



Meeting: **EXTRAORDINARY PLANNING COMMITTEE**  
Date: **WEDNESDAY 29 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](http://www.selby.gov.uk).

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

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

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

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

- 3. Chair's Address to the Planning Committee**
- 4. Suspension of Council Procedure Rules**

The Planning Committee are asked to agree to the suspension of Council Procedure Rules 15.1 and 15.6(a) for the Committee meeting. This facilitates an open debate within the Committee on the planning merits of the application without the need to have a proposal or amendment moved and seconded first. Councillors are reminded that at the end of the debate the Chair will ask for a proposal to be moved

and seconded. Any alternative motion to this which is proposed and seconded will be considered as an amendment. Councillors who wish to propose a motion against the recommendations of the officers should ensure that they give valid planning reasons for doing so.

## **5. Planning Applications Received**

- 5.1 2016/0515/OUT - Land adjacent to Southlands, Broach Lane, Kellington (pages 1 to 24 attached)
- 5.2 2016/1409/OUTM - Hodgsons Lane, Sherburn in Elmet (pages 25 to 71 attached)
- 5.3 2016/1059/FULM - Roebuck Barracks, Green Lane, Appleton Roebuck (pages 72 to 116 attached)
- 5.4 2017/0119/COU - 10 Low Street, Sherburn in Elmet (pages 117 to 132 attached)
- 5.5 2017/0090/FUL - Field House, School Lane, Bolton Percy (pages 133 to 153 attached)

**Gillian Marshall**  
**Solicitor to the Council**

<b>Dates of next meetings</b>
Planning Committee – 12 April 2017
Planning Sub-Committee – 20 April 2017

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

Items for Extraordinary Planning Committee  
29 March 2017

<b>Ref</b>	<b>Site Address</b>	<b>Description</b>	<b>Officer</b>	<b>Page</b>
2016/0515/OUT	Land adjacent to Southlands, Broach Lane, Kellington	Outline planning permission (all matters reserved) for the erection of a residential development.	TOWE	1-24
2016/1409/OUTM	Hodgsons Lane, Sherburn in Elmet	Outline application for residential development with all matters reserved.	LOMI	25-71
2016/1059/FULM	Roebuck Barracks, Green Lane, Appleton Roebuck	Proposed conversion and extension of existing buildings to form twenty three dwellings and demolition of existing buildings.	CARO	72-116
2017/0119/COU	10 Low Street, Sherburn in Elmet	Proposed change of use of a vacant bank (Class A2) to a hot food takeaway (Class A5) with associated external alterations, including the installation of extraction and ventilation equipment.	CARO	117-132
2017/0090/FUL	Field House, School Lane, Bolton Percy.	Proposed erection of two detached dwellings with garages and associated access road following demolition of existing buildings.	CARO	133-153



# KELLINGTON

LAND OFF BROACH LANE

Scheme A

1/1250

- SITE
- OWNERSHIP



## BDL



**Building Design (UK) Limited**  
 CHARTERED ARCHITECTURAL TECHNOLOGISTS

Tayson House, Methley Road, Castleford, West Yorkshire, WF10 1PA  
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Report Reference Number 2016/0515/OUT

Agenda Item No: 5.1

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**To:** Planning Committee  
**Date:** 29<sup>th</sup> March 2017  
**Author:** Tom Webster (Principal Planning Officer)  
**Lead Officer:** Jonathan Carr (Interim Lead Officer – Planning)

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APPLICATION NUMBER:	2016/0515/OUT 8/53/283/PA	PARISH:	Kellington Parish Council
APPLICANT:	R and DD Developments	VALID DATE:	18 May 2016
		EXPIRY DATE:	31 March 2017
PROPOSAL:	Outline planning permission (all matters reserved) for the erection of a residential development.		
LOCATION:	Land adjacent to Southlands, Broach Lane, Kellington		

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

**Summary:**

A revised indicative layout that accompanies this application shows 45 dwellings, a children’s play area and a spine road on this site. What this plan demonstrates is that this amount of development, on this parcel of land, would result in significant harm and would be contrary to national and local planning policies.

The development would be contrary to national and local planning policies because the amount of development would result in poor quality living arrangements for the future occupiers (by virtue of unacceptable noise and odour levels from the 24 hr use of the carrot and parsnip factory buildings on the adjoining M.H.Poskitt Ltd farm site). It would also be contrary to national and local planning policy because it would result in the permanent loss of vital open countryside and the creeping coalescence of adjoining settlements, as well as serving as a potential barrier to economic growth (at Poskitts).

The harm cannot be justified by reference to housing supply. Whilst housing is a welcome and clear benefit; there is no policy support for its delivery at the expense of the local context, the future ability of a local employer to expand, and the amenities of future occupiers.

The proposal’s non-compliance with national and local planning policies is not outweighed by housing delivery considerations and is contrary to the saved policies of the Local Plan, the Core Strategy and the principles of the NPPF.

## **Recommendation**

**This planning application is recommended to be REFUSED for the reasons outlined in Paragraph 2.20 of the Report.**

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

#### **1.1 The Site**

1.1.1 The proposed application site is an agricultural field within open countryside; it sits outside the defined development limits of Kellington, which is a Designated Service Village and has a score of 3 in Background Paper 5 of the Core Strategy Local Plan. This means it is considered to be less sustainable' location.

1.1.2 The application comprises a site are of 2.08 hectares.

1.1.3 The application site is currently an arable field that is in active use.

1.1.4 Along the eastern side of the boundary, which abuts Broach Lane, trees and hedging are sporadically located. It is proposed that these elements of the boundary line will be retained and enhanced.

1.1.5 The land to the north of this application site which is part of the same field was recently awarded outline consent for 4 dwellings following an appeal decision on the 22 June 2016. It also has a separate planning permission for residential use up to 1 dwelling.

1.1.6 The western boundary line is framed by a big factory building belonging to Poskitts Farm, that is currently used as a packhouse. To the south of the site is another arable field, separated by a mature hedge.

1.1.7 The site is located within Flood Zone 1.

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

1.2.1 The application seeks outline consent for a residential development with all matters reserved for future consideration.

1.2.2 An indicative layout plan is submitted with the application which illustrates how the site could be accessed and laid out with 45 dwellings that would be served by two access points leading from Broach Lane.

1.2.3 The indicative plan also shows that the proposed dwellings running along the western boundary will be separated from Poskitt Farm by an acoustic bund and fencing.

#### **1.3 Planning History**

1.3.1 Although there is no planning history on this part of the arable field, as mentioned in paragraph 1.1.3, there have been two recent planning applications seeking to develop the neighbouring land to the north of the site. The details of these applications are as follows:

1.3.2 An outline application with all matters reserved (Planning Reference: 2015/0546/OUT) for a residential development on land adjacent was refused on 15th October 2015 for the following reasons: -

1. *In the absence of adequate supporting information within a suitably defined timescale, the Local Planning Authority is unable to assess the impact of noise arising from the MH Poskitt site on the amenities of the future occupants of the proposed development and to ensure that a good standard of amenity can be secured.*
  2. *The application fails to propose affordable housing as required by Policy SP9 of the Selby District Core Strategy and therefore fails to contribute to the objective of creating sustainable, inclusive and mixed communities promoted by paragraph 50 of the NPPF.*
- 1.3.3 Subsequently, the applicants appealed this decision, and their appeal was upheld by the Planning Inspector on the 22 June 2016.
  - 1.3.4 Prior to the determination of the appeal, a separate application was submitted to the Council, which also sought Outline consent for residential land (again accompanied by an indicative plan showing four dwellings), which was approved on the grounds that the application addressed the previous reasons for refusal.
  - 1.3.5 The following planning history, although not related to this specific piece of land, is relevant to the assessment of this proposal.

A full application (reference 2011/1142/FUL) for the erection of General Purpose Agricultural Building was granted permission on the 10 January 2012

A full application (reference 2011/1174/FUL) for the erection of a lean to extension to existing general purpose agricultural building was granted permission on the 24 January 2012

A full application (reference 2010/0950/FUL) for the erection of an extension to existing general purpose agricultural building was granted permission on the 1 November 2010

A full application (reference 2009/0142/FUL) for the erection of an extension to ban agricultural building was granted permission on the 15 April 2009

A full application (reference 2006/1592/FUL) for the erection of a general purpose agricultural storage building for H M Poskitt Farmers & Growers was granted permission on the 23 January 2007

A full application (reference 2005/0963/FUL) for the erection of a parsnip wash and store shed with pit and ramp for loading was granted permission on the 4 November 2005

A full application (referenced CO/1976/21969) for the erection of an agricultural shed was granted permission in 1976.

## **1.4 Consultations**

### **1.4.1 Kellington Parish Council**

The Parish Council has submitted two letters of objection to the initial indicative layout:

Objection letter one: *'Kellington Parish Council have consulted widely across the community and it is clear that the overwhelming majority of residents are opposed to this proposal.*

*The applicant already has outline permission for four bungalows outside of the development limits and promised nearby residents that he 'would not be applying for any more'*

*Although approving these four bungalows, the Planning Committee noted that the southern end of the village is predominantly 'frontage development' and that this would need to be taken into account when the detailed application was submitted.*

*In the officer's report it was clearly stated that these four bungalows would set a new clearly defensible boundary. That was also confirmed, orally, at the Planning Committee by both the planning officer and solicitor. So Selby DC now need to defend that defensible boundary.*

*The PC are discombobulated that, in their response, the Policy and Strategy Team ignore the outline permission given by Selby District Council for 27 dwellings to the rear of Manor Garth, Kellington earlier this year. Along with the 11 dwellings they do mention, this means there is already permission for 38 dwellings.'*

They also state:

*'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 16-26 dwellings for Kellington.'*

*So, it is ludicrous for them to say that a further '45 dwellings, is considered to be appropriate.'*

Whilst 16-26 is a minimum growth option, surely 83 is far too many?

The southern part of Kellington is predominantly 'frontage development' of individually built dwellings. To stick an estate at this end of the village would adversely impact upon the historic character and nature of the community. It would threaten the gap between the separate communities of Kellington and Eggborough.

Selby DC need to defend the new defensible boundary that they agreed in May and reject this application.

Objection Letter two: *'The principle of the development is unacceptable as it will be an intrusive addition to the character and form of the village and open countryside. There is also not enough information to assess highways safety or the impacts on potential protected species living on the site.'*

After being consulted over the revised indicative layout, the parish Council made further comments:

- The community facilities in the village are declining: Kellington Post Office has closed, as has the Old Vicarage Hotel
- The bus service is declining
- The first bus to Selby is 9.41am and the last bus from Selby is 15,50pm, which means people living in the village cannot rely on public transport to get to work elsewhere in the district.

#### 1.4.2 Eggborough Parish Council

Eggborough Parish Council object to the above planning application.

If this application was to go ahead it would threatened the gap between the two distinct communities of Kellington and Eggborough, which Eggborough Parish Council wish to see maintained.



This site lies well outside the development limits of Kellington.

The northern part of Kellington comprises of traditional frontage development of mixed dwellings. To stick an estate on it would adversely impact on the nature, form and character of the community

#### 1.4.3 Education Directorate North Yorkshire County Council

States a shortfall of school places would not arise as a result of this development and a developer contribution would not be sought for primary education facilities, or for secondary school facilities at this time.

Also, should the density of the site this may show an increase the amount the contribution sought and in some circumstances generate the requirement for additional land. [Officers would advise members that the ability to seek contributions towards education has been superseded by the introduction of CIL].

#### 1.4.4 Natural England

Natural England has no comments to make on this application.

#### 1.4.5 North Yorkshire Highways

When the application was first submitted, the Local Highway Authority objected to the proposal on the following grounds.

The proposed footway does not connect the site to the village, which would mean that occupants would be displaced on to the narrow verge or carriageway compromising highway safety. Given the size of the development this is not considered acceptable. Unless the footway can be connected to the village, the Highway Authority would recommend that Planning Permission is REFUSED.

*Note:* The applicants have subsequently amended their plans to include new pavements and a pedestrian crossing.

The Local Highway Authorities have reviewed this revised plan, discussed the issues on site with the applicant and made the following comments:

*“The build out would allow the site to be connected to the village through incorporating a footway and pedestrian dropped crossing. This addresses previous concerns about pedestrians being connected to the village. The build out would also help reduce speeds into the village. Therefore, the Highways Authority would support the proposed traffic calming at this location. The remaining carriageway width at the build out will be 3.5m which is sufficient for larger vehicles to navigate through the traffic calming measures”.*

#### 1.4.6 North Yorkshire Fire & Rescue Service

No objections to the proposal.

#### 1.4.7 Local Lead Flood Authority (Sustainable Drainage Systems)

The sustainable drainage systems officer has requested the following information:

- A plan showing exceedence flow routes is required.
- Details showing that there are clear arrangements in place for on-going maintenance over the lifetime of the development. Maintenance proposals for the SuDS

#### 1.4.8 Danvm Drainage Commissioners Shire Group Of IDBs

The above application lies within the IDB district & indicates that:

There will be an increase to the surface water run-off to the site of approximately 1.24ha and the proposal is to discharge surface water through a sustainable drainage system using soakaways.

The IDB as a Consultee give the following comments/recommendations:

Detailed plans of surface water discharge have not been submitted with the application; please take into consideration the following comments:

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 9 metres of the edge of a watercourse are permitted without Consent from the IDB.

#### 1.4.9 Lead Officer -Environmental Health

Originally objected to the proposal on the grounds that future occupiers would have poor quality amenity space due to the noise of the neighbouring factory site, which would also potentially stymie the ability for growth of the company due to noise complaints from future residents.

Also stated that the information contained within the noise report was not sufficient to carry out a thorough BS4142:2014 assessment.

##### *Update*

In response to these comments that applicants submitted a more detailed noise assessment, which has been reviewed,

##### *Environmental Health Officer's response:*

Remains of the view that this proposal would result in poor quality living arrangements (due to noise) for many of the future residents, and it may restrict future business on the neighbouring premises contrary to the aims of paragraph 123 of the NPPF.

A site visit, and dialogue with the manager of Poskitts, has confirmed that changes to the neighbouring Poskitts site, have taken place over the summer which have increased the noise levels. This means that the April 2016 noise report (Clover Acoustics) that the applicants submitted as part of their application, is now out of date. The changes are a new packing machine in the Carrot factory and a bagging machine under the lean to. The site owner has confirmed that the site, following these improvements, is now louder than previously. The on - site workers wear ear defenders.

In addition to noise, the Environmental Health Officer has raised concerns over odours brought about by the washing, the waste water treatment plant and the storage of waste carrots. As well as smelling them on Poskits site, the Environmental Officer also could smell the odours whilst walking down Broach Lane on the 7<sup>th</sup> March 2017.

#### 1.4.10 Yorkshire Water

States the local public sewer network does not have capacity to accept any discharge of surface water from the site.

It is noted that the submitted Flood Risk Assessment and Surface Water Drainage Strategy (prepared by Earth-Tech Solutions - Report ETS/474\_01 dated May 2016) confirms; Sub-soil conditions support the use of soakaways.

Alternatively, the developer is advised to contact the relevant drainage authorities with a view to establishing a suitable watercourse for the disposal of surface water. It is understood that a watercourse is located to the east of the site.

The public sewer network is for domestic sewage purposes. Land and highway drainage have no right of connection to the public sewer network.

##### *Water Supply*

A water supply can be provided under the terms of the Water Industry Act, 1991.

#### 1.4.11 Council's Contaminated Land Consultant

States the contamination report concludes that there are a number of potential contaminant linkages are present at the site. The report states that the overall contamination risk at the site is moderate. The report recommends that a Phase 2 site investigation should be undertaken.

The report is not compliant with technical guidance since no risk classification matrix has been presented to give context to the risk assessment in the conceptual site model and should be amended to allow for the appropriateness of the conclusions and recommendations to be properly assessed by WPA.

Contaminated land conditions CL1 – CL5 are recommended to ensure that a revised Phase 1 Report, as well as any necessary further investigation works, are completed prior to the commencement of development on site.

#### 1.4.12 North Yorkshire County Council Heritage Officer

Confirms that there are no known sites of archaeological significance within the application area or its immediate environs. Although any greenfield site has some archaeological potential there is no evidence to make a case to justify archaeological involvement with this proposal. No objections to the application.

#### 1.4.13 Yorkshire Wildlife Trust

The Design and access statement suggests that the trees and hedges within the site will be retained and enhanced which the Trust would support.

The site is less than 1km from the large Site of Importance for Nature Conservation (SINC) Beal Carrs and enhancement which would support this SINC would be particularly valuable.

Other potential enhancements for biodiversity would include designing the SUDS with biodiversity in mind and native planting and wildflowers for open areas. As the topsoil is likely to be very enriched from agricultural use, topsoil stripping and lowering the level of nutrients would be important if wildflower areas are included in the design.

#### 1.4.14 Designing Out Crime Officer

The Designing Out Crime Officer has made the following comments on the revised layout:

- The play area is lacking in good levels of surveillance, due to the orientation of the nearby dwellings. All open space should be well over-looked.
- Careful consideration of the proximity of the residential properties to the play area – if they are too close it could lead to complaints.
- Fencing should be provided, if the play area is for young children

#### 1.4.15 Planning 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 Council has conceded in appeal APP/N2739/W/16/3144900 of October 2016 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 Policy SP2 is out of date in so far as it relates to housing supply. However, in assessing the proposal, the development would not bring economic, social and environmental benefits to the village of Kellington.

### 1.5 **Publicity**

- 1.5.1 The application was publicised by site notice, neighbour notification letter and notice in the local newspaper. 29 letters of objection were received, and 15 letters of support were submitted to the Council. The issues raised can be summarised as follows:

#### *Object*

- *Over the summer, Poskitt's have installed a new processing plant, which has increased the noise levels coming from this site, which should be taken into account as part of the assessment of this scheme.*
- *They would like the gap between Kellington and Eggborough to be retained*
- *People are very concerned about the loss of the character and would like the rural surroundings to be retained.*
- *There is concern that the development would lead to increased traffic.*
- *The development will strain on the local infrastructure, including sewage works*
- *It would exceed the previous growth option of 38 dwellings.*
- *Not enough affordable housing being provided.*
- *The development proposes a threat to pedestrians and cyclists.*
- *Loss of good quality arable land; there are better alternative sites on Eggborough that which are not as good quality agricultural use.*
- *Machinery noise and flooding issues from the adjoining farm would result in poor quality living arrangements.*
- *The proposal is in conflict with the local plan.*
- *The scale of the development would be overbearing*

#### *Support*

- *The development would provide increased trade to pubs and shops.*

- *It is a natural extension to the village.*
- *Kellington and Eggborough would not be joined together.*
- *Need houses to ensure future generations can remain in the area.*
- *The development would create better street lighting for Broach Lane.*
- *The local schools need more pupils to be sustainable.*
- *The site was previously identified as being suitable for housing.*
- *New footway and streetlights would be on the agenda.*
- *It would improve the view as you would see housing instead of industrial buildings across the field.*

## **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**

The relevant Core Strategy Policies are as follows:

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

### **2.3 Selby District Local Plan**

The relevant Selby District Local Plan Policies are:

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

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

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

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

## 2.5 Other Policies/Guidance

Affordable Housing Supplementary Planning Document, 2013  
Developer Contributions Supplementary Planning Document March 2007

## 2.6 Key Issues

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

1. The appropriateness of the location of the application site for residential development in respect of current housing policy and guidance on sustainability contained within the Development Plan and the NPPF.
2. Identifying the impacts of the proposal.
  - a) Visual Impact on the Character and Form of the Locality
  - b) Layout, Design, Scale and Landscaping
  - c) Residential amenity
  - d) Impact on Employment use
  - e) Flood risk, drainage and climate change
  - f) Impact on highways
  - g) Affordable housing
  - h) Nature conservation and protected species
  - i) Land contamination
  - j) Loss of agricultural land
  - k) Recreational Open Space
  - l) Education/Healthcare/Waste and Recycling.
  - m) Recommendation
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.

## 2.7 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.

2.7.1 Policy SP1 of the Selby District Core Strategy Local Plan (2013) outlines that "when considering development proposals the Council will take a positive approach that reflects the presumption in favour of sustainable development contained in the National Planning Policy Framework" and sets out how this will be undertaken.

2.7.2 Policy SP1 is therefore consistent with the guidance in Paragraph 14 of the NPPF and should be afforded significant weight.

2.7.3 The application site is situated outside the defined development limits of Kellington which is a Designated Service Village. Policy SP2A(c) of the Core Strategy says:

"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."

- 2.7.4 The proposal does not meet Policy SP2A(c) as it is not purely for rural affordable housing need and there are no special circumstances. The application should therefore be refused unless material circumstances indicate otherwise. One such material circumstance is the NPPF.
- 2.7.5 The Local Planning Authority, by reason of paragraph 47 of the NPPF, is however required to identify a supply of specific deliverable sites sufficient to provide 5 years' worth of housing against its policy requirements.
- 2.7.6 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."
- 2.7.6 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."*

- 2.7.8 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. 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.

#### Sustainability of the Development

##### *Access to Public Transport and amenities*

- 2.7.9 In respect of sustainability, the application site is in close proximity to the defined development limits of the village of Kellington. Kellington is a Designated Service Village, as identified in the Core Strategy, and somewhere where there is scope for additional residential growth to support rural sustainability. The village contains services such as a primary school, two convenience stores, , a pub, and bus services between Selby and Wakefield. There has been until recently, a fairly regular bus service. However, the company (ARRIVA) who run the bus services that have, at the time of writing this report, announced that there are planned cuts along this route. The details of these cuts will be provided in the update note for CommitteeA small number of employment opportunities exist within the village. The proposal is within approximately 1.5kms of Eggborough, which is a bigger settlement by population.
- 2.7.10 Kellington village has a score at Level 3 in Background Paper 5 of the Core Strategy Local Plan which is considered to be 'less sustainable'. Eggborough, despite having a larger population, is also ranked at Level 3 ('less sustainable').

2.7.11 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 dwelling. The construction workers may also use the local services within the village. However, having residential properties so close to noisy carrot and parsnip factory buildings that are sometimes in 24 hr use, could lead to complaints from future occupants due to noise and odours, which might stymie the ability of Poskitts Ltd ability to grow as a company.

Social

The proposed dwelling would provide a Community Infrastructure Levy (CIL) contribution to help support local services and would provide affordable housing.

Environmental

The proposal, as explained in the other sections of this report, would fail to deliver high quality homes for local people and fails to adequately take into account environmental issues such as flood risk, climate change and nature conservation

The above factors weigh against the development.

2.7.12 The amount of development is not sustainable in this location and is therefore contrary to 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.

*Previous Levels of Growth and the Scale of the Proposal*

2.7.13 Core Strategy Policy SP4 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. Policy Officers have confirmed that Kellington has seen 7 dwellings in the settlement, since the start of the Plan Period in April 2011 and has extant approvals for 4 dwellings, giving a total of 11.

2.7.14 Core Strategy Policy SP4 does not set a minimum dwelling target for individual service villages, so it is not possible to ascertain exactly whether Kellington has exceeded its dwelling target. As a guide, Policy Officers have confirmed 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 16-26 dwellings for Kellington.

2.7.15 Given the absence of a five year land supply, increasing the size of the Designated Service Village by 45 dwellings is not considered to be inappropriate in itself. However, for reasons set out elsewhere in this report, the amount of housing in this particular location is considered to be inappropriate.

2.7.16 Therefore, the principle of housing in this village is compliant with the NPPF, but the amount is contrary to the Policies and aims of the Core Strategy and the principles of the NPPF.

## **2.8 Identifying the Impacts of the Proposal**

2.8.1 Paragraph 14 of the NPPF requires the decision taker to determine whether any adverse impact of granting planning permission significantly and demonstrably outweigh the



benefits, when assessed against the policies in the Framework taken as a whole. This section looks at the impacts arising from the proposal.

## **2.9 Visual Impact on the Character and Form of the Locality**

- 2.9.1 Relevant policies in respect to design and the impacts on the character of the area include Policy ENV1(1) and (4) of the Selby District Local Plan, and Policies SP18 “Protecting and Enhancing the Environment” and SP19 “Design Quality” of the Core Strategy.
- 2.9.2 The proposal is considered to be unacceptable as it would involve building on more than half of a large, exposed, field, permanently removing its current sense of openness.
- 2.9.3 There are a number of vantage points from Broach Lane that allow clear views of the field and the factory and farm buildings beyond. The size and scale of the proposed development would remove these views and result in the urbanisation of open countryside. As the application site and Broach Lane are cheek by jowl, this loss of openness would be particularly acute.
- 2.9.4 Whilst there is planning permission, secured via appeal, that establishes the principle of four new dwellings on the northern part of this site (just below Southlands Bungalow) it is noteworthy that the Inspector allowed it on the basis that it was a modest take-up of land that, given its proximity to Southlands Bungalow and the care home across the road, would be seen within the context of the village. In paragraph 21 of his decision letter he made the following comment:
- “Whilst the appeal site is outside of the settlement limits of Kellington, it is a modest area of land, read within the context of the MH Poskitt Ltd site and the care home opposite. Moreover, the proposal would be well contained and would assist in providing a transition from the open countryside to the village context of Kellington.”*
- 2.9.5 This application, which will potentially deliver 45 dwellings, is significantly bigger than 4 residential dwellings. The developable land area is 2.08ha instead of 0.45ha; the two proposals are not comparable.
- 2.9.6 Developing this land in such an extensive manner would not be a rounding off of the village. It would fail to be a logical complement to the existing pattern of development and would affect its setting and permanently remove what is an attractive introduction to the village.
- 2.9.7 Developing this amount of the field, and with this amount of housing, would also significantly reduce the physical separation between the villages, Kellington and Eggborough and set a very bad precedent.
- 2.9.8 Kellington and Eggborough have their own identity and have developed independently over the past centuries. There is a clear separation between them and each village has a sense of its own distinct character.
- 2.9.9 It is vital that these separate identities are not lost and that the coalescence of unrelated settlements are resisted.
- 2.9.10 For the above reasons the development fails to accord with policies in respect to the impacts on the character and form of the locality include Policy ENV1(1) and (4) of the Selby District Local Plan, and Policies SP18 “Protecting and Enhancing the Environment” and SP19 “Design Quality” of the Core Strategy.

## **2.10 Layout, Design, Scale and Landscaping**

- 2.10.1 Relevant policies in respect to design include saved Policies ENV1 (1) and (4) of the Selby District Local Plan, and Policy SP19 “Design Quality” of the Core Strategy. In addition, Policy SP8 of the Core Strategy of the Local Plan requires an appropriate housing mix to be achieved.
- 2.10.2 Significant weight should be attached to Local Plan policy ENV1 as it is consistent with the aims of the NPPF.
- 2.10.3 Relevant policies within the NPPF, which relate to design, include paragraphs 56, 60, 61, 65 and 200. Paragraphs 126 to 141 of the NPPF relate to conserving and enhancing the historic environment.
- 2.10.4 The application is for outline consent with all matters reserved. Notwithstanding this, and as advised in the summary section, the applicant has submitted an indicative layout plan which illustrates how the applicant considers the application site could accommodate up to 45 dwellings with the provision for an internal access road.
- 2.10.5 It is also important to note that the number of houses is not capped in the draft section 106 agreement (which the applicants have offered up unilaterally). The absence of a cap on the amount of housing in the application description, and the accompanying section 106 agreement, opens the door to the applicants potentially seeking to deliver more units at the Reserved Matters stage (in the event of this Outline application being approved). Therefore, in the event of an approval, a clause would need to be inserted into the section 106 agreement that ensures that the amount of housing put forward at Reserved Matters stage is limited.
- 2.10.6 The Supporting Design and Access Statement states that the indicative proposal would result in a density of approximately 22 dwellings per hectare, although some of the site is taken up by the proposed access roads and an acoustic bund. The Design and Access Statement also stipulates that it is anticipated that the development would comprise a mixture of primarily two storey detached and semi-detached dwellings.
- 2.10.7 The character and appearance of the local area is varied; it comprises a wide range of house types, development forms and materials. The principle of two storey properties is supported, but to ensure that any new housing would be in keeping with the character and appearance of the area, a variety of materials and housing types would need to be provided.

#### *The Layout*

- 2.10.8 The indicative layout, if built out, would result in a scheme that delivers a significant amount of hardstanding and therefore an urbanisation of open countryside, along with a couple of properties that would have poor quality amenity space by virtue of small gardens.

#### *Landscaping*

- 2.10.9 In terms of landscaping, as limited information has been provided, further information is required which would need to be assessed during the reserved matters application process (in the event of an approval). As the site forms the majority of a large arable field it would need a comprehensive and meaningful landscape scheme in order to mitigate the substantial impacts of the development on the receiving environment. What can be seen from the indicative plan, though, is that a development with 45 units would not allow enough space to deliver strategic landscaping.
- 2.10.10 For the avoidance of doubt, any reserved matters application would need to comply with policies saved Policies ENV1 (1), (4) and ENV3 of the Selby District Local Plan, and Policies SP8 and SP19 “Design Quality” of the Core Strategy and the NPPF.

