sale Of Farm/ Garden Produce & Garden Requisites

1.4 Consultations

- 1.4.1 Riccall Parish Council
Objection on the following grounds:

- Access for emergency vehicles is restricted by the width of the access road. Site Plan 003 does not show the width of the access road only the height and length of fencing.
- Method of foul drainage is stated as 'not known' and existing properties already experience issues with inadequate services.
- Power supply- existing cables for agricultural use currently run under the site.
- Safety - the risk of fire to timber lodges and the possibility that access to emergency services may be restricted by the width of the access road may also put the neighbouring properties at risk.
- Impact on existing properties - noise, light, overlooking and additional traffic may all impact on neighbours.
- Notes use for 'Help for Heroes' but plans show no provision for disabled access.
- Selby Road serves a busy Business Park
- It is also understood that a Covenant may apply to the land but there appears to be no reference in the paperwork.
- An Ecological Assessment stating the date of survey as 5 September appears to have taken place after the site was cleared the previous month therefore it is unclear how relevant this is.

1.4.2 Heritage Officer
No objections.

1.4.3 Contaminated Land Consultants
No objections subject to conditions.

The submission of a Phase 1 Report can be deemed as met. The conditions need to be in place to ensure than amended Phase 2 Report, including further risk assessment is undertaken, followed by any necessary further works by way of remediation and validation of any remediation, is submitted for review prior to the completion of development and final occupation.

1.4.4 NYCC Highways
No objection subject to conditions.

1.4.5 Yorkshire Water
No comments received within the statutory consultation period.

1.4.6 Ouse & Derwent Internal Drainage Board
No objection subject to surface water condition.

1.5 **Publicity**

1.5.1 The application was advertised by site notice and neighbour notification letter resulting in receiving 25 objections from 12 addresses citing the following comments:

Highways

- Access is too narrow and unsuitable for emergency services such as a fire engine and could put my property as risk (no. 11 Selby Road)
- Selby Road has poor visibility
- Wear and tear of site with vehicles turning and bringing mud onto the lane

- 2002 housing application was refused due to traffic concerns with the junction with Selby Road, nothing has changed

Services

- Drainage problems
- Lack of amenities in the area
- No gas, electric or water provision
- Concern with disposal of surface water and detail of foul drainage

Amenity

- Noise generation by visitors
- Privacy issues
- Light pollution from lodges
- Security risk with visitors using lane late at night.
- Light pollution from cars on site could affect residents health

Design

- Height of lodges have not been provided
- Details of material of lodges?

Other Matters

- Location doesn't appeal as a holiday destination
- Plans don't appear to match layout of site surroundings
- Danger of permanent accommodation
- What is the relevance of the lodges being used for charity purposes?
- Existing restrictive covenant for business use on the land

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 Policy
- SP13 Scale and Distribution of Economic Growth
- SP15 Sustainable Development and Climate Change
- 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:

- RT12 Caravan and Camping Sites
- ENV1 Control of Development
- 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 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) Principle of development
- 2) Impact on Highways
- 3) Impact of the Proposal on Residential Amenity
- 4) Design and Impact on the Character and Form of the Area
- 5) Flood Risk, Drainage, Climate Change and Energy Efficiency
- 6) Nature Conservation and Protected Species
- 7) Land Contamination
- 8) Other issues

2.3 Principle of Development

- 2.3.1 Policy SP1 of the Selby District Core Strategy Local Plan (2013) sets out that when considering development proposals the Council will take a positive approach that reflects the presumption of sustainable development as contained in the National Planning Policy Framework (NPPF). It will always work proactively with applicants jointly to find solutions which mean that proposals can be approved wherever

possible, and to secure development that improves the economic, social and environmental conditions in the area.

- 2.3.2 There are a number of policies within the development plan that are relevant. These include Core Strategy Policies SP2, SP13, SP15, SP18 and SP19. Taken together, the main thrust of these policies is that development in the open countryside (outside development limits) will generally be resisted unless it involves the replacement or extension of existing buildings, the re-use of buildings preferably for employment purposes and well-designed new buildings. Proposals of an appropriate scale which would diversify the local economy (consistent with the NPPF) or meet affordable housing needs (adjoining the development limits of a village and which meet the provisions of Policy SP9), or other special circumstances, may also be acceptable.
- 2.3.3 Policy SP13 states that in rural areas sustainable development on both greenfield and previously developed sites which brings sustainable economic growth through local employment opportunities or expansion of businesses and enterprise will be supported including rural tourism and other small scale rural development.
- 2.3.4 There are no specific policies relating to the provision of holiday lodges, chalets, static caravans or cabins with the Local Plan, however Policy RT12 of the Selby District Local Plan relates to proposals for touring caravan and camping facilities and acknowledges that such developments are likely to be located beyond development limits.
- 2.3.5 Policy RT12 of Selby District Local Plan states that proposals for touring caravan and camping facilities will be permitted subject to seven criteria which are assessed in detail under the following sections.
- 2.3.6 A statutory definition of a caravan is to be found in the Caravan Sites and Control of Development Act 1960 as supplemented by sec.13 of the Caravan Sites Act 1968. The 1960 Act at sec. 29 states that a "caravan "means any structure designed or adapted for human habitation which is capable of being moved from one place to another (whether by being towed, or by being transported on a motor vehicle or trailer) and any other motor vehicle so designed or adapted. Section 13 of the Caravan Sites Act 1968 under the heading "twin-unit caravans" states that twin-units are composed of not more than two sections, constructed or designed to be assembled on site by means of bolts, clamps or other devices, and should not exceed 60 feet in length, 20 feet in width and 10 feet in height overall. They shall not be treated as not being a caravan as defined in the 1960 Act by reason only that they cannot lawfully be so moved on a highway when assembled. These dimensions were updated through The Caravan Sites Act 1968 and Social Landlords (Permissible Additional Purposes) (England) Order 2006 (Definition of Caravan) (Amendment) (England) Order 2006 to the following maximum dimensions length (exclusive of any drawbar): 20 metres (65.616 feet), width: 6.8 metres (23.309 feet) with an internal height of 3.05 metres (10.006 feet).
- 2.3.7 The application states that the proposed lodges would comply with the dimensions specified under the Caravan Site Act (1968) and as such would be compliant with and would be defined as a 'caravan' under the Caravan Site Act 1968 and therefore the criteria in RT12 is considered to be relevant.

2.3.8 It is considered that the proposal would bring forward rural development that supports the rural economy and would therefore be in accordance with the local and national planning policies, subject to assessment of other criteria discussed further below.

2.4 Impact on Highways

2.4.1 Policy in respect of highway safety and capacity is provided by Policies ENV1(2), RT12, T1 and T2 of the Selby District Local Plan, Policy SP19 of the Core Strategy and paragraphs 34, 35 and 39 of the NPPF. These policies should be afforded significant weight.

2.4.2 The site would be accessed from Selby Road via a lane that serves several other residential properties and the former Norwood Nurseries. The site plan shows that there would be a turning area within the site and parking to the side of each lodge. There has been no objection from NYCC Highways on this arrangement.

2.4.3 Objections received have been considered and are noted above in the publicity section.

2.4.4 The application has been assessed by NYCC Highways and they advise that the existing access serves a number of sites, which previously included the former nurseries. When operated as a nursery the vehicle movements associated with the business would have been in excess of those which will be created from the approved planning permission for 12 lodges on the former Norwood Nurseries site. It is noted that there are also a number of dwellings which use this access. However it is considered that the addition of 6 no. holiday units is unlikely to increase vehicular movements in line with those when the nursery was in operation.

2.4.5 Furthermore NYCC Highways note it is recognised that the access has poor visibility to the north due to the boundary treatment of No. 23 Selby Road. The land registry documents for no. 23 Selby Road show that a covenant is in place which requires a visibility splay to be maintained at the boundary. This results in any boundary treatment having to be maintained at a height no greater than 1m.

2.4.6 Whilst the boundary is not currently in line with the covenant in place on no. 23, the northern visibility at the access could be achieved, should the Highway Authority wish to enforce the breach of this covenant. NYCC Highways therefore have no objections to the proposed development.

2.4.7 NYCC Highways suggest conditions which are considered reasonable and necessary to control the development. It is therefore considered that the proposal would not result in a detrimental impact on the existing highway network in accordance with Policies RT12 (4), ENV1 (2), T1 and T2 of the Selby District Local Plan.

2.5 Impact of the proposal on Residential Amenity

2.5.1 Relevant policies in respect to impacts on residential amenity include Policy ENV1 (1) of the Local Plan. Policy ENV1(1) should be afforded significant weight given that it does not conflict with the NPPF.

- 2.5.2 The key considerations in respect of residential amenity are considered to be the potential of the proposal to result in overlooking of neighbouring properties, overshadowing of neighbouring properties and whether oppression would occur from the size, scale and massing of the development proposed.
- 2.5.3 Policy RT12 (5) requires proposals to take account of the effect upon the amenity of adjoining occupiers.
- 2.5.4 Objections received from residents refer to impact upon residential amenity by light pollution, noise and disturbance, and privacy. There is a row of semi-detached and detached houses on Selby Road that back onto the application site to the north. One objection refers to an annexe building at no. 9 being 9 yards away from the development. The separation distance from the rear of the houses to the perimeter boundary is circa 24m and a further 5/6m to the siting of the lodges. These separation distances are considered to be acceptable to ensure no adverse noise, overlooking or loss of privacy. The annexe building is screened from the development by 2m high fencing and vice versa.
- 2.5.5 There are no windows in the rear gable elevations of the smaller lodges with the front elevation having a window and door facing inward to the site.. The existing boundary treatment which includes various styles of timber fencing some circa 2m high and lower adjacent neighbours on Selby Road would also have additional laurel and silver birch planted to add to the exiting planting.
- 2.5.6 There is a dwelling located north of the site which is over 20m away and the screening on this boundary includes tall fern trees and fencing. Houses to the east that lie on the opposite side of the access lane are considerable distance away to be affected by the proposal in terms of residential amenity.
- 2.5.7 The site is relatively flat and resident comments refer to light pollution from vehicles turning on the site. Given the fence boundary treatment in situ there is unlikely to be adverse headlights reflecting into rear gardens. It is also considered necessary to seek land levels of the lodges on site prior to commencement of development.
- 2.5.8 There is no lighting proposed on the site such as floodlights or column lighting. Given the location of the site in the countryside it would be necessary to control this aspect of the proposal by condition.
- 2.5.9 The proposals due to the appropriate separation distances, the existing and proposed boundary treatment and landscaping around the perimeters of the site and the orientation of the windows in lodges ensures that there would be no significant detrimental impact in terms of overlooking or overshadowing or adverse noise and disturbance in accordance with Policies ENV1 (1) and RT12 (5).

2.6 Design and Impact on the Character and Form of the Area

- 2.6.1 Relevant policies in respect of design and impact on the character of the area include Policy ENV1 (1) and (4), RT12 (1), (2), and (3) of the Selby District Local Plan and Policies SP4 and SP19 of the Core Strategy.

- 2.6.2 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.
- 2.6.8 It is noted that the site is not located within a sensitive area of landscape, a Locally Important Landscaped Area, Green Belt, and would not affect the setting of a listed building or a nationally or locally important site of nature conservation interest. In addition the site is set back a significant distance from the most common public viewpoint of Selby Road and is well screened through existing mature ferns on parts of the site and boundary fencing, which would be enhanced by further planting on the western and southern perimeters of the site. The layout of the site would provide a good layout with sufficient space for parking and separation distances between each lodge would be acceptable for tourist purposes.
- 2.6.9 It is therefore considered that the proposed development would accord with Policies RT12 (1), (2) and (3) and ENV1 (1) and (4) of the Selby District Local Plan.

2.7 Flood Risk, Drainage, Climate Change and Energy Efficiency

- 2.7.1 Policies SP15, SP16 and SP19 of the Core Strategy require proposals to take account climate change and energy efficiency within the design.
- 2.7.2 The NPPF paragraph 94 states that local planning authorities should adopt proactive strategies to mitigate and adapt to climate change, taking full account of flood risk, coastal change and water supply and demand considerations. NPPF Paragraph 95 states to support the move to a low carbon future, local planning authorities should plan for new development in locations and ways which reduce greenhouse gas emissions; and which actively support energy efficiency improvements to existing buildings.
- 2.7.3 The application site is located in Flood Zone 1 (low probability of flooding).
- 2.7.4 Concern has been raised by residents and these points have been considered. The Drainage Board has suggested a condition to secure detail of surface water drainage. No detail has been submitted for foul drainage only that a bin area is shown on plan for domestic waste. It would therefore be reasonable and necessary to secure detail by condition.
- 2.7.5 It is therefore considered that the proposal is in accordance with Policies SP15, SP16 and SP19 of the Core Strategy Local Plan, and the NPPF, subject to conditions.

2.8 Nature Conservation and Protected Species

- 2.8.1 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 Mitigation Guidelines published by Natural England.
- 2.8.2 In respect to impacts of development proposals on protected species planning policy and guidance is provided by the 1981 Wildlife and Countryside Act and the Conservation of Habitats and Species Regulations 2010 and the NPPF. The

presence of a protected species is a material planning consideration. In addition Policy ENV1(5) require proposals not to harm acknowledged nature conservation interests.

- 2.8.3 The proposal involves the demolition of three buildings on the site. It was noted on the Officer site visit that these buildings are in part falling down and neglected. Nevertheless an Ecological Assessment has been submitted and states that there would be no impact protected species and recommendations are noted on page 13 of the report and these can be secured by condition.
- 2.8.4 As such, having had regard to all the ecological issues associated with the proposal, is concluded that the proposal is acceptable and that the proposal is in accordance with Policy SP18 of the Core Strategy and ENV1(5) of the Local Plan, subject to a condition for full compliance with the recommendations in report.

2.9 Land Contamination

- 2.9.1 Policies ENV2 of the Local Plan and SP19 of the Core Strategy relate to contamination. These policies should be afforded significant weight.
- 2.9.2 The proposal was reviewed by the Councils land contamination consultants and it is suggested that conditions are recommended and these can be utilised.
- 2.9.3 The proposal is therefore considered to be acceptable with respect to contamination in accordance with Policy ENV2 of the Local Plan and Policy SP19 of the Core Strategy.

2.10 Other issues

- 2.10.1 RT12 (6) requires any new ancillary buildings or structures are essential to providing basic services on the site. The application does not propose any ancillary buildings or structures as it would be anticipated that each of the lodges would have bathroom facilities. The proposals are therefore considered acceptable in accordance with Policy RT12 (6).
- 2.10.2 Policy RT12 (7) requires the number of pitches to be in proportion to the locally resident population so as not to disrupt community life. It is considered that 6 no. lodges on the site would not result in adversely disrupting community life in accordance with Policy RT12 (7).
- 2.10.3 Objection comment refers to a covenant on the land. However this would be considered a civil matter and not material to the determination of the application.
- 2.10.4 The end user of the lodges is not considered to be material to the determination of the application. Planning policy is geared toward rural tourism provision.
- 2.10.5 The site is relatively flat and is considered not to raise access issues for impaired persons.
- 2.10.6 A previous application for housing was refused and subject to housing policies. This application is assessed against tourism and other policies discussed above.

- 2.10.7 The proposal does not involve permanent residential occupation and conditions can be secured to ensure that the use remains as holiday use only.
- 2.10.8 Unsociable noise generated from the proposal could be controlled by separate environmental health legislation.
- 2.10.9 Fire precautions of the lodges and users would be secured under health and safety guidelines for caravan sites.
- 2.10.10 Amended location plan was submitted to properly show site.

2.11 Conclusion

- 2.11 The proposed development is considered to accord with Policies ENV1, RT12, T1 and T2 of Selby District Local Plan and Policies SP1, SP2, SP13, SP15, SP16, SP18 and SP19 of Selby Core Strategy.
- 2.12 The proposal is considered to be acceptable in respect of matters of acknowledged importance such as design and impact on the character and form of the area, highway safety, drainage and flood risk, residential amenity and nature conservation.

3.0 Recommendation

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

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

Reason:

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

02. The development hereby permitted shall be used for holiday accommodation only and for no other purpose including any purpose in Class C3 of the Schedule to the Town and Country Planning (Use Classes) Order 1987 (as amended), or in any provision equivalent to that class in any statutory instrument revoking and re-enacting that Order.

Reason:

The site is not within an area where residential development would normally be permitted, therefore any such use, other than the proposed holiday use, would be contrary to the policies of the Selby District Local Plan in respect of such development and NPPF.

03. The owners/operators of the site shall maintain an up-to-date register of the names of all owners/occupiers of individual holiday lets on the site, and of their main home addresses, and shall make this information available to the Local Planning Authority at all times.

Reason:

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

04. Prior to the commencement of development details of the appearance and colour finish of the proposed holiday lodges shall be submitted to and approved in writing by the Local Planning Authority, and only the approved details shall be utilised.

Reason:

In the interests of visual amenity and the character of the open countryside in order to comply with Policies ENV1 and RT12 of the Selby District Local Plan and PPS4.

05. The proposed tree planting and landscaping scheme shall be carried out in full accordance with drawing no. 005 Revision A and 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 maybe agreed in writing with the Local Planning Authority. All trees, shrubs and bushes shall be adequately maintained for the period of five years beginning with the date of completion of the scheme and during that period all losses shall be made good as and when necessary.

Reason:

In the interests of visual amenity and the character of the open countryside in order to comply with Policies ENV1 and RT12 of the Selby District Local Plan.

06. The development hereby permitted shall be carried out in strict accordance with the recommendations outlined in the Ecological Assessment dated 23rd September 2016.

Reason:

In the interests on nature conservation interest and the protection of protected species and in order to comply with Policy ENV1(5) of the Local Plan and Policy SP18 of the Selby District Core Strategy Local Plan (2013).

07. No development shall commence on site until a detailed site investigation report (to include soil contamination analysis), a remedial statement and an unforeseen contamination strategy have been submitted to and agreed in writing by the Local Planning Authority. The development shall be carried out in strict accordance with the agreed documents and upon completion of works a validation report shall be submitted certifying that the land is suitable for the approved end use.

Reason:

To secure the satisfactory implementation of the proposal, having had regard to Policy ENV2 of the Selby District Local Plan and the NPPF.

08. Prior to development, an investigation and risk assessment (in addition to any assessment provided with the planning application) must be undertaken

to assess the nature and extent of any land contamination. The investigation and risk assessment must be undertaken by competent persons and a written report of the findings must be produced. The written report is subject to the approval in writing of the Local Planning Authority. The report of the findings must include:

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

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

Reason:

To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors, having had regard to Policy ENV2 of the Selby District Local Plan and the NPPF.

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

Reason:

To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors, having had regard to Policy ENV2 of the Selby District Local Plan and the NPPF.

10. Prior to first occupation or use, the approved remediation scheme shall be carried out in accordance with its terms and a verification report that

demonstrates the effectiveness of the remediation carried out shall be produced and be subject to the approval in writing of the Local Planning Authority.

Reason:

To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, having had regard to Policy ENV2 of the Selby District Local Plan and the NPPF.

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

Reason:

To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors, having had regard to Policy ENV2 of the Selby District Local Plan and the NPPF.

12. 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 «drawing number 003»). Once created these areas shall be maintained clear of any obstruction and retained for their intended purpose at all times

Reason:

In accordance with Policy T1 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

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

The approved areas shall be kept available for their intended use at all times that construction works are in operation.

Reason:

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

14. No development shall take place until details of the proposed means of disposal of surface and foul water drainage, including details of any balancing works and off-site works, have been submitted to and approved by the local planning authority. Furthermore, unless otherwise approved in writing by the local planning authority, there shall be no piped discharge of surface water from the development prior to the completion of the approved surface water drainage works. (To ensure that no surface water discharges take place until proper provision has been made for its disposal.)

Reason:

To ensure that the site is properly drained and surface water is not discharged to the foul sewerage system causing overloading, in accordance with Policies SP15, SP16 and SP19 of the Core Strategy.

15. There shall be no external lighting erected on the site.

Reason:

In the interests of residential amenity and nature conservation in accordance with Policy ENV1 of Selby District Local Plan and the NPPF.

16. No development shall commence until a scheme of details of finished slab and floor levels together with corresponding existing and finished ground levels, have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the details so approved and no lodge shall be occupied until the works relating to that property have been completed. These shall be so retained for the lifetime of the development, unless otherwise approved in writing by the Local planning Authority.

Reason:

In the interests of residential amenity and visual character of the area in accordance with Policy ENV1 of Selby District Local Plan.

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

- 002
- 003
- LOC01 B
- 001 A
- 004 B
- 005 B

Reason:

For the avoidance of doubt

Informative

Mud on the Highway

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

3.1 Legal Issues

3.1.1 Planning Acts

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

3.1.2 Human Rights Act 1998

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

3.1.3 Equality Act 2010

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

3.2 Financial Issues

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

4. Conclusion

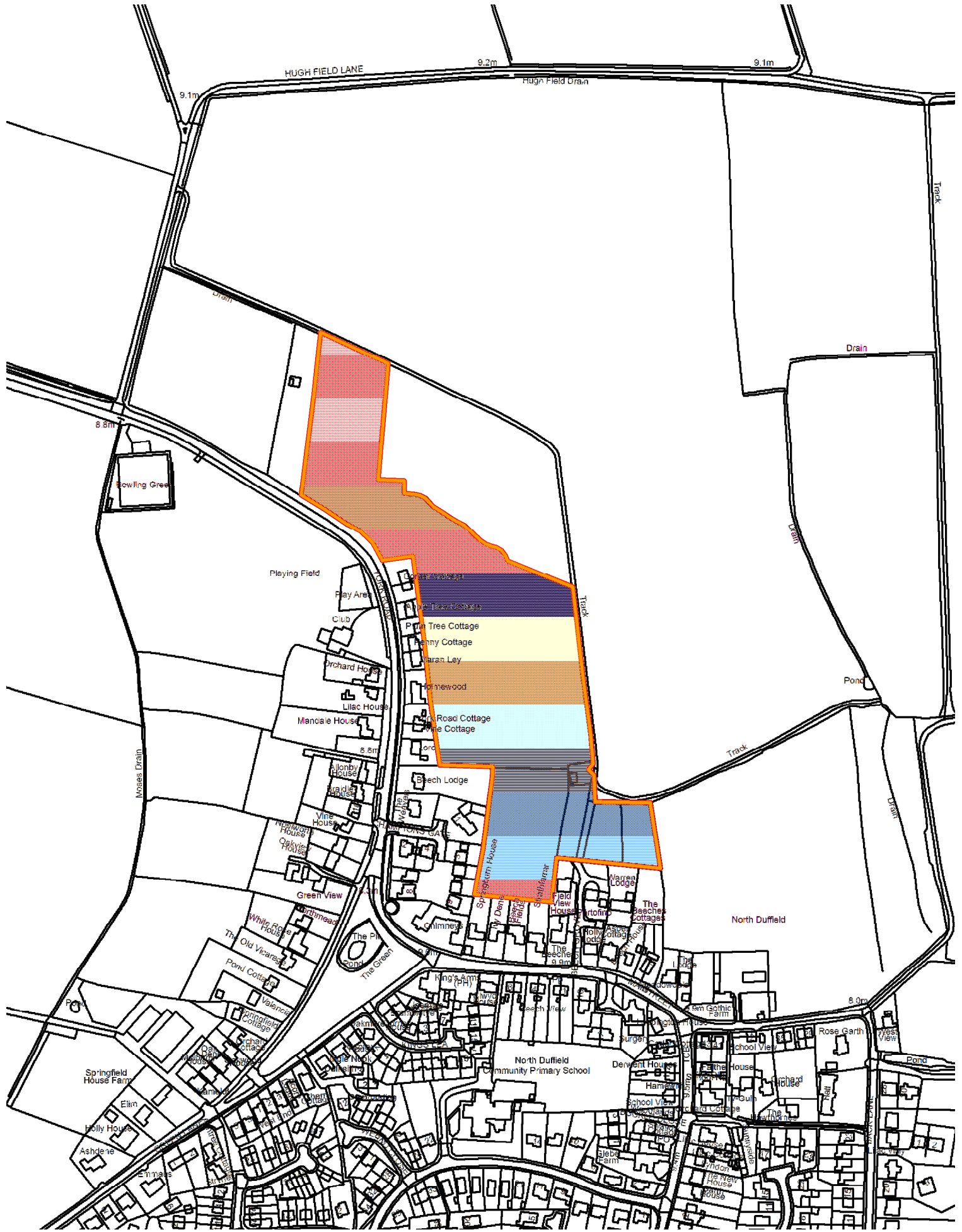
4.1 As stated in the main body of the report.

5. Background Documents

5.1 Planning Application file reference 2016/1258/COU and associated documents.

Contact Officer: Mr Keith Thompson (Senior Planning Officer)

Appendices: None

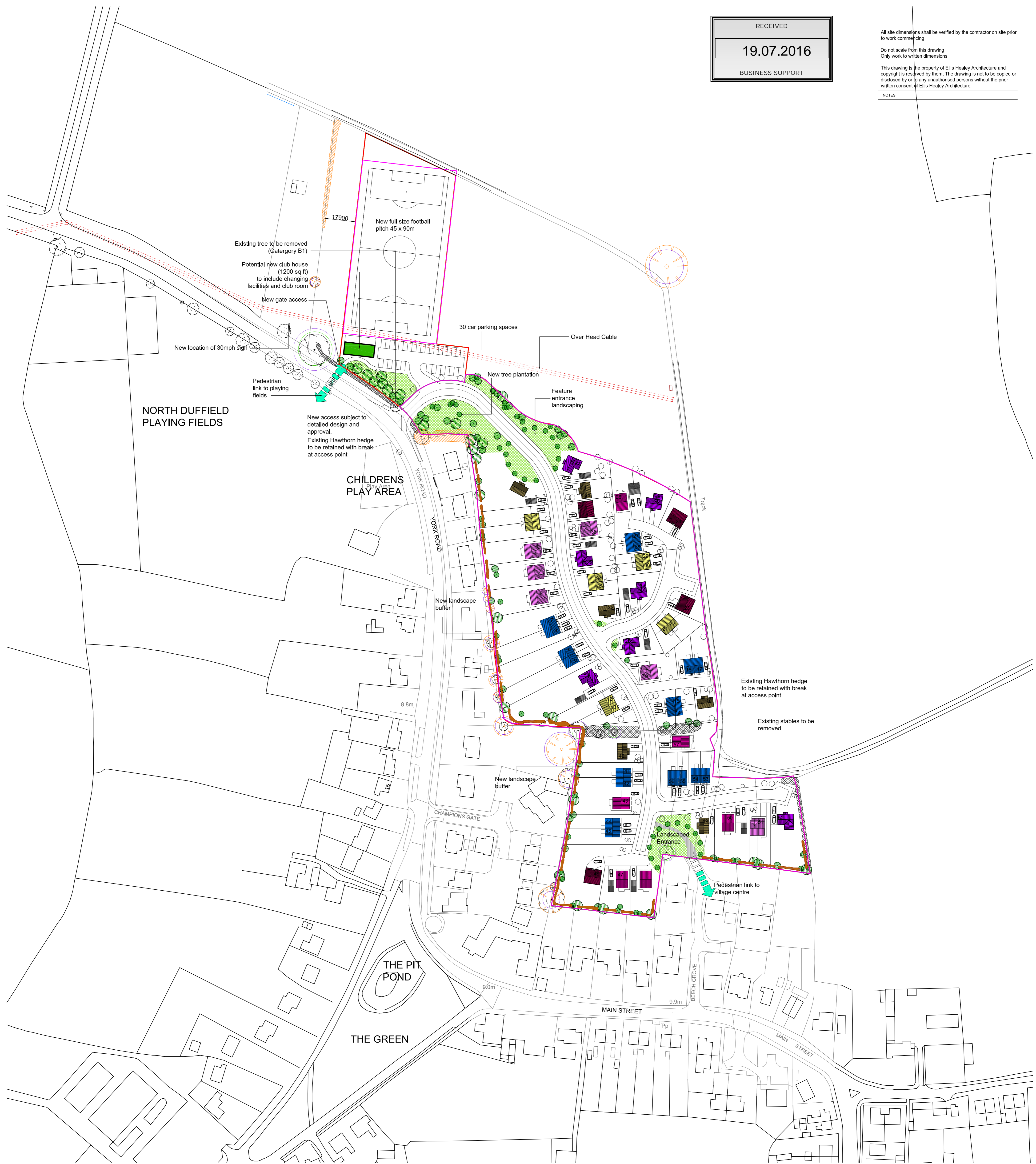


APPLICATION SITE

Item No: 2016/0644/OUT

Address: Main Street, North Duffield

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SCHEDULE OF ACCOMMODATION

TYPE 2A - 2 BED SEMI-DETACHED - 700 SQ FT (65 SQ M)	10
TYPE 3A - 3 BED SEMI-DETACHED - 785 SQ FT (73 SQ M)	18
TYPE 3B - 3 BED DETACHED - 1,177 SQ FT (109.4 SQ M)	6
TYPE 3C - 3 BED DETACHED - 912 SQ FT (84.7 SQ M) DETACHED GARAGE	6
TYPE 4A - 4 BED DETACHED - 1,170 SQ FT (108.7 SQ M)	6
TYPE 4B - 4 BED DETACHED - 1,237 SQ FT (115 SQ M)	7
TYPE 4C - 4 BED DETACHED - 1,157 SQ FT (107.5 SQ M)	4

TOTAL 57
 NOTE: G.I.A. SHOWN EXCLUDING GARAGE SPACE

SITE AREAS	
NEW SPORTS FACILITIES	1.82 ACRES (0.74 HA)
RESIDENTIAL AREA (INCLUDING ACCESS)	7.51 ACRES (3.04 HA)
19 dwelling per hectare/ 7.7 dwellings per acre	

**AMENDED
 DRAWING**

Rev A	LAYOUT AMENDED TO COMMENTS	07.07.16	(DPE)
Designation	Details of Revision	Date	Initials/Sign

ellis healey
 architecture

PLANNING

PROJECT: PROPOSED DEVELOPMENT AND EAST OF YORK ROAD NORTH DUFFIELD

TITLE: PROPOSED SITE LAYOUT

DRAWING NO: 1524 - PL - 10 A

BY/CHECKED: SCF / DPE DATE: MAY 2016

SCALE @A1: 1:1000

Round Foundry Media Centre, Foundry Street, Leeds, LS11 5QP
 Tel: 0113 3944355 E-mail: info@ellishealey.com



Report Reference Number 2016/0644/OUT

Agenda Item No: 6.3

To: Planning Committee
Date: 8 March 2017
Author: Fiona Ellwood (Principal Planning Officer)
Lead Officer: Jonathan Carr (Interim Lead Officer – Planning)

APPLICATION NUMBER:	2016/0644/OUT	PARISH:	North Duffield Parish Council
APPLICANT:	KCS Development	VALID DATE:	1st June 2016
		EXPIRY DATE:	31st August 2016
PROPOSAL:	Outline planning application for up to 57 dwellings and a new community football pitch with parking, a changing room/clubhouse to include access (all other matters reserved) at land off York Road and		
LOCATION:	Main Street North Duffield Selby North Yorkshire		

1.0 Introduction and background

1.1 Members will recall this application which was considered at the Planning Committee Meeting of 11 January 2017. The application was recommended for approval and the officer's report is attached as Appendix 1. At the meeting the proposal to approve the application was not carried. A further proposal to refuse the application for the following reasons was proposed by Councillors on the basis of the following reasons;

- The application having a harmful impact due to its size.
- The scale of the development being inappropriate to North Duffield
- The application being contrary to policies ENV1 (1) and (4) of the Local Plan and SP18 and SP19 of the Core Strategy.

1.2 It was resolved to REFUSE the application and to delegate authority to officers to formulate the exact wording for reasons for refusal from the areas mentioned above. Before these reasons were formulated or a decision notice issued, further discussions took place with the applicants which included options for a revised scheme.

1.3 At the meeting of 8 February the Chair updated Councillors. It was explained that following the meeting of 11 January 2017, further discussions between officers and the applicant had taken place which could result in an amended application being submitted which would reduce the number of dwellings proposed. It was confirmed that if an

amended application was not forthcoming then the original application would be brought back to the Committee.

- 1.4 Discussions did take place over a reduction in the number of dwellings to 45 with an appropriate reduction in percentage of affordable housing provision (subject to being fully justified on the basis of the viability). For a number of reasons, these have not resulted in the submission of a revised scheme. The agent gave consideration to this suggestion, but states that;

“as this is currently an Outline Application we are not in possession of sufficient evidence in terms of what might cause abnormal cost to the project, such as ground conditions, connection to statutory services, connections to the drainage infrastructure and other construction cost issues that a robust viability case could be made at this moment in time. The fact that we are not in possession at this time of sufficient detailed information to produce a comprehensive viability assessment which would justify a reduction in the percentage of affordable housing was the main factor in our decision to request you re-presented the scheme to Planning Committee and this decision had been made and explained to the Council prior to Committee meeting on the 8th February, which is why I am concerned that Councillors were not properly briefed at that meeting”.

- 1.5 The applicants have requested the original application be determined.

2.0 Applicants Comments

- 2.1 The applicants have submitted a further letter requesting the following two points are brought to the attention of the planning committee;

- (i) *“During the last Committee there were some comments about the position of the pedestrian crossing. The draft condition provides for the details of the crossing to be agreed, which therefore gives some flexibility to the final location of the crossing. My client has no objection to the crossing being moved to a location that is acceptable to the community and the Highway Authority”.*
- (ii) *“The current draft of the S106 allows for the football pitch land to be transferred to the North Duffield Dragons, the Playing Pitch Association or any other entity agreed by the Council. The Dragons are the only organisation to date that have expressed interest in this land, but my client is happy to discuss if there is better route to ownership e.g. perhaps the Parish Council acquiring the freehold and The Dragons taking a long lease on the land”.*

3.0 Officers Comment on the above

- 3.1 With regard to point one a condition could be imposed to ensure the crossing was located in the optimum position.
- 3.2 With regard to point 2, it would be possible to consider the land being transferred to the Parish Council which could ensure the facility had wider community benefit. However, as previously pointed out in the attached officers report, any additional recreational provision above that required by Policy R2 of the SDLP cannot be considered to be material to the decision on this application.

4. Officers Comment on reasons for refusal

- 4.1 As set out above, authority to refuse the application was delegated to officers subject to coming up with the precise wording of the reasons for refusal based on the areas mentioned at committee and recorded in the committee minutes.
- 4.2 Since the meeting, officers have now had the opportunity to consider these further. It is considered that there is a need to expand on these reasons of refusal further and given the approach in recent appeal decisions it is considered that more robustly worded reasons could be given. As such officers consider it is appropriate to bring these back to the committee for further consideration by members.
- 4.3 The committee were concerned over the harmful impact due to the size of the development. Officers have considered this again in more detail. The application site lies outside the established development limits of North Duffield and it is considered that due to its size and its location that this would not represent a natural rounding off to the village or provide a new defensible boundaries. North Duffield is a village which has evolved over the years. Previous developments have been smaller in scale and well related to the settlement form. This proposal would expand the settlement outwards, significantly increasing the depth of built form at the edge of the village creating an additional large block of development encroaching into what is at present pleasant open rural countryside at the northern end of the village. The character and appearance of the area and the setting of this part of North Duffield would change. The development would create a harsh urban edge abutting the existing field track when viewed from the east due to the lack of landscaping. Furthermore it would leave an area of undeveloped land between the northern edge of the development and the proposed football pitch which would be subject to future pressure for infill development.
- 4.4 Although the scheme would make a contribution to boost the supply of housing this benefit would be outweighed by the harm to the character and appearance of the area. The scheme would therefore result in a development which would have a significant and demonstrably harmful impact on the character, form and setting of the village contrary to the aims of Policies SP1, SP18 and SP19 of the SDCSLP, ENV 1 of the SDLP and with the NPPF.
- 4.5 The Committees second area of related to the scale of the development. The proposal is for 57 dwellings. Whilst this has been reduced from the previous scheme for 65. it is still not considered to be appropriate to the size and role of North Duffield, a settlement, which is Designated Service Village in the Core Strategy and which already has extant approvals on smaller sites for a total of 59 dwellings. Capacity for significant growth already therefore exists in the village and there are extant approvals on smaller sites for a total of 59 dwellings. Notwithstanding the absence of a 5 year housing supply for the district as a whole, continued unrestricted expansion of North Duffield would undermine the spatial integrity of the development plan and the ability of the council to deliver a plan led approach. Therefore the proposal would conflict with the Spatial Development Strategy for the District and the overall aim of the development plan to achieve sustainable patterns of growth. The proposal therefore is contrary to Policies ENV1 of the SDLP and Policies SP1, SP2, SP4, SP18 and SP19 of the SDCSLP and with the NPPF.

5.0 Conclusion

- 5.1 The Council resolved to refuse the application based on two broad areas of concern. Although officers were delegated authority to prepare the precise reasons for refusal

based on these areas, it is considered appropriate to bring the matter back to committee for consideration of the fully worded reasons for refusal.

5.2 However, on the basis of the Councils decision to refuse the scheme which was taken at the January 11th Committee meeting, Councillors are respectfully recommended to agree the following revised wording for the reasons for refusal:

01. The site lies outside the established development limits of North Duffield and due to its excessive size and position would not represent a natural rounding off or provide new defensible boundaries. It would expand the settlement outwards, increasing the depth of built form at the edge of the village creating an additional large block of development encroaching into the rural open countryside location at the northern end of the village. It would create a harsh urban edge abutting the existing field track when viewed from the east due to the solid amount of housing and the lack of landscaping. Furthermore it would leave an area of undeveloped land between the northern edge of the development and the proposed football pitch which would be subject to future pressure for infill development. The scheme would therefore result in a development which would have a significant and demonstrably harmful impact on the character, form and setting of the village contrary to the aims of Policies SP1, SP18 and SP19 of the SDCSLP, ENV 1 of the SDLP and with the NPPF.

02 The proposal due to the scale, at approximately 57 dwellings, is not considered to be appropriate to the size and role of North Duffield, a settlement, which is designated a service Village in the Core Strategy. There are already extant approvals on smaller sites for a total of 59 dwellings and capacity for significant growth already therefore exists in the village. Continued expansion of North Duffield would undermine the spatial integrity of the development plan and the ability of the council to deliver a plan led approach. Therefore the proposal would therefore conflict with the Spatial Development Strategy for the District and the overall aim of the development plan to achieve sustainable patterns of growth. The proposal therefore is contrary to Policies ENV1 of the SDLP and Policies SP1, SP2, SP4, SP18 and SP19 of the SDCSLP and with the NPPF.

Recommendation:

That Members determine the planning application.

Appendices

1. Report 2016/0644/OUT – January 11 2017 Planning Committee
2. Officer Update Note

Appendix 1



Report Reference Number 2016/0644/OUT (8/13/271A/PA)
Agenda Item No:

To: Planning Committee
Date: 11 January 2017
Author: Fiona Ellwood (Principal Planning Officer)
Lead Officer: Jonathan Carr (Interim Lead Officer – Planning)

APPLICATION NUMBER:	2016/0644/OUT	PARISH:	North Duffield Parish Council
APPLICANT:	KCS Development	VALID DATE:	1st June 2016
		EXPIRY DATE:	31st August 2016
PROPOSAL:	Outline planning application for up to 57 dwellings and a new community football pitch with parking, a changing room/clubhouse to include access (all other matters reserved) at land off York Road and		
LOCATION:	Street Record Main Street North Duffield Selby North Yorkshire		

This application has been brought before Planning Committee because the proposal is contrary to the development plan. However, there are material considerations which would justify approval of the application. There has also been a high level of local objections.

Summary:

The proposed scheme is an outline application for residential development on land to the North East side of North Duffield abutting the development limits of the village. Outline planning permission is sought for up to 57 dwellings to include access (all other matters reserved) on land off York Road. The scheme includes the provision of the land only capable of accommodating the stated intended use for a new community football pitch with parking and a changing room/clubhouse.

The proposal would be contrary to Policy SP2A(c) of the Core Strategy and should be refused unless material considerations indicate otherwise. One such material consideration is the National Planning Policy Framework (NPPF).

Paragraph 14 of the NPPF requires that where the development plan is absent silent or out of date, planning permission should be granted unless the adverse benefits of doing so would significantly and demonstrably outweigh the benefits or specific policies of the framework indicate development should be restricted.

The Council accepts that it does not have a 5 year housing land supply 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 Policies SP2 and SP5 are out of date in so far as they relate to housing supply and so should be afforded only limited weight. However, in assessing the proposal, the economic, social and environmental benefits of the development on North Duffield village are also considered.

The NPPF indicates at paragraph 119 that the presumption in favour of sustainable development does not apply where development requiring appropriate assessment under the Birds or Habitats Directives is being considered. The scheme is assessed in this context and subject to no adverse comments being received from the RSPB on the additional survey information, concludes there would be no harm to protected habitats or species.

There would be some harm from the scale of the development and the level of growth of the village. Furthermore, although the site is well related to the settlement limits it does represent a large extension. However, no specific limits for the growth of the village have been set and the growth options at present are only a guide. The proposal is considered, on balance, to be acceptable in principle. In respect of matters of acknowledged importance such as climate change, flood risk, nature conservation interests (subject to comments of the RSPB and YWT), drainage (subject to comments from the North Yorkshire County Flood Authority on the additional drainage information), highway safety, contaminated land, archaeological considerations and impact on residential amenity it is considered that any harms arising from the development would not significantly and demonstrably outweigh the benefits in terms of housing delivery of the application. Therefore the proposal is considered acceptable when assessed against the policies in the Selby District Local Plan, the Core Strategy and the NPPF in particular paragraph 14, taken as a whole. It is on this basis that permission is recommended to be granted subject to conditions and a Section 106 agreement.

Recommendation

This planning application is recommended to be APPROVED subject to:-

- i) No adverse comments from RSPB and NYCC Flood Authority on the additional bird surveys and drainage information, and to any appropriate conditions recommended.**
- ii) Delegation being given to Officers to complete the Section 106 agreement to secure 40% on-site affordable housing provision, the provision of on-site recreational open space in accordance with Policy RT2 of the Local Plan and a waste and recycling contribution**
- iii) The conditions set out in paragraph 3 below.**

1. Introduction and background

1.1 The Site

- 1.1.1 The application site is located within the open countryside but adjoins the defined development limits of North Duffield on the north east side of the village. It comprises an area of 3.70 hectares of currently open undeveloped grassland.
- 1.1.2 The site is bounded to the west and south by existing housing development of mixed form, size, design and materials. To the north and east is open countryside.

1.2 The proposal

- 1.2.1 Outline planning permission is sought for up to 57 dwellings to include access, the provision land for a football pitch and associated facilities including a changing room/clubhouse and car parking area for 30 vehicles (all other matters reserved) on land off York Road, North Duffield.
- 1.2.2 Access would be from the north end of the site just beyond the village limits onto York Road. A pedestrian link from the south end of the site is indicated, linking through to existing housing.
- 1.2.3 The indicative plans suggests a layout providing for a mix of detached and semi-detached house types accessed from a main spine road running from north to south of the site. The layout includes the provision of land for a football pitch, car park and clubhouse to the north of the housing area.

1.3 Planning History

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

2015/1025/OUT (Refused- 25.11.2015) Outline planning application for up to 65 dwellings and a new community football pitch with parking, a changing room/clubhouse to include access (all other matters reserved) on land off York Road was considered at the Planning Committee Meeting of 23 November 2015 and was refused for the following reasons;

01. The applicant has failed to provide sufficient information, in the form of trial trenching to allow the Local Planning Authority to make an appropriate and full assessment of the archaeological significance of the application site, given that the site had been indicated to have potential for archaeological remains from the Iron Age/ Romano British periods. The proposal is therefore contrary to Policy ENV28(A) of the Selby District Local Plan, Policy SP18 of the Core Strategy and paragraph 128 of Section 12 of the National Planning Policy Framework.

02. The applicant has failed to provide sufficient information to allow the Local Planning Authority to undertake a full and proper assessment of the drainage strategy for the sustainable disposal of surface water and therefore to mitigate against flooding elsewhere as required by Policy SP15 (d) of the Selby District Core Strategy Local Plan and paragraph 103 of the National Planning Policy Framework.

03. The applicant has failed to provide sufficient information to allow the Local Planning Authority to fully assess the ecological importance of the site, and in particular to birds and therefore to assess the proposal against the requirements of

Policy ENV1(5) of the Selby District Local Plan, Policy SP18 of the Core Strategy and paragraph 118 of the National Planning Policy Framework.

04. Notwithstanding the indicative nature of the Indicative Plan the proposal would by virtue of the density of the proposed development unacceptably alter the outlook from neighbouring properties and by virtue of the resulting proximity between existing and proposed dwellings result in unacceptable levels of overlooking. As such the proposal would fail to provide a good standard of amenity as required by Policy ENV1(1) of the Selby District Local Plan and paragraph 17 of the National Planning Policy Framework.

However, at a6th January 2016t was resolved that the proposed scheme, made in outline for residential development on land abutting the development limits of North Duffield village is considered to be acceptable in respect of flood risk and drainage. Therefore, should an appeal be submitted against the refusal by Selby District Council to grant planning permission, it is recommended this issue (Reason 2) be conceded by the Council.

1.4 Consultations

Responses summarised below;

NYCC Highways

The required visibility splay is 2.4 metres by 215 metres. This is achievable to the north west of the site but not to the south. However the site is at the end of the residential section of North Duffield and therefore no objections would be raised to moving the 30mph speed limit signs. This will help reduce speeds and ensure adequate visibility splays can be achieved. The applicant has suggested that the 30mph signs are relocated to the area where the village sign is located. This is considered too far from the site and the environment would lead to the speed limit not being adhered too. Therefore recommend that the signs are placed approximately 92 metres from the proposed access accompanied by roundels on the carriageway at a cost to the applicant.

Recently NYCC has changed its parking standards has affected the amount of car parking required on the site. Minor changes recommended to some plots. This should be noted and could be addressed with any reserved matters application submitted.

Consequently the Highway Authority recommends conditions and informative be attached if permission is granted.(see attached at section 3)

Further Highway Authority response received in relation to queries regarding the need for traffic surveys.

States when looking at larger developments it does ask for Transport Assessments to accompany planning applications. A Transport Assessment will cover a wide range of highway issues including capacity. North Yorkshire County Council's policy on Transport Assessments is that they are set in relation to minimum gross floor areas and units. Where residential developments are concerned the requirement for a Transport Assessment is 80 units. The Council does however have the right to request a Transport Assessment in other instances; for example where the location and/or nature of the development area of a particularly sensitive nature. Such situations include if accident data highlights a particular problem in the vicinity.

Whilst the developer would not be expected to provide a Transport Assessment, a development of this size would be expected to include a Transport Statement with the application. A Transport Statement is a simplified transport report. The applicant has provided a Transport Statement with the application and in this statement it has identified the anticipated traffic generation from the development of the site. The figures supplied are calculated from a computer system called TRICS and whilst the developer does set the parameters into the database, the data supplied is assessed by North Yorkshire County Council to ensure it is not misrepresenting a true likeness of traffic flows.

Therefore given the size of the development, the applicant does not need to provide details of the existing flows on York Road but they do need to advise on the likely additional traffic flows that the development will create.

Yorkshire Water Services Ltd

Recommends a condition for the discharge of surface water to a satisfactory outfall other than the existing public sewer (which does not have the capacity for surface water) to protect the local aquatic environment and YW infrastructure. SuDs should be encouraged and may be suitable. (see attached at section 3)

Ouse and Derwent Internal Drainage Board- second response following amended Drainage and Flood Risk Report

Detailed comments made regarding drainage options. However, The Board does not have any objection to the principle of this residential development proposal subject to the production of a detailed drainage strategy. Appropriate conditions are recommended. –(see attached at section 3)

NYCC Flood Authority (Sustainable Drainage Systems)

Since the previous application for this site (2015/1025/OUT), SuDS information requirements for planning applications have been revised and further detail is required to assess the propriety of proposals. These requirements can be found within North Yorkshire County Council SuDS Design Guidance and must be satisfied to enable comment on the propriety of proposals.

[Members are advised NY Flood Authority has been re-consulted on the additional drainage and flood risk report provided by the applicant and will be updated on the response at the day of the Committee. However, on the previous scheme it was concluded that the scheme submitted offered realistic options for surface water management and an appropriate condition regarding the detailed design could be imposed.]

WPA Consulting – (Contaminated Land Consultants)

Consulted on previous application. Not re-consulted as comments still apply. Recommend that standard conditions CL1 and CL5 in place. (CL1 requires a detailed site investigation report (to include soil contamination analysis), a remedial statement and an unforeseen contamination strategy. CL5 covers what to do in the event that contamination is found).

Historic England

On the basis of the information provided, does not consider that it is necessary for this application to be notified to Historic England under the relevant statutory provisions.

NYCC Heritage Officer

The archaeological desk based assessment supplemented by a report on archaeological trial trenching demonstrates that archaeological remains of the Iron Age and Romano-British periods are preserved at the site.

Based on the results of the trial trenching report agree that the archaeological remains are of significance but not of such significance as to require physical preservation. A mitigation response would be appropriate as suggested.

Advise that a scheme of archaeological mitigation recording is undertaken in response to the ground-disturbing works associated with this development proposal and copy of results forwarded for Environmental record. Details given of what this should cover. Appropriate conditions discussed and recommended to secure this.

Education Directorate North Yorkshire County Council

No response received

Environmental Health

The proposed development is relatively large scale and may entail an extended construction phase. This may negatively impact upon nearby residential amenity due to the potential for generation of dust, noise & vibration. Therefore recommend a condition requiring submission of a construction management scheme to be submitted, agreed and implemented to protect local residential amenity.

North Yorkshire Fire & Rescue Service

The proposals should demonstrate compliance with the requirement B5 of Schedule 1 to the Building Regulations 2000 (as amended), access and facilities for the fire service. The proposal should comply with the National guidance document for the provision of water for fire fighting, Appendix 5, Guidelines on flow requirements for fire fighting.

Natural England

Points out that the application site is in close proximity to European designated sites and therefore has the potential to affect its interest features. The site include the Lower Derwent Valley Special Area of Conservation (SAC), the Lower Derwent Valley Special Protection Area (SPA), the River Derwent (SAC) and Skipwith Common (SAC).

The site needs a Habitats Regulations Assessment, and in relation to a HRA, Natural England advise that;

- The proposal is not necessary for the management of the European site

- The proposal is unlikely to have a significant effect on any European site, and can therefore be screened out from any requirement for further assessment.

No Objection and no conditions requested in this respect.

Natural England is satisfied the proposed development will not damage or destroy the interest features for which the site has been notified. Therefore the SSSI is not a constraint in determining the application.

Natural England expects the LPA to assess and consider in respect of local site, local landscape character and local or national biodiversity priority habitats and species.

In relation to protected species, Natural England makes no assessment. Standing advice is for LPA's to decide if there is a reasonable likelihood of protected species being present.

Opportunities may exist to enhance the biodiversity of the site.

In relation to the Derwent Valley, where possible development proposals should enhance local distinctiveness and be guided by the LPA Landscape Character Assessment.

Yorkshire Wildlife Trust – Second response August 2016

Queries the market research on the dog and cat ownership and dog walking. Lack of background information to enable the data to be generalised and applied to the application site.

The Trust would agree with the comments of Richard Barnard of the RSPB on the Rebuttal Statement from Smeedon Foreman to the previous comments from the RSPB and Yorkshire Wildlife Trust. The rebuttal statement assumes that the results of the bird surveys done from January to April will be applicable to the potentially very different conditions and bird species in the period from September to December. Without further bird survey data to cover the winter period the Trust would advise that the local authority is unlikely to have sufficient information to ensure that an adequate Habitats Regulations Assessment can be carried out.

(Members to note that further survey work over the winter period has been undertaken and submitted for re-consultation in December. an update will be given at the meeting)

RSPB -Second response

The additional information is a response to the RSPB's and Yorkshire Wildlife Trust's concerns over the lack of wintering bird surveying for the period September to December inclusive.

The response provides comparative bird data from the January to April period in an attempt to justify the lack of surveying. However, the approach adopted in the response is flawed and therefore the RSPB continues to object to the application. The response relies on the assumption that the key species in question would use the LDV and the surrounding habitats in the same way throughout the wintering period, i.e. that the patterns of usage recorded in the Applicant's surveying of the application site and nearby areas in January to April would be replicated in the

September to December period. The RSPB does not consider that the evidence provided by the Applicant supports this assumption. There are a wide range of factors that vary during the wintering period and drive bird use of habitats; for example, flooding, prey availability, cropping, etc. These, and numerous other factors, vary between and within seasons. Therefore bird usage of the LDV and surrounding areas, potentially including the application site, may well be different between September and December, compared to January to April.

Based on this, the RSPB's position continues to be as described in our letter of 27th June 2016.

(Members to note that further survey work over the winter period has been undertaken and submitted for re-consultation in December. an update will be given at the meeting)

North Yorkshire Bat Group

No response

Public Rights Of Way Officer

No comments received

Designing Out Crime Officer

Notes the changes to the buffer zone on the western boundary. The architect outlined how previous comments that made would be addressed at a more detailed stage. Therefore, at this stage, have no concerns or issues with the proposal in 'designing out crime' terms.

Development Policy

The application should be considered against both the saved policies in the adopted 2005 Selby District Local Plan (SDLP) and the 2013 Selby District Core Strategy (CS).

The key issues which should be addressed are:

1. The Principle of Development
2. Impact on the Council's Housing Land Strategy
3. Previous Levels of Growth and the Scale of the Proposal
4. Relation of the Proposal to the Development Limit

1.The Principle of Development

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

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

CS Policies SP2 and SP4 direct the majority of new development to the Market Towns and Designated Service Villages (DSVs), restricting development in the open countryside. North Duffield is defined in the Core Strategy as a Designated Service Village which has some scope for additional residential and small scale employment to support rural sustainability.

This outline proposal for 57 dwellings is on land that is adjacent to, but outside of, the defined Development Limits of North Duffield as defined on the Policies Map of the SDLP. The proposal is therefore contrary to Policy SP2A(c) of the Core Strategy. However, Development Limits are currently under review as part of the PLAN Selby sites and allocations document in line with commentary detailed in the Core Strategy. In evaluating the application, the relationship of the proposal to the edge of the settlement and defined Development Limit (as set out on the Policies Map) should be given due consideration as detailed under Section 4 of this response.