### *Housing Mix*

- 2.10.11 The Design and Access Statement does not specify the proposed housing mix. Core Strategy Policy SP8 states that proposals must ensure that the types and sizes of dwellings reflect the demand and profile of households evidenced from the most recent Strategic Housing Market Assessment. Therefore, if this proposal is supported, it must meet the locally identified need.
- 2.10.12 For the avoidance of doubt, any reserved matters application would need to comply with policies saved Policies ENV1 of the Selby District Local Plan, and Policy SP8 “Design Quality” of the Core Strategy and the NPPF. With respect to the appearance and scale of the proposals, there is no detail at this stage with respect to the appearance of the properties.

### *Summary*

- 2.10.13 Having had regard to all of the above elements it is considered that in terms of layout, design, scale and landscaping, only if there was a significant reduction in the number of housing and developable land could an appropriate design be achieved at Reserved Matters stage. What is proposed, albeit indicatively, would not be acceptable in terms of the requirements of Policies ENV 1(1) and (4) and ENV3 of the Local Plan, Policies SP8 and SP19 of the Core Strategy and the NPPF.

## **2.11 Residential Amenity**

- 2.11.1 The relevant saved local plan Policies are ENV1(1), ENV2 and paragraph 200 of the Local Plan, 2005.
- 2.11.2 Acceptable noise levels are fundamental to the provision of a good quality living environment and for this reason people expect to live in homes where there is no observed adverse effect from noise (see Planning Practice Guidance (Noise)).
- 2.11.3 This is recognised by Selby District Council and reflected in Policies ENV1(1), ENV2 and paragraphs 200 of the Local Plan. The importance of having good levels of amenity for residential occupiers is also a core planning principle of the NPPF which seeks “good standard of amenity for all existing and future occupants of land and buildings”.
- 2.11.4 When assessing an application of this nature, consideration has to be given to the Noise Policy Statement for England and the Observed Effect Levels, as they relate to the adverse effects on health and quality of life; they both make clear that where domestic properties cannot open windows without being subjected to unacceptable noise levels the quality of life of those residents is affected.
- 2.11.5 The applicants’ original noise assessment (prepared by Clover Acoustics in April 2016) and revised noise assessment (submitted in January 2017) demonstrates that the noise levels generated from the factory will have an impact on the ability of future residents ability to have an undisturbed night’s sleep. Anything over 45dba is considered to result in sleep disturbance and the noise assessment shows that the maximum level, at night time, is 79dba. Although this figure is taken at the factory site itself, and the levels will reduce the further away you go from the factory, the separation distance between the factory and new houses would not be enough to avoid sleep disturbance levels. It is also worth noting that since this report was carried out, further improvement works have been made to the M.H. Poskitt’s Ltd farm site in August (a new bagging area and a packing plant), which have increased the noise levels further still. This is confirmed by the Poskitts site manager and it has resulted in complaints from existing neighbours who live approximately 80m away.

- 2.11.6 The absence of 'noise' and 'hours of use' restrictions on the various buildings on the farm (that are in active commercial use), is also a material consideration and forms part of this assessment. Aside from two conditions (4 & 5) attached to the parsnip factory building decision notice (2005/0963/Full), which limits the noise levels to 5db, and requires for there to be roller shutters, none of the other buildings have any restrictions imposed on them. This means that significant amount of noisy activity can take place, 24hrs a day (the workers on site wear ear defenders). The reasons for these lack of restrictions is because there is limited amount of residential properties in the surrounding area.
- 2.11.7 In light of the above, significant measures would need to be put in place to mitigate the noise impacts of the Poskitt's site. The applicants have proposed to build an acoustic bund along the common boundary line (although no specific details are known about its height and size), and by using upgraded double glazing in the new houses. However, for the new residents to avoid sleep disturbance caused by external noise, they would need to keep the windows and doors shut. Whilst the applicants have submitted plans showing improved ventilation for the dwellings (through the use of acoustically attenuated trickle vents) the residents, particularly in the summer months, will still want/need to open their doors and windows.
- 2.11.8 The noise assessment concludes that the bund and accompanying fence would provide approximately 12dB screening attenuation. The Environmental Health officer does not consider this to be enough to ensure that the future occupiers are not affected by the noise from Poskitt's. Additionally, the houses most likely to be affected would be along the northern boundary as they are the closest properties to the carrot factory and a part of the Poskitts siter where scraping takes place. They would require a bund as well. However, it should be noted that Poskitts have installed temporary mitigation measures, in the form of a wall of hay bales (three bails high), and the sound still travels through, according to the Environmental Health officer and neighbouring occupiers.
- 2.11.9 As stated above, it is unrealistic to expect people to keep their windows shut on warm nights (and during all weathers if MH Poskitt Ltd expand the size of the business) as they will want to open their windows at some stage. Furthermore, the enjoyment of the gardens will be limited by the noise levels. Therefore, based on the evidence available, it can be surmised that future occupiers of this development would be subjected to unacceptable levels of noise disturbance. This scenario is a case in point that the amount of housing and size of development in this location is unacceptable.
- 2.11.10 It is noted that the Inspector who dealt with the appeal for 4 dwellings on the land to the north of this application site concluded that the proposal *"would not give rise to significant levels of noise and disturbance for future occupiers of the appeal proposal due to the intervening distances and the nature of the operations at the MH Poskitt Ltd site."* He was, however, concerned enough to impose a stringent noise mitigation condition. He wrote that *"I do consider it necessary and reasonable, however, to impose a condition to ensure that the noise mitigation measures are incorporated into the proposed development."* The condition he imposed is as follows:
- "Prior to the construction of the development hereby permitted, a scheme for protecting the development from noise shall be permitted to and agreed in writing by the Local Planning Authority. The agreed scheme shall be implemented prior to first occupation of the dwellings hereby permitted. The agreed scheme shall be thereafter retained and maintained as such for the lifetime of the development hereby permitted."*
- 2.11.11 The difference between the appeal site and this application site is that the closest dwelling on the appeal scheme would be located 52m away from the boundary shared with MH Poskitt Ltd. The nearest residential property of this outline proposal (shown on the indicative plan) would be 10m, which is significantly closer and would feel the impacts of the 24hr commercial activity next door much more, which includes packing, bagging,

scraping and large JCBs moving around the site. In addition to this, and as recorded above, the noise levels from Poskitt's have increased since the Inspector's decision, back in March 2016.

2.11.12 In addition to noise, whilst walking down Broach Lane on the 7<sup>th</sup> March 2017, the Environmental Health officer noted odours from the Poskitt Ltd site, which may also cause a loss of amenity to residents of the proposed dwellings. This is due to the odours that originate from the washing of carrots, waste water treatment plant and the storage of waste carrots, which the EH officer noted when visiting that site.

2.11.13 In summary, the potential noise and odour levels would impact on a number of the properties suggested on the revised indicative plan and are considered to be unacceptable. Consequently, the proposal for residential properties in this location is contrary to Policy ENV2 of the Selby District Local Plan 2005

## **2.12 Loss of employment**

2.12.1 It is a strategic policy within the Selby Core Strategy Local Plan to improve job opportunities for local residents. Stimulating growth and creating job opportunities is also one of the main objectives of the Government.

2.12.2 In addition, Paragraph 123 of the NPPF states that planning decisions should recognise that development will often create some noise and existing businesses wanting to develop in continuance of their business should not have unreasonable restrictions put on them because of changes in nearby land uses since they were established.

2.12.3 This proposal, if approved, has the potential to run counter to the aims of Selby District Council and the Government policy, as a residential development in this location has the potential to stymie any future development of the MH Poskitt Ltd site.

2.12.4 As made clear in the previous chapter (Residential Amenity), the provision of this amount of housing would not be an appropriate use of this site. The new packing and bagging installations on Poskitt's land has generated additional noise levels which has already raised complaints from neighbours 80m away. The issue of odours is also a material consideration. If Poskitt's wanted to expand their company in the future, and intensify the use of their land, their proposals would likely to be met with a significant amount of objections from the new residents.

2.12.5 Therefore, this aspect of the proposal fails to comply with Policy SP13 (Scale and Distribution of Economic Growth) of the Core Strategy and paragraph 123 of the NPPF.

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

2.13.1 Relevant policies in respect to flood risk, drainage and climate change include Policy ENV1 (3) of the Selby District Local Plan, and Policies SP15 "Sustainable Development and Climate Change", SP16 "Improving Resource Efficiency" and SP19 "Design Quality" of the Core Strategy.

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

2.13.3 Relevant paragraphs within the NPPF, which relate to flood risk, drainage and climate change include 94 and 95.

- 2.13.4 The application site is located within Flood Zone 1 which is at low probability of flooding. As such a Sequential Test and Flood Risk Assessment is not required to be submitted with the application.
- 2.13.5 The Sustainable Drainage consultant and the Danvm Drainage Commissioners Shire Group Of IDBs have both requested details of plans of the surface water discharge. Information relating to the on-going drainage maintenance has also been requested. This latter point could be dealt with through a reserved matters application, but it is critical that surface water discharge information is provided as part of this outline application as it is needed to assess whether an adequate drainage system can be put in place to cope with up to 45 dwellings. This information has now been provided.
- 2.13.6 Therefore it is concluded that the information provided complies with Policy ENV1(3), Policies SP15 and SP16 of the Core Strategy and the NPPF with respect to drainage, climate change and flood risk.

## **2.14 Impact on Highways**

- 2.14.1 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.
- 2.14.2 Significant weight should be attached to the Local Plan Policy ENV1 as it is broadly consistent with the aims of the NPPF.
- 2.14.3 Although access is not being considered at this stage the applicants have suggested that access to the site would be taken from Broach Lane. Concerns have been raised by the Parish Council and local residents in regards to highway safety.
- 2.14.4 The indicative layout illustrates how the applicant considers access could be achieved from Broach Lane. Although the final location of the access point would need to be agreed at reserved matters stage (in the event outline consent is given) the accompanying indicative plan shows how the layout would be shaped by a loop road, which would provide two access points off Broach Lane.
- 2.14.5 Following detailed discussions with the Highways Authority, a revised highways plan has been submitted which demonstrates how the site will connect to the village and increase the 30mph zone, providing a safer introduction to the village. The applicants are now proposing two footpaths on either side of the road, along with a pelican crossing. In the event of an approval, a condition would need to be imposed to ensure that the applicants enter into a Section 278 Agreement with the Highways Authority.
- 2.14.6 Having had regard to the above it is considered that previous objections to the highways safety proposals have been overcome, and this part of the application accords with Policies ENV1 (2), T1 and T2 of the Local Plan, Policy SP19 of the Core Strategy and the NPPF.

## **2.15 Affordable Housing**

- 2.15.1 Meeting housing need, in particular through the provision of affordable housing, is a key national policy objective. The NPPF requires that local planning authorities should significantly boost the supply of housing by using their evidence base to ensure that their Local Plan meets the full, objectively assessed needs for market and affordable housing in the housing market area, as far as is consistent with the policies set out in the Framework (paragraph 47). NPPF paragraph 50 requires that policies relating to affordable housing should be sufficiently flexible to take account of changing market conditions over time.

- 2.15.2 Selby District Strategic Housing Market Assessment (SHMA) 2009, which is supported by the draft 2016 SHMA, has demonstrated a need for affordable housing in the district that is pressing. For this reason, maximising affordable housing provision is a key priority for Selby District Council. This is set out in the Corporate Plan and the Affordable Housing Supplementary Planning Document (2014).
- 2.15.3 Selby Core Strategy Policy SP9 sets out the affordable housing policy context for the District and makes clear that the Council will seek to achieve a 40% affordable housing/60% market housing ratio.
- 2.15.4 Part B of this policy states that the Council will negotiate for on-site provision of affordable housing up to a maximum of 40% of the total new dwellings on all market housing sites at or above the threshold of 10 dwellings (or sites of 0.3 ha) or more.
- 2.15.5 The applicants are proposing to deliver affordable housing as part of this proposal. The applicants have put an obligation in the S106 agreement that requires them to deliver up to 40% affordable housing, subject to the completion of a detailed viability assessment as part of any future reserved matters application.
- 2.15.6 Given the level of need for affordable housing in the district, and the potential for viability assessment to have a significant impact on the provision of affordable housing, it is vital that the viability of proposed developments is robustly and transparently appraised by an independent consultant, paid for by the applicant.
- 2.15.7 Subject to a comprehensive, independent, viability review, this aspect of the proposal complies with Policy SP9, the Affordable Housing Supplementary Planning Document and the NPPF.

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

- 2.16.1 Protected Species include those 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.
- 2.16.2 Relevant policies in respect to nature conservation include Policy ENV1 (5) of the Selby District Local Plan and Policy SP18 "Protecting and Enhancing the Environment" of the Core Strategy. These Local Plan policies should be afforded substantial weight as they are broadly consistent with the aims of the NPPF.
- 2.16.3 Natural England and the Yorkshire Wildlife Trust have been consulted on the proposals. Natural England have no comment to make and the Yorkshire Wildlife Trust have would welcome that the trees and hedges within the site would be retained and have suggested potential measures for enhancements for biodiversity.
- 2.16.4 Large parts of the application site are surrounded by mature hedging which are likely to be home to wildlife. The information provided by the applicant is insufficient to carry out a credible assessment of, what type of wildlife there is, and what the impacts of converting this arable field into residential development would be. The information also fails to demonstrate what mitigation measures there would be. In the event of approval, a condition would need to be imposed to ensure that this work is carried out in advance of a reserved matters application coming forward.
- 2.16.5 The proposed scheme therefore fails to accord is with Policy ENV1 (5) of the Local Plan, Policy SP18 of the Core Strategy and the NPPF.

## **2.17 Contamination**

- 2.17.1 Policies ENV2 of the Local Plan and SP19 of the Core Strategy relate to contamination. These policies should be afforded significant weight.
- 2.17.2 The applicant has submitted a Phase 1 Contaminated Land report which has been reviewed by the Council's Contaminated Land Consultant. The Council's Contaminated Land has recommended that planning conditions are attached to any permission granted.
- 2.17.3 Therefore the proposals accord with Policy ENV2 of the Local Plan, Policy SP19 of the Core Strategy and paragraphs 120 and 121 of the NPPF.

## **2.18 Loss of Agricultural Land**

- 2.18.1 Also requiring consideration is Policy SP18 of the Selby District Core Strategy, which states that the high quality and local distinctiveness of the natural and man-made environment will be sustained by steering development to areas of least environmental and agricultural quality.
- 2.18.2 There are two issues for consideration in the determination of this application within the remit of Policy SP18. The first is to define agricultural quality and, in particular, the highest quality: that which should be protected in its own right. The second is to consider sustainability within that context.
- 2.18.3 Looking at the comments received from local residents, it is noted that a number of them raised concerns about the loss of good quality arable land.
- 2.18.4 The agricultural land classification maps, originally introduced in 1966 and with their latest re-publication by Natural England in 2010, were drawn up for strategic purposes. They are not sufficiently accurate for use in the assessment of individual fields or sites, and any enlargement could be misleading. The maps show Grades 1-5, but Grade 3 is not subdivided, which is a critical dividing line between higher and lower quality agricultural land. Despite Natural England's confirmation that they were not drawn up for specific sites, this application site would appear to be within Grade 3: 'Good to Moderate'.
- 2.18.5 The NPPF defines the 'best and most versatile agricultural land' as being land in Grades 1, 2 and 3a of the Agricultural Land Classification. However, the NPPF goes on to state that "where significant development of agricultural land is demonstrated to be necessary, local planning authorities should seek to use areas of poorer quality land in preference to that of higher quality. Although the site area is 2.08 hectares, and planning permission has already been given consent to build on 0.45ha of the adjacent part of this field it is considered that there is sufficient usable agricultural land within the district to absorb the loss of this land without having a significant impact on the local economy.
- 2.18.6 Therefore, the proposal, in this instance, is compliant with policies SP13 and SP18 of the Selby District Core Strategy and the NPPF.

## **2.19 Recreational Open Space**

- 2.19.1 The recreational open space requirements are set out in Policy RT2 b), which states that, for schemes of more than 10 but less than 50 dwellings there are four options for the provision of recreational open space, and that these are subject to negotiation.
- 2.19.2 The application provides a revised indicative layout but does not include an area of recreation open space, although it does make provision for a children's play area. Given the scale and size of the land within the application site it is considered that an area of recreational open space could be accommodated. Recreational Open Space is also an



important government priority. This is made clear in paragraph 73 of the NPPF which recognises the importance of access to high quality open spaces and sport and recreation opportunities to the health and well-being of communities.

- 2.19.3 In line with this, it is part of the strategic vision of the Council to ensure that the growing population in the district have access to appropriate levels of sports and recreational facilities so that maximum health benefits can be received.
- 2.19.4 It is recommended that an appropriate level of recreational open space should be provided on site and form part of any reserved matters application (in the event of this Outline application getting approval).
- 2.19.5 Although, no open space is shown on the indicative plan, a contribution for open space could be secured through a CIL tariff. Therefore, the proposal is still compliant with Policy RT2 of the Local Plan, Policy SP19 of the Core Strategy and the NPPF.

## **2.20 Education, Healthcare, Waste and Recycling**

- 2.20.1 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. These policies should be afforded limited weight due to their conflict with the Community Infrastructure Levy.
- 2.20.2 Having consulted North Yorkshire County Council Education they confirmed no education contribution would be required. However since the adoption of the Community Infrastructure Levy (CIL) a sum cannot be secured and the subsequent reserved matters application would secure a CIL payment which can be spent towards education provision in this area.
- 2.20.3 No response has been received from the Healthcare Service in relation to healthcare contributions, although no contribution would be required due to the adoption of CIL.
- 2.20.4 A contribution of £65 per dwelling towards waste and recycling is required and should be secured through obligation to the Section 106 agreement.
- 2.20.5 Having had regard to the above the proposals fails to 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.

## **2.21 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.**

- 2.21.1 The development would bring some social benefits, as the proposed dwellings would provide a Community Infrastructure Levy (CIL) contribution to help support local services and would provide market and affordable housing.
- 2.21.2 In terms of economic benefits, the proposal would provide jobs in the construction of the proposed dwellings; the construction workers may also use the local services within the village. However, having residential properties so close to noisy carrot and parsnip factory buildings that are sometimes in use for 24hrs a day, could lead to complaints from future occupants, which would severely restrict the ability of Poskitts Ltd ability to grow as a company, and may in fact adversely affect existing business operations through limitations imposed to control noise and odour under Environmental Protection .

2.21.3 With regards to environmental benefits that the proposal might bring, as explained throughout this report, this scheme would fail to deliver high quality homes for local people, and it fails to adequately take into account environmental issues such as flood risk, climate change and nature conservation. It would also permanently remove an attractive introduction to the village and remove separation spaces between neighbouring villages.

2.21.4 Therefore it is considered that there would be adverse impacts of granting planning permission that would significantly and demonstrably outweigh the benefits. In short, the proposal is considered to be unacceptable when assessed against the policies in the NPPF, Selby District Local Plan and the Core Strategy.

## **2.22 Conclusion**

2.22.1 The harm cannot be justified by reference to housing supply. Whilst housing is a welcome and clear benefit (particularly at a time when the Council does not have a five year land supply) there is no policy support for its delivery at the expense of the local context and the amenities of future occupiers.

2.22.2 The proposal's substantial non-compliance with national and local planning policies is not outweighed by housing delivery considerations. Therefore, the proposal is recommended for refusal.

## **2.23 Recommendation**

**This planning application is recommended to be Refusal for the following reasons:**

01. The proposal would appear as an intrusive and incongruous development, divorced from and out of character with the form and layout of this part of the village. It would also result in the creeping coalescence of adjoining settlements and the permanent loss of open countryside. Therefore, the proposals would have a significantly harmful impact on the setting of the village and the character of the area contrary to Policies SP1, SP4 and SP19 of the Core Strategy and ENV1 of the Selby District Core Strategy Local Plan 2013.

02. The proposal, by virtue of its siting and location next to the M.H.Poskitt's Ltd Farm, would result in future occupiers of this development having living conditions below those they would normally be expected to enjoy due to unacceptable noise and odour levels from the adjacent . The proposal, therefore conflicts, with saved Policies ENV1(1) and ENV2 of the Local Plan, and policy SP1 of the Selby District Core Strategy Local Plan 2013.

03. The proposal for residential properties to the site by virtue of its proximity to the neighbouring M.H.Poskitt Ltd farm site, would be likely to result in the loss of employment opportunities by restricting M.H.Poskitt Ltd's ability to expand, and potentially affecting the existing operation of the farm due measures taken to address complaints regarding noise and odour from the existing business. The proposal is, therefore, contrary to policy SP13 of the Selby Core Strategy and paragraph 123 of the National Planning Policy Framework.

## **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**

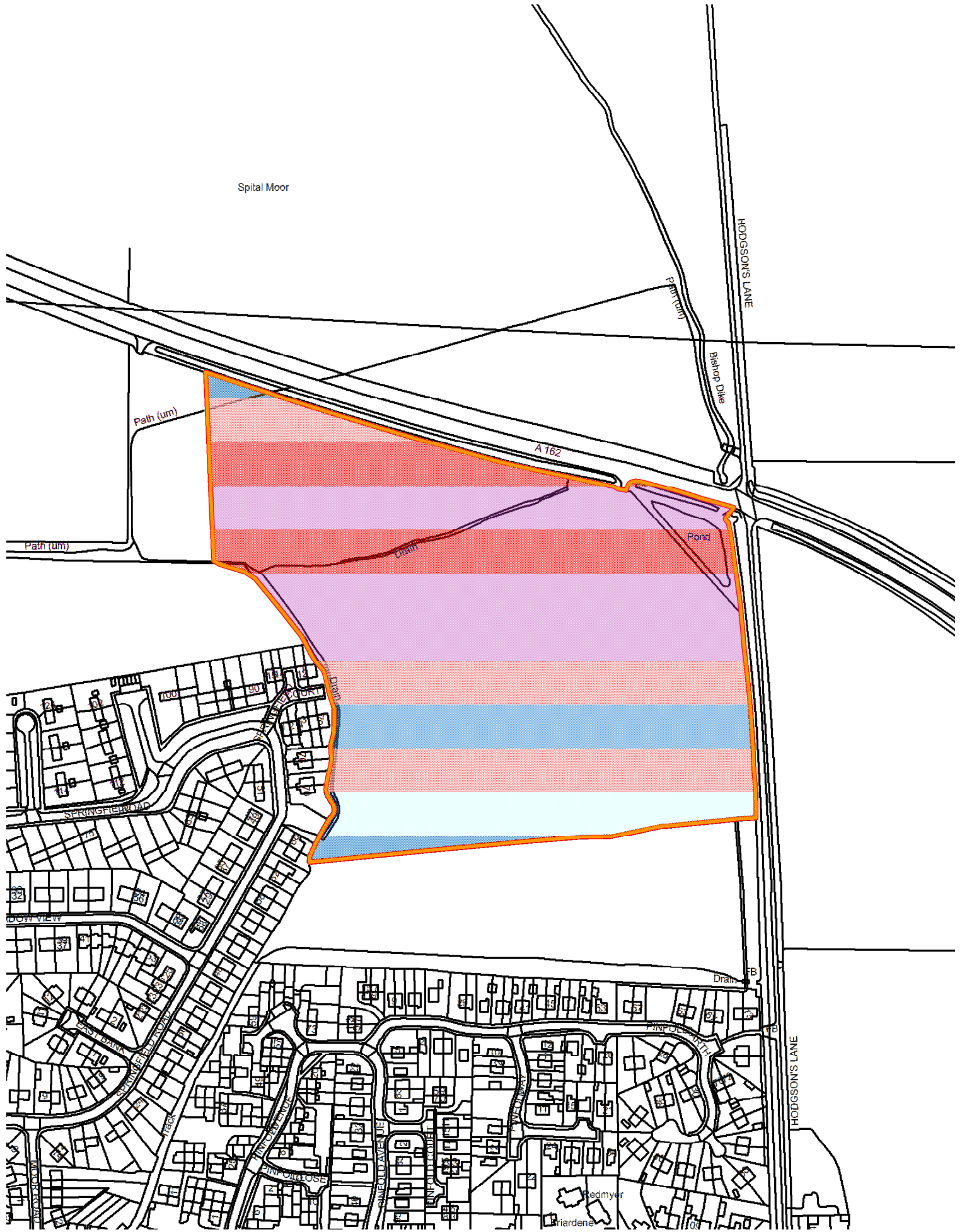
4.1 The proposal's non-compliance with national and local planning policies is not outweighed by housing delivery considerations and is contrary to the saved policies of the Local Plan, the Core Strategy and the principles of the NPPF.

**5. Background Documents**

5.1 Planning Application file references 2016/0515/OUT and associated documents.

**Contact Officer: Tom Webster, Principal Planning Officer**

**Appendices: None**



# APPLICATION SITE

**Item No:** 2016/1409/OUTM

**Address:** Hodgsons Lane, Sherburn in Elmet

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01.12.2016
<b>BUSINESS SUPPORT</b>



Land at Sherburn-in-Elmet  
**Proposed Layout**

July 2015 Rev B  
 Scale 1:1250 @ A2

**DWP**  
 Dryden Wilkinson Partnership

Norwood Barn  
 Lower Norwood Road  
 Norwood  
 Otley LS21 2RA  
 01942666249

**To:** Planning Committee  
**Date:** 29 March 2017  
**Author:** Louise Milnes (Principal Planning Officer)  
**Lead Officer:** Jonathan Carr (Lead Officer – Planning)

APPLICATION NUMBER:	8/58/1050A/PA 2016/1409/OUTM	PARISH:	Sherburn in Elmet Parish
APPLICANT:	Mr John Harrison, Mr David Harrison and Mr Bernard Harrison	VALID DATE:	2 December 2016
		EXPIRY DATE:	3 March 2017
PROPOSAL:	Outline application for residential development with all matters reserved		
LOCATION:	Land at Hodgsons Lane Sherburn In Elmet LS25 6EN		

This application has been brought forward to Committee due to it being a departure from the Development Plan. A request for the application to be considered by Committee was also made by Cllr Buckle on the basis that there were insufficient facilities, the field is prone to flooding and the dangerous access from the bypass.

**Summary:**

The application proposes outline planning consent for residential development with all matters reserved. The site is currently in arable agricultural use and the boundaries of the site are existing residential properties to the west, the A162 bypass to the north, Hodgson’s Lane to the east and a line of hedgerows and trees to the south with agricultural land beyond.

The indicative layout shows 150 dwellings with the indicative access to be taken through the eastern boundary linking to the proposed Hodgson’s Gate development to the east which is in turn served from a roundabout leading from the A162. The site is located partially within an area of open countryside and partially within the Green Belt immediately adjacent to the defined development limits of Sherburn in Elmet and is on an area of land designated as safeguarded land.

The parcel of land to the south of this site is the subject of an application which is pending consideration for residential development for up to 65 dwellings.

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

As such the proposals for residential development on this site should be considered in the context of the presumption in favour of sustainable development and paragraphs 14 and 49 of the NPPF. In assessing the proposal against the three dimensions of sustainable development set out within the NPPF, the development would provide the following social, economic and environmental benefits and mitigation measures:

- a contribution to the District's five year housing land supply.
- the provision of additional market, affordable and high quality housing for the District.
- the provision of housing outside the boundary of a Local Service Centre and thus one of the most sustainable settlements within the District.
- the provision of housing in close proximity to a major employment base of the District thereby providing opportunities for shorter travel to work distances.
- the provision of a local workforce source for the employers of nearby businesses, although this will depend upon potential employee skill matches and vacancy requirements.
- short term employment opportunities for the construction and house sales industry.
- additional spending within the District from the future residents.
- On-site open space provision and on-going maintenance.
- Community Infrastructure Levy Fees to be provided on commencement of development.
- a 10% energy supply from decentralised and renewable or low carbon sources.

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

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

A portion of the north western corner of the application site is located within the Green Belt, the indicative layout plan demonstrates that this part of the site would be utilised as recreational open space and as such is not inappropriate within the Green Belt in accordance with Paragraph 89 of the NPPF.

On balance having had regard to the significant benefits of the scheme it is considered that these benefits would outweigh the harms by virtue of development of a site which is located outside of development limits and the loss of safeguarded land.

## **Recommendation**

**This planning application is recommended to be APPROVED subject to delegation being given to Officers to complete the Section 106 agreement to secure 40% on site provision for affordable housing, on-site recreational open space provision and maintenance, a £13,400 contribution towards the works required to link the pedestrian crossing on Low Street with the traffic signals at the Low Street/Kirkgate/Moor Lane/Finkle Hill junction, a Travel Plan and £5,000 monitoring fee and a waste and recycling contribution and subject to the conditions detailed in paragraph 3.0 of the Report.**

## **1. Introduction and background**

### **1.1 The Site**

- 1.1.1 The application site is located outside the defined development limits of Sherburn in Elmet, being located to the north east of the existing settlement boundary. The majority the application site is designated as safeguarded land within the Selby District Local Plan (2005).
- 1.1.2 The site is currently in arable agricultural use and the boundaries of the site are existing residential properties to the west, the A162 by pass to the north, Hodgson's Lane to the east and a line of hedgerows and trees to the south with agricultural land beyond. There are residential properties to the west which are mainly two storey in height. A public right of way runs along the site's western boundary.
- 1.1.3 The north western portion of the site is situated within the Green Belt.
- 1.1.4 The western part of the site lies within Flood Zone 1 with the eastern part of the site located within Flood Zone 2 as identified in the Environment Agency's Flood Risk mapping.