2. Impact on the Council's Housing Land Strategy

On the 3 December 2015, the Council's Executive formally endorsed an updated five year housing land supply Methodology and resultant housing land supply figure of 5.8 years, as set out in the Five Year Housing Land Supply Statement. The fact of having a five year land supply cannot be a reason in itself for refusing a planning application. The broad implications of a positive five year housing land supply position are that the relevant policies for the supply of housing in the Core Strategy can be considered up to date. The NPPF aim of boosting and maintaining the supply of housing is a material consideration when evaluating planning applications. This application would provide additional dwellings to housing supply, although it will be a matter of analysis and discussion with the applicant over the scale of this contribution to the five year housing land supply position.

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

CS policy SP5 designates levels of growth to settlements based on their infrastructure capacity and sustainability, it is important to determine in housing applications the impact a proposed scheme has on this level of growth, taking into account previous levels of growth since the start of the plan period and the scale of the proposal itself. To date, North Duffield has seen 11 dwellings built in the settlement since the start of the Plan Period in April 2011 and has extant approvals for 72 dwellings, giving a total of 83. CS policy SP5 does not set a minimum dwelling target for individual service villages, so it is not possible to ascertain exactly whether North Duffield has exceeded its dwelling target.

As a guide, the Council consulted on various growth options for the DSVs as part of the development of PLAN Selby in July / August 2015 and at this point the research indicated minimum growth options of between 26-36 dwellings for North Duffield. While the level of development in the settlement may have exceeded its potential growth options, the scale of this individual proposal, at 57 dwellings, is not considered to be appropriate to the size and role of a settlement designated as a Designated Service Village in the Core Strategy.

4. Relation of the Proposal to the Development Limit

Core Strategy Policy SP18 aims to protect the high quality and local distinctiveness of the natural and man-made environment; therefore it is important to determine the impact the proposed scheme has on its surroundings. The site is located in the countryside and outside of Development Limits. The draft PLAN Selby evidence document "Settlement Setting Landscape Assessment" (January 2016) finds that the overall landscape assessment parcel for the area to which the application relates is of medium sensitivity to development. It also assesses the settlement edge to be of

moderate importance to protect from development. The proposal extends into the countryside and in determining the application, thought will need to be applied as to:

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

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

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

Parish Council -

Main grounds of objection summarized as follows;

1. Outside village limits. Not in keeping with the Village Design Statement. Density of housing not compatible with ENV1 and Selby core strategy
2. Road safety issues -entrance on a blind bend. Traffic approaching from the South will be turning into the site with no sight of any oncoming traffic. Moving the 30mph signs won't make much difference. Strongly suggests a committee site visit to highlight the issues raised by position of this junction.
4. Transport statement states "No surveys of existing traffic flows in York Road have been undertaken". But PC consider that Highways Department expect that a development of this size would include existing traffic flow surveys and the fact it didn't is unacceptable. Parish Council therefore insists on a survey to verify the actual traffic figures.
5. Green Lane never designed for a large volume of traffic and large agricultural vehicles also use this road on a regular basis.
6. No recreational area included within the development. Assumes children will access the play area on the opposite side of the main York Road with proposed pedestrian crossing. Not a safe place to cross the road due to sharp bend and does not conform to the Highway Code recommendations. No street lighting or footpath at this point in the village. Crossing is dangerous. The latest Highways report included the provision of the above pedestrian crossing but no details.
7. PC happy to see village grow but only if it is proportionate and fair. The CS listed ND as being able to sustain 44 new houses and the current total is around 60 houses. This would result in 25% increase of village. The school, drainage, surgery and the remaining infrastructure can't cope with such an increase and it is therefore not sustainable.
8. Potential overlooking, loss of privacy, and garden enclosure.
9. History of drainage issues, particularly at the southern end of the site, which has been exacerbated by the development of Champions Gate, where a pond was filled in.

10. Current bus service timetable very limited.-not enough to access employment. (times given) Recently the 18A Sunday bus service to York has now ceased. North Duffield is listed as "least sustainable" when assessed for public transport.
11. Buffer zone is an invitation to crime. Unclear as to the responsibility of maintenance of this zone.
12. Local residents concerned over the proposed Beech Grove link. This is a private drive but the developer claims to have secured legal rights to use this as a pedestrian link to Main Street. A very narrow drive, with no footpath or street lighting which will be used as the main access on foot to all the village services. Not safe for pedestrians to share the road with vehicles, which will be reversing on to the drive from their garages. Serious issue where children are concerned going to and from school.
13. The open space to the north of the site is to be given to North Duffield Dragons Football Club. All that is being offered is the land. To turn this into a suitable surface for a full size football pitch with clubhouse, changing rooms and parking would need substantial funds from the likes of the FA and Sport England, with no guarantee of success. Unclear about who will take responsibility for this area. If however successful, this area would then be for the exclusive use of The Dragons and therefore not what could be classed as a Community Benefit. No dialogue between the developer and the Parish Council as suggested by the NPPF. The Parish Chairman spoke to the developer at a subsequent public meeting and expressed concerns about this proposed football pitch and suggested other facilities that could be provided in the village, which will benefit the WHOLE community, but this was ignored. .North Duffield has one of the largest playing fields in the district and although not wanting to discourage sport, we feel that there are adequate facilities for football already.
14. The majority of those in favour have a direct connection the above Dragons football club.
15. There is local evidence of protected newts in a pond on Main Street in a private dwelling where the owner had photographic documentation of the presence of protected newts, which have resided there for 20 years. This pond backs onto the school and is within 500 metres of the proposed development. This does not seem to be included in the ecological survey carried out by the developer's advisors; surely this is a serious omission.
16. Application 2015/0193/FUL, is for a single disabled access bungalow with an access onto York Road. This will be very close to the proposed access and, from studying both sets of plans; the proposed pedestrian crossing will be sited almost on top of the access to the bungalow.
17. Several outline planning applications for the village have been approved amounting to 51 dwellings plus a current development of 5 properties. An additional 56 dwellings would lead to an increase of over 20%, is unsustainable. A key factor according to the NPPF and therefore this application should be refused.

1.5 Publicity

The application was advertised by site notices, press notices and neighbour notification letters resulting in 19 households objecting and 7 letters of support.

Grounds of objection

1. Previous scheme only recommended for approval due to lack of five year land supply. Five year shortage now addressed.
2. Sufficient land exists in Selby.

3. Site is outside of development limits. Early indications for emerging plan Selby indicate only a small increase in housing for the village.
4. Not in accordance with N Duffield village design statement and adversely affects the form, character and natural layout of the village.
5. Multiple smaller developments have less impact than a single large development.
6. Developer in planning statement refers to the site being a large portion of a preferred option in the withdrawn Selby Site Allocations DPD but fails to point out that it was for the development of only 29 units.
7. Further land alongside may be targeted for future development leading to countryside sprawl.
8. Scheme is little changed and no better. Previous comments made by the planning committee about a reduction by at least half the number of houses has been ignored.
9. Many comments re-iterating all previous objections and endorsing PC comments made.
10. Support only from those with a vested interest.
11. Buffer zone could lead to anti-social behaviour and there is no information on how this will be maintained.
12. Object to Buffer zone being removed. Houses still too close. Thought this was to be offered to houses on York Rd that have small gardens. this would satisfy concerns of the NY Police
13. Conflicts with GB policy
14. Adverse effect on residential amenity with loss of privacy, outlook, overlooking. Previous reason for refusal number 4 is still relevant.
15. Queries raised over the legality of using the unadopted Beech Grove (maintained, lit and drained at the residents expense) for pedestrian access. Developer should take responsibility. Also safety concerns for pedestrians due to cars reversing, inadequate width for cars and pedestrians, increased lighting needed for pedestrians.
16. Noise- from mopeds using Beech Grove for access.
17. Additional pressure on village's already oversubscribed school. School landlocked and can't be extended. This will vastly increase the population.
18. Traffic-Survey based on an assumption that traffic flow is light. No surveys have been undertaken. The development would add 10% increase approx. and according to NY Highways a traffic flow statement should be expected. This has not been done. Resident surveys suggest 248 vehicle movements per hour at peak times at present which is far in excess of the 37-39 consultation transport response states.
19. Road Safety –Dangerous blind right turn into the site when approached from the south through the village. Green lane to Selby not designed for large volume traffic.
20. No permission obtained from the Playing field association to provide the pedestrian access between the existing facilities and the proposed new. Pedestrians using it would have to walk on unkempt strip of and on a dangerous very busy corner, blind to oncoming traffic. No room for a new footpath to be installed.
21. Infrastructure overstretched. Localised flooding exacerbated. Drains and sewers at capacity.
22. Plans are misleading. None of the football facilities are to be provided. Only the land. Funds would be needed from the FA and Sports England with no guarantee of success. So there is no guarantee that facilities could be provided. Could take many years to get the funding.

23. ND Playing Field Association comment specifically that there has been no discussion with the developers and is far from given that the PFA would want to take on the additional land.
24. No play area within the site. Children will have to cross the road to access lay facilities- safety is an issue.
25. Guidelines state that for a development of this size there should be public consultation to determine what the residents require for further recreational facilities. Public meetings have taken place but the issue of the use of this land has not been up for discussion. Developers claim PC has been approached but no response. This is not true. Unfair for recreational contribution to be entirely for the benefit of the football club. This would not be a community benefit. Why not tennis courts or something for the whole village.
26. Football club don't want ownership, just the end use. No other organisation has agreed to take over the responsibility.
27. No need for a second football pitch. The village already has one. This could attract large volumes of traffic from visiting teams (figures of 300 vehicles from recent events mentioned). Leading to difficulties parking and road safety issues. Problems already occur with verge parking
28. Amount of housing for N Duffield envisaged in Core Strategy has already been exceeded by 110%. This would mean 2.5 times the recommended number. The level of expansion is unsustainable. recent draft studies for Plan Selby identified options for growth of DSV's. One option was just 11 new houses for N Duffield. This reflects the level of services and accessibility for the village. Additionally ND scored low on access to employment.
29. Fails to meet the requirements of Policy ENV1-existing properties along the development boundary will be seriously affected.
30. Numbers should be reduced to at least half.
31. Core Strategy and village design statement require infill sites to be linear. This can't be achieved on this site with this number of houses.
32. Not a sustainable location, bus service due to cease, limited employment within the village, limited resources and excessive number of new developments already granted.
33. Ecology -survey missed a pond with newts which would be affected. Applicants have been informed with photographic evidence. Therefore failed in duty of disclosure and guilty of misleading planners.
34. Ecological- Potential adverse effect on barn owls, bats, loss of prime agricultural land,
35. Proposed site has historical and archaeological interests. Query why only one trench dug leaving larger area unevaluated.
36. Disagree with veiled threat from developers that the development is less dense and a better scheme than would be the standard for land allocated through a local plan.
37. Construction will cause dust, noise and vibration

Grounds of support

1. Delivers much needed affordable and market housing
2. Continued development of local village is unavoidable. This scheme brings community benefits
3. significant monetary contribution to local education
4. Previously raised questions about the effect on birds and archaeology positively answered plus a less dense scheme.
5. Construction will bring jobs and help local services
6. Families and children's benefit from new improved sports facilities
7. extra housing will attract new families and bolster school numbers

8. Scheme brings the gift of a playing field with room for club house and parking. Current playing fields is at capacity.
9. Extra car parking would benefit local residents
10. Support for new football facilities – major opportunity to provide all weather facility and changing facilities, indoor community/social space.
11. Great Benefit to children of North Duffield and the junior football club. Will provide
12. Positive benefits outweigh the negative
13. Extending the 30 mph speed limit outside the village will improve road safety on the bend approaching the playing field entrance.

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
- SP4 - Management of Residential Development in Settlements
- SP5 - The Scale and Distribution of Housing
- SP8 - Housing Mix
- SP9 - Affordable Housing
- SP15 - Sustainable Development and Climate Change
- SP16 - Improving Resource Efficiency
- SP18 - Protecting and Enhancing the Environment
- SP19 - Design Quality

2.1.2 Selby District Local Plan

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

The relevant Selby District Local Plan Policies are:

- ENV1 - Control of Development
- ENV2 - Environmental Pollution and Contaminated Land

T1 - Development in Relation to Highway
T2 - Access to Roads
RT2 - Open Space Requirements

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

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

- 1) The appropriateness of the location of the application site for residential in respect of current housing policy and guidance on sustainability contained within the Development Plan and the NPPF.
- 2) Specific policies of the NPPF which indicate development should be restricted.
 - a) Sites Protected under the Birds and Habitats Directive
- 3) The impacts of the proposal:
 - a) Character and form of the village
 - b) Highway Safety conditions
 - c) Flood Risk, drainage and climate change
 - d) Residential Amenity
 - e) Contaminated land and ground conditions
 - f) Recreational Open space
 - g) Heritage Assets
 - h) Education Healthcare and waste recycling
 - i) Affordable Housing
 - j) Other matters
- 3) Taking into account the presumption in favour of sustainable development determining whether the adverse impacts of the development significantly and demonstrably outweigh the benefits when assessed against the policies in the NPPF taken as a whole.

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

- 2.3.1 Policy SP1 of the Selby District Core Strategy Local Plan (2013) outlines that "when considering development proposals the Council will take a positive approach that reflects the presumption in favour of sustainable development contained in the National Planning Policy Framework" and sets out how this will be undertaken.
- 2.3.2 Policy SP1 is therefore consistent with the guidance in Paragraph 14 of the NPPF and should be afforded significant weight.
- 2.3.3 The site lies outside the defined development limits of North Duffield and therefore is located in open countryside.. Policy SP2A(c) states that development in the countryside (outside Development Limits) will be limited to the replacement or extension of existing buildings, the re-use of buildings preferably for employment purposes, and well-designed new buildings of an appropriate scale which would contribute towards and improve the local economy and where it will enhance or maintain the vitality of rural communities, in accordance with Policy SP13 or meet rural affordable housing need (which meets the provisions of Policy SP10), or other special circumstances.
- 2.3.4 In light of the above policy context the proposals to develop this land for residential purposes are contrary to policy SP2A(c) of the Core Strategy. The proposal should therefore be refused unless material circumstances exist that would indicate otherwise. One such material consideration is the National Planning Policy Framework.
- 2.3.5 The Local Planning Authority, by reason of paragraph 47 of the NPPF, is required to identify a supply of specific deliverable sites sufficient to provide 5 years' worth of housing against its policy requirements with an additional buffer of 5% (moved forward from later in the plan period) to ensure choice and competition in the market for housing land. Furthermore where, as in the case of Selby District, there has been a record of persistent under delivery of housing, the LPA is required to increase the buffer to 20%. The Council conceded in the appeal APP/N2739/W/16/3144900 of October 2016 that it did not have a 5 year supply of deliverable housing land as required by paragraph 47 of the NPPF.
- 2.3.6 Given the above, the principle of residential development on the site must be assessed against paragraph 49 of the NPPF which states that "Housing applications should be considered in the context of the presumption in favour of sustainable development. Relevant policies for the supply of housing should not be considered up-to-date if the local planning authority cannot demonstrate a five-year supply of deliverable housing sites."
- 2.3.7 This does not, however, lead to an automatic assumption that planning permission should be granted. Rather, paragraph 49 aims to ensure that in situations where the development plan policies have failed to secure a sufficient supply of deliverable housing sites, the "presumption in favour of sustainable development" is applied.

Sustainability of the development

- 2.3.8 In respect of sustainability, the site is adjacent to the development limits of the village of North Duffield which is a Designated Service Village as identified in the Core Strategy where there is scope for additional residential growth to support rural

sustainability. The village contains a public house, a village hall, a part time doctor's surgery, a general store including Post Office, a Primary School, sport and recreation facilities which include children's equipped play area, playing fields with a pavilion, bowls club, cricket and junior football clubs. The nearest secondary school is Barby High 3.5 miles away and direct bus services are provided by the high school. The village has a limited public bus service. One bus runs between Hemingbrough and Selby but this has only 1- 2 daily services towards Selby. One bus runs between York and Market Weighton with 8-10 services weekdays. Consultations on the subsidies for this service are currently under consideration and it is likely to be cancelled on Sundays.

2.3.9 In addition to the above it is noted that the village of North Duffield has been designated as a Designated Service Village, both within the Selby District Local Plan and within the Core Strategy, which demonstrates that the Council has considered the village a sustainable location for some quantum of development. The village is also considered to have an overall ranking of 4 for sustainability in 'Background Paper 5 of the Core Strategy (in a range of 1-4 with 4 being the least sustainable). This overall ranking is due to North Duffield ranking lower in terms of access to local employment opportunities and in terms of accessibility by public transport due to distance and lower frequency of public transport. It is also one of the smaller settlements in terms of size, ranking 4 out of 5 levels of size. However, in terms of basic services it ranks highly having the essential and most important services needed within villages. Having taken these points into account, despite the fact that the site is located outside the defined development limits of North Duffield, it is adjacent to the boundary and would be served by the basic essential facilities within this sustainable designated service village.

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

Economic

The government has made clear that house building plays an important role in promoting economic growth. The proposal would generate some employment opportunities in both the construction and other sectors linked to the construction market and longer term in additional residents contributing to the local economy and supporting local facilities. Moderate weight should be afforded to this benefit.

Social

The proposal would deliver levels of both open market and affordable housing in North Duffield and hence promote sustainable and balanced communities and would assist in the Council meeting the objectively assessed need for housing in the district. The proposals would provide 40% on-site provision of affordable housing which would improve the tenure mix in this location. In addition the scheme would include provision for recreational open space through on-site provision. The proposals would also be Community Infrastructure Levy (CIL) liable, raising funds towards local services and infrastructure. The benefits in terms of housing provision should be afforded significant weight.

Environmental

In environmental terms no significant harm has been established. The proposal would deliver high quality homes for local people and take into account environmental issues such as flooding and impacts on climate change. Moderate weight is afforded to this benefit.

The above factors weigh in favour of the development.

Previous levels of growth and scale of the proposal

- 2.3.11 The Core Strategy designates levels of growth to settlements based on their infrastructure capacity and sustainability. When assessing whether the adverse impacts of a housing scheme would significantly and demonstrably outweigh the benefits, it is important to determine the impact a proposed scheme has on this level of growth, taking into account previous levels of growth since the start of the plan period and the scale of the proposal itself.
- 2.3.12 To date, North Duffield has seen 3 dwellings built in the settlement since the start of the Plan Period in April 2011 and has extant approvals for 59 dwellings, giving a total of 62. CS Policy SP5 does not set a minimum dwelling target for individual service villages, so it is not possible to ascertain exactly whether North Duffield has exceeded its dwelling target. However, as a guide, the Council consulted on various growth options for the DSVs as part of the development of PLAN Selby in July / August 2015 and at this point the research indicated minimum growth options of between 26-36 dwellings for North Duffield. The extant approvals exceed this guide for a growth option. As such the scale of this proposal which would provide a further 57 dwellings, exceeds what is considered to be appropriate to the size and role of a settlement designated as a Designated Service Village in the Core Strategy.
- 2.3.13 Members will recall that an appeal was recently dismissed for a scheme on the south of Selby road in North Duffield with an indicative layout of 81 dwellings. However, the application was refused at a time when the Authority had an appropriate 5 year supply of housing and being on the other side of the A163 was considered to be quite out of character with the form and layout of the main part of the village. In the circumstances of this site the reasons for refusal may not stand up to scrutiny, in the absence of a 5 year supply.
- 2.3.14 Representations have been received commenting that in combination with recent permissions the proposal exceeds the limit of what the village can absorb and the growth should be proportionate and fair. However, as a Designated Service Village (DSV) North Duffield is an appropriate location for some additional housing growth, in accordance with Policy SP2 of the Core Strategy. Furthermore, there is no specified limit within the Core Strategy as to the amount of development that should be directed to the settlement. The plan does indicate that a greater amount of housing should be located in those villages with a good range of services. Members will recall that an appeal was recently dismissed for a scheme on the south of Selby road in North Duffield with an indicative layout of 81 dwellings. However, the application was refused at a time when the Authority felt it had an appropriate 5 year supply of housing and being on the other side of the A163 was considered to be quite out of character with the form and layout of the main part of the village. In the circumstances of this site the reasons for refusal may not stand up to scrutiny, in the absence of a 5 year supply. The impact on the form and character is discussed later in this report.
- 2.3.15 The developer points out that the Council has approved a much greater amount of development in other DSVs and provides figures given include - Barby (229 dwellings), Carlton (208 dwellings), Hambleton (129 dwellings), Thorpe Willoughby (430 dwellings), Ulleskelf (123 dwellings), Brayton (221 dwellings). These communities have therefore, according to the applicant, absorbed far higher levels of development than North Duffield. In addition it is noted that no evidence has been

received from statutory consultees to suggest that there is insufficient infrastructure to accommodate the additional dwellings in the village.

2.3.14 On consideration of the above information, it is considered that the proposal is acceptable in regards to the appropriateness of the location of the application site for residential development in respect of current housing policy and guidance on sustainability from both local and national policies. The presumption in favour of sustainable development still does not equate to a blanket approval for residential development in locations that would otherwise have conflicted with the development plan. If the adverse impacts of the proposal significantly and demonstrably outweigh the benefits, then planning permission should be refused.

2.4 Whether specific policies of the NPPF indicate development should be restricted.

2.4.1 Paragraph 14 of the NPPF states that "at the heart of the framework is a presumption in of sustainable development", and for decision taking this means, unless material considerations indicate otherwise, approving development proposals that accord with the development plan without delay; and where the development plan is absent, silent or relevant policies are out-of-date, granting permission unless:

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

Specific policies in this framework indicate development should be restricted.”

2.4.2 The examples given of specific policies in the footnote to paragraph 14 indicate that the reference to specific policies is a reference to area specific designations including those policies relating to sites protected under the Birds and Habitats Directives and/or designated as Sites of Special Scientific Interest; land designated as Green Belt, Local Green Space, an Area of Outstanding Natural Beauty, Heritage Coast or within a National Park (or the Broads Authority); designated heritage assets; and locations at risk of flooding or coastal erosion. The application site is not within a formal or informal designated protected site for nature conservation. However, the site is within close proximity to European designated sites including the following;

- Lower Derwent Valley Special Protection Area (SPA) and Special Area of Conservation (SAC), also listed as the Lower Derwent Valley Ramsar site¹ and notified at a national level as Derwent Ings Site of Special Scientific Interest (SSSI).
- River Derwent SAC, also notified at a national level as the River Derwent SSSI.
- Skipworth Common Sac, also notified at a national level as Skipworth Common SSSI

2.4.3 Therefore under the Habitats Regulations the Council should have regard for any potential impacts the projects might have. A Habitats Regulations Assessment is required and this has been produced by the applicants. Paragraph 119 of the NPPF sets out that the presumption in favour of sustainable development does not apply where development requiring appropriate assessment under the Birds or Habitats Directives is being considered.

- 2.4.4 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.
- 2.4.5 Relevant policies in respect to nature conservation include Policies ENV1 (5) of the Selby District Local Plan and Policy SP18 “Protecting and Enhancing the Environment” of the Core Strategy. Policy ENV1 should be afforded substantial weight as it is broadly consistent with the aims of the NPPF.
- 2.4.6 The application scheme is supported by a set of ecology reports comprising Ecological Appraisal (EA), a Habitat Regulations Assessment Screening Report (HRASR) and a Wintering Bird Survey Report (WBSR). The latter two reports have been prepared to address the ecology reason for refusal of the previous scheme.
- 2.4.7 In order to determine if there is a requirement for a Habitat Regulations Assessment to consider impacts on nearby Natura 2000 (N2K) sites, a HRASR has been prepared. This has been informed by a recreation survey of local residents carried out in February 2016 by NEMS Market Research, to determine the likely behaviour of the occupants of the proposed development.
- 2.4.8 Due to the nature and small scale of the proposed development, surrounding land use, existing settlements, lack of complimentary habitats, and the limited likely increases in disturbance and predation, the HRASR finds that it is ‘Unlikely’ that a significant impact on a N2K site would occur as a result of the proposed development alone, providing a number of recommendations are implemented in respect of lighting, drainage/hydrology and planting of native trees and shrubs.
- 2.4.9 In respect of cumulative impacts, when considered in conjunction with existing residential approvals there would be an increase in the number of households of North Duffield of 20%. Given that all of these proposals would form an extension of existing residential areas, and bearing in mind that the NEMS survey shows that existing residents tend to stick to designated footpaths when utilising N2K sites, then it is considered unlikely that there would be a significant combined adverse effect on such sites. The HRASR concludes that it is considered ‘*Unlikely*’ that a significant adverse effect on a N2K site will occur as a result of the proposed development, alone or in conjunction with other developments within the local area. As a result it is considered that, under Article 6(3) of the EC Habitats Directive, an Appropriate Assessment (stage 2) is not required.
- 2.4.7 The ecological survey has concluded the site has a low conservation value. The hedgerows and associated trees at the site are of local value only and provide limited wildlife connectivity. It is recommended that hedgerows are retained or replacement planting occurs using native species and there is use of temporary protective fencing to protect retained hedgerows and trees including those immediately adjacent to the site. Other protective measures include the use of directional lighting during construction and lighting scheme within proposals to avoid illumination of hedgerows and trees within and adjacent to the site.
- 2.4.8 The report recommends native hedgerow planting and native tree and shrub planting should be undertaken where feasible and consideration of seeding of areas associated with hedgerow/tree planting with a suitable wildflower mix. Such matters can be conditioned as part of a landscaping scheme on the reserved matters.

- 2.4.9 In relation to protected species, there are local records for bats. Two trees at the site are considered to have bat potential. If either of these trees were to be affected by the proposed development then a climb and inspect survey for signs of bat use prior to works (no timing restrictions) is recommended. In the event of bat roosts being found a licence from Natural England may be required, with appropriate mitigation and working methods. A condition is added requiring the retention of the trees and their protection during construction.
- 2.4.10 Habitat within and adjacent to the site is considered suitable for hedgehog which is a UK BAP priority species. It is recommended that small gaps (0.2m) are left under any fences installed at the site to allow passage of hedgehog across the site.
- 2.4.11 In relation to Great Crested Newts, further survey work was undertaken due to the presence of GCN on other sites in the village. A HSI assessment of ponds within the local area determined that four ponds are of 'average' suitability. The nearest potential GCN breeding pond is located approximately 235m SE. Taking a more likely route to the site the shortest path is 265m. The shortest distance to the nearest known breeding pond is 365m. This pond was found to have a 'small' (1-10) population in 2014. There are no other suitable/known GCN breeding ponds that may act as stepping stones between the site and these local ponds. Given the above, with terrestrial habitats on site being sub-optimal and known/potential breeding ponds being over 250m from the site, it is considered reasonable to discount presence of GCN at the site, and that the proposed development should not adversely impact upon this species.
- 2.4.12 In respect of a comment made by a local resident regarding the omission of a pond from the GCN survey, this was discussed with the applicants ecologists, Smeeden Foreman. The pond in question is located within a private garden, and there are intervening houses and kerbed estate access roads between Ivydene and the application site. It is considered unlikely that GCN could survive transit between the pond and the proposed development, should they attempt to make this journey. As a result it is maintained that GCN is not a constraint to the development of the site.
- 2.4.13 A further ecological addendum statement has been produced in response to local resident claims to the presence of GCN at Beeches View North Duffield'. This concluded that the pond is unlikely to support great crested newt (GCN) and the photographs provided could be verified as smooth newts. GCN are not generally found within small, ornamental garden ponds.
- 2.4.13 The Ecological report recommends that vegetation which is suitable breeding bird habitat is only removed outside of the breeding bird season (March to August inclusive) or subsequent to a checking survey by an appropriately qualified ecologist. In order to enhance the site for bird species the installation of bird boxes and the incorporation into the landscape planting plan of species known to be of value to wildlife is recommended.
- 2.4.14 In relation to the wintering bird survey report, since the initial objection back in 2015, bird surveys of the site and adjacent habitats were undertaken for eight months over the overwintering period (January – April and this application has been on hold whilst further surveys during August –November 2016 have been done) to establish whether the site is functionally linked to the SPA located 600m to the east. The surveys found no qualifying SPA species associated with Lower Derwent Valley (LDV) to be using the site. The use of improved grassland habitat on site by target bird species is considered to be very limited due to the presence of grazing livestock,

the close proximity to existing residential housing and road noise which will present a high level of disturbance to foraging individuals.