### **1.2. The Proposal**

- 1.2.1 The application is for outline consent for residential development with all matters reserved and the indicative scheme submitted with the application demonstrates how the site could accommodate 150 dwellings.
- 1.2.2 The proposed access would be taken through the eastern boundary linking to the proposed Hodgson's Gate development to the east which is in turn served from a roundabout leading from the A162.
- 1.2.3 The submitted indicative layout shows a mixture of dwellings including detached semi-detached units and terraced units. The indicative layout shows a loop configuration for the internal access road and demonstrates how recreational open space and a balancing pond could be provided on site as well as how the development could link to the surrounding area.

### **1.3 Planning History**

- 1.3.1 Planning application referenced 2015/0895/OUT for outline consent for residential development with all matters reserved was refused on 4 July 2016. The reasons for refusal were:



1. *Approval of this application for housing development at this time without the support of a Local Plan Review, and without any overriding need to release safeguarded land for housing in the District and the town of Sherburn-in-Elmet would be in conflict with the protection afforded to safeguarded land by Policy SL1 of the Selby District Local Plan and paragraph 85 of the National Planning Policy Framework.*
2. *Approval of this application for housing development without any current overriding planning need is contrary to the aims of Policy SL1 of the Selby District Local Plan; paragraph 85 of the National Planning Policy Framework (bullet 4) and paragraph 17 (bullet 1) of the National Planning Policy Framework by preventing i) a plan led approach to the phased release and integrated land use planning of this and all the other safeguarded land in Sherburn-in-Elmet; and ii) the consequential lack of community involvement which empowers local people to shape their surroundings.*
3. *Approval of this application for housing development and the planning principle this would set locally for the potential development of up to about 45 hectares of safeguarded land for housing in Sherburn-in-Elmet in addition to the housing supply already provided in the town, is in conflict with the recently adopted Core Strategy's spatial development strategy for this Local Service Centre and Selby District Core Strategy Policies SP2 (A) (a), SP5 (A) and (D) and SP14 (A).*
4. *The growth of Sherburn-in-Elmet in a planning application housing led development process presents an unacceptable risk of an unsustainable pattern of growth of the town which, by virtue of a physically constrained town centre, the lack of a Site Allocations Local Plan Community Infrastructure Levy Charging Scheme to guarantee the delivery of local infrastructure, and the loss of land to residential development, could result in the lack of provision of accessible local services that reflect local community need and support the community's health, social and cultural well-being:- inconsistent with the social dimension of sustainable development contained in paragraph 7 of the National Planning Policy Framework and Policy SP5 of the Selby District Core Strategy.*
5. *The development of this site for housing will result in the loss of countryside and moderately good quality agricultural land beyond the development limits of the Selby District Local Plan Proposals Map and in conflict with Policy SP2A (c) of the Selby District Core Strategy.*
6. *Approval of this application and the planning principle this would set locally for the release of further safeguarded land for residential development will prejudice the outcome of the local plan process by making decisions about land use and the scale and location of development that should, as set out in the development plan and the NPPF, be taken as part of the local plan process.*
7. *The application site and proposal, by virtue of it lying predominantly within Flood Zone Level 2 as indicated on the Environment Agency's Flood Risk Map and failing the National Planning Policy Framework and Planning Policy Guidance Sequential Test on flood risk, would be in conflict with Policy SP15 of the Selby District Core Strategy and paragraph 101 of the NPPF.*

8. *Insufficient information is provided with this application to demonstrate that access can practicably be achieved without incurring significant cost that would affect the viability of the proposal. The application therefore fails to demonstrate that the scheme itself is viable and that the necessary planning obligations to achieve an acceptable development can be delivered. The proposal is therefore contrary to para 173 of the NPPF which indicates that pursuing sustainable development requires careful attention to viability and costs in plan making and decision taking.*
9. *The proposed scale and type of development would result in substantial detriment to the landscape character and visual amenity of the area, and the landscape setting of Sherburn-in-Elmet in conflict with Policies SP18 (1) and SP19 of the Selby District Core Strategy, Policy ENV1 of the Selby District Local Plan and the National Planning Policy Framework paragraph 17 (bullet 5) and paragraph 109 (bullet 1).*

1.3.2 Members should note that reasons 1 to 6 above were also utilised on the refusal of application 2015/0544/OUT for up to 270 dwellings at Hodgson's Gate which was allowed on appeal on 6 December 2016.

1.3.3 Members should also note that there is one further outline application for residential development under planning application reference (2016/1256/OUTM) for land to the south of the application site for up to 65no. dwellings which is pending consideration.

## **1.4 Consultations**

### **1.4.1 Sherburn in Elmet Parish Council**

The Parish Council object to this application on the following grounds:

- The cumulative effect of traffic from this and other applications.
- Flooding for local residents as the site is located within Flood Zone 2.
- Pile driving being used, this must be conditioned.
- Japanese Knotweed should be conditioned to be eradicated.
- Do not accept that housing should be approved because there is not a five year supply of housing land.
- Further development in Sherburn will not be sustainable in the absence of significant improvements to services, facilities and infrastructure.
- Proposals would prejudice a plan making process.
- This is safeguarded land and there is no justification to give planning permission in an ad hoc way it should be noted that this is a long term strategic planning tool and an integral element of Green Belt policy.
- Release of safeguarded land could set a precedent.

### **1.4.2 Lead Officer – Policy**

The key issues which should be addressed are:

1. The Council's Five Year Housing Land Supply
2. The Principle of Development
3. Flood Risk and Sequential Test
4. Previous Levels of Growth and the Scale of the Proposal
5. Safeguarded Land

## 6. Relation of the Proposal to the Development Limit

### 1. The Council's Five Year Housing Land Supply

In December of 2016, appeal decision APP/N2739/W/16/3144900 (relating an application at Hodgson's Gate, Sherburn) found that the Council had less than a 5 year housing land 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.

Sherburn in Elmet is defined in the Core Strategy as a Local Service Centre, where further housing, employment, retail, commercial and leisure growth will take place appropriate to the size and role of each settlement.

This outline proposal for 150 dwellings is on land that is adjacent to, but outside of, the defined Development Limits of Sherburn in Elmet as defined on the Policies Map of the SDLP. 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. Flood Risk and Sequential Test**

Ordinarily the Planning Policy Team do not comment on flood risk and the sequential test in their responses to applications, but have decided to do so for this application because there is a difference of opinion over whether the site should be subject to a sequential test.

Part of the site falls within Flood Zone Level 2 as indicated on the Environment Agency's Flood Risk map. Ordinarily applications on areas at risk of flooding (Level 2, 3a etc) would need to go through a sequential test to evaluate whether there are other sites which could accommodate a similar level of development within Flood Zone level 1. This approach is in line with NPPF 100 and NPPG 103. The exception to this is given in paragraph 104 of the NPPF, which states that 'For individual developments on sites allocated in development plans through the Sequential Test, applicants need not apply the Sequential Test.'

The policy team has looked into the detailed history of the safeguarded land designation and do not consider that an approach equivalent to a flood risk sequential test would have been undertaken at the time of designation. While some analysis of flood risk was undertaken on SL sites, it was very much on the basis of individual site assessments informed by field observations (often categorising or photographing instances of flooding). In light of this analysis it is considered that an up to date sequential test is required for this site. This view would also tend to concur with recent discussions undertaken with the Environment Agency on this matter.

The Council's sequential test requirement should be conducted against all the extant allocated housing sites from the 2005 Selby District Local Plan and 2013 Core Strategy. The comparison against allocated housing sites should be District wide. The level of identified flood risk on the proposal site should be compared with identified flood risk on each of the allocated sites using the current Environment Agency Flood Map for Planning (Rivers and the Sea).

The combined capacity of the comparison sites in the sequential test should be able to accommodate the number of dwellings proposed in the application. If the proposed site has an equal or lower flood risk than all of the other allocated sites in the test (that are considered to be deliverable and combined together cannot accommodate the level of development proposed), then the site passes the test.

### **4. 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 150 dwellings, is considered to be appropriate to the size and role of a settlement designated as a Local Service Centre 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, Sherburn in Elmet has seen 100 dwellings built in the settlement since the start of the Plan Period in April 2011 and has extant approvals for 977 dwellings, giving a total of 1077.

It is important to determine the impact a proposed scheme has on this level of growth, taking into account the scale of the proposal itself and the cumulative impact of previous levels of development since the start of the plan period. When assessing whether the adverse impacts of a housing scheme would significantly and demonstrably outweigh its benefits, the effect on the settlements character, infrastructure capacity and sustainability must be measured.

## **5. Safeguarded Land**

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

When deciding whether this area of safeguarded land should be released, consideration needs to be given to the balanced growth of the settlement to ensure that services / facilities keep track with growth and that development occurs through a phased and managed process. When making this decision, the fact that Sherburn has exceeded its Core Strategy minimum growth requirement of 790 dwellings by a significant amount, less than 6 years into a 15 year plan period (albeit these are mostly permissions rather than completions) should be taken into account. However this consideration should be balanced against the fact that the authority no longer has a 5 year supply of deliverable housing land and the fact that policy SP5 (The Scale and Distribution of Housing) has been rendered out of date by the lack of a 5 year housing supply, as per para 49 of the NPPF.

## **6. 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 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.

#### 1.4.3 North Yorkshire County Council Highways

It is noted that "Access" has not been submitted for consideration as part of the Application. However, when this Application was previously considered under reference 2015/0895/OUT the Local Highway Authority (LHA) acknowledged that access should be taken via the new roundabout on the A162, which is to be constructed as part of the recently approved development on the eastern side of Hodgson's Lane. By taking access from this point traffic is distributed away from the village and particularly the Low Street/Kirkgate/Moor Lane/Finkle Hill signals. A letter has been received from the Land Agent acting on behalf of the developer of the adjacent land which states they are agreeable to the principle of affording the applicant highway access.

If the Planning Committee are minded to approve this application the LHA would seek to secure access via the new A162 roundabout by a Condition as part of any future reserved matters application. A separate access for emergency vehicles will also be required.

With regard to the Low Street/Kirkgate/Moor Lane/Finkle Hill signals, contributions have been secured through previous planning permissions to undertake improvement works and the Applicant has agreed a similar contribution proportionate to the number of trips the development will generate through the junction.

As with other recent planning applications in Sherburn, the traffic impact of the development including a comprehensive list of approved and proposed developments in the area has been assessed at other key junctions on the surrounding highway network, namely;

A162 / Finkle Hill / Stream Lane roundabout  
 A162 / B1222 roundabout  
 A162 / Low Street / Lumby Lane roundabout  
 A162 / A63 roundabout

This proposed development will have an impact on the A162/A63 roundabout. Should this development come forward prior to the approved developments at

Lennerton Lane, Sherburn and at Hambleton it will be required to deliver roundabout improvements.

It not considered that the impact on the junctions within the study area could be regarded as “severe” as cited in paragraph 32 of the National Planning Performance Framework (NPPF) as the reason upon which developments should be refused on transport grounds.

With access from the A162 the principle means of access for pedestrians/cyclists to the local facilities will be via Hodgson’s Lane. To improve pedestrian/cycle amenity in the vicinity of Hodgson’s Lane/Moor Lane, new and additional drop kerb crossings will be required together with tactile pavements.

The LHA does not raise an objection to the Application but recommends the following matters are addressed through the inclusion in a Section 106 Agreement:-

1. £13,400 contribution towards the works required to link the pedestrian crossing on Low Street with the traffic signals at the Low Street/Kirkgate/Moor Lane/Finkle Hill junction.
2. £5,000 monitoring fee for the site Travel Plan.

Other matters are suggested to be covered by the imposition of Conditions relating to:

- Detailed plans of road and footway layout;
- Construction of roads and footways;
- Approval of details for works in the highway to include dropped kerb crossing/tactile pavements in the vicinity of Hodgson’s Lane/Moor Lane and improvements to the A162/A63 roundabout;
- Completion of works in the highway;
- Parking for dwellings;
- Garage conversion;
- Door and window openings over the highway;
- Highway condition survey;
- Wheel washing facilities;
- Location of construction access;
- Construction traffic management plan; and
- Travel plans.

#### 1.4.4 Environment Agency (EA)

##### **Sequential Test**

States the site lies within Flood Zone 2, which has a medium flood risk.

States should the Council be satisfied that the Sequential Test has been carried out and passed, the following further comments are offered in relation to flood risk.

##### **Flood Risk**

States provided the proposed development is built in accordance with the submitted Flood Risk Assessment (AAH Planning Consultants, January 2017) then it has no objections.

However the EA strongly recommends that the soffit of the proposed access bridge is a minimum of 600mm above the 1:100 modelled level to ensure that any debris floating downriver can pass freely under it. Defer to their recommendations of the IDB as the consenting body under the Land Drainage Act 1991.

#### 1.4.5 Yorkshire Water Services

No objections subject to conditions in relation to easements to sewers, separate systems for foul and surface water drainage and works to allow for discharge of surface water.

#### 1.4.6 North Yorkshire County Council – Flood Risk Management

States the only unresolved issue with this application is reconciling minimum surface water discharge rates with the IDB. However, noting discussions between the applicant and Shire Group IDB it does not appear that a reasonable solution cannot be found as part of detailed design. Recommends a condition for any planning approval.

#### 1.4.7 Selby Area Internal Drainage Board

The application lies within the IDB District and indicates that the application will increase the impermeable area to the site and the applicant will therefore need to ensure the existing surface water system has the capacity to accommodate any increase in surface water discharge from the site.

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 7m of the edge of a watercourse are permitted without consent from the IDB.

Should consent be required from the IDB as described above then we would advise that this should be made a condition of any planning decision.

Any surface water discharge into any watercourses in, on, under or near the site requires consent from the Drainage Board.

#### 1.4.8 Environmental Health – Lead Officer

The proposed development is of a large scale and as such will entail an extended construction phase. This phase of the development may negatively impact upon nearby residential amenity due to the potential for generation of dust, noise and vibration. The Environmental Protection Act 1990 allows for the abatement of



statutory nuisance in relation to noise, dust and vibration. It would however be stressed that whilst a development may detrimentally impact upon existing residential amenity, it may not be deemed to constitute a statutory nuisance.

A condition relating to the submission of a Construction Environmental Management Plan and a condition requiring the submission of a Noise Survey should be imposed.

#### 1.4.9 Northern Gas Network

No response received.

#### 1.4.10 NYCC Heritage

NYCC Heritage advises that a scheme of archaeological mitigation recording is undertaken in response to the ground disturbing works associated with the development proposal. This should comprise an archaeological strip, map and record to be undertaken in advance of development. Including site preparation works, top soil stripping, excavations for new foundations and new drainage or services to be followed by appropriate analyses, reporting and archive preparation. This is in order to ensure that a detailed record is made of any deposits/remains that will be disturbed. A condition should be applied to secure the archaeological recording.

#### 1.4.11 Natural England

Statutory nature conservation sites – no objection the proposed development will not damage or destroy the interest features for which Sherburn Willows SSSI has been notified.

Protected Species – Natural England has published Standing Advice on protected species which should be applied.

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

Biodiversity enhancements – The application may provide opportunities to incorporate features into the design which are beneficial to wildlife. The authority should consider securing measures to enhance the biodiversity of the site.

Landscape enhancements – The application may provide opportunities to enhance the character and local distinctiveness of the surrounding nature and built environment, use natural resources more sustainable and bring benefits for the local community, for example through green space provision.

#### 1.4.12 Yorkshire Wildlife Trust

Repeats concerns made during the consultation period for the (subsequently refused) application for a residential development at this site, planning application reference: 2015/0895/OUT. Remains concerned that a substantial bat maternity roost, existing nearby to the site at a private residence on Pinfold Garth, has not been taken into account, as previously stated by the Trust.

It is therefore recommended that an ecological mitigation and enhancement plan be conditioned so as to maintain opportunities for foraging and commuting around the site and to ensure the continued survival of the bat roost. This should include the planting of species rich native hedges and inclusion of a six metre buffer from any development. It should also include an ecologically sensitive lighting plan as well as implementation of bat roosting features such as bat boxes and bat bricks.

Any mitigation strategy should be coordinated with planned developments around the site (approved or under consideration). to provide wildlife connectivity through linear features such as hedgerows and dykes which will be essential in maintaining the ecological functionality of the roost. The Trust recommends that a long term ecological monitoring and management scheme also be implemented to ensure the ongoing success of the mitigation strategies outlined above.

It is strongly recommended that both an ecological mitigation and enhancement plan, and a long term management and monitoring scheme are conditioned and fully funded should planning permission be granted.

The proposal made in the Ecology Report to condition the eDNA analysis of the waterbody on the site during amphibian breeding season to establish the presence or likely absence of great crested newt (GCN) is also supported. Appropriate mitigation should be established should presence of GCN be confirmed.

1.4.13 North Yorkshire Bat Group  
No response received.

1.4.14 North Yorkshire Education  
No response received.

1.4.15 North Yorkshire Police  
Advice and recommendations are made for consideration at reserved matters stage.

1.4.16 North Yorkshire and York Primary Care Trust  
Requests that an appropriate amount of Community Infrastructure Levy is allocated for healthcare resources if planning permission is granted.

1.4.17 North Yorkshire Fire and Rescue Service  
No response received.

1.4.18 North Yorkshire Public Rights of Way  
No works are to be undertaken which will create an obstruction, either permanent or temporary, to the Public Right of Way adjacent to the proposed development.

Applicants are advised to contact the County Council's Access and Public Rights of Way team to obtain up-to-date information regarding the line of the route of the way.

1.4.19 Contaminated Land Consultant (WPA)  
The main risk driver appears to be 'possibly infilled ground' in the northeast corner of the site which has been correctly identified and the recommendation of gas testing seems appropriate. The design of the SuDS balancing pond should be

considered in the context of potential contamination, as it could either exacerbate or remediate the situation. Due to the size and scale of the development it appears prudent for further investigation in respect to contaminated land to be conducted alongside the geotechnical investigations. As such WPA have advised that conditions are put in place. They also recommend that a plan for the intrusive site investigation, with respect to contaminated land, is submitted to SDC for discussion prior to commencement.

## **1.5 Publicity**

1.5.1 The application was advertised as a departure by site notice, neighbour notification letter and advertisement in the local newspaper resulting two letters of objection. The issues raised can be summarised as follows:

- There is a serious lack of services, amenities and community facilities.
- There is a real issue with traffic congestion which will only get worse with increased housing.
- The development is on safeguarded land where there is an argument whether it should be developed on at this moment in time.
- With nearly 1000 houses already approved where is the justification for more houses at this moment in time.
- The village is verging on capacity in schools, doctors, dentists and traffic.
- The proposed indicative access is not suitable as it will cut Hodgsons Lane in two and will become a danger to local pedestrians who use the lane both sides of the existing bypass.

The application has received twelve letters in support all of which are from addresses outside Sherburn in Elmet. In summary the letters of support note the following points:

- The site is well located to provide some of the housing shortfall within the District.
- Sherburn in Elmet is able to support more housing with excellent transport links, schools, shops, church and public leisure/play areas.

## **2. Report**

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

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

2.2.1 The relevant Core Strategy Policies are as follows:

- SP1 Presumption in Favour of Sustainable Development
- SP2 Spatial Development Strategy
- SP5 Scale and Distribution of Housing
- SP8 Housing Mix
- SP9 Affordable Housing
- SP15 Sustainable Development and Climate Change
- SP16 Improving Resource Efficiency
- SP18 Protecting and Enhancing the Environment
- SP19 Design Quality

### **2.3 Selby District Local Plan**

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

The relevant Selby District Local Plan Policies are:

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

### **2.4 National Policy**

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

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

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

#### **Other Policies/Guidance**

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

## 2.5 Key Issues

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

1. The appropriateness of the location of the application site for residential development in respect of current housing policy and guidance on sustainability contained within the Development Plan and the NPPF.
2. Whether any policies in the NPPF indicate the development should be restricted.
  - (i) Presumption against inappropriate development in the Green Belt.
    - (a) Principle of development in the Green Belt.
    - (b) Impact on the openness of the Green Belt.
    - (c) Impact on the purposes of including land within the Green Belt.
  - (ii) Safeguarded Land
  - (iii) Flood Risk
3. Identifying the potential impacts of the proposal.
  1. Design and impact on the character of the area
  2. Drainage and climate change
  3. Impact on highways
  4. Residential amenity
  5. Nature conservation and protected species
  6. Affordable housing
  7. Recreational open space
  8. Education, healthcare, waste and recycling
  9. Contamination
  10. Impact on heritage assets
  11. Other issues
4. Taking into account the presumption in favour of sustainable development determining whether the adverse impacts of the development significantly and demonstrably outweigh the benefits when assessed against the policies in the NPPF taken as a whole.

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

2.6.1 Policy SP1 of the Core Strategy outlines that "when considering development proposals the Council will take a positive approach that reflects the presumption in

favour of sustainable development contained in the National Planning Policy Framework” and sets out how this will be undertaken.

- 2.6.2 The site lies outside the defined development limits of Sherburn in Elmet and therefore is located in open countryside.
- 2.6.3 Relevant policies in respect of the principle of this proposal include Policy SP2 “Spatial Development Strategy” and Policy SP5 “The Scale and Distribution of Housing” of the Core Strategy.
- 2.6.4 Policy SP2A(c) states that development in the countryside (outside Development Limits) will be limited to the replacement or extension of existing buildings, the re-use of buildings preferably for employment purposes, and well-designed new buildings of an appropriate scale which would contribute towards and improve the local economy and where it will enhance or maintain the vitality of rural communities, in accordance with Policy SP13 or meet rural affordable housing need (which meets the provisions of Policy SP10), or other special circumstances.
- 2.6.5 In light of the above policy context the proposals to develop this agricultural land for residential purposes are contrary to policy SP2A(c) of the Core Strategy. The proposal should therefore be refused unless material considerations indicate otherwise. One such material consideration is the National Planning Policy Framework.
- 2.6.6 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 for Hodgson's Gate that it did not have a 5 year supply of deliverable housing land as required by paragraph 47 of the NPPF.
- 2.6.7 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.”
- 2.6.8 Paragraph 14 of the NPPF as set out in the Policy team's response 1.4.2 (2) notes a presumption in favour of sustainable development unless material considerations indicate otherwise, approving development proposals that accord with the development plan without delay; and where the development plan is absent, silent or relevant policies are out-of-date, granting permission unless:

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

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

2.6.9 The examples given of specific policies relate to area or site based designations including 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, designated heritage assets; and locations at risk of flooding.. The north western section of the application site falls within the West Yorkshire Green Belt and therefore is subject to the policies in Section 9 “Protecting the Green Belt” of the NPPF which indicate that development should be restricted. This issue is dealt with in Section 2.7 of this report. The remainder of the site is Safeguarded Land whereby paragraph 85 of the NPPF states that Planning permission for the permanent development of safeguarded land should only be granted following a Local Plan review. This issue is dealt with at Section 2.8 of this report. The site is also located within Flood Zone 2 and as such this issue is dealt with at Section 2.9 of this report.

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

2.6.11 The Council’s Guidance Note “Five Year Supply Guidance Note for Applicants January 2017” describes how proposals will still be assessed for their economic and social benefits and environmental impacts and in accordance with the adopted Core Strategy and saved policies from the 2005 Selby District Local Plan. In particular, the settlement hierarchy remains a key consideration in the determination of planning applications for housing; in terms of the level of services and facilities within the settlement i.e. education and health, shops, transport services and sports and recreational facilities. Policies which are ‘out of date’ can still be given weight in the planning balance however the adverse impacts identified must ‘significantly and demonstrably’ outweigh the benefits of the development when assessed against the policies in the NPPF as a whole including the need to increase housebuilding, provide for identified housing need and maintain a supply of deliverable sites. As such each application will be judged on its own merits and take into account factors such as :

- Design and impact on the character of the area
- Drainage and climate change
- Impact on highways
- Residential amenity
- Nature conservation and protected species
- Affordable housing
- Recreational open space
- Education, healthcare, waste and recycling
- Contamination
- Impact on heritage assets

2.6.12 In respect of sustainability, the site is adjacent to the development limits of Sherburn in Elmet which is a Local Service Centre, as identified within the Core Strategy where further housing growth will take place appropriate to the size and role of the settlement. Sherburn in Elmet is one of the most sustainable settlements within the District. Sherburn in Elmet contains two primary schools, a secondary school, two GP surgeries, a library, numerous convenience stores (including four national multiple retailers), a pharmacy, a dentist, a post office and a reasonable

bus service to Leeds, Tadcaster, Pontefract and Selby. There is a railway station located within walking distance of the site providing links to York, Pontefract, Sheffield and Hull. In addition Sherburn in Elmet Industrial Estate sits to the east of the site on the opposite side of the A162 which is a major employment area. It is therefore considered that the settlement is well served by local services. This conclusion was further confirmed by the Inspector for the appeal decision at Hodgson's Gate to the east of the application site.

2.6.13 Despite the fact that the site is located outside the defined development limits of Sherburn in Elmet it is noted that it abuts the boundary and would be served by the facilities within this settlement. The above points weigh in favour of a conclusion that in terms of access to facilities and a choice of mode of transport, that the site can be considered as being in a sustainable location.

2.6.14 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. It is noted that the following benefits would arise from the development: -

#### 2.6.15 Economic

The proposal would generate employment opportunities in both the construction and other sectors linked to the construction market. The proposals would bring additional residents to the area who in turn would contribute to the local economy through supporting local facilities. The proposals could enhance provision of a local workforce for the employers of nearby businesses, although this will depend upon potential employee skill matches and vacancy requirements.

#### 2.6.16 Social

The proposal would deliver levels of both open market and affordable housing in Sherburn in Elmet and hence would promote sustainable and balanced communities and would assist in the Council meeting the objectively assessed need for housing in the district. In addition the scheme would include provision for recreational open space and would contribute a CIL contribution which could be utilised to enhance existing services within Sherburn in Elmet including local schools and healthcare provision.

With respect to deliverability and the likelihood of the site adding to the 5 year housing land supply, the applicants have confirmed that should outline consent be granted then it would be expected that commencement on site would begin within the next 18 months with a delivery rate of approximately 50 dwellings per year.

#### 2.6.17 Environmental

The proposal would take into account environmental issues such as flooding and impacts on climate change, biodiversity and results in the loss of agricultural land which is of a moderate value. The proposal will also deliver environmental benefits in the form of public open space provision and there could be some gain in biodiversity from the proposed landscape and ecology initiatives. The proposals would provide housing outside the boundary of a Local Service Centre and thus one of the most sustainable settlements within the District and within close proximity to a major employment base thereby providing opportunities for shorter travel to work distances.



2.6.18 These considerations weigh in favour of the proposal. It is therefore concluded that the location of the site is appropriate for residential development in respect to current housing policy and guidance on sustainability contained within the Development Plan and the NPPF.

## 2.7 Principle of Development within the Green Belt

2.7.1 The north western part of the application site which is shown indicatively on the layout plan as recreational open space lies within the West Yorkshire Green Belt and this part of the proposal must therefore be assessed against appropriate Green Belt policy.

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

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

- (a) It must be determined whether the development is appropriate or inappropriate development in the Green Belt.
- (b) If the development is not inappropriate, the application should be determined on its own merits.

If the development is inappropriate, the presumption against inappropriate development in the Green belt applies and the development should not be permitted unless there are very special circumstances which clearly outweigh the presumption.

2.7.4 Paragraph 89 of the NPPF states that the provision of appropriate facilities for outdoor sport, outdoor recreation and for cemeteries, as long as it preserves the openness of the Green Belt and does not conflict with the purposes of including land within it is not inappropriate development.

2.7.5 The indicative layout plan demonstrates that the whole of the Green Belt area could be used for recreational open space. Although the layout is not for consideration at this stage it should be conditioned that this area must be retained for recreational open space within any reserved matters application in order to ensure compliance with Green Belt policy and in particular paragraph 89 of the NPPF, given that other forms of development may not be appropriate on this part of the site.

## 2.7.6 Impact on the openness of the Green Belt

2.7.7 Paragraph 79 of the NPPF states that the Government attaches great importance to Green Belts. The fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open, the essential characteristics of Green Belts are their openness and permanence.

2.7.8 As highlighted above, the Green Belt area of the site is indicatively shown as recreational open space and the detailed landscaping and layout of this area would be subject to detailed assessment at reserved matters stage. However, given the nature of the use of this land for recreational purposes there is nothing to suggest

that a scheme cannot be agreed which would retain the openness of the Green Belt in order to comply with policy.