- 2.4.15 The report submitted concludes that land within or immediately adjacent to the site is not functionally linked to the Lower Derwent Valley SPA and the loss of agricultural fields within the site to the development will not translate to a significant adverse effect on the conservation status of target species such as ruff or golden plover. Reference is made to an email from Richard Barnard the RSPB Conservation Officer for Yorkshire, Humber & Peak District, dated 18th November 2016, states the following:

“Assuming the November survey also does not record any waders or wildfowl, I would agree that it is reasonable to omit the December survey and conclude that the site is not functionally linked to the SPA.”

- 2.4.16 Subject to confirmation of this by the RSPB, this objection has now been satisfied. A further response is expected from the RSPB and Yorkshire Wildlife Trust before committee and an update will be given at the meeting.

- 2.4.16 In summary, subject to no adverse comments from the RSPB and YWT the comprehensive ecology surveys that have been carried out confirm that the proposed development would comply with the biodiversity elements of Core Strategy Policy SP18 and ecological policy within the NPPF. The extent of information relating to ecology is considered to be more than proportionate to the likely impacts of the development, and the proposed mitigation measures would enhance wildlife habitat. The previous scheme reason for refusal relating to ecology has been fully addressed.

- 2.4.17 Subject to the above it is therefore concluded that, subject to the recommendations and mitigation measures set out in the HRA and The Ecological Report by Smeedon and Foreman, that there would be no adverse effects on any of the nearby protected sites, any protected species or local wildlife. Subject to a condition to ensure compliance with the recommendations and mitigation measures in the ecology report the proposal would comply with Policy SP18 of the CS and Policy ENV1 of the LP and the aims of the NPPF.

2.5 The Impacts of the Proposal

- 2.5.1 Paragraph 14 of the NPPF requires the decision taker to determine whether any adverse impact of granting planning permission significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole. This section looks at the impacts arising from the proposal. The site would be a rounding (albeit a significant one) on this end of the village which would reflect the pattern of other developments which have evolved the villages current form and shape.

2.6 Character and form of the village

- 2.6.1 The irregular shape site comprises open countryside that is agricultural land on the north east side of the village. It is located to the east of the linear row of mainly semi-detached properties which front the main street at the northern end of the village opposite the hall and playing fields. To the north and east are further open tracts of arable land. To the south the site adjoins the dwellings on Main Street and those around Beech Grove

- 2.6.2 This is a significant scale site being 3.7 hectares including the land proposed for the football pitch. In terms of location it is well related to the settlement adjoining on relatively flat open grazing/farm land with no significant landscape features. The indicative layout proposes a housing area which would not extend beyond the existing northern limit of housing at this edge of the village. The housing would extend to the east where an existing track would form a new natural boundary. Physically the position and extent of the housing shown on the indicative layout relates well to the existing layout and pattern of housing. The football pitch and facilities proposed would extend further north than the extent of existing housing. However, these would be essentially open in character with a club house and a parking area located close to the road opposite the existing village hall and playground. These recreational facilities on both sides of the road at the northern end of the village would create a natural end to housing development and transition to the open countryside beyond.
- 2.6.3 There will be some visual change in the landscape context as a result of the site's residential development; however it would not result in an uncharacteristic or unacceptable impact on the landscape. Given the site's location on the edge of the settlement then it is considered that a suitable landscaping scheme and boundary treatment could be achieved at reserved matters stage to ensure that there would be no harm to the character or form of the locality.
- 2.6.4 The design and materials on the surrounding properties are a mixture and as such it is considered that proposals could incorporate appropriate materials and detailed design finishes at reserved matters stage which would respect the character of the surroundings reflective of the approaches outlined in the Village Design Statement and the submitted Design and Access Statement.
- 2.6.5 Paragraphs 58 and 69 of the NPPF aim to achieve places which promote safe and accessible environments where crime and disorder, and the fear of crime, do not undermine quality of life or community cohesion.' The Police Architectural Liaison Officer makes detailed comments on how to achieve these objectives which can be taken into account before the reserved matters application is submitted. Therefore it is considered that it would be beneficial for the developer to consult with a Police Designing out Crime Officer, so that a better understanding of the design and layout is achieved and that any areas of conflict are discussed and agreed upon prior to the submission of the reserved matters submission.
- 2.6.6 It is considered that the site could provide an appropriate layout, appearance, scale and landscaping at reserved matters stage. Furthermore, given the location of the site, its context and surroundings considered that an appropriate scheme could be achieved without harm to the character or form of the village or the locality. Overall the site would be a rounding (albeit a significant one) on this end of the village which would reflect the pattern of other developments which have evolved the villages current form and shape. As such the development would be in accordance with the provisions of Policies ENV1(1) and (4) of the Local Plan, Policies SP18 and SP19 of the Core Strategy and the NPPF.

2.7 Highway Safety conditions

- 2.7.1 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. Significant weight should be attached to the Local Plan Policy as it is broadly consistent with the aims of the NPPF.
- 2.7.2 The submitted highways plan shows provision of a single main access point into the site on the North West side off York Road. The Highway Authority points out that required visibility (based on current traffic speed limit) can be met to the North West but not to the south. However, it is proposed to move the speed limit signs so that speeds can be reduced and the achievable visibility would be acceptable. The applicant initially suggested the 30mph speed signs are relocated to where the village sign is located but Highway' felt this would be too far and could result in the speed limit not being adhered to. The applicants agreed to the position as suggested by the Highway Authority and the scheme is therefore considered acceptable from a road safety perspective with an acceptable standard of visibility being achievable for the access in this position.
- 2.7.3 Objections raised locally consider the proposed access on a bend to be dangerous. However, its design provides sufficient visibility and the Highway Authority considers this to be satisfactory, subject to the imposition of conditions in relation to the full details of the access. Objectors also consider the extension of 30mph limit is unlikely to be respected. The application cannot mitigate for drivers who break the law, however at this point the Highway Authority is satisfied with the proposal to extend the 30mph limit. A condition is recommended requiring the details of this and its position to be submitted and agreed.
- 2.7.4 Other comments made refer to the Traffic survey data being based on assumption that traffic flow is light. Objectors and the Parish Council consider that traffic survey should be undertaken. The queries have been raised with NYCC Highways. Their response indicates that the applicant has provided the necessary Transport Statement and has identified the anticipated traffic generation from the development of the site. The figures supplied are calculated from a computer system called TRICS and whilst the developer does set the parameters into the database, the data supplied is assessed by North Yorkshire County Council to ensure it is not misrepresenting a true likeness of traffic flows. Given the size of the development, the applicant does not need to provide details of the existing flows on York Road only the likely additional traffic flows that the development will create. This has been done and indicates the overall traffic impact is likely to be modest. Highways are satisfied on this basis that the scheme is acceptable.
- 2.7.5 Concern was also raised about the pedestrian crossing to the existing recreational area and the risk to children. The proposed pedestrian crossing recognises that there may be movements of adults and children between the proposed football field and the existing recreation facilities, and therefore it seeks to provide a safe means of crossing the road. There is no such facility in place at present between houses on the opposite side of York Road and the existing recreation facilities. The location of the existing recreation facilities in the village must lead to movements across Main Street/York Road already. The proposed development provides for a pedestrian crossing and will help to ensure that such movements can take place in a safe manner. The Highway Authority has not raised any concerns about the proposed crossing.
- 2.7.6 Further letters comment that the pedestrian link to the village via Beech Grove is private and unadopted, and therefore cannot be used. However, the applicant states

they have secured rights to use this link to serve the development. Concerns are raised regarding the potential use of this by the whole site as a pedestrian link to the village and point out the dangers due to lack of lighting, footpath and vehicles reversing out of drives. Beech Grove does serve only 5 dwellings and is not therefore heavily trafficked. Although no concerns are raised in their consultation response, a response on this issue has been requested of the Highway Authority. An update will be given to members at the meeting.

- 2.7.7 Subject to clarification of the above, having had regard to the above it is considered that the scheme is acceptable and would not harm road safety conditions in accordance with policies ENV1(2), T1, T2 and T7 of the Local Plan and Paragraphs 34, 35 and 39 of the NPPF.

2.8 Flood Risk, drainage and climate change

- 2.8.1 Policies SP15, SP16 and SP19 of the Core Strategy require proposals to take account of flood risk, drainage, climate change and energy efficiency within the design. These policies should be afforded significant weight.
- 2.8.2 The application site is located in Flood Zone 1, which comprises land assessed as having a less than 1:1000 annual probability of flooding. It is therefore low risk and is considered to be at a low probability of flooding.
- 2.8.3 The application is accompanied by a Flood Risk Assessment which examines potential flood risk as above and considers the options for Surface water drainage and Foul water drainage.
- 2.8.4 A Drainage Report has been provided which shows that infiltration is a potential surface water drainage solution, and also considers alternative options in the event that this method of drainage is not feasible. It indicates that ground tests will be required to confirm the feasibility of infiltration, but that work will be carried out at detailed planning stage.
- 2.8.5 The Environment Agency, Yorkshire Water and the Internal Drainage Board have raised no objections subject to a series of drainage conditions. The Strategic Flood Risk Authority, have updated their advice and comments are awaited on the additional information submitted by the applicants. However, on the previous scheme it was concluded that the scheme submitted offered realistic options for surface water management and an appropriate condition regarding the detailed design could be imposed.
- 2.8.6 In the light of this it is considered by officers that, subject to receipt of comments from the County Flood Authority, sufficient information has been submitted to allow the Local Planning Authority to undertake an appropriate assessment in respect to drainage. Officers consider that in respect of drainage, all issues can be satisfactorily addressed by conditions on the outline permission.
- 2.8.7 With respect to energy efficiency, in terms of Policy SP16 requires that 10% of the total predicted energy requirements to the development be provided from renewables, low carbon or decentralised energy sources as part of the development. It is considered that this can be secured via condition and as such the proposals accord with Policies SP15 and SP16 of the Core Strategy. The dwellings will be constructed to code for sustainable homes level 4, and appropriate glazing and insulation will be required in order to meet this standard. The proposal therefore can accord with Policies SP15, SP16 and SP19 of the CS and the NPPF

2.9 Residential Amenity

- 2.9.1 Relevant policies in respect to impacts on residential amenity include Policy ENV1 (1) of the Local Plan. Policy ENV1(1) should be afforded significant weight given that it does not conflict with the NPPF.
- 2.9.2 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. The key considerations in respects of residential amenity are considered to be the potential of the proposal to result in overlooking, overshadowing and overbearing.
- 2.9.3 The revised indicative layout plan is a significant improvement over the plans proposed under 2015/1025/OUT. The distance between the proposed dwellings and existing properties has been significantly increased. The minimum distance back to back is now over 29 metres and in most cases a larger distance is achieved. Moreover, there is a reduction in the number of dwellings backing onto existing houses and consequently a greater amount of spacing between the buildings. As such the indicative layout plan demonstrates that a satisfactory standard of residential amenity which respects the amenity for current occupants can be achieved. A satisfactory standard of amenity for the proposed dwellings is also demonstrated. this plan is indicative only but i appropriate to impose a condition limiting the number of dwellings on the site so that these are not increased at the reserved matters stage.
- 2.9.4 The proposal was to include a landscape buffer between houses on York road and the new housing backing on to it. This followed in the light of comments received at the public exhibition. The feature was included to increase separation between existing and proposed properties whilst ensuring no development or structures could be provided in that gap. However, concerns were raised regarding security and maintenance of the buffer, and therefore a revised layout plan has been submitted that replaces it with garden space within the proposed dwellings. Additional objections have now been received regarding the loss of the buffer. However, the extent of the gap between existing and proposed dwellings would be maintained.
- 2.9.5 All of the proposed dwellings would be no greater than two storeys in height and of conventional design. Whilst the planning system does not provide for the protection of views, the proposed development meets and exceeds normal separation distances, and this is shown by the building footprint plan provided with the application. Residential amenity would therefore be safeguarded by the proposals.
- 2.9.6 Comments have been received raising concerns over the noise and disturbance from construction. The development would be subject to a construction management plan (by condition) which would ensure that the amenity of local residents would be protected during the construction process. The Environmental Health consultation response also requests a condition that requires a scheme to minimise the impact of noise, vibration, dust and dirt on existing residential properties.
- 2.9.6 It is therefore considered that an appropriate scheme could be designed which would ensure that no significant detrimental impact is caused to existing residents through overlooking, overshadowing or creating an oppressive outlook in accordance with policy ENV1(1) of the Local Plan and the NPPF.

2.10 Contaminated land and ground conditions

- 2.10.1 Policies ENV2 of the Local Plan and SP19 of the Core Strategy relate to contamination. These policies should be afforded significant weight.
- 2.10.2 The Council's Contamination Consultant (WPA) was consulted on the previous application (2015/1025/OUT) and considered that the submitted Desktop Study (Phase 1 Investigation) broadly meets the requirements of good practice. The main reasons for potential contamination relate only to the made ground and a pond. The consultant recommending further investigation and WPA agree the risk of contamination is low. Given this there were no objections from a contamination perspective and conditions were recommended which can be repeated here.
- 2.10.3 The proposals, subject to the conditions at section 3 are therefore acceptable with respect to contamination in accordance with Policy ENV2 of the Local Plan and Policy SP19 of the Core Strategy.

2.11 Recreational Open space

- 2.11.1 Policy in respect of the provision of recreational open space is provided by Policy RT2 of the Local Plan which should be afforded significant weight, the Developer Contributions Supplementary Planning Document, Policy SP19 of the Core Strategy and paragraphs 70 and 73 of the NPPF are also relevant.
- 2.11.2 It is noted that Policy RT2 sets out the requirements for provision to equate to 60sqm per dwelling and as such it would be appropriate to ensure that this is secured by Section 106 agreement given that the detailed layout and design could alter at reserved matters stage.
- 2.11.3 The submitted scheme requires on site recreational provision of 3420 sqm on the basis of the 57 units proposed. The application indicates that the size of land being provided as ROS land could accommodate a football pitch and is significantly in excess of the requirement. In addition it can accommodate 30 parking spaces and a club house. There are also pockets of landscaped areas within the housing development including land flanking the new main access and a small pocket at the southern end adjacent to the link to Beech Grove. However, these do not form dedicated recreational open space and can't be included in the calculation of the provision.
- 2.11.4 In terms of simply the quantity of land provision, the requirements of RT2 are exceeded. Objections have been received from the Parish Council and residents on the nature of the recreational provision on the basis that only the land is provided and funds would be needed to provide the pitch and associated facilities. Objectors also point out that it is unfair for the recreational provision to be entirely for the benefit of the football club which would not be a community benefit. Moreover, consultation should take place to determine the resident's requirements.
- 2.11.5 Objections have been raised to the scheme on the grounds there would be no guarantee that the football proposal would go ahead as this provides the land only and funding would be required from other sources to secure the facilities. However, the developers have carried out a public exhibition and sought to discuss matters with the PC and locals. The extent of the ROS land would be secured by way of the Section 106 Agreement as open space provision required by the development, and the land for the pitch proposed could be subject to obligations requiring it to be community use and for it to be laid out to enable to be used for the purpose intended.

- 2.11.6 In terms of the general provision of the ROS land, the location at this end of the village near to the existing community facilities is considered acceptable in quantitative terms to meet the requirements of RT2.
- 2.11.7 It is therefore considered that subject to a Section 106 agreement to secure the on-site provision of Recreational Open Space, the proposals are appropriate and accord with Policies RT2 of the Local Plan, Policy SP19 of the Core Strategy and the NPPF.

2.12 Heritage Assets

- 2.12.1 Relevant policies in respect to the impact on the historic environment and archaeology include Policies SP18 of the Selby District Core Strategy Local Plan and Policy ENV28 of the Selby District Local Plan. Policy ENV28 should be afforded significant weight as it is broadly compliant with the NPPF. Section 12 of the NPPF requires Local Planning Authorities to identify and assess the particular significance of any heritage asset that may be affected by a proposal taking account of available evidence and any necessary expertise.
- 2.12.2 The site has been indicated to have potential for archaeological interest. The North Duffield Conservation and Local History Society together with local residents raise concerns about the site's historical potential.
- 2.12.3 A Desk-Based Archaeological Assessment (DBAA) incorporating a Geophysical Survey was provided with the previous planning application, and this report has also been submitted with the subject application. The DBAA finds that the potential for any archaeology within the site to be of national interest is low. The Planning Committee took the view that such works should be undertaken prior to a grant of permission, and one of the reasons for refusal was that insufficient information had been provided to allow the Authority to make an assessment of the archaeological importance of the site.
- 2.12.4 Since the refusal of the previous application KCS Development has instructed a specialist archaeological contractor to carry out excavations on the site, in accordance with a scheme of investigation agreed with North Yorkshire County Council's (NYCC) archaeology unit. A total of 14 no. 50m long trenches have been excavated, followed by detailed analysis of the contents. The analysis is provided within an Archaeological Evaluation Report (AER). The AER concludes that the site has some archaeological features, and various pottery remains were found as part of the investigation. However, nothing has been discovered which would prevent development - as long as a satisfactory programme is agreed with NYCC to monitor and record any archaeology discovered during ground works. Such a programme would normally be a requirement of a strip and record planning condition.
- 2.12.4 Given the above, there is no evidence to suggest that the site accommodates archaeology of great significance, and therefore any harm or loss associated with the proposed development should be considered in that context. The County Archaeologist has been re-consulted and is satisfied the scheme can proceed subject to appropriate conditions which are included at section 3 of this report.
- 2.12.5 It is therefore considered that having had regard to Policy ENV28 of the Selby District Local Plan (2005), Policy SP18 of the Selby District Core Strategy Local Plan (2013) and Paragraph 135 of the NPPF it is considered that, on balance, any harm to the non-designated archaeological features, subject to the attached condition would be outweighed by the benefits of the proposal.

2.13 Education Healthcare and waste recycling

- 2.13.1 Policies ENV1 and CS6 of the Local Plan and the Developer Contributions Supplementary Planning Document set out the criteria for when contributions towards education, healthcare and waste and recycling are required. However, education is now covered by CIL.
- 2.13.2 Objections have been received concerned that the school capacity insufficient and there is no room to expand. The education authority has a statutory duty to ensure that sufficient school places are provided to meet the needs of the occupants of the proposed development, whether or not that capacity is provided within North Duffield.
- 2.13.3 With respect to Waste and Recycling, a contribution of £65 per dwelling would be required and this would therefore be secured via Section 106 agreement.
- 2.13.4 Since the applicant has agreed to make appropriate contributions by way of section 106 towards re-cycling facilities the proposals comply with policies ENV1 and CS6 of the Local Plan, Policy SP19 of the Core Strategy and the Developer Contributions SPD with respect to developer contributions.

2.14 Affordable Housing

- 2.14.1 Policy SP9 states that the Council will seek to achieve a 40/60% affordable/ general market housing ratio within overall housing delivery. In pursuit of this aim, the Council will negotiate for on-site provision of affordable housing up to a maximum of 40% of the total new dwellings on all market housing sites at or above the threshold of 10 dwellings.
- 2.14.2 The policy goes on to state that the actual amount of affordable housing to be provided is a matter for negotiation at the time of a planning application, having regard to any abnormal costs, economic viability and other requirements associated with the development.
- 2.14.3 The Selby District Council Strategic Housing Market Assessment 2009 has identified a need for both 2 and 3 bedroom affordable homes with a required tenure split of 30-50% Intermediate and 70-50% Rented. The Section 106 agreement would secure up to the 40% provision on site and would ensure that a detailed Affordable Housing Plan is provided setting out the size and tenure mix. However, a different mix may be considered if it has been agreed in principle with an identified Registered Provider (RP) partner. The outline scheme proposes a total of 65 no. units, and as such our Core Strategy requires a contribution of up 26 units. The applicants have agreed to this level of provision which will be secured by way of a Section 106 agreement.
- 2.14.4 The proposals are therefore considered acceptable with respect to affordable housing provision having had regard to Policy SP9 subject to the completion of a Section 106 agreement.

2.15 Other matters

- 2.15.1 Comments have been made about loss of property values. However, property values are not a matter that can be taken into account in the determination of planning applications

- 2.15.2 Other comments relate to the site being Green Belt land. However, although the site is in open countryside outside the established development limits it does not comprise Green Belt.
- 2.15.3 Comments are made that there is sufficient housing land in Selby at present. However, the council conceded at the recent inquiry that it did not have a 5 year housing land supply.

2.16 Conclusion

The scheme would bring benefits through the delivery of market and affordable housing in the district with an acknowledged shortfall. This is a benefit of significant weight. Added to this there would be some benefit in environmental terms from landscaping in economic terms the scheme would provide construction jobs and local investment.

The applicants refer to the benefits of the land for football facilities. However, the provision of new recreational open space in housing developments is a policy requirement and an expectation in new housing development and is therefore afforded little weight.

The Core Strategy indicates that North Duffield is a Designated Service Village and thus a village where there is some scope for additional residential growth to support rural sustainability. Weighed against the above benefits, the site lies outside of the development limits in land defined as open countryside. According to the Strategy only certain types of development should be permitted here, of which the development proposal is not one. The proposal therefore conflicts with the locational requirements of the adopted development plan. This weighs in the planning balance. However the weight to be given to the conflict with the development plan is reduced by the Council's inability to demonstrate a 5 year supply of deliverable housing. The NPPF is clear that when this situation arises, relevant policies for the supply of housing should not be considered up to date. These include policies setting development limits.

The development would broadly comply with the development locational strategy of the development plan being adjacent and well related to a sustainable service village where the basic essential facilities are provided. Still, the presumption in favour of sustainable development still does not equate to a blanket approval for residential development in locations that would otherwise have conflicted with the development plan, if the adverse impacts of the proposal significantly and demonstrably outweigh the benefits, then planning permission should be refused.

There would be some harm from the scale of the development and the level of growth of the village. Furthermore, although the site is well related to the settlement limits it does represent a large extension. However, no specific limits for the growth of the village have been set and the growth options at present are only a guide. The proposal is considered, on balance, to be acceptable in principle. In respect of matters of acknowledged importance such as climate change, flood risk, nature conservation interests (subject to comments of the RSPB and YWT), drainage (subject to comments from Suds on the additional drainage information), highway safety, contaminated land, archaeological considerations and impact on residential amenity it is considered that any harms arising from the development would not significantly and demonstrably outweigh the benefits in terms of housing delivery of the application. Therefore the proposal is considered acceptable when assessed against the policies in the Selby District Local Plan, the Core Strategy and the NPPF

in particular paragraph 14, taken as a whole. It is on this basis that permission is recommended to be granted subject to conditions and a Section 106 agreement.

3.0 Recommendation

This planning application is recommended to be APPROVED subject to delegation being given to Officers to complete the Section 106 agreement to secure 40% on-site affordable housing provision, the provision of on-site recreational open space and a waste and recycling contribution and subject to the conditions detailed below:

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

Reason:

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

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

Reason:

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

3. The number of dwellings on the site shall not exceed 57 and the location of the dwellings shall not extend into the area of land indicated to be provided for the open space, the landscaping area, the football pitch and associated facilities.

Reason:

Any further dwellings or encroachment of built form further north than indicated on the indicative layout would be an intrusive form of development harmful to the character and form of the village and would be a harmful urban encroachment into the open nature of the area of land to the north contrary to ENV1 of the LP, and SP1, SP2 and SP19 of the CS.

4. The development hereby permitted shall be carried out in accordance with recommendations, findings and mitigation measures outlined in Ecological Appraisal dated May 2016 and the Habitat Regulations Assessment Report dated May 2016 and the Wintering Bird Surveys of May and November 2016 by Smeedon Foreman Ecologists.

Reason:

In the interests on nature conservation interest and the protection of protected species and in order to comply with Policy ENV1 (5) of the Local Plan and Policy SP18 of the Selby District Core Strategy Local Plan (2013).

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

Reason:

In the interest of sustainability, to minimise the development's impact in accordance with Policy SP16 of the Core Strategy.

- 6 No development shall commence on site until a detailed site investigation report (to include soil contamination analysis), a remedial statement and an unforeseen contamination strategy have been submitted to and agreed in writing by the Local Planning Authority. The development shall be carried out in strict accordance with the agreed documents and upon completion of works a validation report shall be submitted certifying that the land is suitable for the approved end use.

Reason:

To secure the satisfactory implementation of the proposal, having had regard to Policy ENV2 of the Selby District Local Plan and the NPPF.

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

Reason:

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

8. No development approved by this permission shall be commenced until the Local Planning Authority has approved a Scheme for the provision of surface water drainage works. The approved scheme shall be implemented before the development is brought into use. The following criteria shall be considered within the scheme:

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

Reason:

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

9. No piped discharge of surface water from the application site shall take place until works to provide a satisfactory outfall for surface water, other than the existing public sewer, have been completed in accordance with details to be submitted to and approved by the local planning authority before development commences.

Reason

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

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

- (1) Detailed engineering drawings to a scale of not less than 1:500 and based upon an accurate survey showing:
 - (a) the proposed highway layout including the highway boundary
 - (b) dimensions of any carriageway, cycleway, footway, and verges
 - (c) visibility splays
 - (d) the proposed buildings and site layout, including levels
 - (e) accesses and driveways
 - (f) drainage and
. sewerage system
 - (g) lining and signing
 - (h) traffic calming measures
 - (i) all types of surfacing (including tactiles), kerbing and edging
- (2) Longitudinal sections to a scale of not less than 1:500 horizontal and not less than 1:50 vertical along the centre line of each proposed road showing:
 - (a) the existing ground level
 - (b) the proposed road channel and centre line levels
 - (c) full details of surface water drainage proposals.
- (3) Full highway construction details including:
 - (a) typical highway cross-sections to scale of not less than 1:50 showing a specification for all the types of construction proposed for carriageways, cycleways and footways/footpaths
 - (b) when requested cross sections at regular intervals along the proposed roads showing the existing and proposed ground levels
 - (c) kerb and edging construction details
 - (d) typical drainage construction details.
- (4) Details of the method and means of surface water disposal.
- (5) Details of all proposed street lighting.
- (6) Drawings for the proposed new roads and footways/footpaths giving all relevant dimensions for their setting out including reference dimensions to existing features.

(7) Full working drawings for any structures which affect or form part of the highway network.

(8) A programme for completing the works.

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

INFORMATIVE

In imposing condition number 8 above it is recommended that before a detailed planning submission is made a draft layout is produced for discussion between the applicant, the Local Planning Authority and the Highway Authority in order to avoid abortive work. The agreed drawings must be approved in writing by the Local Planning Authority for the purpose of discharging this condition

Reason;

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

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

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

Reason;

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

12 Unless otherwise approved in writing by the Local Planning Authority, there shall be no excavation or other groundworks, except for investigative works, or the depositing of material on the site until the access to the site have been set out and constructed in accordance with the published Specification of the Highway Authority and the following requirements:

(i) The access shall be formed with 6 metre radius kerbs, to give a minimum carriageway width of 5.5 metres for the first 20m, and the access road into the site shall be constructed in accordance with Standard Detail number A1.

(ii) Individual vehicle crossings to dwellings shall be constructed in accordance with the approved details and/or Standard Detail number E6.

(iii) Provision shall be made to prevent surface water from the site/plot discharging onto the existing or proposed highway in accordance with the Specification of the Local Highway Authority.

(iv) Provision of tactile paving in accordance with the current Government guidance.

All works shall accord with the approved details unless otherwise agreed in writing by the Local Planning Authority.

Reason;

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

INFORMATIVE

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

- 13 There shall be no access or egress by any vehicles between the highway and the application site (except for the purposes of constructing the initial site access) until splay areas are provided giving clear visibility of 45 metres measured along both channel lines of the major road York Road from a point measured 2.4m down the centre line of the access road. The eye height will be 1.05m and the object height shall be 0.6m. Once created, these visibility areas shall be maintained clear of any obstruction and retained for their intended purpose at all times.

Reason;

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

INFORMATIVE

An explanation of the terms used above is available from the Highway Authority.

- 14 Unless otherwise approved in writing by the Local Planning Authority, there shall be no excavation or other ground works, 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 include:
 - a) The provision of a pedestrian crossing adjacent to the site on York Road.
 - b) Relocation of 30mph/national speed limit signs.
 - c) Installation of roundels.

Reason

In accordance with policy number and to ensure that the details are satisfactory in the interests of the safety and convenience of highway users.

- 15 No part of the development shall be brought into use until the approved vehicle access, parking, manoeuvring and turning areas approved under condition number 12 are available for use unless otherwise approved in writing by the Local

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

Reason

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

- 16 Notwithstanding the provisions of the Town and Country Planning General Permitted Development Order 2015 or any subsequent Order, the garages shall not be converted into domestic accommodation without the granting of an appropriate planning permission.

Reason

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

- 17 Unless approved otherwise in writing by the Local Planning Authority there shall be no establishment of a site compound, site clearance, demolition, excavation or depositing of material in connection with the construction on the site until proposals have been submitted to and approved in writing by the Local Planning Authority for the provision of:

- (i) on-site parking capable of accommodating all staff and sub-contractors vehicles clear of the public highway
- (ii) on-site materials storage area capable of accommodating all materials required for the operation of the site.

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

Reason

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

INFORMATIVE

There shall be no access or egress by any vehicles between the highway and the application site until vehicle wheel washing facilities have been installed on the access road to the site in accordance with details to be submitted to and approved in writing by the Local Planning Authority. These facilities shall be kept in full working order at all times. All vehicles involved in the transport of waste materials or finished products to or from the site shall be thoroughly cleaned before leaving the site so that no mud or waste materials are deposited on the public highway.

- 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. This shall include:
- a. the appointment of a travel co-ordinator
 - b. a partnership approach to influence travel behaviour

- c. measures to encourage the use of alternative modes of transport other than the private car by persons associated with the site
- d. provision of up-to-date details of public transport services
- e. continual appraisal of travel patterns and measures provided through the travel plan
- f. improved safety for vulnerable road users
- g. a reduction in all vehicle trips and mileage
- h. a programme for the implementation of such measures and any proposed physical works
- i. 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 ENV1, T1 and T2 of the Local Plan and to establish measures to encourage more sustainable non-car modes of transport.

INFORMATIVE

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

- 19 Notwithstanding the parking provisions on the indicative layout plan, the level of car parking provision should meet the NYCC amended parking standards or any revised standards appropriate at the time of the submission of the reserved matters application.

Reason;

In the interests of road safety requirements and to meet the requirements of Policies ENV1, T1 and T2 of the Local Plan.

- 20 No demolition/development shall take place until a written scheme of Archaeological 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:

- (i) The programme and methodology of site investigation and recording
- (ii) Community involvement and/or outreach proposals
- (iii) The programme for post investigation assessment
- (iv) Provision to be made for analysis of the site investigation and recording
- (v) Provision to be made for publication and dissemination of the analysis and records of the site investigation
- (vi) Provision to be made for archive deposition of the analysis and records of the site investigation
- (vii) Nomination of a competent person or persons/organisation to undertake the works set out in the written scheme of investigation.

Reason

To ensure the satisfactory investigation and recording of any matters of archaeological interest and to comply with Policy SP18 of the CS and the NPPF

21 No demolition/development shall take place other than in accordance with the Written Scheme of Archaeological Investigation approved under condition 20 above.

Reason

To safeguard any features of archaeological interest on the site

22 The development shall not be occupied until the site investigation and post Archaeological investigation assessment has been completed in accordance with the programme set out in the Written Scheme of Investigation approved under condition 20 and the provision made for analysis, publication and dissemination of results and archive deposition has been secured unless otherwise agreed in writing with the local planning authority.

Reason

To ensure the satisfactory investigation and recording of any matters of archaeological interest and to comply with Policy SP18 of the CS and the NPPF

23 A copy of any resulting reports from the archaeological fieldwork shall be forwarded to the Historic Environment Record Officer at North Yorkshire County Council for inclusion in the North Yorkshire Historic Environment Records

Reason

To ensure the safe keeping of any recording of any matters of archaeological interest and to comply with Policy SP18 of the CS and the NPPF

24 The commencement of the Development shall not take place until there has been submitted to, approved in writing by, and deposited with the Local Planning Authority a Construction Environmental Management Plan. The Plan shall include details of how light, noise, dust and other airborne pollutants, vibration, smoke, and odour from construction work will be controlled and mitigated. The construction of the Development shall be completed in accordance with the approved Plan unless any variation has been approved in writing by Local Planning Authority. The plan shall include details of monitoring to be undertaken to demonstrate that the mitigation measures are sufficient and being employed as detailed.

Reason:

To protect the amenity of the area, the environment and local residents from noise pollution and to comply with Policies ENV1 of the LP.

25 Details of external lighting of the development shall be submitted to and approved in writing by the Local Planning Authority before the external lighting works for the phase of the development are commenced. The proposed scheme shall:

- Indicate the location of external lighting and provide technical details of the type of lighting to be installed and spillage resulting;
- Ensure that it represents the minimum level required for security purposes;
- Be designed to minimise glare and spillage.

Reason:

In the interests of ensuring that the proposals would not have an adverse impact on this rural location.

26 No development shall commence on site until the trees on the site which are to be retained have been enclosed by protective fencing, in accordance with British Standard 5837 (2005): Trees in Relation to Construction. Before the fence is erected its type and position shall be approved with the Local Planning Authority and after it has been erected, it shall be maintained for the duration of the works and no vehicle, plant, temporary building or materials, including raising and or, lowering of ground levels, shall be allowed within the protected areas

REASON:

To enable the Local Planning Authority to ensure the protection of trees on the site in the interests of visual amenity and in accordance with Policy ENV1 of the Local Plan

27 The development hereby permitted shall be carried out in accordance with recommendations, findings and mitigation measures outlined in Tree Report by Elliott Consultancy Ltd dated June 2016.

Reason:

To enable the Local Planning Authority to ensure the protection of trees on the site in the interests of visual amenity and in accordance with Policy ENV1 of the Local Plan.

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

(to be inserted into the decision notice)

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 2010

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

3.2 Financial Issues

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

4. Conclusion

4.1 As stated in the main body of the report.

5. Background Documents

5.1 Planning Application file reference 2016/0644/OUT and associated documents.

Contact Officer: Fiona Ellwood (Principal Planning Officer)

Appendices: None

Appendix 2

Agenda Item 6.4

APPLICATION NUMBER:	2016/0644/OUT	PARISH:	North Duffield Parish Council
APPLICANT:	KCS Development	VALID DATE: EXPIRY DATE:	1st June 2016 31st August 2016
PROPOSAL:	Outline planning application for up to 57 dwellings and a new community football pitch with parking, a changing room/clubhouse to include access (all other matters reserved) at land off York Road and		
LOCATION:	Street Record Main Street North Duffield Selby North Yorkshire		

Corrections

There is an error in the report at parag 2.3.12 on page 134. The figures given are from a previous position and should read the same as those on page 126 from the Development Policy comments ...i.e.

“To date, North Duffield has seen 11 dwellings built in the settlement since the start of the Plan Period in April 2011 and has extant approvals for 72 dwellings, giving a total of 83”.

Ownership issue

A letter was received disputing part of the land ownership on the frontage to the west of the football facilities. However, the applicants have provided evidence and the Council's Solicitor has checked the land registry and it is clear that the land is owned by the applicants.

Additional Representations received;

Letter on behalf of the owner of the bungalow under construction to the north west of the site.

- 1 Pedestrian link on sharp bed – worst place to cross
2. No run off area on 3 sides of the pitch and no means of avoiding footballs landing on the adjacent land

Chairman of North Duffield Playing Field Association

Re-iterating no discussions have been held about the additional land and it is far from being a given that we would want to be involved in its management

Two further letters – no new issues raised

RSPB- Now withdraw objections based on the additional information. Highlight that the development will increase the use of both the Lower Derwent Valley and Skipwith Common. The RSPB therefore urges the Council to consider securing

contributions to established programmes in place to monitor and mitigate recreation visits to the Skipwith Common and Lower Derwent Valley designated sites, in order to help minimise biodiversity impacts and secure a net gain in biodiversity.

Applicant's response – accepts that there might be a very small increase in visits to the designated sites, and therefore is willing to make a financial contribution of £2,500 to assist with the monitoring of such recreational behaviour.

Officer response – The suggested offer would acceptably mitigate against the increased impact and ensure the application meets the requirements of paragraph 109 of the NPPF and Policy CP15 of the Selby District Core Strategy.

The provision should be provided by way of a contribution through the S106 agreement and the recommendation of the application should be amended to reflect this.

Flood Risk management (SuDS and Development Control Officer) – comments received and concludes no objections subject to an additional condition.

Beech Grove Pedestrian link- the report at parag 2.7.6 refers to an update. Further advice was sought from highways in the light of local concerns.

Highway comments- Beech Grove is private, therefore we cannot comment on its suitability for pedestrians. The planning application regardless of this access does provide pedestrian access along York Road and therefore no highway objections are raised. If Beech Grove had been public highway we would request either a footway was installed, or the carriageway widened slightly and made into a shared surface. Since it is not we cannot request any improvements. It would therefore be down to any residents using the access to determine whether they feel it safe to use a private road or to use the highway in the form of the footway along York Road. The only thing the highway authority can do is put a sign advising that pedestrians are likely to be in the highway at the entrance to Beech Grove. The sign would have to be in the highway and therefore would be on York Road.” Additional condition wording suggested

Officer response – Applicants agree to suggested condition

Recreation Open Space-

The applicants in a recent email point out that;

Whilst the land will be transferred to the Dragons Football Club, the Club see themselves as part of the community, and many local children are members. Furthermore, the football pitch will not be fenced off, and so at times when it is not being used by the Club it will be available for use by the general public

The North Duffield Dragons Junior Football Club submitted a recent letter with the following summarized points;

Pressing need for additional playing pitches and club facilities for the North Duffield Dragons Junior Football Club which is the largest community based group within the village, currently with over 155 players from ages 3-16.

Children predominantly from the village or from the local surrounding villages. If approved the club would utilise the additional space to the benefit of the club, its members and ultimately the community of North Duffield.

The scheme represents our final intention for the land we are to be gifted & efforts to obtain funding for the project would commence as soon as the land is available. As soon as we gain control of the land we would look to maintain it as a flat, grassed area used for training & potentially occasional overspill parking. As such the benefit to the club & community should therefore commence immediately & only increase over time.

The existing playing fields currently 'home' several pitches which are used by the community as whole aside from the playing of matches by the Dragons on a weekend and training during week nights. Regularly used by fellow children, parents or grandparents from the community. The additional pitch space will attract much of the same use when serving the new development and existing residents.

Note the Parish Council object on the basis that the additional pitch is not viewed as a whole community asset. The Parish Council have not engaged with the football club to see how they would utilise this space prior to making their response. Not aware of any canvassing of public opinion by the Parish Council (or any other local group) as to what, in their opinion, would make a good community asset in place of the football pitches.

Officer comments and Response-

To clarify, the application seeks permission to include a football pitch, clubhouse and parking facilities. Only the land would be secured at this stage not the facilities. A reserved matters application would need to be submitted with the details of these facilities to be agreed. The North Duffield Dragons Junior Football Club who would need to be party to the S106 agreement.

It should be noted that, in land use terms the application provides land significantly in excess of the amount of recreational open space required by policy R2 of the LP. However, balanced against this excess in requirement, other than providing the land, it does not secure the provision of the facility (clubhouse and parking) and the cost is to be borne by the football club through raising funds. The applicants have now indicated that they are prepared for the S106 to secure that, before a certain level of occupation, there can be a requirement for the football land to be levelled, grassed, marked out as a football pitch, and be maintained as such.

The excess of land provision is a matter between the developer and the football club and cannot carry any additional weight in the balance of consideration of this proposal.

It is noted that the PC and many local residents do not consider the provision of football facilities to be of community/public benefit. Policy R2 of the LP requires the provision of recreational open space in new housing developments. It does not specifically require this to be Public Open Space. The proposed facilities will provide some community benefit albeit to a specific user group. As such the development can be considered to fully meet the requirements of Policy R2 of the Local Plan.

Amended Recommendation

This planning application is recommended to be APPROVED subject to:-

- i) Delegation being given to Officers to complete the Section 106 agreement to secure 40% on-site affordable housing provision, the transfer of land for the football pitch and associated facilities and for the provision of a football pitch on the site (timing to be following occupation of 30th dwelling), a waste and recycling contribution and a contribution of £2500 to be used towards actions to address threats to the 2 designated nature conservation sites and the monitoring of visitor use.**
- ii) The conditions set out in paragraph 3 of the report and the 2 additional conditions referred to in this update and set out in full below.**

Condition-flood risk

No development shall take place until a detailed design and associated management and maintenance plan of surface water drainage for the site based on sustainable drainage principles and an assessment of the hydrological and hydrogeological context of the development has been submitted to and approved in writing by the Local Planning Authority. The surface water drainage design should demonstrate that the surface water runoff generated during rainfall events up to and including the 1 in 100 years rainfall event, to include for climate change and urban creep, will not exceed the run-off from the undeveloped site following the corresponding rainfall event. The approved drainage system shall be implemented in accordance with the approved detailed design prior to completion of the development. The scheme to be submitted shall demonstrate that the surface water drainage system(s) are designed in accordance with the standards detailed in North Yorkshire County Council SuDS Design Guidance (or any subsequent update or replacement for that document).

Reason;

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

Condition- highways Beech Grove

Unless otherwise approved in writing by the Local Planning Authority in consultation with the Highway Authority, the development shall not be brought into use until the following highway works have been constructed in accordance with the details approved in writing by the Local Planning Authority:

- a) Provision of a warning sign/s at the Junction of York Road/Beech Grove (Traffic Signs and General Regulations Directions 2016, sign diagram 544.1 Pedestrians in road ahead).

Reason

In accordance with policy number and in the interests of the safety and convenience of highway users.

INFORMATIVE – Agreement

There must be no works in the existing highway until an Agreement has been entered into between the Developer and the Highway Authority.



Surface water taken to soakaway, min 5 m from buildings and subject to percolation test

1.2 m Close boarded timber fence

Foul drainage taken to existing mains sewer in highway

Adoptable turning area shown shaded. Soakaway to accept surface water from access road.

2.4 m x 33 m visibility splay

PLEASE NOTE:
Do not scale any measurements from this drawing for construction purposes. All dimensions for fabrication and manufacture must be checked on site. Scheduling of items must be checked & cross referenced with all information available to avoid mistakes when ordering. Any drawing discrepancies must be reported immediately. This drawing is protected by copyright and must not be copied or reproduced without the written consent of The Planning & Design Partnership Limited.

WARNINGS TO HOME PURCHASERS:
PROPERTY MISDESCRIPTIONS ACT 1991
Buyers are warned that this is a working drawing and is not intended to be used as a descriptive contract. Descriptions in relation to any particular property or development, any of the specified names prescribed by order made under the above act. The contents of this drawing may be subject to change at any time and alterations and variations can occur during the progress of the work without revision of the drawing. Consequently the layout, form, content and dimensions of the finished construction may differ materially from those shown. Note the contents of this drawing constitute a contract, part of a contract or a warranty.

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

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

- * A wall forming part of only one building but which is on the boundary line between two (or more) properties.
- * A wall which is common to two (or more) properties, this includes where someone builds a wall and a neighbour subsequently builds something butting up to it.
- * A garden wall, where the wall is outside the boundary line for both parties #3 and it is used to separate the properties but is not part of any building.
- * Floors and ceilings of flats etc.
- * Excavation near to a neighbouring property.

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

Schedule Of Accommodation

6 HOUSES TOTAL

House Type A - 1, 2 and 5 - 3 bed
132.4 m² / 1,425 sq ft each, excluding garage

House Type B - 3, 4 and 6 - 4 bed
164.7 m² / 1,773 sq ft each, excluding garage

Total Accommodation
891.3 m² / 9,594 sq ft

Site Area - 0.45 HA approximately
excluding Old Forge Cottage plot

13 houses per ha approximately

Refuse & Cycle Provision
With Individual Houses & Gardens

**AMENDED
DRAWING**

RECEIVED
06.02.2017
BUSINESS SUPPORT

Rev A 06-02-17 Dwellings 4-6, plots extended to include protected trees.

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

Site Plan
Scale 1:200 @ A1

Client	Mr & Mrs K. Ellis Old Forge Cottage, Busk Lane, Church Fenton LS24 9RF	
Project	Proposed 6 No. Dwelling Development Old Forge Cottage, Busk Lane, Church Fenton LS24 9RF	
Drawing	Site Plan	
Date	November 2016	Drawn SD
Scale	1:100, 1:200 @ A1	Rev. A
Status	Planning	
Drwg. No.	YEW-277-40-21	



Report Reference Number 2016/1368/FUL (8/62/35J/PA)

Agenda Item No: 6.4

To: Planning Committee
Date: 8th March 2017
Author: Jenny Tyreman (Planning Officer)
Lead Officer: Jonathan Carr (Interim Lead Officer – Planning)

APPLICATION NUMBER:	2016/1368/FUL	PARISH:	Church Fenton Parish Council
APPLICANT:	Mr Keith Ellis	VALID DATE:	22nd November 2016
		EXPIRY DATE:	17th January 2017
PROPOSAL:	Erection of 6No Dwellings		
LOCATION:	Old Forge Cottage Main Street Church Fenton Tadcaster North Yorkshire LS24 9RF		

This application has been brought before Planning Committee as the application has been made by a District Councillor.

Summary:

The application seeks planning permission for the erection of 6 dwellings. The application site is located outside the defined development limits of Church Fenton, which is a Designated Service Village as identified in the Core Strategy, and is therefore located within the open countryside.

Relevant policies in respect of the principle of this proposal include Policy SP2 “Spatial Development Strategy” of the Core Strategy. The principle of the proposed development is considered to be unacceptable having regard to Policy SP2A(c) of the Core Strategy, as the proposal is not for rural affordable housing need and there are no special circumstances. However, this policy is considered to be out of date in so far as it relates to housing supply and the Council acknowledges that it does not have a 5 year housing land supply.

As such the proposals for residential development on this site should be considered in the context of the presumption in favour of sustainable development and paragraphs 14 and 49 of the NPPF. In assessing the proposal against the three dimensions of sustainable

development set out within the NPPF, the development would bring economic, social and environmental benefits which weigh in favour of the proposal.

Having assessed the proposals against the relevant policies, it is considered that the proposal is acceptable in respect of its design, impact on highway safety, climate change, flood risk and drainage, nature conservation and protected species, land contamination, recreational open space, education and healthcare and waste and recycling.

The proposal is considered contrary to Policy SG1 of the Selby District Local Plan. The application site is located within a Strategic Countryside Gap (SCG) between the east and west sides of Church Fenton and the proposal would result in encroachment by urban form into the SCG, which would have an adverse effect on the open character of the countryside and compromise the gap between settlements.

The proposal is considered contrary to Policy ENV1 (4) of the Selby District Local Plan. The proposal would fail to provide an adequate amount of usable external amenity space for the occupiers of plot 4.

The scheme is considered contrary to Policy SP9 of the Core Strategy. However, in the context of the Court of Appeal decision it is considered that this is a material consideration of substantial weight which outweighs the policy requirement for the commuted sum. Officers therefore recommend that, having had regard to Policy SP9 and the PPG, on balance, the application is acceptable without a contribution for affordable housing.

Having regard to all of the above, it is considered that there are adverse impacts of granting planning permission that would significantly and demonstrably outweigh the benefits. The proposal is therefore considered unacceptable, on balance, when assessed against the policies in the NPPF taken as a whole. On this basis, it is considered that planning permission should be refused.

Recommendation

This planning application is recommended to be REFUSED for the reason(s) detailed in Paragraph 2.17 of the Report.

1. Introduction and Background

1.1 The Site

1.1.1 The application site is located outside the defined development limits of Church Fenton, which is a Designated Service Village as identified in the Core Strategy, and is therefore located within the open countryside. In addition, the application site is located within the Strategic Countryside Gap (SCG) between the east and west sides of Church Fenton.

1.1.2 The application site is located to the north west of the junction between Main Street and Busk Lane. The application site comprises an existing detached triple garage and area of garden land associated with the residential property to the south east, Old Forge Cottage. The application site fronts Busk Lane to the east, with residential development to the east and south, a cricket pitch, pavilion and parking with open fields to the north and a football pitch with open fields to the west.

- 1.1.3 To the northern and eastern boundaries of the application site are a region of Tree Preservation Order (TPO) trees (reference: 8/1985), comprising Ash and Sycamore.
- 1.1.4 The application site is located within Flood Zone 1.

1.2 The Proposal

- 1.2.1 The application seeks planning permission for the erection of 6 dwellings.
- 1.2.2 The proposed dwellings are to be a mixture of two house types (A and B) providing either three or four bedroomed accommodation.
- 1.2.3 Plots 1, 2 and 5 would comprise house type A, a three bedroomed accommodation. Each proposed dwelling would measure a maximum of 10.6 metres in width by 9.4 metres in depth and would have a pitched roof with eaves to a height of 5.5 metres above ground floor level and ridge to a height of 8 metres above ground floor level. Plots 1 and 2 would benefit from an attached garage and plot 5 would benefit from a detached garage, which would measure a maximum of 6.3 metres in width by 6.3 metres in depth and would have a pitched roof with eaves to a height of 2.6 metres above ground floor level and ridge to a height of 4.2 metres above ground floor level.
- 1.2.4 Plots 3, 4 and 6 would comprise house type B, a four bedroomed accommodation. Each proposed dwelling would measure a maximum of 10.9 metres in width by 6.9 metres in depth and would have a pitched roof with eaves to a height of 5.3 metres above ground floor level and ridge to a height of 7.8 metres above ground floor level. The proposed dwelling would have subservient two storey projections which would measure a maximum of 4.5 metres in width by 3.5 metres in depth and would have a pitched roof with eaves to a height of 5 metres above ground floor level and ridge to a height of 6.8 metres above ground floor level. Plots 3, 4 and 5 would benefit from an attached garage, which would measure 6.3 metres in width by 6.3 metres in depth and would have eaves to a height of 2.5 metres above ground floor level and ridge to a height of 4.2 meters above ground floor level.
- 1.2.5 The proposed dwellings would benefit from a vehicular access onto Busk Lane and would each benefit from an area of hardstanding to the front of the dwelling and an amenity area.

1.3 Planning History

- 1.3.1 The following historical applications are considered to be relevant to the determination of this application.
- 1.3.2 An outline application (reference: 2005/0222/FUL) for the erection of 4 No. dwellings and garages to include siting and means of access was refused on 07.06.2005.
- 1.3.3 An application (reference: 2005/0484/COU) for the proposed conversion of an existing smithy to provide additional living accommodation was permitted on 14.06.2005.

- 1.3.4 An application (reference: 2013/0825/TPO) for permission to carry out works to Ash and Sycamore trees within group A2 of TPO 8/1985 including lifting by 5 metres over highway, 4 metres over footpath & 4 metres garden side to balance the trees was permitted on 30.09.2013.
- 1.3.5 An application (reference: 2015/0835/FUL) for the proposed erection of 9 No dwellings was refused on 23.11.2015. The application was refused for the following reason:
1. The proposal would have an adverse effect on the open character, form and purpose of the Strategic Countryside Gap between the two separate settlements of Church Fenton. The proposed development does not constitute a use with minimal intrusion and does not enhance the overall open character by the removal of existing structures. The proposal is therefore contrary to Policy SG1 of the Adopted Selby District Local Plan.
- 1.3.6 An application (reference: 2016/1384/FUL) for the proposed erection of 1 No dwelling was granted at the 8 February 2017 Planning Committee meeting and issued on 9 February 2017.

1.4 Consultations

1.4.1 Parish Council

Object on the following grounds:

1. The proposal would result in the loss of the strategic countryside gap identified in the Selby District Local Plan
2. The proposal is for backfill development which is contrary to the character of the village
3. The access would create a traffic hazard as it is close to the Nanny Lane junction where there are existing traffic hazards
4. The development is close to the Cricket Club and is likely to create conflict with a popular village amenity
5. Recent approvals in Church Fenton significantly exceed any realistic allocation in Plan Selby.

1.4.2 NYCC Highways

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

Before construction begins the developer must either:-

- Complete payment of the estimated cost of highway works in accordance with the Notice served under the Advance Payments Code, or
- Enter into a Section 38 Agreement which provides a bond for due completion of the works.

Where a developer wishes the streets to remain private, the highway authority may enter into planning obligations with the developer under section 106 of the Town

and Country Planning Act 1990,16 which requires the developer to construct the new streets to the authority's standards and to maintain them in good condition at all times. Such a planning obligation enables the developer to avoid making payments under the Advance Payments Code, as the highway authority can then be satisfied that the streets will not fall into such a condition that a Private Streets Work Scheme will be needed. The planning obligation thus provides exemption to the developer from making advance payments under section 219(4)(e) of the Highways Act 1980.

Therefore as long as the applicant is mindful of the above, the Local Highway Authority has no objections to the proposals, subject to five conditions relating to detailed plans of road and footways layout, construction of roads and footways prior to occupation of dwellings, use of existing access, discharge of surface water and construction management plan.

1.4.3 Yorkshire Water

No response within statutory consultation period.

1.4.4 Selby Area Internal Drainage Board

The application will increase the impermeable area therefore the applicant should ensure that any existing or proposed surface water discharge system has adequate capacity for any increase in surface water run-off to the area.

Detailed plans of the surface water discharge could not be found within this application.

If the surface water were to be disposed of via a soakaway system, the IDB would have no objection in principle but would advise that the ground conditions in this area may not be suitable for soakaway drainage. It is therefore essential that percolation tests are undertaken to establish if the ground conditions are suitable for soakaway drainage throughout the year.

If surface water is to be directed to a mains sewer system the IDB would again have no objection in principle, providing that the Water Authority are satisfied that the existing system will accept this additional flow.