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

2.7.10 Paragraph 80 of the NPPF states that the Green Belt serves five purposes, namely

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

2.7.11 Having had regard to the above it is noted that the area of Green Belt that would be directly affected by the proposal constitutes the area indicatively to be utilised for recreational open space and as discussed above it would be conditioned to be retained as such with the landscaping and detailed layout being agreed at reserved matters stage. Therefore given the nature of its end use it is not considered to significantly and demonstrably conflict with the purposes of including land within the Green Belt.

2.7.12 As such the proposal would not constitute inappropriate development within the Green Belt and should be determined on its own merits.

## **2.8 Safeguarded Land**

2.8.1 The site is designated as “Safeguarded Land” within the Selby District Local Plan 2005 meaning that it was identified as an area suitable for housing to provide for the long term housing need within the District. The Local Plan states that land excluded from the Green Belt outside Development Limits, but not allocated for development, will be safeguarded as part of a potential long-term reserve beyond 2006, in accordance with policy SL1. The release of the “safeguarded land”, if required to meet long-term development needs, would only be made in a controlled and phased manner through future Local Plan or land supply reviews, possibly extending over successive review periods.

2.8.2 The Inspector for the appeal decision on land to the east of the application site at Hodgson’s Gate (which is also part of the same area of safeguarded land as the application site) noted that “the site was safeguarded some 11 years ago as a resource for accommodating residential growth beyond 2006. It has been kept free of permanent development all of this time and its release now reflects the changed circumstances in the District with regard to the slow delivery of new residential development to meet a new housing requirement.” The Inspector concluded that in the specific circumstances, that being a lack of five year housing land supply, given its status as a parcel of a larger area of safeguarded land, it would not be necessary for the appeal site to be kept free of permanent development at the present time in order to maintain its availability for development in the longer term. Officers note that the proposals would seek to develop a further portion of the safeguarded land around Sherburn in Elmet and there is potentially further loss by virtue of a pending application to the south of the application site for further residential development of 60 dwellings. Notwithstanding this it is noted that there are areas of safeguarded

land to the west and north of the settlement and a significant proportion of safeguarded land to the south which would still be retained for longer term development. It is therefore considered that, on balance having had regard to the need for housing, the loss of this safeguarded land, whilst contrary to Policy SL1 should be given limited weight.

## 2.9 Flood Risk

2.9.1 Policies SP15, SP16 and SP19 of the Core Strategy require proposals to take account of flood risk within the design.

2.9.2 The application site is located within Flood Zone 1 (low probability of flooding) and Flood Zone 2 (medium probability of flooding). With regards to Flood Zone 2, the NPPF considers this to be an area of medium probability of flooding and defines it as having between a 1 in 100 and 1 in 1,000 annual probability of river flooding, or a 1 in 200 and 1 in 1,000 annual probability of flooding from the sea. The PPG states that more vulnerable uses are appropriate in this zone subject to proposals passing the sequential test. In addition the application must be accompanied by a Flood Risk Assessment. These issues are discussed in turn below:

### 2.9.3 Sequential Test

Policy Officers have confirmed that this piece of land, which has been safeguarded through the Local Plan, was never subjected to Sequential Test, the aim of which is to steer new development to areas with the lowest possibility of flooding (NPPF Paragraph 101)

2.9.4 The Council has a list of sites to inform the Sequential Test contained within the Developer Guidance Note (December 2016), and on this list there are currently two alternative sites capable of delivering housing on land that are within a lower flood zone than the application site (flood zone 1). Those sites are:

EGG/2 Land East of High Eggborough Lane, Eggborough	54 dwellings
EGG/3 Land South of Selby Road, Eggborough	85 dwellings

2.9.5 It is noted that there is a planning application pending consideration for EGG/2 submitted under reference 2016/0875/FUL for 55no. dwellings which is due for determination by 26 April 2017.

2.9.6 Given that the available sites are limited to those identified above which would only accommodate 139no. dwellings and the fact that one of these sites is already being progressed through the planning system it is considered that the 150no. dwellings proposed cannot be reasonably accommodated on the alternative sites identified. In addition there are no other potential sites which have been identified and as such the proposals pass the sequential test for flooding.

### Flood Risk Assessment

2.9.7 The applicants have submitted a Flood Risk Assessment which confirms that the proposed development would not flood under fluvial (rivers) or tidal flood conditions whilst the risk of pluvial, reservoir and groundwater flooding is low. The report states that flood resistant design proposals will ensure that all habitable space is located above the surrounding fluvial floodplain. The report states that the recreational open space would accommodate open sustainable drainage systems

with a discharge at greenfield run off rate into a local ordinary watercourse, Bishop Dike with flow attenuated and stored within a custom balancing pond and swales. Potential failure of drainage assets has been addressed through the creation of notional flow routes which could direct exceedance flow away from buildings.

- 2.9.8 The Flood Risk Assessment states that in order to mitigate against flooding the soffit level of the bridge used for site access should be no lower than 7.89m AOD and the ground floor threshold of proposed dwellings should be elevated by 0.3m above surrounding ground level, or 8.49m AOD whichever is greatest. The proposed finished floor level exceeds the 1% Annual Exceedance Probability (AEP) + 20% flood level by 0.6m and the 0.1% AEP flood level by 0.14m.
- 2.9.9 The Environment Agency (EA) have stated that provided the development is built in accordance with the submitted Flood Risk Assessment then there would be no objections. The agents have confirmed that a bridge soffit could be designed 600mm above the associated flood level which was recommended by the EA.. These flood risk measures would be conditioned.
- 2.9.10 Having taken the above into account it is considered that the proposed scheme can adequately address flood risk subject to appropriate conditions in accordance with Policies SP15, SP16 and SP19 of the Core Strategy and the NPPF.

## **2.10 Identifying the Impacts of the Proposal**

- 2.10.1 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.

## **2.11 Design and Impact on the Character of the Area**

- 2.11.1 Relevant policies in respect to design and the impacts on the character of the area include Policy ENV1 (1) and (4) of the Selby District Local Plan, and Policy SP19 "Design Quality" of the Core Strategy.
- 2.11.2 Significant weight should be attached to the Local Plan policy ENV1 as it is broadly consistent with the aims of the NPPF.
- 2.11.3 Relevant policies within the NPPF, which relate to design include paragraphs 56, 60, 61, 65 and 200.
- 2.11.4 The application proposes outline consent for up to 150 dwellings with all matters reserved. An indicative layout plan has been submitted which demonstrates how the site could accommodate 150 dwellings, allowing for internal road networks, an area of recreational open space to the north-west, a SUDs balancing pond and footpath links. Given that the site to the east of Hodgson's Lane has consent for residential development and there is also a pending application for residential development to the south there is further scope for the three developments to interlink and provide improved pedestrian/cycle accesses between the respective sites and the existing settlement. It is also noted that the approved 270no. unit scheme at Hodgson's Gate did indicatively show pedestrian/cycle access through to the development site proposed and this would be welcomed. In addition there is

already an informal footpath through from Springfield Road to the west of the application site which could be improved to provide a formal pedestrian/cycleway. Although there are currently no indicative linkages shown from the application site to the site to the south, nor from the south to this application site there is potential for this to be provided within any reserved matters scheme(s). It is therefore important that any reserved matters application ensures that the development does not sit independently from neighbouring residential sites and addresses the points above.

- 2.11.5 The submitted Design and Access Statement confirms that the site would achieve a density of approximately 20 dwellings per hectare which is considered to be a relatively low density. However, this is largely due to the north-west portion of the site being retained for recreational open space in order to meet Green Belt policy requirements and given the relationship of the site to the Green Belt. The proposals would therefore appear to be a reasonable density having had regard to these specific issues and a condition would be imposed to restrict the maximum number of dwellings to 150 having had regard to the context of the site. Having taken into account the indicative layout submitted and the context of the site it is therefore considered that an appropriate layout could be achieved at reserved matters stage.
- 2.11.6 With respect to appearance and scale this is reserved for future consideration and any reserved matters application should have regard to the surrounding context of the site in terms of existing and proposed residential developments and have regard to the Sherburn in Elmet Village Design Statement. Taking into account the surrounding context of the site which comprises relatively modern two storey residential development of varying materials there is nothing to suggest that an appropriate appearance and scale could not be achieved at reserved matters stage.
- 2.11.7 In terms of landscaping, this is reserved for future consideration, however it is noted that the site is generally open in character due to the arable nature of the site, with trees and hedgerows located on the site boundaries. The submitted design and access statement states that the landscaping along boundaries will remain as part of the proposal and will be supplemented. Having had regard to this it would be desirable to retain as much of the mature hedgerow and low level tree planting around the boundaries of the site and it is considered that an appropriate landscaping scheme can be agreed at reserved matters stage.
- 2.11.8 Policy ENV3 of the Local Plan requires consideration be given to external lighting and it is considered that an appropriate lighting scheme can be achieved at reserved matters stage.
- 2.11.9 The Police Architectural Liaison Officer has commented on the proposed indicative layout and has made a series of recommendations including ensuring that affordable units are not concentrated in one corner of the site, the avoidance of rear parking courts or communal garage areas, incorporation of first floor landing windows on side elevations to provide overlooking of parking spaces on driveways, ensuring that there is adequate parking provision for each property, removal of the indicative green SUDs area to the rear of properties, ensuring surveillance over public rights of way, providing well defined boundaries for properties, provision of appropriate street lighting, recreational open space having effective management arrangements and natural surveillance over them and provision of cycle storage.

All of these issues should be taken into account within the design of a detailed reserved matters scheme.

2.11.10 With respect to the impacts of the development on the character of the area and landscape character, it is noted that the site comprises a flat agricultural field with mature hedgerow and trees around the periphery of the site. The Inspector when dealing with the appeal for land to the east of the application site at Hodgson's Gate noted that the site was flat unremarkable agricultural fields on the edge of Sherburn in Elmet, having mature hedgerow and tree boundary with the A162 which together serve to contain it well within the wider landscape. It is considered that the appeal site has the same characteristics as the application site and it can be held that the site, as with the appeal site, despite being classed as open countryside is a relatively ordinary well-contained field divorced from the wider countryside by the A162. Furthermore, it should be noted that the A162 is a significant defensible boundary, limiting further encroachment into the countryside beyond and as such this has a significant influence on its character. Although the site would change from agricultural fields to housing development it is not considered that it would appear at odds with its surroundings and as such it is not considered that it would result in a significant visual or landscape harm.

2.11.11 Having had regard to all of the above elements it is considered that an appropriate design could be achieved at reserved matters stage so as to ensure that no significant detrimental impacts are caused to the character of the area in accordance with policies ENV 1 (1) and (4) and ENV3 of the Local Plan, policy SP19 of the Core Strategy and the NPPF.

## **2.12 Drainage and Climate Change**

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

2.12.2 With respect to surface water drainage it is proposed that this be discharged in part to the pond at the north east corner of the site and in part to an oversized swale, linear pond each with their own outfall to Bishop Dike. The Internal Drainage Board and NYCC Flood Risk Management Officer have both considered the proposals and have raised no objections to these methods of drainage in principle, subject to conditions.

2.12.3 Yorkshire Water have requested that two conditions be imposed requiring no obstruction 3.5m either side of the centre line of a sewer which crosses the site to the south and that discharge of surface water arrangements be submitted and agreed. The indicative layout plan demonstrates that the stand-off to the sewer could be achieved within the design. Yorkshire Water have therefore raised no objections to the application subject to the aforementioned conditions which have been attached in order to protect the local aquatic environment and Yorkshire Water infrastructure.

2.12.4 With respect to energy efficiency, the dwellings would be constructed to Building Regulations requirements which meet the Code for Sustainable Homes Level 3. In order to comply with the specific requirements of Policy SP16 which requires that 10% of total predicted energy should be from renewal, low carbon or decentralised energy sources a condition should be imposed in order to ensure compliance with

Policies SP15 and SP16 of the Core Strategy. Compliance with other parts of Policy SP15 and SP19 would be more appropriately considered under the reserved matters as they relate to details of design.

2.12.5 Having taken the above into account the proposed scheme can adequately address drainage subject to appropriate conditions. In addition climate change and energy efficiency measures can be secured via condition to ensure that these are incorporated at reserved matters stage in accordance with Policies SP15, SP16 and SP19 of the Core Strategy and the NPPF

## **2.13 Impacts on Highway Safety**

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

2.13.2 Local residents and the Parish Council have raised concerns regarding congestion and the impact that further development will have on the existing road network. The application is accompanied by a Technical Highways Report by Bryan G Hall Ltd which states that following concerns raised by NYCC Highways during the last application the indicative access has now been shown to be through the approved scheme at Hodgson's Gate, to the east of the site, served via a roundabout from the A162. The Transport Assessment takes into account traffic flow, traffic distribution and junction modelling to establish the highway impacts in or around Sherburn in Elmet, taking into account other residential consents, the pending residential application to the south of the site and the consent granted for the extension to Sherburn Industrial estate. The report concludes that the residential development would not have a significant impact on the existing highway network.

2.13.3 The Transport Assessment has been reviewed by North Yorkshire County Council Highways and comments from local residents and the Parish Council regarding the impact on the highway network have been taken into account. NYCC Highways have confirmed that by taking the access via the new roundabout on the A162 traffic is distributed away from the village particularly the Low Street/Kirkgate/Moor Lane/Finkle Hill signals. A letter has been received from the Land Agent acting on behalf of the developer of the adjacent land which states they are agreeable to the principle of affording the applicant highway access.

2.13.4 If the Planning Committee are minded to approve this application the Local Highway Authority would seek to secure access via the new A162 roundabout by a Condition as part of any future reserved matters application. A separate access for emergency vehicles will also be required and this can be agreed at reserved matters stage.

2.13.5 With regard to the Low Street/Kirkgate/Moor Lane/Finkle Hill signals, contributions the Applicant has agreed a contribution proportionate to the number of trips the development will generate through the junction. As with other recent planning applications in Sherburn, the traffic impact of the development including a comprehensive list of approved and proposed developments in the area has been assessed at other key junctions

- 2.13.6 As noted by NYCC Highways response, this proposed development will have an impact on the A162/A63 roundabout, and so should this development come forward prior to other approved development affecting that junction it will be required to deliver the roundabout improvement.
- 2.13.7 NYCC Highways have advised that it not considered that the impact on the junctions within the study area could be regarded as “severe” as cited in paragraph 32 of the NPPF as the reason upon which developments should be refused on transport grounds. To improve pedestrian/cycle amenity in the vicinity of Hodgson’s Lane/Moor Lane, it is considered that new and additional drop kerb crossings will be required together with tactile pavements.
- 2.13.8 The pedestrian crossing improvements and travel plan contributions sought as set out in the Local Highway Authority’s response are considered to be reasonable and necessary to include as part of a Section 106 agreement. The conditions to cover the matters listed in the NYCC Highways response are also considered to be necessary to ensure highway and pedestrian safety and convenience is maintained during construction and on occupation of the dwellings
- 2.13.9 Residents have expressed concern that the proposed indicative access is not suitable as it will cut Hodgson’s Lane in two and will become a danger to local pedestrians who use the lane both sides of the existing bypass. It is considered that appropriate arrangements can be secured at reserved matters stage to ensure that appropriate pedestrian footways are provided for the safety of both existing and proposed residents.
- 2.13.10 Having had regard to the fact that Sherburn in Elmet is a Local Service Centre, it is accepted that the site is sustainable with a choice of transport modes, although as with many of the other settlements within the District there will be some reliance on the private motor vehicle to access employment and wider services and facilities. North Yorkshire County Council Highways, as set out above, have identified that the existing highway network can serve the site, taking into account accessibility and that a travel plan can be conditioned.
- 2.13.11 It is therefore considered that the scheme is acceptable and in accordance with policies ENV1(2), T1, T2, T7 and T8 of the Local Plan, Policy SP19 of the Core Strategy and Paragraph 39 of the NPPF with respect to the impacts on the highway network subject to conditions.

## **2.14 Residential Amenity**

- 2.14.1 Policy in respect to impacts on residential amenity and securing a good standard of residential amenity is provided by ENV1(1) of the Local Plan, as part of the Core Principles of the NPPF and within Paragraph 200 of the NPPF.
- 2.14.2 The detailed design of the properties, orientation and relationship of windows to other properties would be fully established at reserved matters stage so as to ensure that no significant detriment is caused through overlooking, overshadowing or creating an oppressive outlook and it is considered that a scheme which protects residential amenity could be achieved at reserved matters stage.



2.14.3 The Lead Officer for Environmental Health has confirmed that conditions relating to the submission of a Construction Environmental Management Plan to protect local residents from noise, dust, vibration and odours during development and a Noise Report demonstrating that adequate noise levels can be achieved for the proposed occupants of properties can be dealt with by virtue of planning conditions.

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

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

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

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

2.15.3 The application is accompanied by a Preliminary Ecological Appraisal by Brooks Ecological dated February 2017 which is an update of the survey carried out in July 2015 which establishes the impacts of the development and sets out recommendations for the development.

### Nature Conservation Sites

2.15.4 The submitted report notes that there are no international sites of nature conservation interest within 5km of the site. One statutorily designated site, Sherburn Willows Site of Scientific Interest (SSSI) is approximately 1.8km to the south west. The report states that the SSSI is primarily designated on the basis of its magnesian limestone grassland and at this distance with no functional links, the SSSI would remain unaffected by development at the application site.

2.15.5 In terms of non-statutorily designated sites (Sites of Importance for Nature Conservation (SINCs)) there are four sites, two of which have been deleted. The closest SINC to the application site is located approximately 550m south beyond the development of Sherburn in Elmet and despite the separation, the report notes that there is a tangible link via Bishops Dike, however subject to standard precautions with respect to contamination of watercourses no detrimental impacts to the SINC are envisaged. The pasture opposite Gypsum works is the next closest site located over 700m to the north-west on the opposite of the bypass and the report states that impacts on this SINC are unlikely.

### Protected Species

2.15.6 The report establishes that none of the trees around the site are mature and none were found to contain features suitable for use by bat roosting, therefore the likelihood of bat roosting on site is very limited. The report notes that hedgerows

and watercourses all provide features of some, all be it limited, foraging value, although these types of habitat are common in the wider area with those on site only providing a small contribution to the foraging resources available to local bat populations. In the context of the site, activity is noted to be focused along Bishop Dike and around the pond, both of which are on the eastern boundary. The report states that while Bishop Dike contributes to the most obvious wildlife corridor in the area it does not connect any areas of value habitat for some distance and is unlikely to be affected by the development subject to any illumination on this part of the site being low level and aimed away from the watercourse.

2.15.7 With respect to amphibians the report identifies that the pond within the site is of very low value to breeding amphibians and the arable land provides only limited value terrestrial habitat. The report confirms that while it is unlikely that the balancing pond on site will support amphibian populations, in particular great crested newt, their presence cannot be ruled out. It therefore goes on to state that further analysis of the water body is required within the breeding seasons to demonstrate the likely absence or presence, however the report suggests a condition can be imposed, given the likely absence of great crested newt, the fact the pond is to be retained and additional terrestrial habitat is provided which could form the basis of mitigation.

2.15.8 In terms of reptiles the majority of the site provides poor habitat, though Bishop Dike, the pond and a small surrounding area of habitat provide some suitable habitat for grass snake. However a likely absence of reptiles is concluded due to the small area and isolation from other large areas of suitable habitat.

2.15.9 Bishop Dike provides a suitable habitat for water voles, the report therefore states that should any proposals impact upon Bishop Dike further survey work would be required to establish the presence/absence of water vole and inform any mitigation required. In addition it recommends that a 6m buffer should be left between Bishop Dike and any development. While otters are likely to be absent the report suggests that it would be prudent to carry out survey work for this species.

2.15.10 The report notes that impacts on badgers, harvest mouse and pole cat are unlikely.

### Habitats

2.15.11 The report confirms that at the time of the survey the site contained a crop of oil seed rape and supports very little vegetation other than crop with tall ruderal succeeding to scrub, arable field margins, watercourses, ponds and hedgerows around the boundaries of the site. The report confirms that the land is assessed as being of low ecological value and the loss of habitat to development will not be of ecological significance. Areas of higher value habitat such as Bishop Dike, hedgerows surrounding the boundary and the balancing pond can be retained. If hedgerows are to be removed then these should be replaced elsewhere on site through compensatory planting.

2.15.12 Hedgerows, trees and scrub have potential to support a range of common nesting birds during spring and summer. The sites value to birds is highly unlikely to extend beyond this potential and it is recommended that any clearance should be preceded by a nesting bird survey.

- 2.15.13 An area of skeletal remains which could be Japanese knotweed was noted to the south of the site and therefore care should be taken during development to ensure this species has not become established within the application site.
- 2.15.14 Natural England have raised no objection to the proposal. Yorkshire Wildlife Trust have objected to the proposals due to the lack of information on bat roosts close to the site and that they wish to see a thorough mitigation plan involving all the proposed developments in the area. For clarity, the Ecological Appraisal confirms that there are no bat roosts within the application site and the site has limited value for bats with respect to foraging in hedgerows, which could largely be retained within any development. Furthermore, whilst a resident of Pinfold Garth has stated that they have a bat roost in their property, there would be no direct impact to this roost, there would be no disturbance to this roost and given the site's location and the comments made within the Ecological Appraisal confirm that there would be no shortage of foraging habitat in order to retain the bat population in a favourable conservation status. Appropriate mitigation measures have been suggested and these can be conditioned.
- 2.15.15 Therefore, in the absence of any evidence to suggest contrary to the findings of the ecology report and having had regard to standing advice from Natural England the findings of the report are noted and accepted.
- 2.15.16 Having had regard to all of the above it is considered that the proposal would accord with Policy ENV1(5) of the Local Plan, Policy SP18 of the Core Strategy and the NPPF with respect to nature conservation subject to a condition that the proposals be carried out in accordance with the mitigation measures and recommendations set out in the Ecological Appraisal.

## **2.16 Affordable Housing**

- 2.16.1 Policy SP9 of the Core Strategy states that the Council will seek to achieve a 40/60% affordable/general market housing ratio within overall housing delivery. In pursuit of this aim, the Council will negotiate for on-site provision of affordable housing up to a maximum of 40% of the total new dwellings on all market housing sites at or above the threshold of 10 dwellings.
- 2.16.2 The applicant has confirmed that they are prepared to provide 40% affordable units on site and that this would be secured via a Section 106 agreement. The developer should identify a partner Registered Provider at an early stage to confirm the number, size and tenure of the units. The Draft Selby District Council Strategic Housing Market Assessment 2015 has identified that three quarters of the affordable need is for homes with one or two bedrooms with around a quarter of the need being for larger homes with three or more bedrooms. There is a general need for one and two beds and also a need for this house size for older householders. The SHMA suggests that it may be appropriate to seek a higher percentage of three or more bed properties in new build schemes to release existing smaller properties for other households. The report notes that shared ownership schemes within the District have been performing well with 22% of the housing need identified being for intermediate equity based housing products with higher intermediate housing provision appropriate where it helps to support scheme viability. The applicants should take account of these findings in terms of the proposed mix of affordable units within any reserved matters scheme.

2.16.3 The Section 106 agreement would secure the 40% provision on-site and would ensure that a detailed Affordable Housing Plan is provided at reserved matters stage setting out the size and tenure mix based on a split of 50-70% rent and 50-30% intermediate provision.

2.16.4 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.

## **2.17 Recreational Open Space**

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

2.17.2 The indicative layout demonstrates that there would be on-site provision for recreational open space in the north western corner of the site, although the detailed type of provision to be provided would be established in detail at reserved matters stage. It would be recommended that the area of recreational open space to the north-west be retained in its indicative location at reserved matters stage given the constraints that exist in terms of this part of the site being Green Belt. It may also be appropriate for other pockets of recreational open space to be incorporated into the scheme to provide accessible areas of open space for both existing and future residents. 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.

2.17.3 It is therefore considered that the proposals are appropriate, subject to a Section 106 agreement and a scheme which accords with Policies RT2 of the Local Plan Policy SP19 of the Core Strategy and the NPPF can be secured at reserved matters stage.

## **2.18 Education, Healthcare, Waste and Recycling**

2.18.1 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. These policies should be afforded significant weight but considered in the context of the CIL requirements.

2.18.2 Comments from the Parish Council and local residents regarding the cumulative impact of successive residential developments on local schools and the doctor's surgeries have been noted.

### **2.18.3 Education**

Having consulted North Yorkshire County Council Education they have not provided a response, however it is noted that monies would be collected through CIL which could be spent towards both primary and secondary education.

- 2.18.4 Members should also note that other residential schemes which have been consented within Sherburn in Elmet have secured additional land to enable the expansion of Athelstan Primary School as well as contributions of £2,039,400 (less the school site market value) towards primary education provision at Athelstan Primary School and £407,880 towards Hungate Primary School in Sherburn in Elmet.
- 2.18.5 In addition the Hodgson's Gate development approved for 270 dwellings would also provide a CIL contribution, which the Inspector in the appeal determined to be circa £1million which could also be put towards education provision. Therefore, as with the previous appeal decision, it has to be concluded that the impacts on education provision within the District are being appropriately mitigated through the above contributions.
- 2.18.6 Healthcare  
With respect to healthcare, the Healthcare Service have not raised any objection to the proposals, however have requested a contribution of £48,000 through CIL contributions. It should be noted that a contribution based on the floor area of the proposed dwellings would be required under CIL and this could then be spent on local services and infrastructure including healthcare provision.
- 2.18.7 Members should also note that other residential schemes which have been consented within Sherburn in Elmet have secured healthcare contributions amounting to £200k to enable the expansion of the existing doctor's surgery.
- 2.18.8 In addition the Hodgson's Gate development approved for 270 dwellings would also provide a CIL contribution, which the Inspector in the appeal determined to be circa £1million which could also be put towards healthcare.
- 2.18.9 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.
- 2.18.10 Having had regard to the above the proposals comply with policies ENV1 and CS6 of the Local Plan, Policy SP19 of the Core Strategy, the Developer Contributions SPD and CIL with respect to developer contributions.

## **2.19 Contamination**

- 2.19.1 Policies ENV2 of the Local Plan and SP19 of the Core Strategy relate to contamination.
- 2.19.2 The Council's Contamination Consultant has assessed the submitted report from Dunelm Geotechnical and Environmental which confirms that the site has historically been open fields and as such it is unlikely that significant ground contamination is present. In addition, this is not an area affected by shallow coal mining with no evidence to suggest the site has been affected by quarrying. The report states that there may be a requirement for pile foundations to be used, however until intrusive investigations are undertaken this cannot be fully confirmed. Notwithstanding the above it would be prudent for further investigation in respect to contaminated land to be conducted alongside geotechnical investigations which would help provide more tangible evidence to the risk assessment. As such the Contamination Consultant has suggested the use of Conditions to cover the

potential requirement for such reporting and assessment. In addition it would be recommended that a condition be imposed regarding measures to protect residents from noise, dust and vibration should piled foundations be utilised.

2.19.3 The proposals, subject to the attached conditions are therefore acceptable with respect to contamination in accordance with Policy ENV2 of the Local Plan and Policy SP19 of the Core Strategy.

## **2.20 Impact on Heritage Assets**

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

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

2.20.3 The applicants have not submitted an Archaeological Desk Based Assessment. However the North Yorkshire Council Heritage Officer has stated that evidence from archaeological work to the immediate east and south suggests that the nature of archaeological features in this area are not of such significance and are more likely to represent landscape features such as field boundaries and pit alignments. The site would not therefore be likely to have potential to include heritage assets with archaeological interest and so a desk based assessment would not be sought. It is recommended that a scheme of archaeological mitigation recording is undertaken in response to ground disturbing works associated with this development and this can be secured by condition.

2.20.4 There are no listed buildings or other existing heritage assets within close proximity to the application site.

2.20.5 The proposals are therefore considered acceptable with respect to the impact on heritage assets and in particular archaeology in accordance with Policies ENV1 and ENV28, of the Local Plan, Policies SP18 and SP19 of the Core Strategy and the NPPF.

## **Other Issues**

2.21.1 The Parish Council have raised concern with respect to the impacts of pile driving and this can be dealt with through a planning condition, given that the type of foundations to be installed have not been confirmed as yet.

2.21.2 There is no policy requirement for additional facilities such as leisure facilities etc to be secured as part of the application, however it should be noted that development does quite often lead to improved services or facilities by virtue of the increased

number of users, a recent example of this being the provision of an Aldi supermarket. Furthermore, the Inspector in the appeal decision for Hodgson's Gate noted that reference had been made to the lack of facilities however the need for such facilities was not properly evidenced. There has been no further evidence gathered since this appeal decision that would substantiate a requirement for further facilities to be provided and as such the proposals are acceptable in this regard.

2.21.3 It is noted that the proposals would result in the loss of agricultural land which is of good to moderate (Grade 3) land. The majority of land within the Selby District is of this grading and as such it is not considered that the proposals result in the loss of the best and most versatile agricultural land and as such limited weight should be afforded to this issue.

## **2.22 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.**

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

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

## **2.23 Conclusion**

2.23.1 The application proposes outline planning consent for residential development with all matters reserved. The site is currently in arable agricultural use and the boundaries of the site are existing residential properties to the west, the A162 bypass to the north, Hodgson's Lane to the east and a line of hedgerows and trees to the south with agricultural land beyond.

2.23.2 The indicative layout shows 150 dwellings with the indicative access to be taken through the eastern boundary linking to the proposed Hodgson's Gate development to the east which is in turn served from a roundabout leading from the A162. The site is located partially within an area of open countryside and partially within the Green Belt immediately adjacent to the defined development limits of Sherburn in Elmet and is on an area of land designated as safeguarded land.

2.23.3 The parcel of land to the south of this site is the subject of an application which is pending consideration for residential development for up to 65 dwellings.

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

2.23.5 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 provide the following social, economic and environmental benefits and mitigation measures:

- a contribution to the District's five year housing land supply.
- the provision of additional market, affordable and high quality housing for the District.
- the provision of housing outside the boundary of a Local Service Centre and thus one of the most sustainable settlements within the District.
- the provision of housing in close proximity to a major employment base of the District thereby providing opportunities for shorter travel to work distances.
- the provision of a local workforce source for the employers of nearby businesses, although this will depend upon potential employee skill matches and vacancy requirements.
- short term employment opportunities for the construction and house sales industry.
- additional spending within the District from the future residents.
- On-site open space provision and on-going maintenance.
- Community Infrastructure Levy Fees to be provided on commencement of development.
- a 10% energy supply from decentralised and renewable or low carbon sources.

2.23.6 Taken together these represent significant benefits and are in line with the Government's planning and general policy objective of boosting housing land supply in sustainable locations. They should carry significant weight in the planning balance.

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

2.23.8 A portion of the north western corner of the application site is located within the Green Belt, the indicative layout plan demonstrates that this part of the site would be utilised as recreational open space and as such is not inappropriate within the Green Belt in accordance with Paragraph 89 of the NPPF.

2.23.9 On balance having had regard to the significant benefits of the scheme it is considered that these benefits would outweigh the harms by virtue of development of a site which is located outside of development limits and the loss of safeguarded land.

### **3.0 Recommendation**

**This planning application is recommended to be APPROVED subject to delegation being given to Officers to complete the Section 106 agreement to**



**secure 40% on site provision for affordable housing, on-site recreational open space provision and maintenance, a £13,400 contribution towards the works required to link the pedestrian crossing on Low Street with the traffic signals at the Low Street/Kirkgate/Moor Lane/Finkle Hill junction, a Travel Plan and £5,000 monitoring fee and a waste and recycling contribution and subject to the conditions detailed below:**

1. Approval of the details of the (a) appearance, b) landscaping, c) layout, d) scale and e) access (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 total number of dwellings authorised by this permission shall not exceed 150 and any reserved matters application (s) submitted pursuant to Conditions 1 and 2 shall be limited to this maximum in total.

Reason:

The impacts of the development on existing infrastructure have been assessed on the basis of this number of units.

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

Reason:

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

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

Reason:

In the interest of satisfactory and sustainable drainage.

6. No building or other obstruction including landscape features shall be located over or within 3.5 (three point five) metres either side of the centre line of the sewer i.e a protected strip width of 7 metres, that transverses the site. If the required stand-off distance is to be achieved via diversion or closure of the sewer, the developer shall submit evidence to the Local Planning Authority that the diversion or closure has been agreed with the relevant statutory undertaker.

Reason:

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

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

Reason:

To ensure that the site is properly drained and in order to prevent overloading surface water is not discharged to the foul sewer network.

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

Reason:

To ensure that the development can be properly drained.

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

Reason:

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

10. No development on any phase shall take place until a detailed design and associated management and maintenance plan for surface water drainage for that phase, 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), unless otherwise approved in writing by the Local Planning Authority.

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.

11. The detailed design within the subsequent reserved matters application(s) shall be in accordance with the submitted Flood Risk Assessment by AAH Planning Consultants dated January 2017. In particular the following elements shall be incorporated:

- i) The soffit level of the bridge used for the site access should be no lower than 7.89 AOD.
- ii) The ground floor threshold level of proposed dwellings shall be elevated by 0.3m above surrounding ground level, or 8.49m AOD, whichever is the greatest. The proposed finished floor levels exceeds the 1% AEP+ 20% flood level by 0.6m and the 0.1% AEP flood level by 1.14m.

INFORMATIVE:

The Environment Agency strongly recommend that the soffit of the proposed access bridge is a minimum of 600mm above the 1:100 modelled level to ensure that any debris floating downriver can pass freely under it.

Reason:

In the interest of protecting future residents from impacts of flooding.

12. No development shall commence until an Ecological Management Plan (EMP) for the site has been submitted to and approved in writing by the Local Planning Authority. The EMP shall be produced in accordance with the enhancement recommendations set out in the Preliminary Ecological Appraisal by Brooks Ecological dated 22 February 2017, with particular regard to the protection and enhancement of the watercourse along the eastern edge of the site, the retention of a buffer strip from this watercourse and planting of a native hedgerow, enhancing existing hedgerow and provision for wildlife habitat. Development and maintenance shall thereafter be carried out in accordance with the approved EMP.

Reason:

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

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

- a. The programme and methodology of site investigation and recording
- b. Community involvement and/or outreach proposals
- c. The programme for post investigation assessment
- d. Provision to be made for analysis of the site investigation and recording
- e. Provision to be made for publication and dissemination of the analysis and records of the site investigation

- f. Provision to be made for archive deposition of the analysis and records of the site investigation
- g. Nomination of a competent person or persons/organisation to undertake the works set out within the Written Scheme of Investigation.

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

Reason:

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

14. There shall be no excavation or other groundworks, except for investigative works or the depositing of material on the site, until the following drawings and details have been submitted to and approved in writing by the Local Planning Authority:
- a. Detailed engineering drawings to a scale of not less than 1:500 and based upon an accurate survey showing:
    - i. the proposed highway layout including the highway boundary
    - ii. dimensions of any carriageway, cycleway, footway, and verges
    - iii. visibility splays
    - iv. the proposed buildings and site layout, including levels
    - v. accesses and driveways
    - vi. drainage and sewerage system
    - vii. lining and signing
    - viii. traffic calming measures
    - ix. all types of surfacing (including tactiles), kerbing and edging.
  - b. Longitudinal sections to a scale of not less than 1:500 horizontal and not less than 1:50 vertical along the centre line of each proposed road showing:
    - i. the existing ground level
    - ii. the proposed road channel and centre line levels
    - iii. full details of surface water drainage proposals.
  - c. Full highway construction details including:
    - i. 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
    - ii. when requested cross sections at regular intervals along the proposed roads showing the existing and proposed ground levels
    - iii. kerb and edging construction details
    - iv. typical drainage construction details.
  - d. Details of the method and means of surface water disposal.
  - e. Details of all proposed street lighting.

- f. Drawings for the proposed new roads and footways/footpaths giving all relevant dimensions for their setting out including reference dimensions to existing features.
- g. Full working drawings for any structures which affect or form part of the highway network.
- h. A programme for completing the works.
- i. The development shall only be carried out in full compliance with the approved drawings and details unless agreed otherwise in writing by the Local Planning Authority.

**INFORMATIVE:**

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

**Reason:**

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

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

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

**Reason:**

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

16. Unless otherwise approved in writing by the Local Planning Authority, there shall be no excavation or other groundworks, except for investigative works or the depositing of materials on the site in connection with the construction of the access road or buildings(s) or other works until:

The details of the required highway improvement works listed below, have been submitted to and approved in writing by the Local Planning Authority.

An independent Stage 2 Safety Audit has been carried out in accordance with HD19/03 – Road Safety Audit or any superseding regulations and the issues identified addressed in the design.

A programme for the completion of the proposed works has been submitted.

The required highway improvements shall include:

- i) Dropped kerb crossings/tactile pavements in the vicinity of Hodgsons Lane/Moor Lane.
- ii) Improvements to the A162/A63 roundabout.

Reason:

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

17. Unless otherwise approved in writing by the Local Planning Authority, the development shall not be brought into use until the following highway works have been constructed in accordance with the details approved in writing by the Local Planning Authority under condition number 16:

- i) Dropped kerb crossings/tactile pavements in the vicinity of Hodgsons Lane/Moor Lane.
- ii) Improvements to the A162/A63 roundabout.

Reason:

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

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

Reason:

In accordance with Policies ENV1, T1 and T2 of the Local Plan and to provide for adequate and satisfactory provision of off-street accommodation for vehicles in the interest of safety and the general amenity of the development.

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

Reason:

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

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

Reason:

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

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

Reason:

In accordance with Policies ENV1, T1 and T2 of the Selby District Local Plan and in the interests of highway safety and the general amenity of the area.

22. There shall be no access or egress by any vehicle 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.

Reason:

In accordance with Policies ENV1, T1 and T2 of the Selby District Local Plan and in the interests of highway safety and the general amenity of the area.

23. 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 details of the construction access have been approved in writing by the Local Planning Authority. The access shall be constructed in accordance with the approved details for a minimum distance of 30 metres into the site. Once created no vehicles shall access the site, except via the approved construction access.

Reason:

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

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

- i. Details of the routes to be used by HCV construction traffic;
- ii. Traffic Management Plan;
- iii. Management and control of HCV construction traffic;
- iv. Measures to prevent mud/dirt being deposited on the highway;
- v. Parking/storage areas.

Reason:

In accordance with Policies ENV1, T1 and T2 of the Selby District Local Plan and to avoid interference with the free flow of traffic and to secure safe and appropriate access and egress to the site in the interests of safety and convenience of highway users and the amenity of the area.

25. No dwelling shall be brought into use until a Travel Plan has 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.

- i. 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 Selby District Local Plan and to establish measures to encourage more sustainable non-car modes of transport.

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

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

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

Reason:

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

27. The applicant should submit a Construction Environmental Management Plan (CEMP). The Plan shall include details of how 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 the 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, dust and other airborne pollutants, vibration, smoke, and odour during construction in accordance with Selby District Council's Policy SP19.

28. Prior to any works commencing the applicant shall arrange for an appropriate noise survey and report, to be undertaken by a suitably qualified person. If necessary a written scheme for protecting the proposed noise sensitive development must be submitted to and approved in writing by the Local Planning Authority. The scheme shall ensure that the noise level in the garden areas of the proposed development shall not exceed 50dB (16 hour) between 0700 hours and 2300 hours and all works which form part of this scheme shall be completed before any part of the development is occupied. The works provided as part of this scheme shall be permanently retained and maintained throughout the life of the development. The scheme must also ensure the internal environment of each dwelling is protected from noise. The scheme shall ensure that the building envelope of each dwelling is constructed so as to provide sound attenuation against external noise. The internal noise levels achieved should not exceed 35dB LAeq (16 hour) inside each dwelling between 0700 hours and 2300 hours and 30dB LAeq (8 hour) and 45dB LAm<sub>ax</sub> in the bedrooms between 2300 and 0700 hours. This standard of insulation shall be achieved with adequate ventilation provided. All works which form part of the scheme shall be completed before any part of the development is occupied. The works provided as part of the approved scheme shall be permanently retained and maintained throughout the life of the development. The aforementioned written scheme shall demonstrate that the noise levels specified will be achieved.

Reason:

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

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

Reason:

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

30. The area of Green Belt to the north-west portion of the site and indicatively shown as recreational open space on the submitted 'Proposed Layout' Plan Revision B must be retained for recreational open space within any reserved matters application.

Reason:

In order to ensure compliance with Green Belt policy and in particular paragraph 89 of the NPPF.

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

(to be inserted when the decision is issued).

#### HIGHWAYS INFORMATIVE

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.

#### INTERNAL DRAINAGE BOARD INFORMATIVE

Consent from the IDB would be required should surface water be discharged to any watercourse. The surface water run off would be restricted to 1.4 litres per second per hectare or greenfield runoff.

### **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.

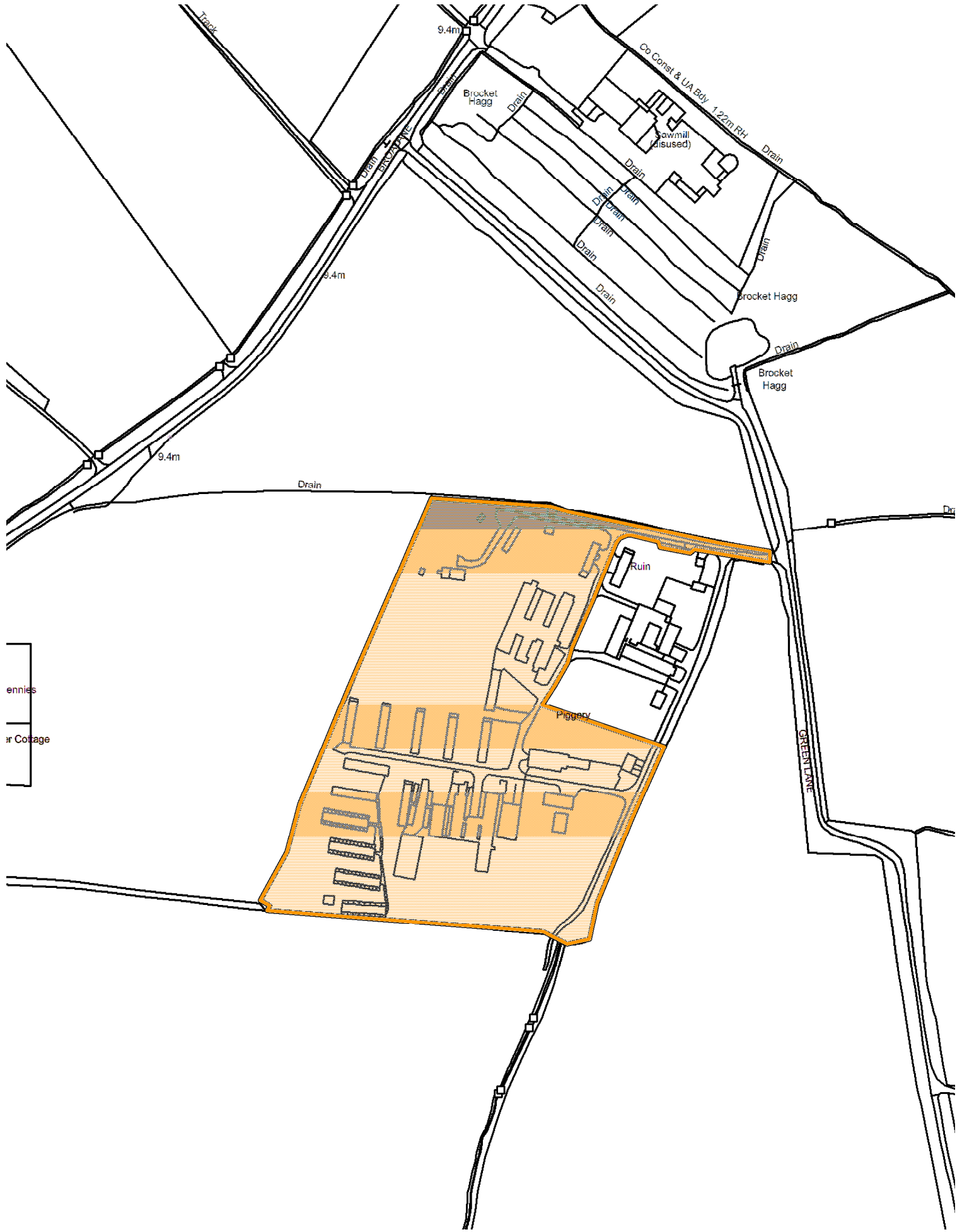
### **4. Conclusion**

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

### **5. Background Documents**

- 5.1 Planning Application file reference 2016/1409/OUTM and associated documents.

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



# APPLICATION SITE

**Item No:** 2016/1059/FULM

**Address:** Roebuck Barracks, Green Lane, Appleton Roebuck

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**REVISIONS**

A. LATEST REVISIONS TO BE SHOWN IN RED  
 B. PREVIOUS REVISIONS TO BE SHOWN IN BLUE  
 C. COMMENTS FROM PLANNING CONSULTANT

Note: This is a colour drawing. In order to ensure any subsequent reproduction is viewed correctly it is to be re-printed in full colour.

PLOT NUMBER	PLOT AREA (m <sup>2</sup> )	GIA	Bedrooms	Parking
PLOT 1	1041.52	111.92	4	1
PLOT 2	1017.72	111.92	4	1
PLOT 3	1017.72	111.92	4	1
PLOT 4	1017.72	111.92	4	1
PLOT 5	1017.72	111.92	4	1
PLOT 6	1017.72	111.92	4	1
PLOT 7	1017.72	111.92	4	1
PLOT 8	1017.72	111.92	4	1
PLOT 9	1017.72	111.92	4	1
PLOT 10	1017.72	111.92	4	1
PLOT 11	1017.72	111.92	4	1
PLOT 12	1017.72	111.92	4	1
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PLOT 94	1017.72	111.92	4	1
PLOT 95	1017.72	111.92	4	1
PLOT 96	1017.72	111.92	4	1
PLOT 97	1017.72	111.92	4	1
PLOT 98	1017.72	111.92	4	1
PLOT 99	1017.72	111.92	4	1
PLOT 100	1017.72	111.92	4	1

**LEGEND**

- PLANNING APPLICATION BOUNDARY
- OVERSEAS SOLAR
- INTERNAL ACCESSWAY
- BOUNDARY TO BE EXEMPTED
- TREES TO BE REMOVED
- OPEN TREES
- BUS

**PLANNING**

DLA ARCHITECTURE  
 www.dla-architecture.co.uk  
 LEEDS LIST 27E  
 T: 0113 287 3100 E: info@dlarch.co.uk

**PROJECT**  
 ROEBUCK BARRACKS  
 Green Lane, Appletton Roebuck

**TITLE**  
 SITE MASTERPLAN  
 PLOT LAYOUTS

**SCALE**  
 As indicated @ A1

**DATE**  
 05/08/16

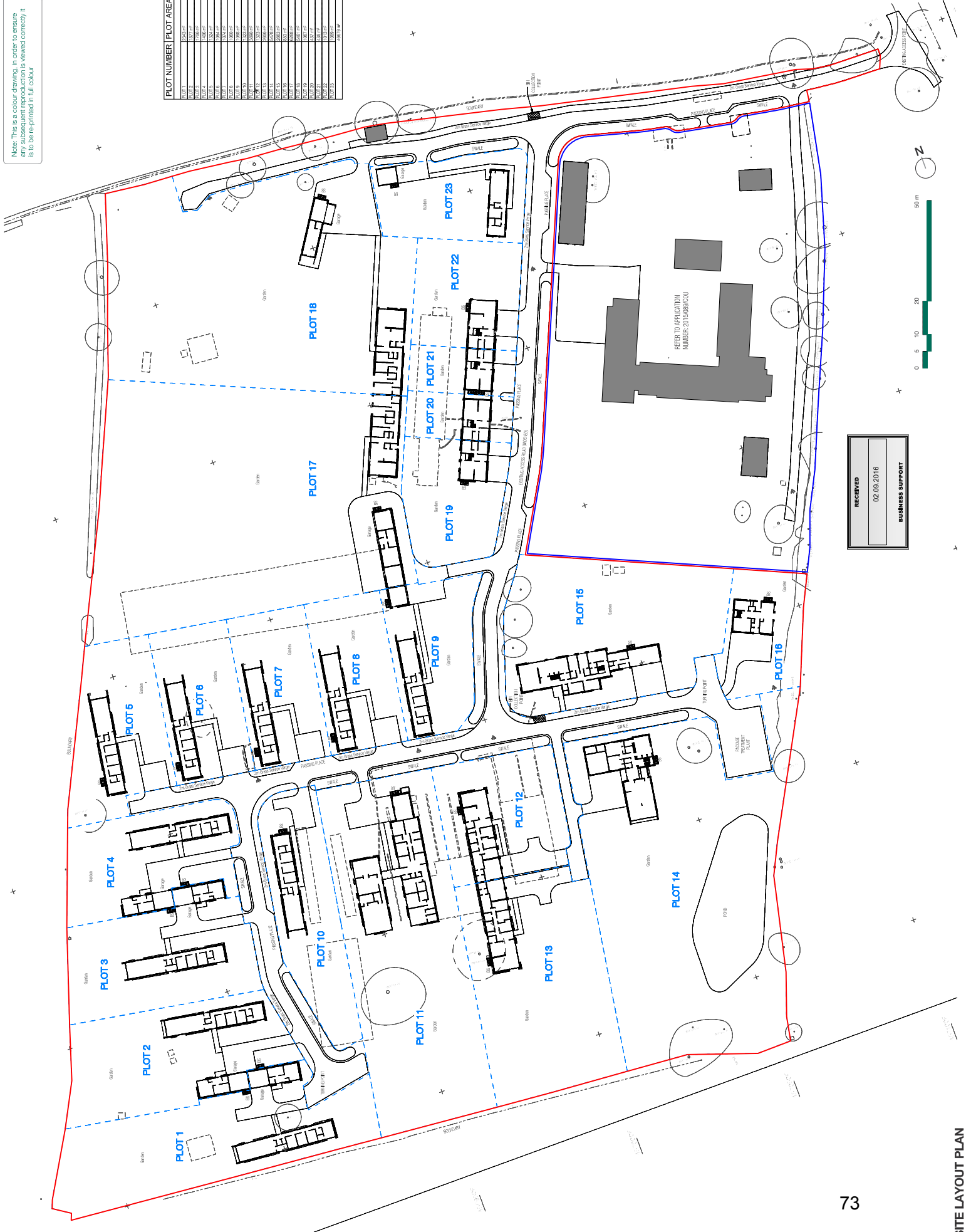
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**Report Reference Number: 2016/1059/FULM**

**Agenda Item No: 5.3**

**To: Planning Committee**  
**Date: 29 March 2017**  
**Author: Calum Rowley (Senior Planning Officer)**  
**Lead Officer: Jonathan Carr (Interim Lead Officer – Planning)**

APPLICATION NUMBER:	2016/1059/FULM (8/79/241/PA)	PARISH:	Appleton Roebuck Parish Council
APPLICANT:	Mr T Evans	VALID DATE:	2 September 2016
		EXPIRY DATE:	10 March 2017 (EOT)
PROPOSAL:	Proposed conversion and extension of existing buildings to form twenty three dwellings and demolition of existing buildings		
LOCATION:	Roebuck Barracks, Green Lane, Appleton Roebuck, York		

This application has been brought before Planning Committee as there have been more than 10 letters of representation which are contrary to the Officer recommendation.

**Summary:**

The application seeks planning permission for the conversion and extension of existing buildings to create 23no dwellings and includes the demolition of some of the existing buildings within the site. The site is located outside the defined development limits of Appleton Roebuck and is within the York Green Belt.

It is noted that Policies SP2 and SP5 are considered to be out of date in so far as they relate to housing supply and the Council acknowledges that it does not have a 5 year housing land supply. The proposals must therefore be considered in the context of Paragraph 14 and 49 of the NPPF in respect of the presumption in favour of sustainable development.

In terms of sustainability it has been established that the site is within an unsustainable location. Whilst the proposals may re-use some of the buildings on the site, the proposals would result in an additional 23no. dwellings within an isolated location with a consequent reliance on the private car. The proposals are therefore considered to run contrary to Paragraph 55 of the NPPF.

In addition it has been identified that whilst the proposals would have some merit in terms of the economic dimension of sustainable development, this is outweighed by the harms with respect to the social and environmental dimensions of sustainable development. Having had regard to NPPF paragraphs 14 and 49, it is considered that the housing need does not outweigh the harms by reason of inappropriateness so as to justify the proposal.

Having commissioned an independent assessment of the structural survey submitted by the applicants, it is concluded that a number of buildings on the site are not capable of conversion and as such the proposals would not meet any of the exceptions identified within paragraphs 89 or 90 of the NPPF. The proposal therefore constitutes inappropriate development in the Green Belt which is, by definition, harmful to the Green Belt and substantial weight should be attached to any harm to the Green Belt. The proposals are considered to result in an increase in the urbanisation of the site resulting in significant harm to the openness of the Green Belt, purposes of including land within the Green Belt and would be harmful to the visual amenities of the Green Belt and character of the area contrary to policy.

A case for Very Special Circumstances has been advanced by the applicant and having assessed these, it is considered that many of the circumstances highlighted comprise normal planning considerations and as such do not amount to very special circumstances which would clearly outweigh the harm by reason of inappropriateness within the Green Belt and the other harms are identified within the report.

The proposals would also lead to an increased traffic growth in an unsustainable location which cannot be served by public transport or other modes of sustainable transport resulting in a reliance in the use of the private vehicle for each dwelling.

The proposals fail to provide appropriate provision for recreational open space within the site and a case for viability has not been presented for affordable housing provision.

The proposals are therefore considered to be contrary to Policies ENV1 and RT2 of the Local Plan, Policies SP1, SP2, SP3, SP9, SP12, SP15, SP18 and SP19 of the Core Strategy and the NPPF.

Matters of acknowledged importance such as flood risk, drainage, residential amenity, nature conservation and protected species, archaeology, land contamination and housing mix are considered to be acceptable.

## **Recommendations:**

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

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

#### **1.1 The Site**

1.1.1 The application site is located approximately 2km to the north of the defined development limits of Appleton Roebuck and is within the Green Belt.

1.1.2 The site currently contains a number of empty buildings historically associated with the RAF base and more recently used as agricultural buildings.

- 1.1.3 Access to the site is currently gained through an unadopted road and bridleway known as Green Lane located to the north of the site.
- 1.1.4 The site is very overgrown and contains mature hedgerows and trees around the outer boundaries of the site.
- 1.1.5 The majority of the site is located within Flood Zone 1 with a small corner in the south west located within flood zone 2.

## **1.2. The Proposal**

- 1.2.1 The application seeks permission for the conversion and extension of existing buildings to form 23no dwellings and the demolition of some of the existing buildings.
- 1.2.2 The application is accompanied by a Masterplan as well as elevations and floor plans for each individual plot and a structural survey. Each plot would benefit from its own amenity area and off street parking area.
- 1.2.3 It is proposed to utilise the existing access to the site which is located in the north eastern corner accessed from Green Lane which is an unadopted highway and public footpath/bridleway located off Broad Lane.
- 1.2.4 All buildings subject to this application are located within Flood Zone 1 within the site.

## **1.3 Planning History**

- 1.3.1 A full planning application (reference: CO/1974/31774) for a proposed garden centre and frozen food centre was Refused on 10 July 1974.
- 1.3.2 A full planning application (reference: CO/1975/31813) for the erection of 9 broiler houses, bulk bins, 2 bungalows and garages was Approved on 5 November 1975.
- 1.3.3 A full planning application (reference: CO/1991/1311) for the siting of two residential caravans for agricultural workers was Approved on 4 July 1991.
- 1.3.4 A full planning application (reference: CO/1993/1118) for the renewal of consent for the use of land for the siting of two residential caravans was Approved on 28 October 1993.
- 1.3.5 A full planning application (reference: CO/1998/0518) for the erection of agricultural buildings to temporarily house livestock (whilst other livestock buildings are cleaned out) was Approved on 19 August 1998.
- 1.3.6 An outline application, including access (reference 2014/0813/OUT) for the demolition of existing buildings and outline application including access for the redevelopment of former Canadian Air Force Base to form 16no. dwellings with new access, access road was Withdrawn on 10 March 2015.
- 1.3.7 An outline application including access (reference 2014/0815/OUT) for the demolition of existing buildings and outline application including access for the

redevelopment of part of former Canadian Air Force Base to form 1no. dwelling, internal roads using existing access at Roebuck Barracks was Withdrawn on 10 March 2015.

- 1.3.8 An application (reference 2015/0891/COU) for the proposed conversion and extension of existing buildings to form single dwelling and demolition of existing buildings at Roebuck Barracks was Approved on 23 March 2015.
- 1.3.9 A Discharge of Conditions application (reference 2016/0670/DOC) for the Discharge of condition 02 (materials), 03 (landscaping), 04 (enclosure), 06 (contamination), 07 (remediation scheme) and 10 (surface water drainage) of approval 2015/0891/COU Proposed conversion and extension of existing buildings to form single dwelling and demolition of existing buildings at Roebuck Barracks had a decision made on 2 August 2016.

## **1.4 Consultations**

### **1.4.1 Parish Council**

Objects to the application on the following grounds:

1. The proposed development is outside the Village Envelope;
2. The proposed development is inappropriate in Green Belt, in particular as there is a 5 year Land Plan;
3. There may be adequate parking provision on site, but the existing parking problems (raised regularly) at the Village School will be exacerbated.
4. The contamination of the site raises concern regarding future residents, as with the passage of time the site of burial pits et cetera will be lost.

### **1.4.2 NYCC Highways**

No objection subject to several conditions including visibility splays, construction management plan and completion of work in the highway.

### **1.4.3 Yorkshire Water**

A water supply can be provided under the terms of the Water Industry Act 1991. This proposal is in an area not served by the public sewerage network. In this instance, the application should be referred to the Environmental Agency and the EH section of the LPA for comments on private treatment facilities.