If the surface water is to be discharged to any watercourse within the Drainage District, Consent from the IDB would be required in addition to Planning Permission, and would be restricted to 1.4 litres per second per hectare or greenfield runoff.

No obstructions within 7 metres of the edge of a watercourse are permitted without Consent from the IDB.

1.4.5 Development Policy

The application should be considered against both the saved policies in the adopted 2005 Selby District Local Plan (SDLP) and the 2013 Selby District Core Strategy (CS).

The key issues which should be addressed are:

1. The Council's Five Year Housing Land Supply
2. The principle of development outside adopted Development Limits and the 'presumption in favour of sustainable development'
3. Previous Levels of Growth and the Scale of the Proposal
4. Relation of the Proposal to the Development Limit
5. Strategic Countryside Gap

1. The Council's Five Year Housing Land Supply

In December of 2016, an appeal decision found that the Council had less than a 5 year housing supply. This means that in accordance with paragraph 49 of the NPPF, the Council's policies for the supply of housing cannot be considered up to date. Relevant policies which deal with housing supply in the Core Strategy are:

- * SP2: Spatial Development Strategy, parts A (a), (b), (c).
- * SP4: Management of Residential Development in Settlements, parts (a), (b), (c), (d).
- * SP5: The Scale and Distribution of Housing, part B.

An approval on this site (if its deliverability can be proved by the applicant) would help the Council to restore its 5 year supply of housing.

2. The principle of development

As this is an application for housing in an authority that does not have a 5 year housing supply, paragraph 14 of the NPPF applies, which states that:

"At the heart of the framework is a presumption in favour of sustainable development", and for decision taking this means, unless material considerations indicate otherwise, approving development proposals that accord with the development plan without delay; and where the development plan is absent, silent or relevant policies are out-of-date, granting permission unless:

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

The examples given of specific policies in the footnote to paragraph 14 include those policies relating to sites protected under the Birds and Habitats Directives and/or designated as Sites of Special Scientific Interest; land designated as Green Belt, Local Green Space, an Area of Outstanding Natural Beauty, Heritage Coast or within a National Park (or the Broads Authority); designated heritage assets; and locations at risk of flooding or coastal erosion.

Church Fenton is defined in the Core Strategy as a Designated Service Village which has some scope for additional residential and small scale employment to support rural sustainability.

This full proposal for 6 dwellings is on land that is adjacent to, but outside of, the defined Development Limits of Church Fenton as defined on the Policies Map of the SDLP. Development Limits are currently under review as part of the PLAN Selby sites and allocations document in line with commentary detailed in the Core

Strategy. In evaluating the application, the relationship of the proposal to the edge of the settlement and defined Development Limit (as set out on the Policies Map) should be given due consideration as detailed under Section 4 of this response.

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

The Core Strategy designates levels of growth to settlements based on their infrastructure capacity and sustainability. When assessing whether the adverse impacts of a housing scheme would significantly and demonstrably outweigh the benefits, in terms of the effect on the settlements character, infrastructure capacity and sustainability, it is important to determine the impact a proposed scheme has on this level of growth.

The scale of this individual proposal, at 6 dwellings, is considered to be appropriate to the size and role of a settlement designated as a Designated Service Village in the Core Strategy. However the individual scale of the proposal must also be considered in terms of the cumulative impact it would have with the previous levels of growth in this settlement that have occurred since the start of the plan period. To date, Church Fenton has seen 11 dwellings built in the settlement since the start of the Plan Period in April 2011 and has extant approvals for 86 dwellings, giving a total of 97 dwellings.

4. Relation of the Proposal to the Development Limit

When assessing whether the adverse impacts of a housing scheme would significantly and demonstrably outweigh the benefits, it is important to determine the impact the proposed scheme has on its surroundings. Core Strategy Policy SP18 aims to protect the high quality and local distinctiveness of the natural and man-made environment. The site is located in the countryside and outside of Development Limits. The draft PLAN Selby evidence document "Settlement Setting Landscape Assessment" (January 2016) finds that that the overall landscape assessment parcel for the area to which the application relates is of high sensitivity to development. It also assesses the settlement edge to be of high importance to protect from development. The proposal extends into the countryside and in determining the application, thought will need to be applied as to:

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

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

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

5. Strategic Countryside Gap

The site lies within the Strategic Countryside Gap and therefore saved policy SG1 of the 2005 Selby District Local Plan applies. SG1 states that:

"Proposals for development affecting Strategic Countryside Gaps, as defined on the proposals map, will not be permitted where there would be an adverse effect on the open character of the countryside or where the gap between settlements would be compromised."

The supporting text for the saved policy then goes on to state that:

"Proposals for development in these gaps will only be acceptable where there would be no risk of physical intrusion such as certain types of recreational use, or where the overall open character of the land would be enhanced through the removal of existing structures."

Having regard to policy SG1 and the applicant's statements on this matter, you will need to decide if this development of 6 dwellings poses any risk of physical intrusion into the Strategic Countryside Gap. You will also need to consider whether the proposed scheme would harm the character of the countryside in this area, or compromise the gap between the built up areas of Church Fenton.

1.4.6 Environmental Health

No objections.

1.4.7 Natural England

No comments.

1.4.8 HER Officer

There are no known archaeological sites in the area indicated or within the immediate vicinity. Therefore, no objections.

1.4.9 North Yorkshire Bat Group

No response within statutory consultation period.

1.4.10 Contaminated Land Consultants

1. The report contains the necessary components of a Phase 1 Desk Study Report, however since a risk classification matrix has not been presented for the risk assessment it is not fully compliant with current technical guidance. For completeness, a risk classification matrix such as that found in CIRIA C552 is necessary, to provide context for the risk ratings in the risk assessment, to explain the consequence and severity of risk.

2. Recommendations in section 6.0 of the report are for a Phase 2 investigation to assess "geohazards" identified for the site. However, no recommendations are made for the assessment of the site for potential contamination linked to historical and current land uses. This contradicts information and recommendations in section 5.0 of the same report. This should be clarified by the Consultant.

3. Further assessment is recommended to determine whether historical activities within surrounding areas, specifically, the former garage to the south east of the site, may have had an impact on the environmental site conditions and whether this should be considered for the Phase 2 investigation.

4. It is therefore recommended that SDC Standard Contaminated Land Planning Conditions CL1 to CL5 are applied to the grant of any planning permission. This is to ensure that intrusive site investigation is carried out, followed by any necessary remediation, prior to the commencement of development on site.

5. Based on information provided in the Phase 1 Desk Top Study Report, the preliminary risk assessment element of the conditions is only partially met and additional information is required as included in items 1 to 3 above to meet this part of the conditions.

6. Prior to the Phase 2 Site Investigation, an Investigation Strategy is recommended to be submitted to the LPA for comment and approval. This to ensure that ground conditions are appropriately assessed by the Consultant and environmental risk identified for the development. Following this, a Phase 2 report is anticipated, followed by a remediation strategy and verification of remediation works is applicable.

1.5 Publicity

1.5.1 All immediate neighbours were informed by letter, a site notice was erected and an advert placed in the local press.

1.5.2 Ten letters of representation have been received from neighbouring properties as a result of this advertisement with concerns raised in respect of: (1) the principle of the proposed development, which is contrary to Policy SP2A of the Core Strategy and Policy SG1 of the Local Plan; (2) the design and impact of the development on the character of the area, which is not linear development and therefore not in compliance with the Village Design Statement; (3) the removal of trees from the site and the impact of the proposed development on the TPO region of trees to the northern and eastern boundaries of the application site, as the proposed development does not allow for the future growth of the trees; (4) the potential conflict between the occupiers of the proposed dwellings and the users of the existing adjacent football and cricket clubs; (5) the lack of infrastructure and concerns regarding existing school capacity; (6) the impact on drainage and the potential for flooding; (7) the increase in traffic and highway safety concerns; (8) too many properties proposed when the housing need are being addressed elsewhere in the District; (9) two previous applications have been refused and the reasons for refusal have not been addressed in this application.

2 Report

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

the direction of the Secretary of State and which have not been superseded by the Core Strategy.

2.1.1 Selby District Core Strategy Local Plan

The relevant Core Strategy Policies are:

SP1:	Presumption in Favour of Sustainable Development
SP2:	Spatial Development Strategy
SP5:	Scale and Distribution of Housing
SP9:	Affordable Housing
SP15:	Sustainable Development and Climate Change
SP16:	Improving Resource Efficiency
SP18:	Protecting and Enhancing the Environment
SP19:	Design Quality

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:

SG1:	Strategic Countryside Gap
ENV1:	Control of Development
ENV2:	Environmental Pollution and Contaminated Land
RT2:	Open Space Requirements for New Residential Development
CS6:	Developer Contributions to Infrastructure and Community Facilities
T1:	Development in Relation to the Highway Network
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.

2.1.4 Other Policies and Guidance

Affordable Housing Supplementary Planning Document

Developer Contributions Supplementary Planning Document

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 in respect of current housing policy and guidance on sustainability contained within the Development Plan and the NPPF
- 2) The impacts of the proposal:
 - a) Strategic Countryside Gap
 - b) Design and Impact on the Character and Appearance of the Area
 - c) Impact on Residential Amenity
 - d) Impact on Highway Safety
 - e) Flood Risk, Drainage and Climate Change
 - f) Nature Conservation and Protected Species
 - g) Land Contamination
 - h) Affordable Housing
 - i) Recreational Open Space
 - j) Education and Healthcare, Waste and Recycling
- 3) Taking into account the presumption in favour of sustainable development determining whether the adverse impacts of the development significantly and demonstrably outweigh the benefits when assessed against the policies in the NPPF taken as a whole

2.3 The appropriateness of the location of the application site for residential 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 Core Strategy outlines that "when considering development proposals the Council will take a positive approach that reflects the presumption in favour of sustainable development contained in the National Planning Policy Framework" and sets out how this will be undertaken.

2.3.2 Policy SP1 is therefore consistent with the guidance in Paragraph 14 of the NPPF.

2.3.3 The application site is located outside the defined development limits of Church Fenton, which is a Designated Service Village as identified in the Core Strategy, and is therefore located within the open countryside.

2.3.4 Policy SP2A(c) of the Core Strategy states that "Development in the countryside (outside Development Limits) will be limited to the replacement or extension of existing buildings, the re-use of buildings preferably for employment purposes, and

well-designed new buildings of an appropriate scale, which would contribute towards and improve the local economy and where it will enhance or maintain the vitality of rural communities, in accordance with Policy SP13; or meet rural affordable housing need (which meets the provisions of Policy SP10), or other special circumstances.”

2.3.5 The proposal does not meet Policy SP2A(c) as it is not for rural affordable housing need and there are no special circumstances. The application should therefore be refused unless material considerations indicate otherwise. One such material consideration is the NPPF.

2.3.6 Paragraph 47 of the NPPF is particularly relevant to the application and states that Local Planning Authorities should “identify and update annually a supply of specific deliverable sites sufficient to provide five years’ worth of housing against their housing requirements with an additional buffer of 5% (moved forward from later in the plan period) to ensure choice and competition in the market for land. Where there has been a record of persistent under delivery of housing, local planning authorities should increase the buffer to 20% (moved forward from later in the plan period) to provide a realistic prospect of achieving the planned supply and to ensure choice and competition in the market for land”. Having regard to the above, the Inspector’s report for the appeal at Hodgson’s Gate, Sherburn in Elmet on the 6th of December 2016, stated that the Council does not have a 5 year supply of deliverable housing land as required by paragraph 47 of the NPPF, and that Policies SP2 and SP5 of the Development Plan are out of date in respect of housing supply.

2.3.7 Given the above, the principle of residential development on the site must be assessed against paragraph 49 of the NPPF which states that “Housing applications should be considered in the context of the presumption in favour of sustainable development. Relevant policies for the supply of housing should not be considered up-to-date if the local planning authority cannot demonstrate a five-year supply of deliverable housing sites”.

2.3.8 Paragraph 14 of the NPPF states that "at the heart of the framework is a presumption in favour of sustainable development", and for decision taking this means, unless material considerations indicate otherwise, approving development proposals that accord with the development plan without delay; and where the development plan is absent, silent or relevant policies are out-of-date, granting permission unless:

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

Specific policies in this framework indicate development should be restricted.”

2.3.9 The examples given of specific policies in the footnote to paragraph 14 indicate that the reference to specific policies is a reference to area specific designations including those policies relating to sites protected under the Birds and Habitats Directives and/or designated as Sites of Special Scientific Interest; land designated as Green Belt, Local Green Space, an Area of Outstanding Natural Beauty, Heritage Coast or within a National Park (or the Broads Authority); designated

heritage assets; and locations at risk of flooding or coastal erosion. In this case the site does not fall within any of the specific policies listed, the proposals should therefore be considered on the basis of whether any adverse impacts significantly and demonstrably outweigh the benefits, when assessed against the policies in the framework taken as a whole.

2.3.10 In respect of sustainability, the site is adjacent to the development limits of the village of Church Fenton, which is a Designated Service Village as identified in the Core Strategy, where there is scope for additional residential growth to support rural sustainability. The village contains a number of local services, including a primary school, general store and post office and also benefits from train station and bus services to York, Leeds, Selby and Tadcaster. In terms of access to facilities and a choice of mode of transport, despite the site being located outside the defined development limits of the settlement, the site can be considered as being in a sustainable location.

2.3.11 In addition to the above, it is noted that the village of Church Fenton has been identified as a Designated Service Village, both within the Selby District Local Plan and the Core Strategy, which demonstrates that the Council has considered the village a sustainable location. The village is considered to be “least sustainable” in Background Paper 5 Sustainability Assessment of Rural Settlements of the Core Strategy, however this is due to the distance of the settlement to employment opportunities. Having taken these points into account, despite the fact that the site is located outside the defined development limits of Church Fenton, it is adjacent to the boundary and would be served by the facilities within this sustainable settlement and as such would perform highly with respect to its sustainability credentials in these respects.

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

Economic

The proposal would provide jobs in the construction of the proposed dwellings. The construction workers may also use the local services within the villages.

Social

The proposal would assist in the Council meeting the objectively assessed need for housing in the district.

Environmental

The proposal would deliver high quality homes for local people and takes into account environmental issues such as flood risk, climate change, nature conservation and protected species.

The above factors weigh in favour of the development.

2.3.13 On consideration of the above information, it is considered that the proposal is acceptable in regards to the appropriateness of the location of the application site for residential development in respect of current housing policy and guidance on

sustainability from both local and national policies. The impacts of the proposal are considered in the next section of the report.

2.4 Impacts of the Proposal

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

2.5 Strategic Countryside Gap

2.5.1 The application site is located within a Strategic Countryside Gap (SCG) between the east and west sides of Church Fenton. Policy SG1 of the Selby District Local Plan states “Proposals for development affecting Strategic Countryside Gaps, as defined on the proposals map, will not be permitted where there would be an adverse effect on the open character of the countryside or where the gap between settlements would be compromised”.

2.5.2 The supporting text of Policy SG1 states “Proposals for development in these gaps would only be acceptable where there would be no risk of physical intrusion such as certain types of recreational use, or where the overall open character of the land would be enhanced through the removal of existing structures”. It goes on to state “Proposals for other forms of development, including agricultural dwellings and affordable housing, which may in other circumstances be acceptable Outside Development Limits will not normally be permitted”.

2.5.3 Policy SG1 is not primarily concerned with the supply of housing, but rather with protecting specific areas of land. Therefore, it is not rendered out of date by reason of the Council not being able to demonstrate a 5 year supply of deliverable housing land. As such, it is considered that significant weight should be attached to Local Plan Policy SG1.

2.5.4 The application has been supported by a Landscape and Strategic Gap Appraisal prepared by Randall Thorp in November 2016. The appraisal considers the proposals visual relationship with the SCG, the effects of the proposal on the character of the landscape and the effects of the proposal on the functionality of the SCG.

2.5.5 The appraisal sets out that “In terms of perception of the gap therefore the open fields to the south of Main Street are essential in the perception of a gap between the two parts of the village. The land to the north of Main Street opposite to the open fields is also important in ensuring that the two parts of the settlement are perceived as separate. The land to the north of Main Street opposite where there is existing built form is of lesser importance because from public viewpoints within this area there is a perception of being within a village rather than an open gap. The part of the SCG which falls within the [application] site is of no consequence to the perception of the gap between the two parts of the village”. The appraisal goes on to state “Whilst the physical gap would be narrowed by the proposal to remove the [application] site from within the SCG this narrowing would not be perceived and would not result in any coalescence of the two parts of the village”. The appraisal

concludes that “There would be no adverse effects on the landscape character as a result of the proposed development. Visual effects would be insignificant and the perception of the SCG would remain unaltered by the proposals” and that “The proposed development would not be in conflict with any of the roles of the SCG and there would be no effects on the overall functionality of the SCG as a result of the proposals”.

- 2.5.6 It is acknowledged that the part of the SCG within the application site represents a small proportion of the overall SCG designation for Church Fenton East/West. However, it is considered that any encroachment by urban form into the SCG would be harmful to its form, character and function. In this instance, the scale of the proposal is for 6 dwellings and the proposal would be located in a prominent position, close to the junction of Buck Lane and Main Street. It is noted that Old Forge Cottage is the only dwelling on the west side of Busk Lane on the north side of Main Street and the proposal would impact on the openness in views, in particular when travelling South along Busk Lane and east and west along Main Street.
- 2.5.7 Having regard to the above, it is considered that the proposal is contrary to Policy SG1 of the Selby District Local Plan and that significant weight should be attached to the harm to the form, character and function of the SCG.

2.6 Design and Impact on the Character and Appearance of the Area

- 2.6.1 Relevant policies in respect to design and impact on the character and appearance of the area include Policy 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 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.
- 2.6.3 The application site is located outside the defined development limits of Church Fenton, which is a Designated Service Village as identified in the Core Strategy. In addition, the application site is located within the Strategic Countryside Gap (SCG) between the east and west sides of Church Fenton. The application seeks planning permission for the erection of 6 dwellings.
- 2.6.4 The application site is located to the north west of the junction between Main Street and Busk Lane. The application site comprises an existing detached triple garage and area of garden land associated with the residential property to the south east, Old Forge Cottage. The application site fronts Busk Lane to the east, with residential development to the east and south, a cricket pitch, pavilion and parking with open fields to the north and a football pitch with open fields to the west.
- 2.6.5 Residential development within the vicinity of the application site is varied, with dwellings of differing size, scale and design. The dwelling to the immediate south east, Old Forge Cottage is a bungalow. To the east are two storey detached dwellings and a two storey terrace of dwellings. To the south are two storey detached and semi-detached dwellings.

- 2.6.6 The application proposes the erection of 6 detached two storey dwellings, which would each benefit from attached or detached single storey garages. The proposed dwellings would utilise an existing upgraded vehicular access onto Busk Lane, with an internal access road to serve the existing bungalow and proposed dwellings. Each dwelling would benefit from an area of hardstanding to the front of the dwelling and an amenity area.
- 2.6.7 The layout of the proposed scheme demonstrates three dwellings to the west of Busk Lane in line with Old Forge Cottage, and three dwellings set further back from Busk Lane. The character of the area is predominantly linear in form; however, there are dwelling and buildings set back from the road within the vicinity of the application site. Therefore, it is considered that the layout of the proposed scheme is acceptable. The proposed dwellings are to be a mixture of two house types (A and B) providing either three or four bedroomed accommodation. The proposed dwellings would be detached two storey dwellings with a pitched roof form and are considered to be of traditional design. As stated above, dwellings within the vicinity of the application site are varied in terms of their size, scale and design, with a bungalow, detached two storey dwellings and a terrace of dwellings to the immediate east, and detached and semi-detached two storey dwellings to the immediate south. As such, it is considered that the size, scale, height and design of the proposed dwellings would respect the character of the locality. Furthermore, the submitted application form states that the external construction of the proposed dwellings would be stone walls with a pantile roof, which, given the mix of materials in the vicinity of the application site including, brick, render, stone, clay and slate tiles, is considered acceptable and can be secured by way of condition.
- 2.6.8 The submitted plans show the region of trees to the northern and eastern boundaries of the application site, protected by Tree Preservation Order (reference: 8/1985), comprising Ash and Sycamore, would be retained. Conditions could be attached to any planning permission granted to protect these trees during construction works. Furthermore, existing planting to the western boundary of the site would be retained and additional planting, to be agreed by condition, is proposed. The submitted plans also show a proposed 1.2 metre high timber fence between each plot, which is considered acceptable and can be secured by way of condition.
- 2.6.9 Subject to the aforementioned conditions, it is therefore considered that the proposal is acceptable in terms of its design. The proposal is therefore considered acceptable in accordance with Policy ENV1 (1) and (4) of the Selby District Local Plan, Policy SP19 of Core Strategy and the advice contained within the NPPF.

2.7 Impact on Residential Amenity

- 2.7.1 Relevant policies in respect of the effect upon the amenity of adjoining occupiers include Policy ENV1 (1) of the Selby District Local Plan.
- 2.7.2 Significant weight should be attached to Local Plan Policy ENV1 as it is broadly consistent with the aims of the NPPF to ensure that a good standard of amenity is achieved.
- 2.7.3 The key considerations in respect of residential amenity are considered to be the potential of the proposal to result in overlooking of neighbouring properties,

overshadowing of neighbouring properties and whether oppression would occur from the size, scale and massing of the development proposed.

- 2.7.4 The layout of the site, in combination with the size, scale, siting and design of the proposed dwellings would ensure that the proposal would not result in any adverse effects of oppression, overshadowing, or overlooking between the existing and proposed dwellings, which would have any adverse impact on the amenities of the occupiers of the properties.
- 2.7.5 The proposals make provision for an adequate amount of usable external amenity space for the occupiers of the existing dwelling and the proposed dwellings on plots 1, 2, 3. However, while an area of external amenity space is provided for the occupiers of the proposed dwellings on plots 4, 5 and 6, the majority of the space is under the tree canopy of the TPO trees along the eastern boundary of the application site and therefore it is considered that the proposal would fail to provide an adequate amount of good quality external amenity space for the occupiers of plots 4, 5 and 6. Furthermore, there would be pressure from the occupiers of plots 4, 5 and 6 to do extensive works to, or fell, the TPO trees to the eastern boundary of the application site in order to improve the quality of the amenity space.
- 2.7.6 Having regard to the above, it is considered that the proposals are unacceptable in terms of residential amenity in accordance with Policy ENV1 (4) of the Local Plan and the advice contained within the NPPF.

2.8 Impact on Highway Safety

- 2.8.1 Relevant policies in respect of highway safety include Policies ENV1 (2), T1 and T2 of the Selby District Local Plan.
- 2.8.2 Significant weight should be attached to Local Plan Policies ENV1, T1 and T2 as they are broadly consistent with the aims of the NPPF.
- 2.8.3 The proposed dwellings would benefit from a vehicular access onto Busk Lane. Each dwelling would benefit from an attached or detached double garage and an area of hardstanding to the front of the dwelling. North Yorkshire County Council Highways raise no objections to the proposal subject to five conditions relating to detailed plans of road and footways layout, construction of roads and footways prior to occupation of dwellings, use of existing access, discharge of surface water and construction management plan.
- 2.8.4 Having regard to the above, it is considered that the proposal is acceptable in terms of highway safety in accordance with Policies ENV1 (2), T1 and T2 of the Local Plan and the advice contained within the NPPF.

2.9 Flood Risk, Drainage and Climate Change

- 2.9.1 Relevant policies in respect to climate change, flood risk and drainage 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 climate change, flood risk and drainage include paragraphs 94 and 95.

- 2.9.2 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.
- 2.9.3 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.
- 2.9.4 Paragraph 14 of the NPPF states “At the heart of the National Planning Policy Framework is a presumption in favour of sustainable development, which should be seen as a golden thread running through both plan-making and decision-taking.”
- 2.9.5 The NPPF, paragraph 94, states that local planning authorities should adopt proactive strategies to mitigate and adapt to climate change, taking full account of flood risk, coastal change and water supply and demand considerations. The NPPF, paragraph 95, states that to support the move to a low carbon future, local planning authorities should plan for new development in locations and ways which reduce greenhouse gas emissions and which actively support energy efficiency improvements to existing buildings.
- 2.9.6 The application site is located within Flood Zone 1, which has a low probability of flooding.
- 2.9.7 The application form states that foul sewage would be disposed of via mains sewer and surface water would be disposed of via soakaway. Yorkshire Water and Selby Area Internal Drainage Board have not made any objections to the proposal, subject to a condition relating to soakaways. In addition, Officers consider that a condition in relation to drainage for foul and surface water should be attached to any permission granted.

2.10 Nature Conservation and Protected Species

- 2.10.1 Relevant policies in respect of nature conservation and protected species include Policy ENV1 (5) of the Selby District Local Plan and Policy SP18 “Protecting and Enhancing the Environment” of the Core Strategy.
- 2.10.2 Significant weight should be attached to Local Plan Policy ENV1 as it is broadly consistent with the aims of the NPPF.
- 2.10.3 Protected species include those protected under the 1981 Wildlife and Countryside Act and the Conservation of Habitats and Species Regulations 2010. The presence of protected species is a material planning consideration.
- 2.10.4 The application site is not a designated protected site for nature conservation.
- 2.10.5 An updated ecological assessment undertaken by MAB Environment & Ecology Ltd, dated November 2016, has been submitted with the application. The assessment includes an updated ecological appraisal and a Phase 1 Habitat Survey, following that undertaken in June 2015. The survey concludes that the site conditions remain much the same as in June 2015 and therefore the site remains to be of low

ecological value and the proposed works would not impact on any protected species or habitats. The report does include mitigation and compensation measures and a method statement.

2.10.6 Subject to a condition requiring the proposed development to be carried out in accordance with the mitigation and compensation measures and method statement contained within the ecological assessment, it is considered that the proposal would not harm any acknowledged nature conservation interests and is therefore in accordance with Policy ENV1 (5) of the Local Plan, Policy SP18 of the Core Strategy and the advice contained within the NPPF.

2.11 Land Contamination

2.11.1 Relevant policies in respect of land contamination include Policy ENV2 of the Selby District Local Plan and Policy SP19 "Design Quality" of the Core Strategy.

2.11.2 The application has been supported by a Phase 1 Desk Top Study Report. This has been assessed by the Council's Contaminated Land Consultant who has advised that contaminated land planning conditions should be applied to any planning permission granted, to ensure that intrusive site investigation is carried out, followed by any necessary remediation, prior to the commencement of development on site.

2.11.3 Subject to the aforementioned conditions, it is considered that the proposal would be acceptable in respect to land contamination and is therefore in accordance with Policy ENV2 of the Local Plan, Policy SP19 of the Core Strategy and the advice contained within the NPPF.

2.12 Affordable Housing

2.12.1 Core Strategy Policy SP9 and the accompanying Affordable Housing SPD sets out the affordable housing policy context for the District.

2.12.2 Policy SP9 outlines that for schemes of less than 10 units or less than 0.3ha a fixed sum will be sought to provide affordable housing within the District. The Policy notes that the target contribution will be equivalent to the provision of up to 10% affordable units. The calculation of the extent of this contribution is set out within the Affordable Housing Supplementary Planning Document which was adopted on 25 February 2014.