The application form indicates surface water to be drained to SuDS and existing watercourse. The developer is advised to seek comments from the Council's drainage section as Land Drainage Authority and/or Environmental Agency/local Internal Drainage Board.

### **1.4.4 The Environment Agency**

There is the potential for the site of the proposed development to be affected by land contamination associated with previous uses of the site. Consider that planning permission could be granted to the proposed development as submitted subject to conditions. Without these conditions, the proposed development on this site poses an unacceptable risk to the environment and we would object to the application.

### **1.4.5 The Ainsty Internal Drainage Board**

The Board does have assets adjacent to the site in the form of Shirts Dyke; this watercourse is known to be subject to high flows during storm events. The site is in



an area where drainage problems could exist and development should not be allowed until the Authority is satisfied that surface water drainage has been satisfactorily provided for.

Overall it appears that the impermeable area on the site will be larger as a result of this development and therefore there is a risk of an increase in the rate of surface water run-off if this is not effectively constrained.

The applicant indicates that method of surface water disposal would be discharge to an existing watercourse, which is identified as a 300 mm pipe to the east of the site. The Board would suggest that consideration should first be given to sustainable methods of water disposal retaining the water on site. However if the applicant is to use a discharge to a watercourse as the method of surface water disposal then the applicant would need to demonstrate that the site already drains to that facility and the Consent of the Board would be needed for any connection, and / or any discharge, into a Board Maintained watercourse, or into any ordinary watercourse, in the Board's areas. The applicant would also need to demonstrate that they have the necessary Consent(s) from the owners of any asset that they intend to use.

The Board is confident that if the appropriate technical solution is selected low flow discharges are achievable. However the Board is seeking that the Planning Authority and the applicant can confirm that a practical technical solution is available to deliver these requirements. In particular, that low flow discharges can be maintained and not prone to blockages. The Board have no objection to the development in principal but recommends that any approval granted to the proposed development should include conditions.

#### 1.4.6 North Yorkshire County Council (CPO)

No response at the time of compilation of this report.

#### 1.4.7 Education Directorate North Yorkshire County Council

Response submitted with details for contribution.

#### 1.4.8 Development Policy

The key issues which should be addressed are:

1. The Council's Five Year Housing Land Supply
2. The Principle of Development
3. Previous Levels of Growth and the Scale of the Proposal
4. Impact of the Proposal on the Green Belt

##### **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, designated heritage assets; and locations at risk of flooding or coastal erosion.

The site is far removed from the village of Appleton Roebuck, which 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.

As this full proposal for 23 dwellings is on land that is far outside of the defined Development Limits of Appleton Roebuck as defined on the Policies Map of the SDLP, the scheme therefore takes place in the open countryside. The Core Strategy states that development in the open countryside 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, or meet rural affordable housing need (which meets the provisions of Policy SP10), or other special circumstances.

## **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 proposed scheme, although situated some distance outside of the village, will still affect some of these aspects of the settlement of Appleton Roebuck.

The scale of this individual proposal, at 23 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, Appleton Roebuck has seen 27 dwellings built (gross, 23 net) in the settlement since the start of the Plan Period in April 2011 and has extant approvals for 6 dwellings, giving a total of 33 dwellings.

It is important to determine the impact a proposed scheme has on this level of growth, taking into account the scale of the proposal itself and the cumulative impact of previous levels of development since the start of the plan period. When assessing whether the adverse impacts of a housing scheme would significantly and demonstrably outweigh its benefits, the effect on the settlements character, infrastructure capacity and sustainability must be measured.

#### **4. Impact of the Proposal on the Green Belt**

The application site lies in an area covered by Green Belt and therefore Policy SP3 of the Core Strategy and paragraph 89 and 90 of the NPPF apply.

##### **1.4.9 Yorkshire Wildlife Trust**

States the site is obviously of value to wildlife due to the undisturbed nature and areas that support foraging by barn owls and breeding birds. If the authority were to give permission for the development the following would be essential; conditioning the Method Statement at 5.1 in the GCN survey, and the Recommendations and Mitigation at 5.4 in the Breeding Bird Survey, the Enhancement Measures at 6.2 in the Bat Survey, and the Conclusions and Recommendations in the Barn Owl survey. The Trust is concerned that a development of this size in a rural area will lead to a variety of unsustainable results.

##### **1.4.10 Police Architectural Liaison Officer**

In respect of this recent proposal, it is noted that no documents have been submitted to show how the applicants have considered crime prevention and how it has been incorporated into their proposal. This information should be a requirement in order to assist the local authority in determining whether this development will comply with paragraphs 58 and 69 of the National Planning Policy Framework. The drawings and information submitted are scarce in detail, particularly in respect of boundary treatments and any landscaping proposals. However, it is noted that the Planning Statement does mention that a detailed landscaping scheme will be submitted as part of a landscaping condition along with boundary treatments. Owing to the lack of detail in respect of crime prevention, if this planning application is successful, it is recommended that a planning condition be placed on it requiring that prior to the commencement of any works that the applicant provides full details of how crime prevention has been considered and incorporated into the design and layout of the scheme.

##### **1.4.11 Primary Care Trust**

No response at the time of completion of this report.

##### **1.4.12 Natural England**

This application is in close proximity to Acaster South Ings Site of Special Scientific Interest (SSSI). Natural England is satisfied that the proposed development being carried out in strict accordance with the details of the application, as submitted, will not damage or destroy the interest features which the site has been notified. We therefore advise that this SSI does not represent a constraint in determining this application.

Other advice:

It is expected that the LPA would assess and consider the other possible impacts resulting from this proposal on the following when determining this application:

- Local sites (biodiversity and geodiversity)
- Local landscape character
- Local or national biodiversity priority habitats and species.

Natural England does not hold locally specific information relating to the above. These remain material considerations in the determination of this planning application.

Protected Species:

Standing Advice has been published on protected species which should be applied to this application as it is a material consideration in the determination of applications.

Biodiversity enhancements:

This application may provide opportunities to incorporate features into the design which are beneficial to wildlife, such as the incorporation of roosting opportunities for bats or the installation of bird nest boxes. The authority should consider securing measures to enhance the biodiversity of the site from the applicant.

#### 1.4.13 North Yorkshire Fire & Rescue Service

No objection/observation.

#### 1.4.14 Historic Environment Record (HER) Officer

The developer has submitted an archaeological desk based assessment and historic building survey focussed upon the World War II barracks. Both reports have been read and it is agreed that the proposal will not have a significant impact as the majority of these structures are to be retained and converted for residential use. The reports stand as a permanent record of those buildings that are in poorer condition and scheduled for demolition. There is therefore no objection to the proposal.

#### 1.4.15 North Yorkshire Bat Group

No response received at the time of compilation of this report. Members will be updated with any comments at Committee.

#### 1.4.16 Lead Officer – Environmental Health

No objections and recommend one informative.

#### 1.4.17 Public Rights of Way Officer

Request an Informative is placed on any permission.

#### 1.4.18 Local Lead Flood Authority (SuDS Officer)

Comments as follows:

- The planning application form states that surface water will be disposed of by means of sustainable drainage system and existing watercourse. The flood risk assessment proposes discharge to watercourse as infiltration has been found to be impractical;

- Necessary attenuation volumes have been calculated for the required rainfall events and the flood risk assessment proposes to restrict surface water discharge to 1.4l/s/ha;
- Whilst not specifically explored, swales and detention basins provide levels of surface water treatment;
- The flood risk assessment section 6.3.5 states that an allowance of 40% will be made for climate change;
- It is proposed that an additional 10% is added to climate change allowance which is satisfactory in respect of urban creep;
- It is proposed that a management company will be responsible for the maintenance of SuDS. The planning authority must satisfy itself that this proposal is suitable;
- The plan showing the exceedance flow routes is acceptable.

One condition has been recommended regarding a detailed design and associated management and maintenance plan of surface water drainage.

#### 1.4.19 WPA Environmental (Council's Contained Land Advisors)

Reiterate comments from previous application (2015/0891/COU) which stated "The Geo-environmental report dated Feb 2014 has been reviewed and the prior review conducted by York City Council dated September 2014. It is noted that the proposed development has moved on from one residential property to a more significant number of residential properties. It is also apparent within the information provided that no further submissions regarding potential contamination have been submitted.

The information is sufficient, however, to illustrate that issues with contamination can be dealt with by conditioning. The prior review is still valid in its summary and advice to the authority in a general sense and the recommendations regarding the need for further investigation and the specification for contaminated land conditions are agreeable. The current submission could be deemed as being adequate to comply with a requirement for a phase one desktop study and assessment of prior reporting. There is a need for further invasive investigation conforming to current technical guidance and the requirement to fill the identified gaps in information. These are delineation of the burial pit, characterisation of the made ground in the vicinity of the slurry pit, characterisation of areas previously inaccessible, further management and assessment of the risks posed by asbestos. A further site investigation report should also take account of the details of the revised/new development proposals in considering the impact of design and the introduction of more significant numbers of receptors. Further review work will be required once information is known concerning the location of proposed structures and new land uses when compared to the location of potentially problematic sources of contamination. The need to seek advice from the Environment Agency in respect to impacts on controlled waters remains necessary."

#### 1.4.20 Rural Housing Officer

States this would not be a suitable development for an on-site affordable housing contribution based on the Registered Providers needs namely because the units are a conversion, which has increased cost implications for a Registered Provider (RP) as opposed to new build. In addition, the requirement for a management company on this site, the un-adopted roads and the annual fee this would trigger for

each household, would be a further concern to an RP in terms of the scheme's viability and ultimate housing costs to their tenants in the long run.

In this instance, an offsite contribution for the affordable housing, in accordance with the Council's Affordable Housing SPD would be required.

## **1.5 Publicity**

1.5.1 The application was publicised by site notice, neighbour notification letter and a press notice as a Departure in the local newspaper. Seven letters of objection and eleven letters of support have been received as a result of this advertisement. The letters of objection detailing material planning considerations can be summarised as follows:

### Principle & Sustainability

- The development is not sustainable; there is no useful bus service, no footpaths on a fast country road to school. There will be total reliance on private cars which will exacerbate the current parking problems at the school;
- The village has no shop or other facility and scores bottom in the league table of sustainability. The development is not even in the village let alone the envelope and is in farmland. There is no need for housing in this location and the site should be kept in Agricultural, Horticultural, Equine or similar use, at the same time creating jobs;
- The concept of building 23 dwellings on a remote site in Green Belt breaches all planning requirements for the protection of same, and fails all the tests to overturn the presumption of no development;
- The claim in the application of compliance with P55 and 90 is not valid. In addition the reference to isolated new homes in Para 55 is also incorrect. A development of 24 houses, a housing estate, 1 mile from the Village is not an isolated new home.
- The surrounding area is characterised by open countryside, predominantly in agricultural use. There are a small number of isolated farmsteads in the immediate area. There are also a small number of villages and hamlets, however none have a significant offering in terms of local services and facilities to make these locations 'sustainable';
- The existing lawful use of the site is not related to the Barracks but was last used for agricultural purposes and also infers that the existing buildings on the site meet the definition of Previously Used Land;
- The lawful use of the site in its entirety is clearly agricultural based on that the primary use (airbase) to which the Barracks had been ancillary has been removed, the passage of time is such that any previous use of the site as a Barracks has clearly been abandoned and the intervening agricultural use clearly occupied the entirety of the planning unit;
- Given the remote location, there is no prospect of the proposal either maintaining or enhancing the vitality of any of the surrounding rural communities;
- The proposals do not meet any of the requirement of specific circumstance outlined in paragraph 55 of the NPPF.

### Ecology

- The nature of the site will be adversely affected by the number of humans and their associated pets. The wildlife composition will undoubtedly change to a more urban like variety;
- EIA is required and Roebuck Farm is in a sensitive area and connected to ancient woodland containing a wide diversity of wildlife;
- There will be net loss to biodiversity with an urban built form in the middle of Green Belt.
- No badger report has been made available for reviews as part of the online application record of the documents;
- There is not sufficient information provided to assess the application against the impact on protected species;
- Barn Owls will not return to Roebuck Farm once disturbed. This is one of our most “at risk” species and required large unpopulated areas.

### Contamination

- Should the permission be allowed, there would have to be rigorous restrictions and warnings about digging and planting vegetables to future householders as well as safety guarantees and indemnity clauses;
- It is obvious from the Lithos report that this site is toxic and contaminated and there are several burial pits on the site dating back to the Aujeszky's disease in 1982 when the whole herd was slaughtered;
- The whole site is littered with fragments of asbestos and this together with the skeletal remains will surface during development;
- Selby Council has enough land to build on for the next 6 years. There is no need, therefore, to allow development on contaminated land in open countryside in the Green Belt;
- This site is a highly toxic site and it is a matter of concern whether it should be allowed for residential development. According to para. 9.2.3 of the Geo-environmental Report it – states “with respect to Human Health, the proposed end use (residential) is also sensitive.”
- The Geo-environmental report raises many concerns from a consumer point of view alone. If development is allowed and, in the future, someone digs 3 or 4 feet down to install a garden pond – or if in the future footings are dug to support a house extension, what could the health implications be? Or indeed litigation implications for SDC?

### Flooding & Drainage

- Photographs have been submitted which show flooded fields surrounding the proposed development site;
- Fields surrounding Roebuck Farm regularly have standing water after heavy rainfall;
- The sewage works installed with the camp was built no longer exists and the farm had its own above ground lagoon and surface water was pumped into the lagoon and spread on nearby farmland;
- The increase in surface water and drainage from the site could give rise to flooding of the neighbouring land if not controlled effectively. The surrounding area is liable to flooding and part of the site is located in flood zone 2;
- Water would be drained from the site into the existing network of ditches and dykes, which then flow's into a culvert that runs for approximately three quarters of a mile underground. The condition of this culvert is unknown and

it is not known if it is capable of carrying an increased water flow through it. Furthermore the culvert also passes through land which has previously been mined and there could be a subsidence issue in the future which would affect the drainage of the application site and the surrounding area.

### Highways

- The Traffic survey is misinformed, objector states has lived close to this site for over 20 years, and can state that the 144 journeys as Roebuck farm would be more accurate for 1 month rather than 1 day, and also from experience, even allowing for car sharing, the figures for the proposed development should be doubled;
- The development access would conflict with farm access particularly at harvest time and potato lorry movements;
- A considerable increase in traffic would be generated plus ancillary services and delivery vehicles;
- The possibility of cycling will not provide an alternative to the private car and will only offer the potential for recreation.

### Structural

- The buildings are not permanent, whilst constructed of brick, they were erected during WW 2 for use as barracks. They are of minimum construction and not of the design or nature of a permanent structure. After the War the land reverted back to agriculture and the buildings used to house animals, in a time of austerity and rationing;
- The buildings are not substantial structures, the Structural Survey provided states inter alia that the roofs are designed to carry light weight sheeting, no ceilings, and 'more suited to an uninsulated industrial shed', or 'agricultural purposes'. It goes on to state that the Lintels will require replacing, and the buildings require roof replacement to bring them back to their current use;
- The walls which are the best feature also require attention, but are of ½ brick construction with unknown damp proofing measures. Incorporating these into a dwelling is not going to produce an awe inspiring result, and will not give a significant environmental saving. The best use would be to on site crush to form the much needed hardcore and save quarrying;
- The argument that the buildings are being re-used or adapted is a sham, the contribution to the end result is worthless in real terms.
- It is considered that the structures were never intended to be either permanent or of a sufficiently substantial construction to justify their reuse.

### Green Belt

- The development will not enhance the openness of the Green Belt and by virtue of a large number of dwellings being created there will be a huge impact of non-Green Belt characteristics being created;
- York Green Belt preserved a historic corridor round the city and the setting of existing settlements;
- Roebuck Farm is not a Green Belt exception as it is occupied by agricultural buildings;
- There is a concern that over time there would be further development either to increase the density of accommodation on the site and/or to encroach further into Green Belt land ultimately leading to sprawl through the introduction of an urban land use and associated activities.. It would also be a concern if over time green open areas within the site could be used as infill.



- This proposed development is contrary to paragraphs 89 & 90 of the NPPF as it will have a greater impact on the openness of the Green Belt and the purpose of including land within it than the existing development, which has had an agricultural purpose until the current owner bought it. Para. 90 also talks about the re-use of buildings that are of permanent and substantial construction. However, the applicants own Geo-environmental Report (para 2.2.3) states that the majority of the buildings are single storey “shed” type structures;
- The effects on the openness of the Green Belt are wide ranging and some factors do not appear to have been considered by the applicants, nor does the applicant provide any clear identification or assessment to the Green Belt;
- A case for Very Special Circumstances is required and although not submitted a specific case, an argument has been advanced on four circumstances including the improvement of damaged and derelict land, the reduction in footprint; visual improvements; and creation of habitats for protected species and enhancement to local biodiversity.

### Visual Impact

- There will be a significant amount of light pollution from the site and the requirements of the Police show how alien the proposal is to be compatible with open countryside let alone Green Belt;
- The proposed development is for an estate of 23 houses in the middle of Green Belt. Lighting, noise, pollution and traffic are all elements that will contribute to creating a new hamlet with detrimental effect to local wildlife and completely changing the character of the surrounding area. Locating housing in such an area is surely contrary to NPPF 58 & 69?
- No landscape and Visual Assessment of the proposal has been prepared which is considered to be critical to the proper consideration of the proposal;
- The proposal will result in a higher level of activity associated with the comings and goings of vehicles, external lighting and activities within the curtilage of the new dwellings;
- The proposals will appear as a small housing estate rather than a group of related agricultural buildings which will harm the character of the area through visual appearance and the levels and nature of activities within the site;
- The buildings will be an incongruous component in the landscape and the residential use and activities will erode the character and appearance of this area;
- The application is located within a Special Landscape Area designation and as such, special regard is to be had to the impact that the proposal will have on the character and appearance of the area.

### Other Issues

- There are no sporadic large sale housing developments;
- An agricultural use would improve the land;
- There are no perceived benefits to this proposal other than to improve a site which has been left to become derelict by its current owner.
- Whilst the current application utilises the existing single storey buildings we would still be concerned by the potential for applications to be made in the future to add second storeys or for new buildings to be constructed.

- Is any further low cost housing scheme in Appleton Roebuck necessary;
- The proposal to build 23 houses on the site is much too high and the density should be reduced considerably. In addition outside of the boundary of the immediate village all the houses that have been constructed have been large single dwellings directly fronting onto Broad Land rather than estates with multiple houses. With the current application a whole new estate is proposed without any really consideration to the effect on the nature of the property and the surrounding countryside;
- The application has not been properly advertised as a Departure from the Development Plan;
- Details of the application have not been provided to the Public Rights of Way consultee;
- It is unlikely that the use of the site as a Barracks will resume and therefore the use of the site as a Barracks has lapsed completely and there is no realistic prospect that the use of the site as a Barracks could be established;
- No weight should be attached to the argument of home working and there is no ability to control the use of this once the dwelling is complete;
- The applicant has not demonstrated that the proposal will contribute to urban regeneration in a positive manner rather than through the absence of harm;
- The applicant makes no allowance for the potential for the dwellings to be developed and expanded without recourse to the planning system which could be carried out under the permitted development regime;
- The case officer has either misunderstood, misapplied or failed to grapple with the full potential impacts of the proposal to adequately screen the site under EIA regulations;
- The proposal will include the loss of the best and most versatile agricultural land, the loss of existing agricultural buildings as well as the loss of opportunity for these buildings to be used and occupied by the local rural economy;
- It is impossible to consider the approach of the applicant and Housing Officer as either transparent or robust in respect of Vacant Building Credit unless there is a release of evidence that RSL's have expressed a lack of interest in the site and why the requirement for an annual management fee may somehow preclude the provision of affordable housing.

The letters of support can be summarised as follows:

- The current buildings are not readily visible from Broad Lane and have no apparent neighbours in close proximity so bring little or no changes to the local area;
- It would seem to make sense to re-use previously developed sites for new developments before using greenfield sites;
- This small scale development would be a welcome addition to the local housing market which will hopefully reduce the need for infilling within the local village envelopes;
- There is an added benefit gained from the removal of the asbestos contaminating the site and potentially the local area;
- The scheme demonstrates excellent usage of old derelict buildings that in their current conditions are an eyesore and a hazard to health;
- It makes an imaginative and sensible use of a brownfield site and provides much needed housing within the area;

- The scheme is unique in its design and has been well thought out, providing plenty of space and parking etc;
- Users of these homes would not unduly put a strain on facilities/services at Appleton Roebuck as many would also use the facilities/services of other nearby villages such as Copmanthorpe or Bishopthorpe which are also close by;
- The CIL payment would be a welcome bonus to the community in and around the area;
- There are already numerous buildings on the site which makes it suitable for new housing;
- The re-use of existing developed sites delivers housing and does not affect agricultural land;
- The predominantly single storey houses should appeal to all age groups as well as entrepreneurs who work from home or require workshop space;
- Twenty three houses are spread across thirteen acres which is a large area for so few houses. The house designs also looks progressive and interesting as the look of traditional barns is preserved whilst deliver open space living;
- The proposal will not damage the village feel;
- The existing site is unsightly, attracts undesirables/anti-social behaviour and is a potential hazard to health and the site contains asbestos, dead animals, broken windows and graffiti;
- The proposal is sustainable and also is acceptable from a history and heritage perspective;
- The plans include sufficient parking for multiple cars at each property - something that is crucial for rural living, but something that is not being done at the expense of property and garden size. The plans take into account the risks associated with additional water being fed into the drainage system, and therefore include a balancing pond to address the concern. The majority of the proposed houses are single story and are therefore much more accessible than other modern-day developments. Underground heat sources are going to be used to provide heating and hot water – potentially eliminating the need for oil-fired boilers in this rural area. The plans are also sympathetic towards the local wildlife population, and have minimal impact on the existing ecology;
- Not only does the proposed development reuse the main structures of the buildings that already exist (as mentioned above), but it does so with a sympathetic view of the surroundings and location. The plans take into account vehicles and traffic, drainage, accessibility, eco-friendly heating solutions, wildlife, etc.
- The applicants have thought about the detailing of the application which is more than can be said about recent infill developments in Appleton Roebuck;
- The site location is accessible to a number of local villages and will provide a choice of options relating to schooling etc. I believe the residents in the area at the opposite side of broad lane operate successfully. Supporting the investment here should also benefit the local area and local trades.
- In a time of housing shortage this development is preferable to a high density modern estate from a national developer.
- The existing buildings which are falling down, will be transformed into homes which are suited to the wide variety of needs of families well into the future. These homes offer invaluable single storey living and an environment which

not only improves the area, but the quality of life for those who are lucky enough to reside there;

- The use of the site for housing is in line with both National and Regional Planning Policy and will provide much needed dwellings to meet the local housing supply;
- The plans I have seen are imaginative, innovative and sustainable as they re-use existing buildings. It predominately provides single storey accommodation which in the current market to my knowledge is in very short supply and is attractive to a number of sectors within the community.

## **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**

The relevant Core Strategy Local Plan Policies are:

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

### **2.4 Selby District Core Strategy 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 ENV3:	Light Pollution
Policy ENV28:	Archaeological Remains
Policy RT2:	Open Space Requirements for New Residential Development
Policy CS6:	Developer Contributions to Infrastructure and Community Facilities
Policy T1:	Development in relation to the Highway Network
Policy T2:	Access to Roads

#### Supplementary Planning Documents

Developer Contributions Supplementary Planning Document.

Affordable Housing Supplementary Planning Document, 2013

## **2.5 National Guidance and Policy – National Planning Policy Framework (NPPF) and Planning Practice Guidance (PPG)**

On the 27th March 2012 the Government published the National Planning Policy Framework (NPPF). The NPPF replaced the suite of Planning Policy Statements (PPS's) and Planning Policy Guidance Notes (PPG's) and now, along with the 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 Technical Guide provides guidance on wide variety of planning issues the following report is made in light of the guidance of the NPPF.

## **2.6 Key Issues**

2.6.1 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) Policies in the NPPF which require development should be restricted
  - (i) Determination as to whether the Proposal Constitutes Appropriate or Inappropriate Development within the Green Belt
- 3) Identifying the impacts of the proposal:
  - a) Harms to the Green Belt

- b) Visual impact on the Character and Form of the Area
- c) Impact on Residential Amenity
- d) Flood Risk, Drainage and Climate Change
- e) Impact on the Highway
- f) Affordable Housing Assessment
- g) Housing Mix
- h) Impact on Nature Conservation and Protected Species
- i) Land Contamination
- j) Loss of Agricultural land
- k) Other Issues

4. The Applicant's Case for Very Special Circumstances

5. 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.

## **2.7 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.**

2.7.1 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 The application site lies outside the defined development limits of Appleton Roebuck, being approximately 2km to the north of the defined development limits of the village and located within the York Green Belt.

2.7.3 Relevant policies in respect of the principle of this proposal include Policy SP2 "Spatial Development Strategy", Policy SP3 "Green Belt" and Policy SP5 "The Scale and Distribution of Housing" of the Core Strategy. It is considered that as both Policy SP2A(d) and SP3 relate specifically to development within Green Belt they are not considered to be out of date as they conform to the NPPF or simply refer the decision taker to national policy.

2.7.4 Policy SP2(d) states that "in the Green Belt, including villages washed over by Green Belt, development must conform to Policy SP3 and national Green Belt Policies. Policy SP3(B) states "in accordance with the NPPF, within defined Green Belt, planning permission will not be granted for inappropriate development unless the applicant has demonstrated that very special circumstances exist to justify why permission should be granted".

2.7.5 Therefore there is nothing within the development plan itself that would preclude the proposal as the decision taker is explicitly referred to the policy framework contained within the NPPF. A full assessment of the appropriateness of the scheme in the Green Belt is detailed later within the report.

2.7.6 With respect to housing policies, 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 (Inspectorate ref APP/N2739/W/16/3144900) relating to Hodgson's Gate at Sherburn in Elmet of October 2016 that it did not have a 5 year supply of deliverable housing land as required by paragraph 47 of the NPPF.

2.7.7 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."

2.7.8 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."

2.7.10 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; designated heritage assets; and locations at risk of flooding or coastal erosion.

2.7.11 The proposal is located within the Green Belt and therefore is subject to the policies in Section 9 "Protecting Green Belt Land" of the NPPF which indicate that development should be restricted. This will be dealt with later on in the report.

2.7.12 In terms of assessing the sustainability of housing development in this Green Belt location, it is noted that Appleton Roebuck which is the closest village to the application site is identified as being 'least sustainable' with respect to its sustainability ranking as set out in Core Strategy Background Paper No. 5 Sustainability Assessment of Rural Settlements.

2.7.13 The application site itself is situated 1.2 miles outside the defined development limits of Appleton Roebuck. In addition, the villages of Copmanthorpe (3.4 miles) and Bishopthorpe (3.1 miles) which are located within the York boundary are the next nearest settlements to the site which provide local services such as local shop, doctors, pharmacy, dental surgery, recreation centre, nursery and primary school.

- 2.7.14 Furthermore, consideration of Paragraph 55 of the NPPF is required which resists isolated new homes in the countryside unless there are special circumstances which includes where the development would re-use redundant or disused buildings and lead to an enhancement to the immediate setting.
- 2.7.15 Paragraph 34 of the NPPF states that “Plans and decisions should ensure developments that generate significant movement are located where the need to travel will be minimised and the use of sustainable transport modes can be maximised. However this needs to take account of policies set out elsewhere in this Framework, particularly in rural areas.”
- 2.7.16 Whilst the proposals may re-use some of the buildings on the site, the proposals would result in an additional 23no. dwellings within an isolated location with a consequent reliance on the private car. The proposals by virtue of the number of dwellings proposed are therefore considered to run contrary to Paragraph 55 of the NPPF. Members should note that consent was granted for the conversion of agricultural buildings to form one dwelling on this site, however this was justified on the basis that it was for one dwelling whereby there would be very limited vehicle movements. As such, this approval would not justify an additional 23no dwellings as this would result in significant impacts in an unsustainable location.
- 2.7.17 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. Having assessed the proposals against the three aspects of sustainable development the following conclusions have been reached:

#### Economic

- 2.7.18 The proposal would provide jobs during the construction of the dwellings and through local spending by new residents within the village and local area. In addition, a CIL payment may be made with part of this made available to the local Parish Council.

#### Social

- 2.7.19 The proposal would deliver open market dwellings and as such would assist in the Council meeting the objectively assessed need for housing in the district with different housing types (single and two storey).
- 2.7.20 However the site is isolated from the main villages of Appleton Roebuck, Copmanthorpe and Bishopthorpe which would be required to be accessed predominantly by private vehicle.
- 2.7.21 The scheme would fail to provide affordable housing or recreational open space provision.

#### Environmental

- 2.7.22 The proposed dwellings would be located in an area considered to be at the lowest risk of flooding and the dwellings would also be required to meet the latest building regulations standards. The proposals would remove contaminated material such as asbestos and protection measures for bio-diversity and protected species have been included.



- 2.7.23 The proposal would however result in the predominant use of private vehicle which would have a significant impact on the environmental aspect of sustainable development.
- 2.7.24 The proposal would have some merit in terms of the economic dimension of sustainable development. However, this is outweighed by the harm caused under the social and environmental dimensions and as such, it is concluded that the site is not sustainable and therefore the proposal is contrary to Policy SP1 of the Core Strategy.
- 2.7.25 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 paragraphs 14 and 49, it is considered that the housing need does not outweigh the harms by reason of inappropriateness identified above so as to justify the proposal.
- 2.7.26 However, proposals that are unacceptable in principle are still subject to the detailed policy tests both within the Development Plan and the NPPF. This report will now go on to look at these matters of detail by looking at other impacts of the proposal.

## **2.8 Determination as to whether the Proposal Constitutes Appropriate or Inappropriate Development within the Green Belt**

- 2.8.1 Paragraph 87 of the NPPF states “as with previous Green Belt policy, inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.
- 2.8.2 Furthermore paragraph 88 of the NPPF states “When considering any planning application, local planning authorities should ensure that substantial weight is given to any harm to the Green Belt. ‘Very special circumstances’ will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations.”
- 2.8.3 Therefore having had regard to the above the decision making process when considering proposals for development in the Green Belt is in three stages, and is as follows:-
- a. It must be determined whether the development is appropriate or inappropriate in the Green Belt. Paragraphs 89 to 90 of the NPPF set out the categories of development that do not constitute inappropriate development in Green Belt.
  - b. If the development is not inappropriate, the application should be determined on its own merits unless there is demonstrable harm to interests of acknowledged importance, other than preservation of the Green Belt itself.
  - c. If the development is inappropriate, the presumption against inappropriate development in the Green Belt applies and the development should not be permitted unless there are very special circumstances which clearly outweigh the presumption against it.

- 2.8.4 Paragraph 90 of the NPPF states that ‘Certain other forms of development are also not inappropriate in Green Belt provided they preserve the openness of the Green Belt and do not conflict with the purposes of including land in the Green Belt. These include ‘the re-use of buildings provided that the buildings are of permanent and substantial construction; and engineering operations.
- 2.8.5 The application has been accompanied by a Structural Survey by Arc Engineers dated 8 April 2016 which concludes that the roof structures would need to be repaired and replaced due to their current condition and the use of asbestos, the steel roof structure is dilapidated but could be refurbished and retained which may include some strengthening work. The pre-cast concrete portalised structures have been found to be in a serviceable condition with any defects readily repaired and timber roof purlins replaced. The report considers that the existing rendered masonry walls are not sensitive to either the replacement or retention of the existing roof structures and will therefore not be impaired by the replacement of the roof structure. The report further confirms that the foundations are adequate and internal piggery structures can be removed without significant effect on the walls or foundations. With respect to window openings the report confirms that original openings have been blocked up leaving high level slot vents and the proposed openings will not impair the function of the retained sections of walling.
- 2.8.6 The report concludes that the buildings could be repaired with the retention of a strengthened steel roof for development of residential accommodation. Objectors have raised concern with respect to the condition of the buildings and the amount of re-building that may be required.
- 2.8.7 The Local Planning Authority commissioned an independent company (Mason Clark) to assess the structural survey report and to also undertake a visual inspection of the buildings within the site. Following this inspection, whilst the report by Mason Clark generally agrees with the report by Arc Engineers, it was noted that on a number of the buildings, the gable walls are already missing or will need to be completely rebuilt. As such, it is considered that the rebuilding of gable walls, together with the other repairs required to the buildings such as the re-roofing, localised repairs to walls and demolition of walls to create extensive window openings when taken cumulatively would result in a development that is considered to fall outside the definition of conversion and therefore, the buildings taken as a whole are not capable of conversion to residential without substantial reconstruction and as such the proposals are contrary to Paragraph 90 of the NPPF.
- 2.8.8 In addition, paragraph 89 of the NPPF states that ‘a local planning authority should regard the construction of new buildings as inappropriate in Green Belt’, it then goes on to list exceptions which includes the extension or alteration of a building provided that it does not result in disproportionate additions over and above the size of the original building.
- 2.8.9 The proposal in part seeks to extend some of the buildings to facilitate the proposed residential use. Having had regard to the small scale nature of the extensions and their position within the development, it is not considered that these would result in a disproportionate addition and as such this part of the proposal complies with Paragraph 89 of the NPPF.

2.8.10 There are proposed extensions to plots 11, 14, 15 and 18 within the site as part of this proposal as follows:

- Plot 11 - Creation of a linking structure (12.8sqm) and removal of an existing linking structure (8sqm);
- Plot 14 - New linking structure – 22.1sqm;
- Plot 15 - Removal of part of the lean-to structure - reduction of 38sqm;
- Plot 18 - extension to create garage space – 14.1sqm.

Given the proposed small scale increases, it is considered that the proposed extensions would not result in a disproportionate addition to the existing buildings.

2.8.11 As such, given the proposal is considered to be inappropriate and therefore harmful by definition, the proposal should only be approved if very special circumstances exist that clearly outweigh the harm by reason of inappropriateness and any other harms caused. This is considered in the next sections of the report.

## **2.9 Identifying the Impacts of the Proposal**

2.9.1 Paragraph 14 of the NPPF requires the decision maker 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 will assess the impacts arising from the proposal.

## **2.10 Assessment of Impact Upon and Harm to the Green Belt**

2.10.1 In respect to the other harms to the Green Belt it is necessary to determine what the potential impact of the proposal would be to: -

- (a) the openness of the Green Belt;
- (b) the purposes of including land within the Green Belt
- (c) Visual Impact on the Green Belt

2.10.2 Paragraph 79 of the NPPF states that ‘the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts are their openness and their permanence.

### Impact on openness

2.10.3 When looking at this issue it is worth considering what is meant by the term ‘openness’. One of the aspects of openness is considered to be the absence of buildings or development. Hence, any new buildings or development would have the potential to harm the openness of the Green Belt. In Court Decision ‘Mrs J Timmins and AW Lymn v Gedling Borough Council and Westerleigh Group Limited’ it was held that ‘openness was a concept which related to the absence of building; it is land that is not built upon. Openness is hence epitomised by the lack of buildings but not by buildings that are unobtrusive or camouflaged or screened in some way.’ It further notes that ‘any construction harms openness quite irrespective of its impact in terms of its obtrusiveness or its aesthetic attractions or qualities.’

- 2.10.4 The re-use of the buildings would result in no alteration to the bulk, scale, height and massing with very limited extensions and demolition proposed which is considered to be acceptable and these elements in themselves would not impact on the openness of the Green Belt.
- 2.10.5 However the proposals by virtue of the change of use of land around the buildings to form 23 individual residential curtilages, the necessity for boundary treatments, pathways, driveways, extended roadways, together with domestic paraphernalia are considered to result in an increase in the urbanisation of the site. In addition, and as noted by North Yorkshire Police, there would be a requirement for external lighting which would also increase the urbanisation of the site. If taking into account the definition of openness as set out above then the proposals would increase the built form on the site and hence would have a detrimental impact on the openness of the Green Belt.
- 2.10.6 The proposals would utilise the Broad Lane/Green Lane junction where works have recently been undertaken which have been agreed by NYCC Highways and the PRoW Officer. The Transport Statement advises that the proposed spine road within the site has been designed with a 3.7m wide carriageway with a 2.0m service verge in order to minimise hard surfacing where appropriate whilst also safely accommodating both vehicular and pedestrian traffic. Passing places with a width of 5.5m are provided at regular intervals along the entire length of the spine road. In addition, new hardstanding is required to provide access/driveways to the proposed dwellings and 50no car parking spaces are to be provided. Given that the existing site is open agricultural land and due to the nature of the highway access required it is considered that the access roads and parking would also harm the openness of the Green Belt.
- 2.10.7 The submissions by the applicant that there would be a reduction in built form have been taken into account, however this reduction does not negate the fact that the site would be extensively urbanised through associated infrastructure as set out above. These factors contribute to the degree of openness that presently exists and would be adversely affected by the proposal.
- 2.10.8 Having taken into account the impact on the openness of the Green Belt, it is considered that the proposal would result in significant harm to openness through the urbanisation of the site.

#### Impact on the Purposes of Including Land within the Green Belt

- 2.10.9 Paragraph 80 of the NPPF defines the five purposes for including land within the Green Belt which are:
- To check the unrestricted sprawl of large built-up areas;
  - To prevent neighbouring towns merging into one another;
  - To assist in safeguarding the countryside from encroachment;
  - To preserve the setting and special character of historic towns; and
  - To assist in urban regeneration, by encouraging the recycling of derelict and other urban land.
- 2.10.10 The application site was formerly used as an agricultural farm which is an appropriate use within a countryside and Green Belt location. The proposals

submitted are for the conversion and extension of the existing buildings to form 23no dwellings. The nature of the proposed use would in effect create a new residential hamlet within this countryside location which would bring with it the associated activities of a residential development such as vehicular movements, residential gardens and paraphernalia, external lighting etc.

2.10.11 As such, it is considered that the proposals are considered to conflict with the purposes of including land within the Green Belt through encroachment.

#### Visual Impact on the Green Belt

2.10.12 With respect to the visual impact on the Green Belt it is noted that objectors have suggested that a Landscape and Visual Assessment (LVIA) of the proposal should have been prepared. However, this was not submitted as part of the application and is not required by policy, and as such the application has been assessed on the basis of the information submitted.

2.10.13 The application site is located on part of a site which was historically a Canadian Air Force base during WWII and was more recently used as a pig farm containing buildings of varying size and scale. The application is submitted as a full application for the conversion, extension and demolition of the buildings within the site to form 23no dwellings and it is considered that a full assessment of the visual impacts of the development on the Green Belt can be established at this stage based on the submitted information without the requirement for a LVIA to be submitted.

2.10.14 It is clear from the submitted plans that the conversion of the existing buildings would alter their appearance to that of a more domestic nature and would include small scale extensions. In addition it is proposed to demolish some of the existing buildings on site which would not be part of any conversion works.

2.10.15 The proposals are considered to tidy up the site which, at present, is overgrown and subject to anti-social behaviour. The site is quite self-contained and the outer boundaries are well landscaped which is considered to reduce wider visual impacts of the proposal.

2.10.16 It is however noted that within the North Yorkshire Police response that external lighting would be required to ensure a safe environment within the site and this would include lighting along access roads as well as within the domestic curtilage of dwellings. This is considered to have a wider visual impact on the Green Belt and would result in a significant urbanising effect which would have a negative impact on the countryside's intrinsic character.

2.10.17 Despite views from the public highway into the site being limited having had regard to the nature of the proposals it is considered that the proposals would result in a detrimental visual impact on the Green Belt, contrary to the NPPF.

2.10.18 The application is still subject to the normal planning tests set out in the development plan and NPPF, to establish whether there any other harms arising from the development. The next section considers these.

## **2.11 Impact on Character of the Area**

- 2.11.1 Relevant policies in respect to design and the impacts on the character of the area include Policy ENV1 (1) and (4) of the Selby District Local Plan and SP18(1) "Protecting and Enhancing the Environment" ,and SP19 "Design Quality" of the Core Strategy. The Appleton Roebuck Village Design Statement also sets out some of the key characteristics of the village, which is the nearest settlement to the application site. Policy ENV3 relates to outdoor lighting. Significant weight should be attached to Policies ENV1 and ENV3 given that they are broadly consistent with the aims of the NPPF.
- 2.11.2 Despite comments from objectors with respect to this being within a 'Special Landscape Area' designation it should be noted that the site is not identified as being within the Locally Important Landscape Area whereby Policy ENV15 would be applicable.
- 2.11.3 Relevant policies within the NPPF, which relate to design include paragraphs 56, 60, 61, 64, 65 and 200. Paragraphs 64 and 125 are particularly relevant. Paragraph 64 stating that permission should be refused for development of poor design which fails to take the opportunities available for improving the character and quality of the area and the way it functions with Paragraph 125 stating planning decisions should limit the impact of light pollution from artificial light on intrinsically dark landscapes.
- 2.11.4 The proposed scheme relates to the conversion and extension of existing buildings to form 23no dwellings. The existing buildings on the site comprise brickwork with a rendered finish and asbestos sheeting on the roof. The submitted plans show the extent of the conversion works and external materials for each plot.
- 2.11.5 The existing residential properties along Broad Lane are predominantly brick with either a pantile or slate roof and properties are of varying design and appearance. It is therefore considered that the proposed materials would be in keeping with other properties within the vicinity of the site.
- 2.11.6 In terms of the proposed site layout, the layout would utilise the existing hard surfaced access road leading to the site, and would provide for a gravel driveway leading from the access to the buildings. With respect to amenity space, each dwelling would be provided with a generous amenity area and it is considered that the proposed layout would be acceptable in this context.
- 2.11.7 Objectors have raised concern with respect to external lighting and these concerns have also been raised within the Police Designing Out Crime response. Details regarding external lighting within the site have not been submitted with the application, however for the reasons set out above it is considered that the introduction of such lighting to serve the development would further exacerbate the urbanisation of the site in this rural location would have a detrimental impact on the character of the countryside.
- 2.11.8 In terms of boundary treatments, no details have been submitted with the application. Although a condition could be included which requests that prior to the commencement of development, full details of boundary treatments are submitted as set out above it is considered that the introduction of boundary treatments

around each of the plots would significantly urbanise the site having a detrimental impact on the character of the area.

2.11.9 Having taken all of the above into account it is considered that whilst achieving an appropriate design, external appearance, layout and scale the proposals would have a detrimental impact on the character of the area. The proposals are therefore contrary to Policies ENV1 and ENV3 of the Local Plan, Policy SP19 of the Core Strategy and the NPPF.

## **2.12 Landscaping and Impact on Trees**

2.12.1 Policies ENV1 (5) of the Local Plan, Policies SP15(e) and SP19 of the Core Strategy and the NPPF are relevant with respect to landscaping and the impact on existing trees.

2.12.2 Although the application is a full application no landscaping details have been provided at this stage and the applicant has stated that this element will be dealt with by condition. It should be noted that there are no trees on the site which are formally protected by Tree Preservation Order. However given the nature of the site the application is accompanied by a Tree Report by Greengage Arboriculture and Ecology, dated May 2013, which identified no trees, hedges or groups of high quality and value (A Category) on site. The report established that 13no trees and 5no hedgerows were of moderate quality (B Category), 27no trees and the 9no groups of trees surveyed and 1no hedge were of low quality (C Category) and 2no trees were in a poor condition and require felling (U Category).

2.12.3 The report recommends the retention of the moderate quality and value trees and where retained these should be provided with sufficient space to protect their root protection areas and provide sufficient space for future development without causing nuisance. It goes on to recommend that where possible low quality and value trees should be retained, but their presence should not represent a significant constraint on the design. The tree report also sets out recommendations for works to the existing trees.

2.12.4 Having taken all of the above into account it is considered that an appropriate landscaping scheme could be submitted to ensure that the proposals are in accordance with Policies ENV1 of the Local Plan and Core Strategy Policies SP15(e) and SP19 with respect to landscaping.

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

2.13.1 Policies ENV1 (7) of the Local Plan, SP15, SP16, SP18 and SP19 of the Core Strategy require proposals to take account climate change and energy efficiency within the design.

2.13.2 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. The 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.

- 2.13.3 The application site is located in Flood Zone 1 which is at low probability of flooding with a very small section of the site at the south western edge located in Flood Zone 2 (medium probability). The submitted layout plan however shows that no development would be located in Flood Zone 2 and a condition could be included if approval was recommended to ensure no built form was located in Flood Zone 2. As such, a sequential test is not required.
- 2.13.4 However, given the size of the application site (5.36ha), a Flood Risk Assessment is required to be submitted. A FRA has been submitted by Flood Risk Consultancy Limited which details historical flooding, sources of flooding, assesses flood risk, sets out the drainage methods to be incorporated into the site, and mitigation measures. Comments from objectors have been taken into account with respect to potential flooding, however the Environment Agency has considered the proposals and has requested a condition be attached to any permission granted.
- 2.13.5 Comments have been noted from objectors in respect of flooding and drainage from the application site. However it should be noted that the majority of the application site lies within Flood Zone 1 and the land surrounding the site, but not within the submitted location plan is within Flood Zone 2.
- 2.13.6 In terms of drainage the application states that foul sewage would be connected to a package treatment plant with surface water directed to a sustainable drainage system and an existing watercourse. Comments from objectors have been taken into account with respect to the drainage of the site; however the Environment Agency, Yorkshire Water, the Internal Drainage Board and the Lead Officer for Environmental Health have been consulted on these methods of drainage and raised no objections subject to conditions.
- 2.13.7 The SuDS Officer has requested a condition is attached regarding a detailed design and associated management and maintenance plan of surface water drainage and is satisfied with the information that has been provided.
- 2.13.8 Policy SP16 (a) of the Core Strategy requires “New residential developments of 10 dwellings or more or non-residential schemes of 1000 m<sup>2</sup> gross floor space or more, to provide a minimum of 10% of total predicted energy requirements from renewable, low carbon or decentralised energy sources (or else in accordance with the most up to date revised national, sub-regional or local targets).”
- 2.13.9 No measures have been provided which advises how the site would provide a minimum of 10% of the total energy requirements for the site from renewable, low carbon or decentralised sources. It is however considered that a condition could be included which requires the development to source a minimum of 10% of total predicted energy requirements are from renewable, low carbon or decentralised energy sources.
- 2.13.10 Having taken account all of the above into account it is concluded that the proposals are considered acceptable with respect to the impacts on drainage, flooding and climate change in accordance with Policies SP15, SP16, SP18 and SP19 of the Core Strategy and the NPPF subject to conditions.



## **2.14 Highway Issues**

- 2.14.1 Policy in respect of highway safety and capacity is provided by Policies ENV1(2), T1 and T2 of the Selby District Local Plan, Policy SP15 (f) and (g) Policy SP19 of the Core Strategy and paragraphs 34, 35 and 39 of the NPPF. In addition Policy T7 of the Local Plan relates to provision for cyclists and Policy T8 relates to impacts on public rights of way.
- 2.14.2 The plan submitted demonstrates that the site would be accessed via the existing access road (Green Lane) which is an unadopted road leading from Broad Lane. NYCC Highways have considered the access arrangements and have raised no objections to the proposals subject to conditions.
- 2.14.3 Objectors have raised concern with respect to the increase in traffic on the road, lack of public transport and other highway issues including accurate traffic/accident data.
- 2.14.4 The application is accompanied by a Transport Statement by Optima which considers the local highway network, accident analysis, planning history, the existing site, public transport and pedestrian/cyclist accessibility.
- 2.14.5 The report confirms that Broad Lane is on a bus route between Colton and York, however there is no bus stop located outside the site. The nearest bus stop is located on Main Street in Appleton Roebuck which is 2km away from the site. The report advises that discussions have taken place to provide a hail and ride service from the Broad Lane/Green Lane junction, however, no agreement has been reached at the time of this report and no weight can be attached to this.
- 2.14.6 The report explains that the site is also on part of the national route for cycling and adjacent to a public bridleway and considers that in light of DfT guidance, the development site is accessible from the wider areas of Acaster Malbis, Appleton Roebuck, Colton, Copmanthorpe, Bishopthorpe and Escrick.
- 2.14.7 The report also defines the development proposals including trip generation, parking, access arrangements and internal layout. The report concludes that the internal site layout has been designed to embrace the principles of guidance contained within Manual for Streets in that where possible the movement of pedestrians has been afforded priority over vehicles, appropriate car parking provision and servicing arrangement have been provided with each dwelling provided with an external plug socket on a separate electric circuit to facilitate an electric vehicle charging point. The report predicts that the development will generate very low levels of traffic during peak periods and is unlikely to be perceived from day to day fluctuations on the local highway network. In addition, the report considers that the proposed residential use would generate comparable volumes of traffic to the former intensive use of the site as a pig farm.
- 2.14.8 Officers have considered the contents of the Transport Statement and have taken into account comments from objectors with respect to the accessibility/sustainability of the site and impact on the highway. Members should note that the site is located approximately 11km (by road) from York City Centre and approximately 30km (by road) from Selby Town Centre which are the largest main settlements which provide

for employment, shopping and leisure facilities. Appleton Roebuck is located approximately 2km from the site, providing the nearest Primary School.

2.14.9 Taking into account the Chartered Institute for Highways and Transportation (CIHT) Publication 'Providing for Journey's on Foot' this states that a 'desirable' walking distance is between 200m to 500m, an 'acceptable' walking distance is between 400m to 1000m and the 'maximum' walking distance is between 800m to 2000km, based on good walking conditions. It is acknowledged that walking is unlikely to be a desirable option as the application site is located in a countryside location which does not benefit from public footpaths and as such, for residents to access facilities in the village they would have to walk on the road or overgrown grass verges. Whilst accessibility by cycle may be possible it is also likely to be impractical due to the road conditions and distances involved.

2.14.10 In addition although the site is located on a bus route, the nearest bus stop is located in the village itself. It is therefore a realistic proposition that residents would be reliant on private car for travel to work, school and to local shops and facilities.

2.14.11 It is acknowledged that Policy SP15 f) states that schemes should, where necessary or appropriate, minimise traffic growth by providing a range of sustainable travel options (including walking, cycling and public transport) through Travel Plans and Transport Assessments and facilitate advances in travel technology. It should be noted that Policy SP15 does specifically state that these should be incorporated where necessary or appropriate.

2.14.12 It is noted that Paragraph 55 of the NPPF acknowledges that proposals which make use of existing buildings may be acceptable in isolated locations where access to public transport or other modes of sustainable transport may be poor. However, the site is located a considerable distance away from public transport and other modes of sustainable transport and there would be a reliance on the private car for each dwelling.

2.14.13 A distinction must be made between the quantum and scale of development for the current proposal and that previously approved for 1no dwelling within the wider site. There is a greater and more significant need for sustainable transport methods to be provided for the current development of 23no dwellings compared to the 1no dwelling approved due to quantum, scale and trip generation proposed.

2.14.14 Having had regard to these factors it is considered that, on balance, the scheme would be contrary to Policies SP15 (f) of the Core Strategy due to the considerable increase in traffic growth.

## **2.15 Residential Amenity**

2.15.1 Policy in respect to impacts on residential amenity and securing a good standard of residential amenity is provided by ENV1 (1) and H2B of the Local Plan and the NPPF. Policy H2B of the Local Plan relates to density, however this policy should be afforded limited weight given that it conflicts with the NPPF.

2.15.2 The distance between the boundaries of the application site to the boundary of the closest residential properties situated along Broad Lane is at least 150 metres with some landscaping along the western boundary closest to these dwellings. It is

therefore considered that by virtue of the separation distances involved, together with the landscaping that exists along the intervening boundaries as well as a condition requiring additional landscaping which secures an appropriate level of amenity for existing and future residents. Given the location of the site there are no noise sources which are likely to impact on the residential amenity of future occupiers and as such no noise report was required to be submitted. The Lead Officer for Environmental Health has commented on the application and has raised no objections on the grounds of residential amenity.

2.15.3 Having had regard to all of the above it is considered that the proposals would be appropriate with respect to the impacts on residential amenity having had regard to Policies ENV1 (1) and H2B of the Local Plan and the NPPF.

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

2.16.1 Policy in respect to impacts on nature conservation interests and protected species is provided by Policy ENV 1 (5) of the Local Plan, Policy SP18 of the Core Strategy and paragraphs 109 to 125 of the NPPF as well as the Wildlife and Countryside Act 1981 (as amended).

2.16.2 With respect to impacts of the development proposals on protected species planning policy and guidance is provided by the NPPF and accompanying PPG in addition to the Conservation of Habitats and Species Regulations 2010 (as amended). Natural England do not comment with respect to the impacts on protected species and as such their Standing Advice on protected species has been referred to assist in assessing the impacts of the scheme.

2.16.3 Comments have been made within the letters of objection in respect to the loss of wildlife within the site resulting from the proposed conversion and the impact of the proposals will have on protected species. These comments have been noted.

### Statutory Nature Conservation

2.16.4 Due to the location of the site the proposal is unlikely to affect any statutorily protected sites or landscapes and Natural England have previously confirmed (under application 2014/0813/OUT) that they have no objections to proposals on this site in this respect. Natural England have been consulted on this application and members will be updated of their comments at committee.

### European Protected Species

2.16.5 The application is accompanied by a series of reports including an Extended Phase 1 Survey and Bat Risk Assessment, Great Crested Newt Survey, Barn Owl Survey, Badger Survey, and Bat Survey. It is noted that any reports which were originally undertaken in 2012 have been updated and the surveys have been undertaken in 2016.

2.16.6 The reports identified that bats, principally common pipistrelles were using the site for feeding and commuting, however bat emergence and re-entry surveys did not identify bats using any existing buildings for roosting which is consistent with previous survey findings. The bat survey therefore indicates that the development will not result in the disturbance, modification or loss of any bat roosts

and therefore will not impact upon bat populations. The report sets out enhancement measures to be incorporated into the scheme which can be conditioned.

2.16.7 The Great Crested Newt survey confirms that there are no Great Crested Newts using any of the ponds within the site but two small populations were found in two ponds within 500m of the site from a survey in 2012. However, access to the land was not given to provide an update as part of the 2016 survey. The report confirms that the site does provide suitable terrestrial habitat for Great Crested Newts, therefore the report sets out recommendations to mitigate any impacts at pre-commencement and development stage.

2.16.8 It is noted that bats and Great Crested Newts are European Protected Species (EPS) and as such the three statutory tests of the Habitat Regulations must be considered. Given that the surveys submitted establish that there is low/negligible impact on the EPS it is considered that there has been a proportionate approach adopted in considering the feasibility of alternative solutions relative to the degree of likely impact so that the proposals meet the test of there being no satisfactory alternative. In addition the proposals demonstrate that the harm can be mitigated against to achieve a favourable conservation status.

#### Protected Species

2.16.10 A Badger Survey has been submitted and states that there is a badger sett which may be impacted by the proposals and the report sets out a series of recommendations and enhancement measures which can be conditioned.

2.16.11 The Barn Owl Survey identified that a single pair of Barn Owl were found to be nesting within building reference AO on the 10th May, when an adult was discovered incubating eggs within an old plastic water tank in the building. There was also evidence, in the form of pellets in several buildings and a Barn Owl was also recorded exiting building AH. The submitted report therefore sets out recommendations which include re-surveying at the time of development, timing the development to avoid nesting season, phasing development works, providing temporary alternative provision (nest boxes), providing onsite protection through fencing and signage, providing permanent provision for barn owls on site and creating an enhanced habitat. These recommendations can be conditioned.

2.16.12 The Breeding Bird Survey identified A total of 24 species as breeding and a further 2 species were recorded as a probable breeding species within the boundaries of the survey location. Consequently, the evaluation of the site would suggest it is of District importance with 26 confirmed and probable breeding species observed. A series of mitigation measures are recommended which can be secured by way of condition.

#### Impact on other Sites

2.16.13 The application site is not located on or adjacent to a Local Wildlife Site, Regionally Important Geological/Geomorphological Site (RIGS), National Nature Reserve (NNR) or Local Nature Reserve (LNR) and as such the proposals would not impact on these sites. Furthermore there are no Sites of Special Scientific Interest (SSSIs), Sites of Importance in Nature Conservation (SINC), Special Area of

Conservation (SAC) or RAMSAR sites within close proximity to the application site. The submitted reports note that the site is within 75m of Brockett Wood which is a Local Wildlife Site which is a non-statutory site and is also within 1.2km of Stub Wood and Copmanthorpe Wood and 1.3km from another un-named woodland, however it is not considered that the proposals would impact on these sites.

### Habitats

2.16.14 The submitted Extended Phase 1 Survey established eight main habitat land categories identified on the site. However it also established that the site area is dominated by buildings and the mosaic of rank semi improved grassland with tall ruderal vegetation. It notes that these habitats are widespread throughout the UK, but the quiet undisturbed nature of the site has resulted in a variety of wildlife utilising the site, with the potential for other species being present that were not detected during the walk over survey.

2.16.15 Having had regard to all of the above, it is considered that subject to appropriate conditions requiring works are undertaken in accordance with the mitigation measures, recommendations and enhancement measures, the proposal is acceptable with respect to their impacts on protected species, habitats, nature conservation and sites of interest, in accordance with Policy ENV1(5) of the Local Plan, the NPPF and Conservation of Habitats and Species Regulations 2010 (as amended).

## **2.17 Affordable Housing**

2.17.1 Core Strategy Policy SP9 sets out the affordable housing policy context for the District, this is accompanied by the Affordable Housing SPD which sets out in detail the requirements.

2.17.2 Policy SP9 outlines 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 or more with further details outlined in the Affordable Housing Supplementary Planning Document.