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

2.13 Recreational Open Space

2.13.1 Relevant policies in respect of the provision of recreational open space are Policy RT2 of the Selby District Local Plan. Policy RT2 should be afforded limited weight given it conflicts, in part, with the Council's Community Infrastructure Levy (CIL) Charging Rates, the Developer Contributions Supplementary Planning Document, Policy SP19 of the Core Strategy and paragraphs 70 and 73 of the NPPF.

2.13.2 Policy RT2 states “Proposals for new residential development comprising 5 or more dwellings will be required to provide recreational open space at the rate of 60 square metres per dwelling on the following basis”. Policy RT2(a) states “For schemes of more than 4 dwellings up to and including 10 dwellings, a commuted payment [is] required to enable the district council to provide new or upgrade existing facilities in the locality”. However, it is noted that under the CIL, a contribution is made which can be spent by the Parish Council on improving existing recreational open space areas. As such, it is considered that the proposals are appropriate and accord with Policy RT2 of the Selby District Local Plan, Policy SP19 of the Core Strategy, the Developer Contributions Supplementary Planning Document and the advice contained within the NPPF.

2.13.3 Having regard to the above, it is considered that the proposal would be acceptable in respect to recreational open space and is therefore in accordance with Policy RT2 of the Selby District Local Plan, Policy SP19 of the Core Strategy, the Developer Contributions Supplementary Planning Document and the advice contained within the NPPF.

2.14 Education and Healthcare, Waste and Recycling

2.14.1 Policies ENV1 and CS6 of the Local Plan and the Developer Contributions Supplementary Planning Document set out the criteria for when contributions towards education and healthcare and waste and recycling are required.

2.14.2 In respect of contributions towards education and healthcare, these policies should be afforded limited weight due to their conflict with the CIL. It is considered that no direct contribution is required due to the adoption of the CIL.

2.14.3 In respect of contributions towards waste and recycling, the Council will seek provision or a contribution from the developer to ensure that, prior to the occupation of any dwelling, storage bins and boxes are provided. This could be secured by way of condition.

2.14.4 Having regard to the above, it is considered that the proposal would be acceptable in respect to education and healthcare, waste and recycling and is therefore in accordance with Policy CS6 of the Selby District Local Plan, Policy SP19 of the Core Strategy, the Developer Contributions Supplementary Planning Document and the advice contained within the NPPF.

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

2.15.1 A weighing up exercise is required to determine whether the adverse impacts of the development significantly and demonstrably outweigh the benefits when assessed against the policies in the NPPF taken as a whole.

2.15.2 The harm of the proposal is that it would result in an encroachment by urban form into the SCG, which would be harmful to its form, character and function, contrary to Policy SG1 of the Selby District Local Plan. Significant weight should be attributed to the harm to the form, character and function of the SCG. In addition, the proposal

would fail to provide an adequate amount of usable external amenity space for the occupiers of plot 4. Significant weight should be attributed to the harm to the residential amenity of the occupiers of the proposed dwellings. In addition, the proposal would not provide an affordable housing contribution required through Policy SP9 and the Affordable Housing Supplementary Planning Document to meet the objectively assessed affordable housing need in the district. Little weight should be attributed to this harm given the amended guidance in the PPG in respect to affordable housing and tariff style contributions.

- 2.15.3 The proposal would bring about economic, social and environmental benefits. Matters of acknowledged importance, such as design, impact on highway safety, flood risk, drainage and climate change, nature conservation and protected species, land contamination, recreational open space, education and healthcare and waste and recycling are considered to be acceptable.
- 2.15.4 Having regard to the above, it is considered that there are adverse impacts of granting planning permission that would significantly and demonstrably outweigh the benefits. The proposal is therefore considered unacceptable, on balance, when assessed against the policies in the NPPF taken as a whole. On this basis, it is considered that planning permission should be refused.

2.16 Conclusion

- 2.16.1 The application seeks planning permission for the erection of 6 dwellings. The application site is located outside the defined development limits of Church Fenton, which is a Designated Service Village as identified in the Core Strategy, and is therefore located within the open countryside.
- 2.16.2 Relevant policies in respect of the principle of this proposal include Policy SP2 “Spatial Development Strategy” of the Core Strategy. The principle of the proposed development is considered to be unacceptable having regard to Policy SP2A(c) of the Core Strategy, as the proposal is not for rural affordable housing need and there are no special circumstances. However, this policy is considered to be out of date in so far as it relates to housing supply and the Council acknowledges that it does not have a 5 year housing land supply.
- 2.16.3 As such the proposals for residential development on this site should be considered in the context of the presumption in favour of sustainable development and paragraphs 14 and 49 of the NPPF. In assessing the proposal against the three dimensions of sustainable development set out within the NPPF, the development would bring economic, social and environmental benefits which weigh in favour of the proposal.
- 2.16.4 Having assessed the proposals against the relevant policies, it is considered that the proposal is acceptable in respect of its design, impact on highway safety, climate change, flood risk and drainage, nature conservation and protected species, land contamination, recreational open space, education and healthcare and waste and recycling.
- 2.16.5 The proposal is considered contrary to Policy SG1 of the Selby District Local Plan. The application site is located within a Strategic Countryside Gap (SCG) between the east and west sides of Church Fenton and the proposal would result in

encroachment by urban form into the SCG, which would have an adverse effect on the open character of the countryside and compromise the gap between settlements.

- 2.16.6 The proposal is considered contrary to Policy ENV1 (4) of the Selby District Local Plan. The proposed development would fail to provide an adequate amount of good quality external amenity space for the occupiers of plots 4, 5 and 6, by virtue of the majority of the amenity space being located under the tree canopy of the TPO trees to the eastern boundary of the application site. Furthermore, there would be pressure from the occupiers of plots 4, 5 and 6 to do extensive works to, or fell, the TPO trees to the eastern boundary of the application site in order to improve the quality of the amenity space.
- 2.16.7 The scheme is considered contrary to Policy SP9 of the Core Strategy. However, in the context of the Court of Appeal decision it is considered that this is a material consideration of substantial weight which outweighs the policy requirement for the commuted sum. Officers therefore recommend that, having had regard to Policy SP9 and the PPG, on balance, the application is acceptable without a contribution for affordable housing.
- 2.16.8 Having regard to all of the above, it is considered that there are adverse impacts of granting planning permission that would significantly and demonstrably outweigh the benefits. The proposal is therefore considered unacceptable, on balance, when assessed against the policies in the NPPF taken as a whole. On this basis, it is considered that planning permission should be refused.

2.17 Recommendation

This application is recommended to be REFUSED for the following reason(s):

01. The proposal would have an adverse effect on the open character, form and purpose of the Strategic Countryside Gap between the two separate settlements of Church Fenton East and Church Fenton West. The proposed development would not constitute a use with minimal intrusion and does not enhance the overall open character by the removal of existing structures. The proposal is therefore contrary to Policy SG1 of the Selby District Local Plan.
02. The proposed development would fail to provide an adequate amount of good quality external amenity space for the occupiers of plots 4, 5 and 6, by virtue of the majority of the amenity space being located under the tree canopy of the TPO trees to the eastern boundary of the application site. Furthermore, there would be pressure from the occupiers of plots 4, 5 and 6 to do extensive works to, or fell, the TPO trees to the eastern boundary of the application site in order to improve the quality of the amenity space. The proposal is therefore contrary to Selby District Local Plan Policy ENV1 (4) and the advice contained within the NPPF.

3.1 Legal Issues

3.1.1 Planning Acts

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

3.1.2 Human Rights Act 1998

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

3.1.3 Equality Act 2010

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

3.2 **Financial Issues**

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

4. **Conclusion**

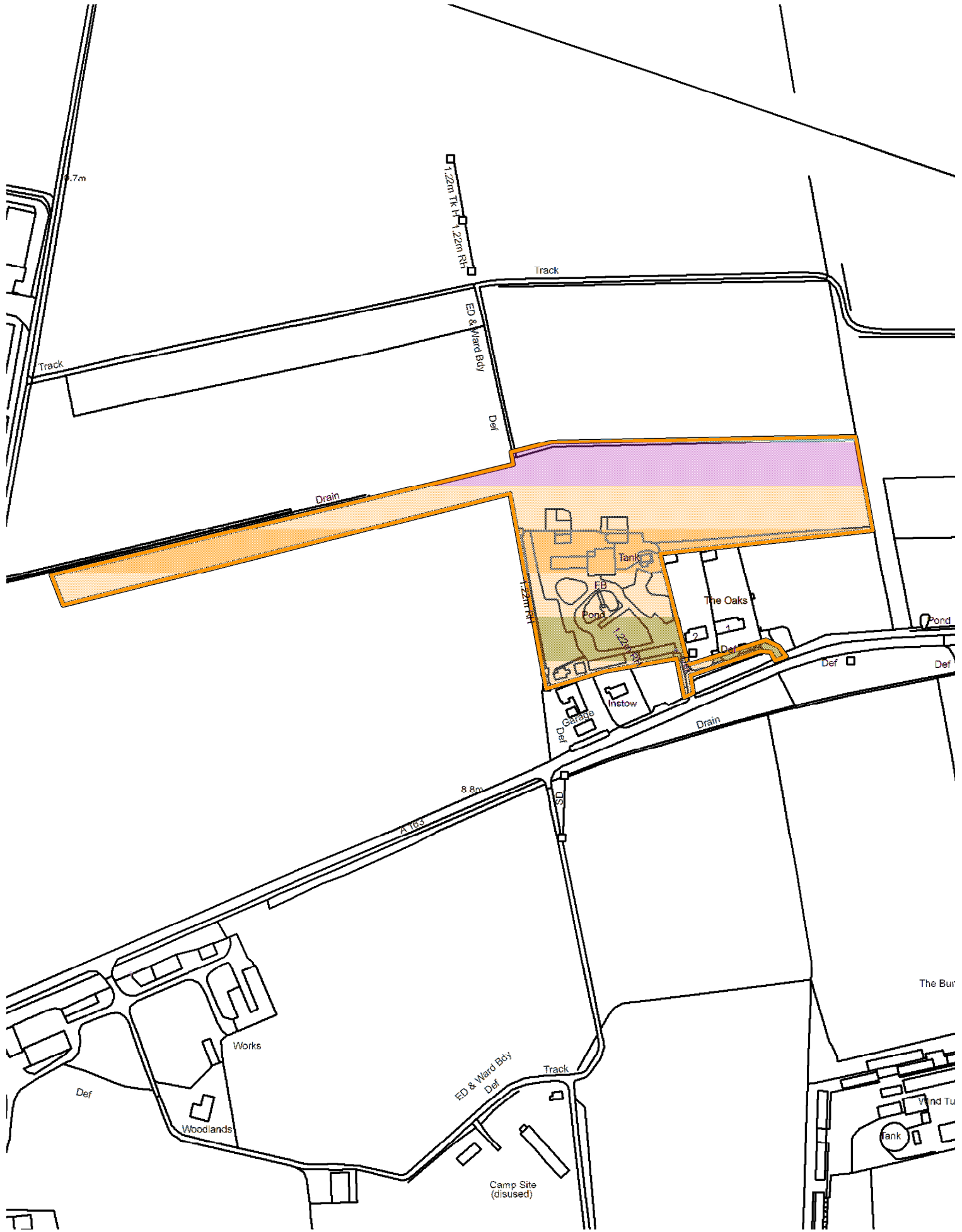
4.1 As stated in the main body of the report.

5. **Background Documents**

5.1 Planning Application file reference 2016/1368/FUL and associated documents.

Contact Officer: Jenny Tyreman, Planning Officer

Appendices: None

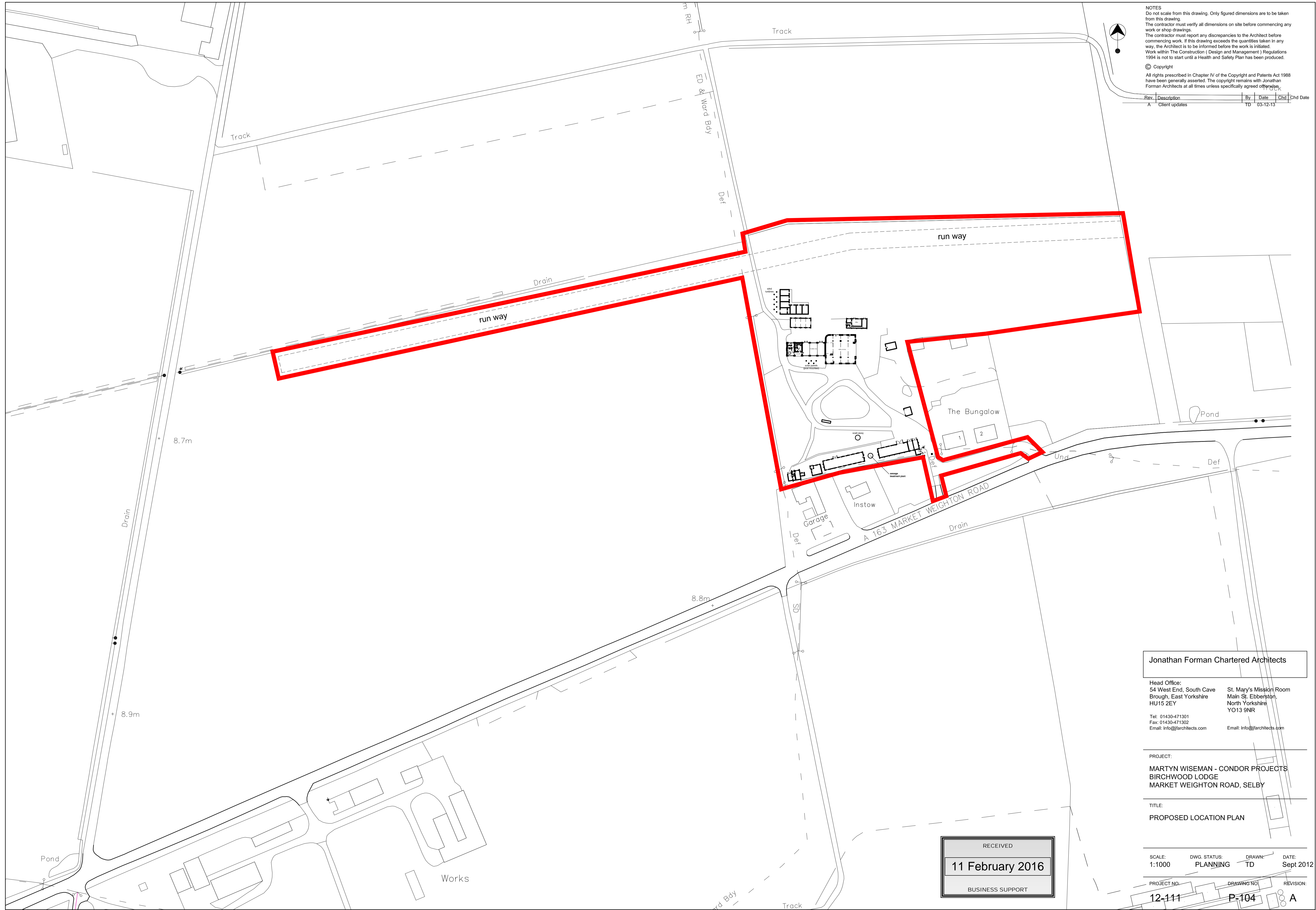


APPLICATION SITE

Item No: 2016/0141/COU

Address: Birchwood Lodge, Market Weighton Road, Barlby

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Rev.	Description	By	Date	Chd	Chd Date
A	Client updates	TD	03-12-13		

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PROJECT:
 MARTYN WISEMAN - CONDOR PROJECTS
 BIRCHWOOD LODGE
 MARKET WIGHTON ROAD, SELBY

TITLE:
 PROPOSED LOCATION PLAN

SCALE: 1:1000
DWG. STATUS: PLANNING
DRAWN: TD
DATE: Sept 2012

PROJECT NO: 12-111
DRAWING NO: P-104
REVISION: A

RECEIVED
 11 February 2016
 BUSINESS SUPPORT

To: Planning Committee
Date: 8 March 2017
Author: Tom Webster (Principal Planner)
Lead Officer: Johnathan Carr (Lead Officer – Planning)

APPLICATION NUMBER:	2016/0141/COU	PARISH:	Cliffe Parish Council
APPLICANT:	Condor Projects Ltd	VALID DATE: EXPIRY DATE:	11th February 2016 8th March 2017
PROPOSAL:	Proposed change of use to form grass runway		
LOCATION:	Birchwood Lodge Market Weighton Road Barlby Selby North Yorkshire YO8 6LE		

1. Introduction and background

1.1 This application had previously been called in by ward member, Cllr Karl Arthur, who requested that the application be heard at Planning Committee on the grounds that the proposals could have the following impacts:

- 1) Impact on Residential Amenity;
- 2) The Environmental Impact of the move and increase in traffic activity;
- 3) Intrusion into the openness of the countryside;
- 4) Noise pollution impacting on neighbouring properties and areas; and
- 5) Air pollution impacting on the neighbourhood with particular regard to vulnerable people and children.

- 1.2 This application was considered by Planning Committee on 8th February 2017 when members resolved to defer the application so that a site visit could be undertaken.
- 1.3 A copy of the Officer Report presented to Planning Committee on 13th July 2016 is attached in Appendix 1.

2. Officer Update

- 2.1 A Committee Member site visit to the (application site) has been arranged for Tuesday 7th March at 10:00am:
- 2.2 There are a couple of points of clarification that need to be made following the discussions that took place at the 8th February Planning Committee. These are:
 - Paragraph 2.9.2 be amended to say:
“The closest residential properties to the runway are No. 1 The Oaks and No, 2 The Oaks. They are both bungalows and lie approximately 118m to the south of the runway.
 - It is recommended that a condition ensuring that the scheme is carried out in accordance with the approved plans be attached to any decision notice (in the event of an approval).
 - Members requested that, in the event of an approval, a condition be attached that requires the applicants to provide a log of the number of flights taking off and landing per year.
 - These two conditions will be set out in an update note provided to Members at Planning Committee on the 8th March 2017

3. Recommendation

This application is recommended to be APPROVED subject to the conditions detailed in the Committee report on that was presented to the Planning Committee on 8th February 2017.

This application has also been brought forward as the ward member, Cllr Karl Arthur, has requested the application be heard at Planning Committee as the proposals could have the following impacts:

- 1) Impact on Residential Amenity;
- 2) The Environmental Impact of the move and increase in traffic activity;
- 3) Intrusion into the openness of the countryside;
- 4) Noise pollution impacting on neighbouring properties and areas; and

vulnerable people and children.

Summary:

The application seeks permission to change the use of land to form a grass runway. The application site is located outside the defined Development Limits and inside open countryside. Under General Permitted Development Order, 2016 (GDPO), the applicants have used their permitted development rights to convert part of the field to a grass runway, which has facilitated 15 flights a year. As the applicants now seek to increase the number of flights beyond what is permissible under the GDPO, planning permission is required.

Having assessed the proposals against the relevant policies, the proposals are considered to be acceptable in respect of their design and effect upon the character of the area, flood risk, drainage and climate change, highway safety, residential amenity, land contamination and nature conservation.

It is recommended that planning permission is granted for a two year period, after which, the applicants will need to submit another application if they are to continue with the use

1. Introduction and background

1.1 The Site

1.1.1 The application site is located outside the defined Development Limits of Barlby. The application site is located 6km north east of Selby Town Centre, approximately 3km east of the junction of the A19 and A163. To the north and west of the application site the land is in agricultural use. To the east are the rear gardens and dwellings to two recently erected bungalows, whilst to the south of the application site there is a petrol filling station and a dwelling.

1.1.2 The site is currently used by Condor Projects who have as a company become increasingly involved in the construction and repair of light aircraft. In tandem with this the Company has become increasingly involved with the construction of the Modify aeroplane, which allows people with disabilities to build their own aeroplanes. Condor Projects and Modify are now working in

partnership to provide the skills, facilities and experience together on one site to “build assist” light aircraft for people with disabilities.

- 1.1.3 The site comprises a number of buildings, some of which are converted RAF buildings with permission for B1, B2 and B8 uses. The building to be used as manager’s accommodation is a single storey rendered building. The building to be used for residential accommodation is a prefabricated former RAF barracks building the main large barn type building on the site is used for B1, B2 and B8 purposes. There is substantial screening around the site from mature woodland that severely restrict views into the site from the Market Weighton Road.

1.2. The Proposal

- 1.2.1 The application is for the change of use of land to form a runway. The runway would only be used to allow planes to land and take off in association with the main use of the application site and aircraft movements would be limited to those only having a direct involvement with the operations of the site.
- 1.2.2 Given the length of the runway, only single engine light aircraft can use the site. The airstrip would allow light non-commercial leisure aircraft to take off and land during restricted daylight hours (08.00 to 20.00). The operation of the airstrip would be limited to an average of 3 days per week and an average of 4 take-off and landing manoeuvres per day. The use of the land as a runway would require no operational development.

1.3 Planning History

- 1.3.1 The following historical applications are considered to be relevant to the determination of this application.
- 1.3.2 Application 2007/0408/FUL for the retrospective application for the retention of livery stables was granted approval on 25th May 2007.
- 1.3.3 Application 2012/0248/COU for the change of use of existing buildings for use by Condor Projects Ltd (mix of uses comprising B1/B2/B8) following the demolition of some existing buildings which was permitted on 21st May 2012.
- 1.3.4 Application 2012/0926/DPC for the discharge of condition 2 (materials) of approval 2012/0248/COU (8/17/312A/PA) for the change of use of existing buildings for use by Condor Projects Ltd (mix of uses comprising B1/B2/B8) following the demolition of some existing buildings was permitted on the 23rd October 2012.
- 1.3.5 Application 2013/0349/DPC for the discharge of condition 2 (materials) to substitute previously approved materials of approval 2012/0248/COU (8/17/312A/PA) for the change of use of existing buildings for use by Condor Projects Ltd (mix of uses comprising B1/B2/B8) following the demolition of some existing buildings was permitted on 8th May 2013.

- 1.3.6 Application 2014/0959/FUL for the proposed conversion of an existing building to form a manager's dwelling, conversion of existing building to disabled living accommodation was permitted on 12th March 2015.
- 1.3.7 An application 2015/0763/FUL for the proposed erection of 2 m high fence was permitted on 11th September 2015.
- 1.3.8 An application 2015/0768/FUL for the proposed conversion of building to allow disabled accommodation (amendment to previously approved application 2014/0959/FUL) was permitted on 9th December 2015.

1.4 Consultations

1.4.1 Cliffe Parish Council

Strong objections relating to:

- 1) Concern regarding the impact on residential amenity as the proposed runway would be in very close proximity to residential properties.
- 2) Concern regarding noise pollution.
- 3) Intrusion into the openness of the countryside.
- 4) Concern regarding air pollution and health & safety concerns especially in relation to children and vulnerable adults.

1.4.2 Yorkshire Wildlife Trust

YWF advise that the applicant contacts themselves and Natural England in order to fully assess the potential impacts on Skipwith Common.

1.4.3 North Yorkshire Fire & Rescue Service

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

1.4.4 Designing Out Crime Officer

No comments to make.

1.4.5 Civil Aviation Authority

No comments received.

1.4.6 Humber Nature Partnership

No comments received.

1.4.7 North Lincolnshire Council

No comments received.

1.4.8 Lincolnshire Wildlife Trust

No comments received.

1.4.9 NYCC Highways

The car parking provision is increasing. No mention has been made as to why there is a need for the additional parking, which includes 5 light goods

vehicles parking spaces. The proposed car parking has not been annotated on the submitted plans.

1.4.10 Environmental Health

The application proposal includes the use of land to form a grass runway; the applicant has identified noise as a material consideration and has submitted an acoustic report reference A/34/14, prepared by Blue Sky Acoustics Ltd, in order to assess the likely significance of the development in terms of noise. The report concludes that the impact of the proposal will be acceptable based on certain restrictions.

The applicant has stated that use of the runway will be on an infrequent and occasional basis to allow only single engine light aircraft to land and take-off when serviced. The applicant proposes that only light non-commercial leisure aircraft will use the runway during daylight hours (08:00 to 20:00) and that the operation of the air strip will be limited to an average of 3 days per week and 4 take-off and landing manoeuvres per day. The acoustic report predicts that the maximum sound level for take-off and landing will be 63.2dB_Lmax measured 50m from the centre line of the runway.

The applicant has indicated that they will work with the local authority to safeguard the existing levels of amenity by means of an appropriately worded condition. Concern has been expressed by neighbouring residents that the development could give rise to a loss of amenity due to noise disturbance. In order to protect the residential amenity it is recommended that the use of the airstrip be restricted to week days between the hours of 08:00 to 17:00 and conditions are attached to any permission granted.

1.4.11 Natural England

Natural England confirm that they have been in discussion with the applicant and have agreed that there will be no impact on the qualifying species of the Lower Derwent Valley SPA / Ramsar sites provided that the flight activities are carried out as follows:

- All flights will be conducted under CAA e-conditions and a minimum altitude of 1000m will be maintained for any flights within 1km of the Lower Derwent Valley SPA / Ramsar site.
- Flights will take place on no more than 100 days per year.

The applicant has agreed to abide by these measures, and it is recommended that the Council take this into account when carrying out the HRA screening assessment. It is also advised that planning permission, if granted, is limited to the current operator and to a period of two years initially.

1.4.12 East Riding Of Yorkshire Council

No comments received.

1.4.13 Riccall Parish Council

No comments received.

1.4.14 Skipwith Parish Council

No comments received.

1.4.15 National Air Traffic Safety (NATS)

No objections to the proposals.

1.5 Publicity

1.5.1 The application was advertised by site notice and neighbour notification letter resulting in three letters of representation being received. The following concerns have been raised:

- Concerns regarding the proximity of the proposed airstrip to residential properties, which would result in loss of amenity.
- Fears for children playing in gardens that sit 25 metres away.
- Increases in noise levels due to the commercial use of the runway and the testing of engines on the application site.
- Concerns regarding deliveries of light aircraft made in shipping containers and on articulated vehicles because the access road is not fit for purpose.
- These vehicles also block the A163 and bring traffic to a stand-still.
- The proposals would result in a loss of privacy for neighbouring properties.
- Questions raised as to whether the applicant intends to store and use aviation fuels on the site.
- Concerns regarding increased numbers of people on site, pollution levels –both atmospheric and noise which will dramatically increase.

2. Report

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

2.2 Selby District Core Strategy Local Plan

2.2.1 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.

The relevant Core Strategy Policies are as follows:

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 T1	Development in Relation to Highway

2.4 National Policy

On the 27th March 2012 the Government published the National Planning Policy Framework (NPPF). The NPPF replaced the suite of Planning Policy Statements (PPS's) and Planning Policy Guidance Notes (PPG's) and now, along with the guidance in the Technical Guidance Note, and Policy for Traveller Sites, provides the national guidance on planning.

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

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

2.5 Key Issues

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

1. Principle of development
2. Visual impact on the character and form of the locality
3. Impact on highways
4. Residential amenity
5. Nature conservation and protected species
6. Aircraft Safety

2.6 Principle of Development

2.7.1 Policy SP1 of the Core Strategy outlines that "when considering development proposals the Council will take a positive approach that reflects the presumption in favour of sustainable development contained in the National Planning Policy Framework" and sets out how this will be undertaken.

2.7.2 Relevant policies in respect of the principle of this proposal include Policies SP1 "Presumption in Favour of Sustainable Development" and SP2 "Spatial Development Strategy" of the Selby District Core Strategy Local Plan (2013).

2.7.3 The proposal seeks permission for the proposed change of use to form grass runway. The application site lies well outside of the defined development limits of the village of Barlby and therefore in the open countryside. Policy SP2 of the Core Strategy allows for development in the countryside such as the replacement or extension of existing buildings, the re-use of buildings preferably for employment purposes and well-designed new buildings of an appropriate scale, which would contribute towards and improve the local economy and where it would enhance or maintain the vitality of rural communities.

2.6.4 Policy SP13 of the Selby District Core Strategy (2013) provides that in rural areas, sustainable development (on both Greenfield and Previously Developed Sites) which brings sustainable economic growth through local employment opportunities or expansion of businesses and enterprises will be supported. Policy SP13 of the Selby District Core Strategy (2013) allows for the redevelopment of existing and former employment sites and commercial premises; and rural tourism and leisure developments, small scale rural offices or other small scale rural development.

2.6.5 The proposal would also see the sustainable economic growth through local employment opportunities as detailed above and would see the expansion of the current aviation enterprise on the site.

2.6.6 Policy EMP2 of the Selby District Local Plan (2005) set out the provision for the location of future economic development across the district. The policy states that encouragement will be given to proposals for small-scale development in villages and rural areas in support of the rural economy. Paragraph 28 of the National Planning Policy Framework (NPPF) is clear that in order to promote a strong rural economy support should be given to the

expansion of all types of businesses and enterprises in rural areas through the conversion of existing buildings and well-designed new buildings.

- 2.6.7 Given the above it is considered that having had regard to Policy EMP2 of the Selby District Local Plan (2005), Policies SP2 and SP13 of the Selby District Core Strategy (2013) and the provisions of the NPPF the proposal is, on balance, acceptable in principle.

2.7 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) and EMP8 (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 as it is 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 grass landing strip, which was created under Permitted Development Rights, has a nominal impact on the character and appearance of the area. In terms of its visual impact, the proposed airfield is well integrated into the landscape and is not harmfully prominent, intrusive or incongruous in its setting. Therefore considered to be acceptable and would not have a detrimental impact on the character of the area. The proposal is therefore considered to be in accordance with Policies ENV1 and EMP8 of the Selby District Local Plan and Policy SP19 of the Core Strategy.

2.8 Highways

- 2.8.1 Policy in respect to highway safety and capacity is provided by Policies ENV1(2), and T1 of the Selby District Local Plan, Policy SP19 of the Core Strategy and Paragraphs 34, 35 and 39 of the NPPF.
- 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.
- 2.8.3 The Highway Authority have considered the proposal in relation to parking provision, access and the impact on the existing highway network. The Highways Officer has asked for clarification in regards to additional parking proposed for 5 light goods vehicles. Given there is a large area of hardstanding currently used for car parking to the front of the existing buildings it is considered by Officers that there is sufficient parking available on site.
- 2.8.4 Having had regard to the above it is considered that the scheme is acceptable and in accordance with Policies ENV1(2), EMP8 (6) and T1 of the Local Plan and Paragraph 39 of the NPPF.

2.9 Residential Amenity

- 2.9.1 Policies ENV1(1) and ENV2 of the Local Plan requires development to take account of the effect upon the amenity of adjoining occupiers and should be given significant weight as it is consistent with the aims of the NPPF to ensure that a good standard of amenity is achieved.
- 2.9.2 The nearest residential property to the application site lies approximately 110 metres from the proposed site users' accommodation block. There are two bungalows (1 The Oaks and 2 The Oaks) which lie to the east of the application site. Number 1, which is the nearest residential property to the application site would sit at approximately 110 metres from the proposed disabled accommodation block. There is a further property (Instow) which sits approximately 110 metres to the south of the application site.
- 2.9.3 Local residents and the Parish Council have raised concerns in regards to the impact of the proposals on the amenity of local residents, particularly in regards to potential noise. The applicants have submitted an acoustic report reference A/34/14, prepared by Blue Sky Acoustics Ltd, in order to assess the likely significance of the development in terms of noise. The report concludes that the impact of the proposal would be acceptable based on certain restrictions. The Lead Environmental Health Officer has been consulted on the proposals and has concluded that they have no objections subject to the inclusion of conditions attached to any permission granted to preserve local amenities.
- 2.9.4 Having taken into account the matters discussed above it is considered that the proposal would not cause significant detrimental impact on the residential amenities of either existing or future occupants in accordance with Policies ENV1(1) and ENV2 of the Local Plan and the NPPF.

2.10 Impact on Nature Conservation and Protected Species

- 2.10.1 The site itself is located in close proximity to Skipwith Common Special Area of Conservation (SAC) and National Nature Reserve (NNR). The operation of the site will come in close proximity to the Lower Derwent Valley Special Protection Area (SPA), SAC and Ramsar site, and the Humber Estuary SPA, SAC and Ramsar site. All three of these sites are also notified at a national level as Sites of Special Scientific Interest (SSSI), and the Lower Derwent Valley and Skipwith Common as National Nature Reserves.
- 2.10.2 The application site is not designated for any nature conservation purposes and is not known to support any habitat that is protected or considered to have special nature conservation value. Natural England have not raised any objection to the development subject to the inclusion of conditions attached to any permission granted.
- 2.10.3 In accordance with Regulation 61 of the Conservation of Habitats and Species Regulations 2010 (as amended) (the "Habitats Regulations") (SI 2010 No 490) a competent authority (in this instance the Council), must make an appropriate assessment of the implications on a European site. The assessment must assess, before deciding to give any consent, any

significant effect of the development on the site(s) conservation objectives. This assessment has been carried out and concludes that an appropriate assessment is not required and this judgement is made with the assumption that the following measures will be secured through appropriately worded conditions on planning permission;

- All flights will be conducted under CAA e-conditions
- A minimum altitude of 1000m will be maintained for any flights within 1km of the Lower Derwent Valley SPA/Ramsar and Humber Estuary SPA/Ramsar site.
- Flights will take place on no more than 100 days per year.
- The planning permission is limited to the current operator and to a period of two years initially.

2.10.4 Therefore, on the basis that the development will not create any direct or indirect significant impacts on any National or European designations the proposal is considered to be in compliance with Policy ENV1 of the Selby District Local Plan and the NPPF.

2.11 Aircraft Safety

2.11.1 Consultations have been undertaken with the Robin Hood Airport, Leeds Bradford International Airport, , National Air Traffic Service (NATS – provide air traffic control services to aircraft flying in the UK airspace), and the Civil Aviation Authority. No objections have been raised by these bodies in relation to the scheme in terms of aviation safety subject to conditions.

2.13 Conclusion

The application seeks permission for a change of use of land to form a grass runway. The application site is outside the defined Development Limits and located in open countryside.

Having assessed the proposals against the relevant policies the proposals are considered to be acceptable in respect of their design and effect upon the character of the area, flood risk, drainage and climate change, highway safety, residential amenity, land contamination and nature conservation.

3.0 Recommendation

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

01. This permission for the use of the land as a runway shall last for a period of 2 years from the date of this permission and the permission is limited to the Condor Projects Ltd.. After a period of 2 years from the date of this permission the use of land as a runways shall be discontinued and the site reinstated to its former use.

Reason:

The Planning Authority is prepared to allow the development to be carried out for a limited period having regard to the particular circumstances of this case as set out in the submitted application.

02. The A weighted fast response maximum sound pressure level LAFmax resultant from the take-off or landing of aircraft measured at a distance of 50m from the centre line of the runway shall not exceed 63.2dB.

Reason:

To protect the residential amenity of the area.

03. The use of the airstrip shall be limited to Monday to Friday between the hours of 08:00 and 17:00, no take-off or landing manoeuvres shall take place outside the specified times.

Reason:

To protect the residential amenity of the area.

04. The airstrip shall not be used for take-off or landing of aircraft for more than 3 days in any one week.

Reason:

To protect the residential amenity of the area.

05. The number of landing and take-off manoeuvres shall not exceed a total of 4 manoeuvres in any one day.

Reason:

To protect the residential amenity of the area.

06. Flights shall take place on no more than 100 days per year.

Reason:

To protect the residential amenity of the area.

07. All flights shall be conducted under CAA e-conditions.

Reason:

To ensure aviation safety.

08. A minimum altitude of 1000m shall be maintained for any flights within 1km of the Lower Derwent Valley SPA/Ramsar and Humber Estuary SPA/Ramsar site.

Reason:

To protect the Lower Derwent Valley SPA/Ramsar and Humber Estuary SPA/Ramsar site.

3.1 Legal Issues

3.1.1 Planning Acts

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

3.1.2 Human Rights Act 1998

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

3.1.3 Equality Act 2010

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

3.2 Financial Issues

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

4. Conclusion

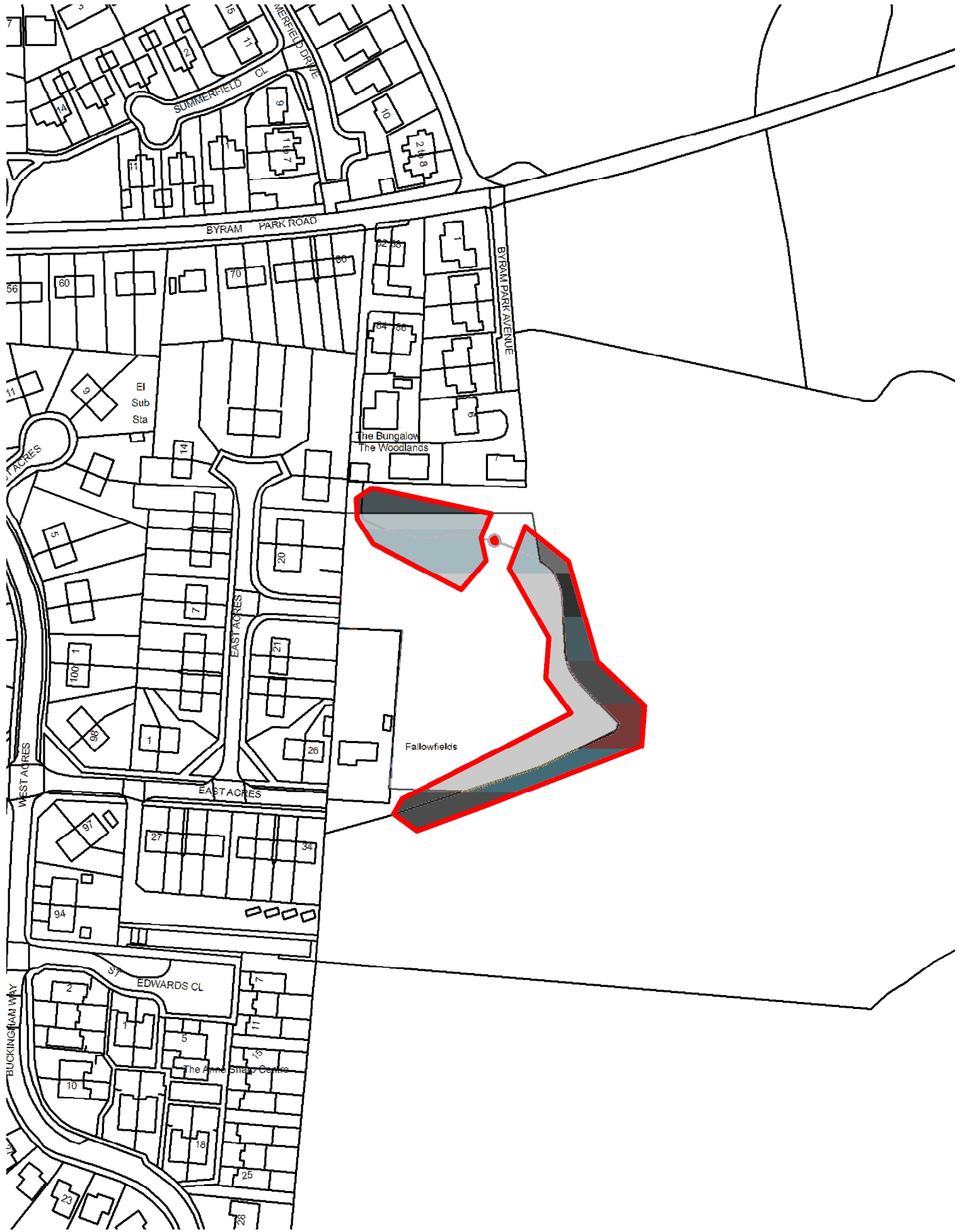
4.1 As stated in the main body of the report.

5. Background Documents

5.1 Planning Application file reference 2016/0141/COU and associated documents.

Contact Officer: Thomas Webster, Principal Planning Officer

Appendix 1: Application Site Context.

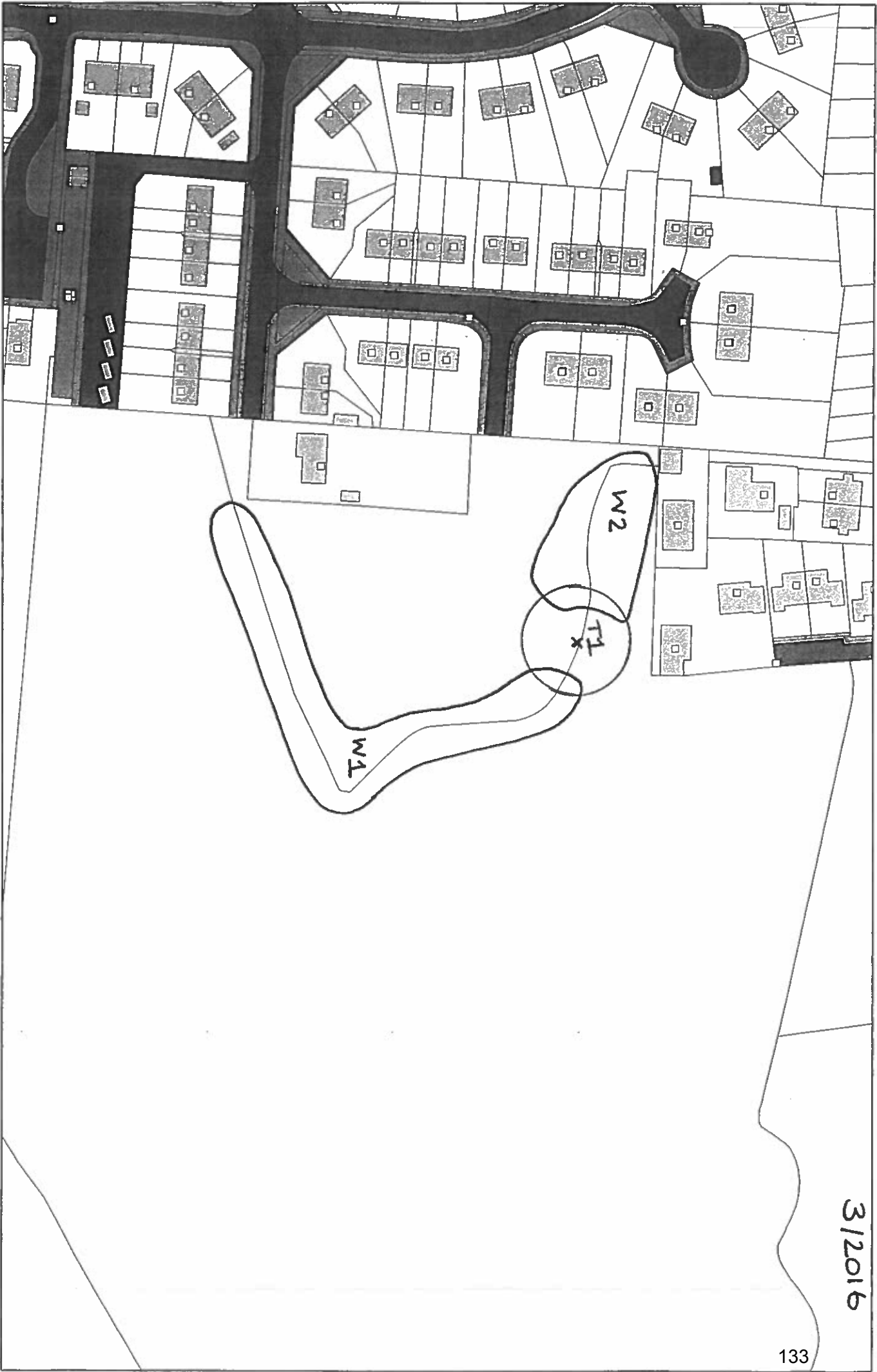


APPLICATION SITE

Item No: TPO 3/2016

Address: Land off East Acres, Byram

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3/2016

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Date: 22 September 2016
SLA: Not Set
Scale 1:1250



Report Reference Number: TPO 3/2016

Agenda Item No: 6.6

To: Planning Committee
Date: 8th March 2017
Author: Yvonne Naylor (Principal Planning Officer)
Lead Officer: Jonathan Carr (Lead Officer – Planning)

APPLICATION NUMBER:	TPO 3/2016	PARISH:	Brotherton / Byram Cum Sutton
TPO SERVED:	Signed 22 nd September 2016 and Served 23 rd September 2016	DEADLINE FOR CONFIRMATION:	22 nd March 2017
LOCATION:	Land at East Acres Byram		

Summary:

In exercise of the powers conferred by section 198 of the Town and Country Planning Act 1990 this report will seek the permission of the Planning Committee to “Confirm, with no Modification”, Tree Preservation Order No. 3/2016 to which an objection has been received. In accordance with the scheme of delegation, the report to verify the Tree Preservation Order cannot be issued under delegated powers due to the objections received.

1. Introduction and background

1.1 The Site

1.1 The Tree Preservation Order (TPO) relates to an area of land to the immediate west of a site allocated site in the Selby District Local Plan reference BRY/1.

1.2 The site is currently vacant, with evidence of fly tipping and use by dog walkers. The site is largely flat in nature with areas of grass / scrubland and includes various established trees. To the west site boundary is formed by existing dwellings, and there is an established woodlands area to the east / north-east of the area proposed to be covered by the TPO. The surrounding area is residential in character providing a mix of house types dating from the 1950’s – 1970s.

1.2 Planning History

1.2.1 On the 11th January 2017 Planning Committee resolved to grant planning permission for the development of the site for a 100% affordable housing scheme under Application 2016/0831/FUL and the decision was issued on the 15th February 2017.

2.0 Scope of the Provisional Tree Preservation Order Ref 3/2016

2.1 The TPO was issued on the 22nd September 2016 in the context of advice received by the District Council on the development proposals under Application 2016/0831/FUL. The proposal at this stage showed removal of a Category A – Beech tree and works to the woodland groupings / edges, as well as the removal of a series of other trees between the application site and the woodlands and within the site.

2.2 The decision to issue the TPO was underpinned by the advice of the Council's Tree Consultant and this indicated that there were trees within the development site which would be worthy of protection via TPO procedures and have had regard to the information submitted under Application 2016/0831/FUL then it would seem appropriate to protect T24 (as per the submitted Tree Report and protect the woodland areas in the interest of public amenity as they afford significant screening of the site (as the woodland areas) and represent a significant feature in terms of the Category A tree.

As such the TPO as served relates to:

- a) A single Beech Tree (Reference T1)
- b) A Woodland Group (Reference W1) which lies on the southern and eastern boundaries of the site know as East Acres
- c) A Woodland Group (Reference W2) which lies on the northern boundary of the site know as East Acres

The plan associated with the TPO is attached with the Officers Report.

2.3 As noted in the report on Application 2016/0831/FUL revisions to the scheme within the life of the application have secured retention of the Category 'A' tree, resulted in changes to the proposed works within the woodland edge and changes to the tree retention within the site itself. In addition Members were advised that "On balance it is considered that the approach to the tree retention as shown on the Proposed Site Layout Plan, the Landscape Management Plan and the mitigation in the Arboricultural Impact Assessment and Arboricultural Method Statement will ensure that the trees on the site are appropriately protected during the life of the development. A landscaping scheme will be required, but this can be secured via condition. However, having considered the submitted information Officers considered that the proposals demonstrate that the site could incorporate appropriate landscaping in accordance with Policy ENV1 (4) of the Local Plan, Policy SP19 of the Core Strategy and the NPPF subject to the fully detailed landscaping scheme being conditioned in order to that the development is carried out in line with the recommendations as set out in the submitted plans and mitigation".

2.4 An Order can be made to protect specific trees, groups of trees or woodlands in the interests of amenity and should be used where the trees removal would have a

significant negative impact on the local environment and its enjoyment by the public. The Order comes into effect immediately on the day the Council makes it and this provisional effect lasts for six months, unless the authority first either confirms the Order to provide long-term protection or decides not to confirm it.

3.0 Representations

3.1 The TPO was served on the relevant landowners and the Applicant and Agent for Application 2016/0831/FUL. A copy of the notice was also displayed on site on the 23rd September 2016. Comments were invited on the Provision Order by the 3rd November 2016.

3.2 Objections were received on the TPO as served from “Strategic Team Group” on the Provisional TPO on the 12th October 2016. “Strategic Team Group” are involved in the development of the East Acres site as proposed under 2016/0831/FUL.

3.3 The objections can be summarised as follows:

Reference T1

- The position of the beech tree is incorrectly identified on the TPO
- The tree (T24) is proposed to be retained as part of the development proposal and we consider this is tree that is actually wished to be retained
- Object to the TPO of trees within this area as this tree must be removed in this area in order that the site can be developed – this is the only drainage connection route to serve the proposed development

Reference W1

- To protect this area would prevent development of 7 of the proposed plots and impact on the gardens and amenity space of other units

Reference W2

- Trees in the this area will need to be removed to enable development of the site
- To protect this area would prevent development of 5 of the proposed plots
- Have shown that can retain trees in this area and this has been demonstrated in the submitted information on Application 2016/0831/FUL

3.4 The objections are supported by an Assessment by ECUS Environmental Consultants dated October 2016. This outlines the basis of the Objection to the Provisional TPO and this supports the identification of the Beech under a TPO but argues that the W1 and W2 group should not be confirmed within the TPO but instead should be managed via the long term management of the site.

4.0 Report

4.1 The Council’s Tree Consultant has considered the submissions made by the objector (who is also the developer of the scheme now subject of resolution to grant under 2016/0831/FUL), and they have advised that even though the developer is arguing the trees proposed for inclusion ‘must be removed in order that the site can be developed.

Their advice is that

- a) do not regard this as an acceptable reason in itself for objecting to a TPO
- b) account should be taken of the fact that the site is already allocated for development
- c) in terms of the drainage connection which is noted would require some tree removal in order to install this, there may be justification in excluding specimens on the drainage line from protection.
- d) Development per se would not in my opinion be sufficient reason for removing trees from the TPO.

4.2 The consent for the development of the site as considered at Planning Committee on 11th January 2017 under Application 2016/0831/FUL confirmed the development proposals for the site and on balance the approach to the trees on the site and the overall scheme were considered acceptable. This consent was issued on the 15th February 2017. However, the longer term retention of the trees not consented for removal by virtue of the consent (when issued upon signing of the S106), is considered essential on the basis that the remaining trees on the site and the surrounding woodland context add considerable amenity value to the site and area, especially when taking into account the visibility of the trees and the character of the area.

5.0 Conclusion

4.1 TPO 03/2016 would protect specific trees, groups of trees or woodlands in the interests of amenity and its use is appropriate to protect the trees not consented for removal under Application 2016/0831/FUL, as removal would have a significant negative impact on the local environment and its enjoyment by the public.

5.0 Recommendation

5.1 To confirm the Tree Preservation Order No.3/2016 subject to the following:

- The Category A – Beech Tree should be confirmed part of the TPO in line with that shown on the consented under 2016/0831/FUL, therefore a modification is required to the TPO Plan
- The Woodland Groups W1 and W2 should be confirmed in line with the original TPO Plan as the future management of this area is not controlled under Consent 2016/0831/FUL and control is required.

6.0 Background Documents

None

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Planning Committee 2016-17



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Glossary of Planning Terms

Community Infrastructure Levy (CIL):

The Community Infrastructure Levy is a planning charge, introduced by the Planning Act 2008 as a tool for local authorities in England and Wales to help deliver infrastructure to support the development of their area. It came into force on 6 April 2010 through the Community Infrastructure Levy Regulations 2010.

Curtilage:

The curtilage is defined as the area of land attached to a building.

Environmental Impact Assessment (EIA):

Environmental impact assessment is the formal process used to predict the environmental consequences (positive or negative) of a plan, policy, program, or project prior to the decision to move forward with the proposed action. The requirements for, contents of and how a local planning should process an EIA is set out in the Town and Country Planning (Environmental Impact Assessment) Regulations 2011.

National Planning Policy Framework (NPPF):

The National Planning Policy Framework was published on 27 March 2012 and sets out the Government's planning policies for England and how these are expected to be applied.

Permitted Development (PD) Rights

Permitted development rights allow householders and a wide range of other parties to improve and extend their homes/ businesses and land without the need to seek a specific planning permission where that would be out of proportion with the impact of works carried out. Many garages, conservatories and extensions to dwellings constitute permitted development. This depends on their size and relationship to the boundaries of the property.

Previously Developed Land (PDL)

Previously developed land is that which is or was occupied by a permanent structure (excluding agricultural or forestry buildings), and associated fixed surface infrastructure. The definition covers the curtilage of the development. Previously developed land may occur in both built-up and rural settings.

Planning Practice Guidance (PPG)

The Planning Practice Guidance sets out the Government's planning guidance on a range of topics. It is available on line and is frequently updated.

Recreational Open Space (ROS)

Open space, which includes all open space of public value, can take many forms, from formal sports pitches to open areas within a development, linear corridors and country parks. It can provide health and recreation benefits to people living and working nearby; have an ecological value and contribute to green infrastructure.

Section 106 Agreement

Planning obligations under Section 106 of the Town and Country Planning Act 1990 (as amended), commonly known as s106 agreements, are a mechanism which make a development proposal acceptable in planning terms, that would not otherwise be acceptable. They can be used to secure on-site and off-site affordable housing provision, recreational open space, health, highway improvements and community facilities.

Site of Importance for nature Conservation

Site of Nature Conservation Interest (SNCI), Site of Importance for Nature Conservation (SINC) and regionally important geological sites (RIGS) are designations used by local authorities in England for sites of substantive local nature conservation and geological value.

Site of Special Scientific Interest (SSI)

Sites of special scientific interest (SSSIs) are protected by law to conserve their wildlife or geology. Natural England can identify and designate land as an SSSI. They are of national importance.

Scheduled Ancient Monument (SAM):

Ancient monuments are structures of special historic interest or significance, and range from earthworks to ruins to buried remains. Many of them are scheduled as nationally important archaeological sites. Applications for Scheduled Monument Consent (SMC) may be required by the Department for Culture, Media and Sport. It is an offence to damage a scheduled monument.

Supplementary Planning Document (SPD)

Supplementary Planning Documents are non-statutory planning documents prepared by the Council in consultation with the local community, for example the Affordable Housing SPD, Developer Contributions SPD.

Tree Preservation Order (TPO):

A Tree Preservation Order is an order made by a local planning authority in England to protect specific trees, groups of trees or woodlands in the interests of amenity. An Order prohibits the cutting down, topping, lopping, uprooting, wilful damage, wilful destruction of trees without the local planning authority's written consent. If consent is given, it can be subject to conditions which have to be followed.

Village Design Statements (VDS)

A VDS is a document that describes the distinctive characteristics of the locality, and provides design guidance to influence future development and improve the physical qualities of the area.