2.17.3 The Rural Housing Officer has confirmed that the proposed development would not be a suitable development for an on-site affordable housing contribution based on the Registered Providers needs and cost implications. In addition, the requirement for a management company on this site, the un-adopted roads and the annual fee this would trigger for each household, would be a further concern to an RP in terms of the scheme's viability and ultimate housing costs to their tenants in the long run. As such, it is recommended that an offsite contribution for the affordable housing, in accordance with the Council's Affordable Housing SPD would be required.

2.17.4 The Affordable Housing SPD states that applicants must make a case to the Council regarding the provision of a commuted sum for some or all off-site provision, as a better alternative to on site provision. A key factor will be that off-site provision is not merely an alternative, but provides a better solution, a clear benefit or betterment than provision of on-site built units would deliver. A financial contribution will be only be acceptable in-lieu of on-site provision if both the

applicant and the Council agree that this is the preferred approach e.g. where the management of the affordable housing on site cannot be effectively secured. The commuted sum calculation is set out within the SPD and the mechanism for payment would be secured through a Section 106 agreement.

2.17.5 It is clear from the response from the Rural Housing Officer that on site provision would not be appropriate in this instance given the nature of the proposals and the site's location and as such other methods of securing affordable housing needs to be established. The applicants have not provided a mechanism for the Council to secure affordable housing as no financial costings or viability has been submitted and as such the proposals would fail to comply with Policy SP9 in terms of affordable housing.

## **2.18 Housing Mix**

2.18.1 The NPPF sets out the requirement to deliver a wide choice of high quality homes through planning for a mix of housing which reflects local needs and to provide affordable homes. Core Strategy Policies SP8 and SP19 (i) requires development to create mixed use places with variety and choice that complement one another to encourage integrated living.

2.18.2 Table 4.4 of the Strategic Housing Market Assessment (SHMA, 2009) shows that in the Northern area of the District, which includes Appleton Roebuck, demand exceeds supply on all property sizes and types.

2.18.3 There is a mix of housing in the settlement of Appleton Roebuck village itself which is the nearest settlement. The application form states that the proposals would provide 21no 4+ bedroom properties, 1no 3 bedroom property and 1no 2 bedroom property. As such, it is considered that the proposal would achieve an appropriate housing mix and a suitable housing mix would be provided as identified in the SHMA, in accordance with Policy SP8 and the NPPF.

## **2.19 Contamination**

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

2.19.2 Comments from objectors with respect to potential contamination issues at the site have been noted. The application is accompanied by a Geo-environmental Appraisal and Explosive Ordnance Threat Assessment which have been assessed by the Council's Contamination Consultant who considered that the reports are acceptable and therefore there are no objections to the proposals on the grounds of contamination subject to appropriate conditions.

2.19.3 The proposals are therefore acceptable with respect to contamination in accordance with Policy ENV2 of the Local Plan and Policy SP19 of the Core Strategy.

## **2.20 Designing Out Crime**

2.20.1 Policy SP19 of the Core Strategy and Paragraphs 58 and 69 of the NPPF states that amongst other things 'planning policies and decisions, in turn should aim to

achieve places which promote safe and accessible environments where crime and disorder, and the fear of crime, do not undermine quality of life or community cohesion.'

2.20.2 The Police Architectural Liaison Officer notes that no documents have been submitted to show how the applicants have considered crime prevention and how it has been incorporated into their proposal. In addition, the drawings and information submitted are scarce in detail, particularly in respect of boundary treatments and any landscaping proposals. However, it is noted that the Planning Statement does mention that a detailed landscaping scheme will be submitted as part of a landscaping condition along with boundary treatments.

2.20.3 Further comments include the need for boundary treatments, gates and external lighting within the site which has been discussed earlier in the report. The Police Architectural Liaison Officer requests a condition is included requiring that prior to the commencement of any works that the applicant provides full details of how crime prevention has been considered and incorporated into the design and layout of the scheme.

## **2.21 Archaeology**

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

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

2.21.3 The application was submitted by an archaeological desk based assessment and historic building survey which concludes that the site has negligible potential for the survival of significant archaeological remains and as such no further work is recommended.

2.21.4 The HER Officer has no objections to the proposal and confirms that both reports have been read and agree that the proposal would not have a significant impact as the majority of the structures are to be retained and converted for residential use. The HER Officer also adds that the reports stand as a permanent record of those buildings that are in a poorer condition and schedules for demolition. In addition, the HER Officer does not request any conditions.

2.21.5 Having had regard to the above points it is considered that the proposals comply with Policies ENV1 and ENV28 of the Local Plan, Policies SP18 and SP19 of the Core Strategy and the NPPF with respect to the impacts on heritage assets.

## **2.22 Developer Contributions**

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

2.22.2 Policy RT2 (b) of the Local Plan advises that 4 options are available, subject to negotiation and the existing level of provision in the locality. These options are:

- (i) Provide open space within the site;
- (ii) Provide the open space within the locality;
- (iii) Provide the open space elsewhere;
- (iv) Where it is not practical or not deemed desirable for Developers to make provision within the site the District Council may accept a financial contribution to enable provision to be made elsewhere.

2.22.3 During pre-application discussions the options with respect to recreational open space provision were discussed and although it was suggested that a financial contribution may be acceptable, having fully assessed the scheme it is considered that on-site provision could be achieved in line with Policy RT2 of the Local Plan.

2.22.4 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. These policies should be afforded significant weight but considered in the context of the CIL requirements.

2.22.5 Having consulted North Yorkshire County Council Education they have confirmed that a contribution of £78,177 would be required towards education provision at Appleton Roebuck Primary School. However it is considered that such a contribution cannot be sought in this instance due to the introduction of CIL.

2.22.6 A consultation has been sent to the Healthcare Service in relation to this application and an update will be provided to Committee, if a response is received, however, it is considered that such a contribution cannot be sought in this instance now that the Council has CIL in place.

2.22.7 With respect to Waste and Recycling, a contribution of £65 per dwelling would be required and this could be secured through a condition if approval was recommended. It has been confirmed that the proposal has been designed to accommodate refuse vehicles and either a clause in legal transfer documents can be included which absolves the Council of any liability (if private) or the internal roads can be constructed to adoptable standards.

2.22.8 It is therefore considered that the proposals would fail to accord with Policy RT2 and would comply with CS6 of the Local Plan, Policy SP19 of the Core Strategy and the NPPF subject to appropriate conditions.



## **2.23 Loss of Agricultural Land**

- 2.23.1 Policy in respect to the loss of agricultural land is provided by Policy SP18(9) of the Core Strategy and paragraph 112 of the NPPF. Paragraph 112 of the NPPF states local planning authorities should take into account the economic and other benefits of the best and most versatile agricultural land. Such land comprises grade 1-3a agricultural land.
- 2.23.2 Within one of the letters of objection, concern has been raised regarding the potential loss of agricultural land through the proposed development. The Agricultural Land Classification Yorkshire and The Humber identifies that the land is graded as Grade 3 (good to moderate) and although the site was last used for agricultural purposes, given the contamination within the site, the proposal would not result in the loss of best and most versatile agricultural land.
- 2.23.3 Therefore, having had regard to Policy SP18(9) of the Core Strategy and paragraph 112 of the NPPF, it is considered that although the loss of agricultural land and associated loss of economic and other benefits weighs against the proposal, given the size of the application site and the agricultural grading of the land, only very limited weight should be afforded to this matter.

## **2.24 Other Issues**

- 2.24.1 Objectors have raised concerns that the proposals, if approved, could lead to further extensions of these buildings. If approval was recommended, a condition to remove permitted development rights for extensions could have been included. It should also be noted that any prospective future application is not a consideration at this stage and a determination can only be given on the proposals submitted.
- 2.24.2 Within the letters submitted, concern has been raised over the proposed density within the site and a letter of support considers that the density is acceptable. It is noted that the Local Planning Authority does not have a minimum density on sites.
- 2.24.3 Following comments from objectors, it is confirmed that the application was advertised on both the site notice and the newspaper article as being a departure from the Development Plan.
- 2.24.4 It is suggested that the applicant would need to make an assessment of the impact that the loss of this open countryside site and the loss of existing agricultural buildings would have on the rural economy. It has also been suggested that consideration needs to be given to the re-use or redevelopment of the buildings for purposes which better serve the rural economy. This is noted, however, there is no policy basis upon which to request such an assessment for the loss of agricultural buildings.
- 2.24.5 One letter of objection has made reference to the EIA Screening of the application, making reference to the selection criteria within Schedule III of the EIA regulations. It is considered that the EIA screening undertaken and the screening decision to not require an Environmental Statement is sound and is consistent with previous EIA Screening of the site.

## 2.25 The Applicant's Case for Very Special Circumstances

2.25.1 In support of the application the applicant has put forward the following points which the applicant considers, when taken together, constitute very special circumstances to justify approval of the proposal.

1. Opportunity to remove asbestos and undertake localised remediation to remove potentially harmful materials;
2. Environmental enhancements including habitat creation for protected species and enhancement to bio-diversity;
3. The scheme is deliverable within 5 years and would contribute to the 5 year housing land supply;
4. Development is not inappropriate in the Green Belt because it involved the re-use of existing buildings that are permanent;
5. Openness of the Green Belt is preserved and the five purposes of the Green Belt are not undermined;
6. The site is located within the lowest risk of flooding and can be appropriately drained;
7. The site is sustainable with access to local facilities and cycle routes;
8. Significant reduction in the built footprint and volume;
9. Visual improvements through the removal of a large number of buildings close to the site's boundary and landscape enhancement;
10. Significant reduction in traffic when compared to its previous intensive farming use;
11. Reduced CO2 emissions through electric charging points;
12. Live work opportunities are provided within the properties to further reduce the need to travel on a daily basis.

### 2.25.2 Officers Appraisal of the Applicant's Case

1. Opportunity to remove asbestos and undertake localised remediation to remove potentially harmful materials

It is acknowledged that the site is contaminated and this is set out within the Geo-environmental Appraisal and Explosive Ordnance Threat Assessment which was submitted with the application. The proposal would also remove the asbestos sheeting from the roof and undertake remediation to remove potentially harmful materials.

Should farming activities continue this may bring with it visual improvements to the buildings and associated land as it would be 'managed' and maintained, and as such there would be no necessity for remediation or removal of potentially harmful materials which only arise as a result of the planning proposals submitted. It is therefore considered that limited weight can be attached to this.

2. Environmental enhancements including habitat creation for protected species and enhancement to bio-diversity

The applicant states that the site does have ecological value given the presence of some protected species, but there is potential to significantly enhance the ecological elements of the site which is proposed as part of the recommendations and mitigation measures within the ecology reports. The

NPPF states that Local Authorities should aim to conserve and enhance biodiversity and mitigation and enhancement measures would be expected with any new development in order to accord with the requirements of the NPPF. It is therefore accepted that this is a normal planning requirement and is not a very special circumstance.

3. The scheme is deliverable within 5 years and would contribute to the 5 year housing land supply

The Council does not currently have a 5 year housing land supply and the proposals would add 23no dwellings which would assist the Council in meeting the objectively assessed need for housing in the district. However it is important that such a contribution is located within the most sustainable settlements and locations within the District therefore moderate weight should therefore be attached to this argument.

4. Development is not inappropriate in the Green Belt because it involved the re-use of existing buildings that are permanent

Although the structural survey submitted with the application considered that the buildings could be converted, the council's independent structural engineers have commented that the gable walls on the type B buildings would need to be rebuilt or the walls have fallen down. As such, it is considered that across the site as a whole, the proposals would not re-use existing buildings as the construction of new walls is required which falls outside the scope of conversion. As such, no weight can be attached to this.

5. Openness of the Green Belt is preserved and the five purposes of the Green Belt are not undermined

An assessment of the impacts on the openness of the Green Belt and purposes of including land within it has been undertaken within the report and it is considered that the proposal would cause a significant impact on openness and on including land within the Green Belt. As such, no weight can be attached to this argument.

6. The site is located within the lowest risk of flooding and can be appropriately drained

It is agreed that the site subject to development would be located in flood zone 1 and the relevant consultees are satisfied that subject to conditions, the site could be adequately drained. As such it is considered that only moderate weight can be attached to this.

7. The site is sustainable with access to local facilities and cycle routes

The site is located 1.2 miles from Appleton Roebuck, 3.4 miles from Copmanthorpe and 3.1 miles from Bishopthorpe which provide local services such as local shop, doctors, pharmacy, dental surgery, recreation centre, nursery and primary school. These can only be accessed via private vehicle as there are no footpaths to the site and the highway is a 60mph road with no streetlights. Although the site is on a cycle route (sustrans route 66), this

provides only limited benefits through sustainable methods of transport and therefore it is considered that limited weight can be attached to this.

8. Significant reduction in the built footprint and volume;

The proposal would add 49 square metres to the existing built form and would also require further hardstanding to create driveways/parking areas and passing places on the existing internal roads. The proposal also includes the demolition of 2,970.3 square metres of floor space within the site which equates to a 39.15% reduction in built form on the site.

The reduction in built form only arises as a result of the planning proposals submitted which is considered inappropriate development within the Green Belt. As such it is considered that moderate weight can be attached to this matter.

9. Visual improvements through the removal of a large number of buildings close to the site's boundary and landscape enhancement;

The applicant has put forward a case that the visual improvement of the site through elimination of fly tipping, demolition of tall structures and silos and the enhancement of landscaped boundaries would contribute to the visual improvement of the site.

However, it is considered that the agricultural buildings within the site could be managed and maintained to improve their visual appearance. It is also noted that an agricultural use is acceptable on this land and buildings associated with the agricultural land use would be expected in this location. Therefore, it is considered that only limited weight can be attached to this argument.

10. Significant reduction in traffic when compared to its previous intensive farming use

The submitted Transport Statement identified that the proposed residential use would generate comparable volumes of traffic to the former intensive use of the site as a pig farm. As such, only moderate weight can be attached to this argument.

11. Reduced CO2 emissions through electric charging points

The provision of electric car charging points within each property would provide some benefits but would only reduce CO2 emissions if occupant's cars are electric. This is not something that can be sufficiently or easily controlled and as such, no weight is attached to this.

12. Live work opportunities are provided within the properties to further reduce the need to travel on a daily basis

The live/work opportunities within the site is not something that can be controlled through planning permission and can vary over time. Therefore, no weight is attached to this argument.

2.25.3 Having assessed the applicant's case for Very Special Circumstances, it is considered that many of the circumstances highlighted comprise normal planning considerations and as such do not amount to very special circumstances which would clearly outweigh the harm by reason of inappropriateness within the Green Belt and the other harms that are identified within the report. Other matters to which moderate weight can be afforded do not cumulatively amount to very special circumstances.

## **2.26 Conclusion**

2.26.1 The application seeks planning permission for the conversion and extension of existing buildings to create 23no dwellings and includes the demolition of some of the existing buildings within the site. The site is located outside the defined development limits of Appleton Roebuck and is within the York Green Belt.

2.26.2 It is noted that Policies SP2 and SP5 are considered to be out of date in so far as they relate to housing supply and the Council acknowledges that it does not have a 5 year housing land supply. The proposals must therefore be considered in the context of Paragraph 14 and 49 of the NPPF in respect of the presumption in favour of sustainable development.

2.26.3 In terms of sustainability it has been established that the site is within an unsustainable location. Whilst the proposals may re-use some of the buildings on the site, the proposals would result in an additional 23no. dwellings within an isolated location with a consequent reliance on the private car. The proposals are therefore considered to run contrary to Paragraph 55 of the NPPF.

2.26.4 In addition it has been identified that whilst the proposals would have some merit in terms of the economic dimension of sustainable development, this is outweighed by the harms with respect to the social and environmental dimensions of sustainable development. Having had regard to paragraphs 14 and 49, it is considered that the housing need does not outweigh the harms by reason of inappropriateness so as to justify the proposal.

2.26.5 Having commissioned an independent assessment of the structural survey submitted by the applicants, it is concluded that a number of buildings on the site are not capable of conversion and as such the proposals would not meet any of the exceptions identified within paragraphs 89 or 90 of the NPPF. The proposal therefore constitutes inappropriate development in the Green Belt which is, by definition, harmful to the Green Belt and substantial weight should be attached to any harm to the Green Belt. The proposals are considered to result in an increase in the urbanisation of the site resulting in significant harm to the openness of the Green Belt, purposes of including land within the Green Belt and would be harmful to the visual amenities of the Green Belt and character of the area contrary to policy.

2.26.6 A case for Very Special Circumstances has been advanced by the applicant and having assessed these, it is considered that many of the circumstances highlighted comprise normal planning considerations and as such do not amount to very special circumstances which would clearly outweigh the harm by reason of inappropriateness within the Green Belt and the other harms are identified within the report.

- 2.26.7 The proposals would also lead to an increased traffic growth in an unsustainable location which cannot be served by public transport or other modes of sustainable transport resulting in a reliance in the use of the private vehicle for each dwelling.
- 2.26.8 The proposals fail to provide appropriate provision for recreational open space within the site and a case for viability has not been presented for affordable housing provision.
- 2.26.9 The proposals are therefore considered to be contrary to Policies ENV1 and RT2 of the Local Plan, Policies SP1, SP2, SP3, SP9, SP12, SP15, SP18 and SP19 of the Core Strategy and the NPPF.
- 2.26.10 Matters of acknowledged importance such as flood risk, drainage, residential amenity, nature conservation and protected species, archaeology, land contamination and housing mix are considered to be acceptable.

### **3.0 Recommendation**

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

1. Having had regard to Paragraphs 89 and 90 of the NPPF, the proposal constitutes inappropriate development in the Green Belt and therefore is harmful by definition and should therefore only be approved if very special circumstances exist that clearly outweigh the harm by reason of inappropriateness and any other harms caused. It has been demonstrated that the harm by reason of inappropriateness and other harms caused have not been clearly outweighed by other considerations and as such very special circumstances do not exist to justify approval of the application. In addition, the change of use of land around the buildings to form individual residential curtilages, the necessity for boundary treatments, pathways, driveways, extended roadways and parking provision, together with domestic paraphernalia is considered to result in an increase in the urbanisation of the site resulting in significant harm to the openness of the Green Belt and the purposes of including land within the Green Belt. The proposal is therefore contrary to Policies SP2 and SP3 of the Core Strategy and Paragraphs 89 and 90 of the NPPF.
2. The proposed development of 23no. dwellings in this isolated, rural location would, by virtue of the urban built form and associated activities and paraphernalia, result in an urbanising impact to the detriment to the rural character and form of the area and visual amenities of the Green Belt. The proposals therefore fail to accord with Policy ENV1 of the Local Plan, Policies SP18(1) and SP19 of the Core Strategy and Paragraphs 64 and 125 of the NPPF.
3. The site is not within a sustainable location given its separation distance from the closest settlements of Appleton Roebuck, Copmanthorpe and Bishopthorpe and the scheme does not adequately facilitate the use of sustainable transport methods and therefore residents would be reliant on the use of private vehicles contrary to Policies SP15 (f) and (g), SP19 (c), (d) and Paragraphs 34 and 55 of the NPPF.

4. Policy SP9 of the Core Strategy Local Plan requires that a contribution is made towards the provision of affordable housing and such a contribution has not been secured, neither has a case for viability been presented. The proposed development is therefore considered to be contrary to the provisions of Policy SP9 of the Core Strategy Local Plan and the accompanying Affordable Housing SPD with regard to the provision of affordable housing.
5. The proposals fail to provide appropriate provision for recreational open space for the use of future residents and as such the proposals are contrary to Policy RT2 of the Local Plan, Policy SP12 of the Core Strategy and Paragraph 69 of the NPPF.

### **3. 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**

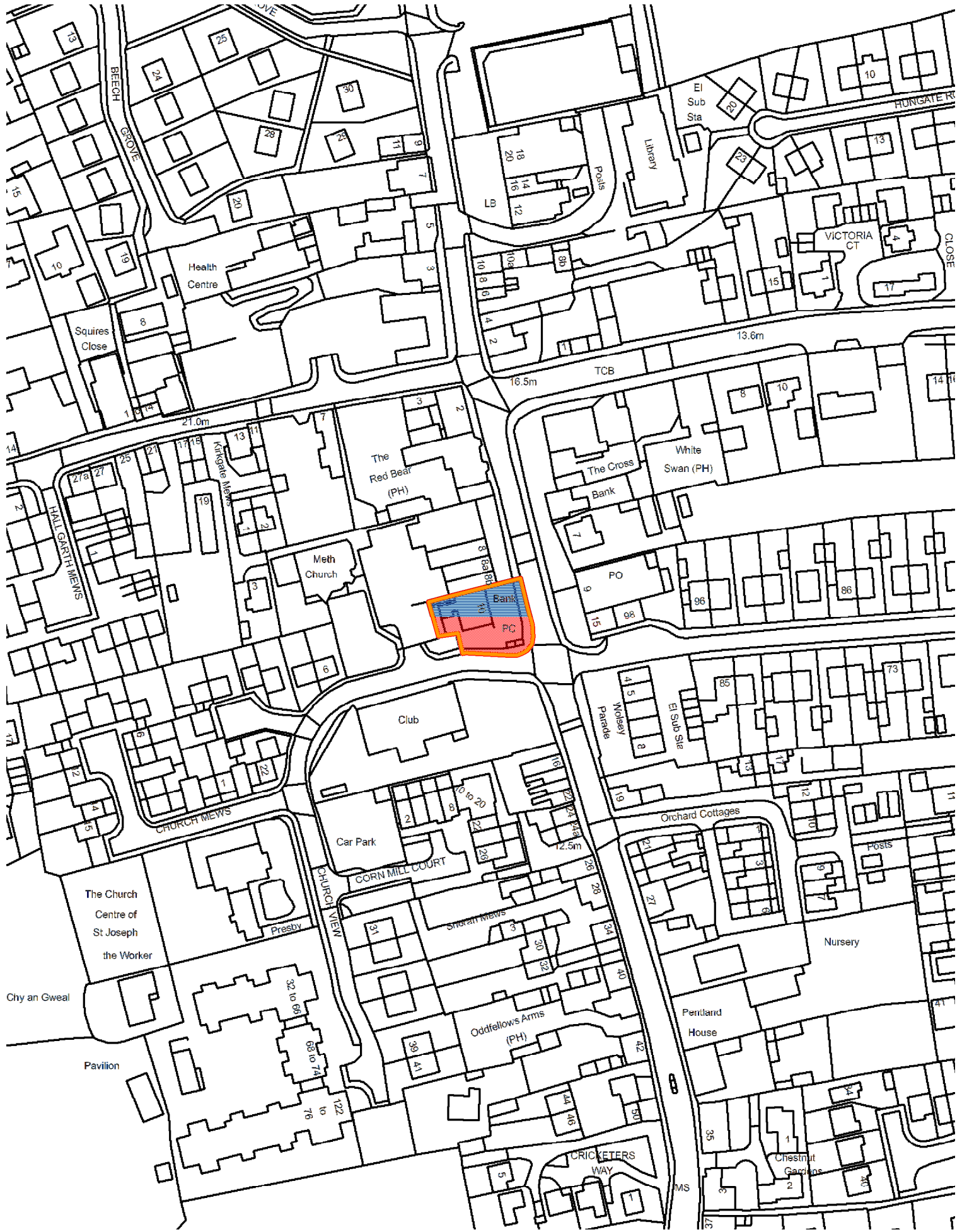
- 4.1 As stated in the main body of the report.

### **5. Background Documents**

- 5.1 Planning Application file reference 2016/1059/FULM and associated documents.

**Contact Officer: Calum Rowley (Senior Planning Officer)**

**Appendices: None**



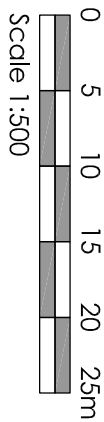
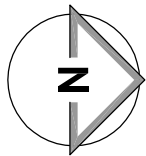
# APPLICATION SITE

**Item No:** 2017/0119/COU

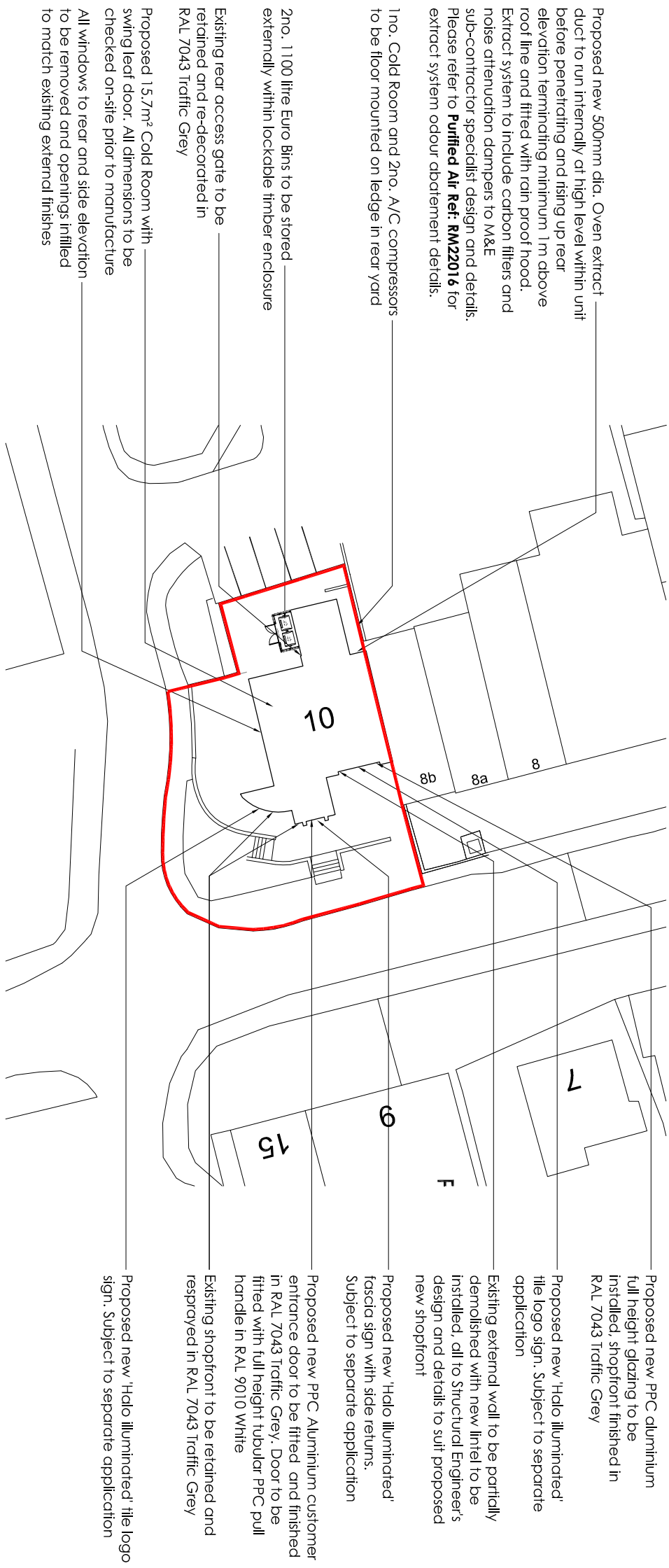
**Address:** 10 Low Street, Sherburn in Elmet

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- NOTES**
- All dimensions and levels are to be checked on site.
  - Any discrepancies are to be reported to the architect before any work commences.
  - The drawing shall not be scaled to ascertain any dimensions. Work to figure only.
  - The drawing shall not be reproduced without express written permission from AEW.
  - This drawing, together with any written instructions, is produced using all reasonable endeavours. AEW cannot be held responsible for the accuracy or scale discrepancy of any dimension or level indicated thereon.



Proposed new 500mm dia. Oven extract duct to run internally at high level within unit before penetrating and rising up rear elevation terminating minimum 1m above roof line and fitted with rain proof hood. Extract system to include carbon filters and noise attenuation dampers to M&E sub-contractor specialist design and details. Please refer to **Purified Air Ref: RM22016** for extract system odour abatement details.

1no. Cold Room and 2no. A/C compressors to be floor mounted on ledge in rear yard

2no. 1100 litre Euro Bins to be stored externally within lockable timber enclosure

Existing rear access gate to be retained and re-decorated in RAL 7043 Traffic Grey

Proposed 15.7m<sup>2</sup> Cold Room with swing leaf door. All dimensions to be checked on-site prior to manufacture

All windows to rear and side elevation to be removed and openings infilled to match existing external finishes

Proposed new PPC aluminium full height glazing to be installed; shopfront finished in RAL 7043 Traffic Grey

Proposed new 'Halo Illuminated' tile logo sign. Subject to separate application

Existing external wall to be partially demolished with new lintel to be installed; all to Structural Engineer's design and details to suit proposed new shopfront

Proposed new 'Halo Illuminated' fascia sign with side returns. Subject to separate application

Proposed new PPC Aluminium customer entrance door to be fitted and finished in RAL 7043 Traffic Grey. Door to be fitted with full height tubular PPC pull handle in RAL 9010 White

Existing shopfront to be retained and respayed in RAL 7043 Traffic Grey

Proposed new 'Halo Illuminated' tile logo sign. Subject to separate application

RECEIVED

07/03/17

BUSINESS SUPPORT

**AMENDED DRAWING**

Block Plan

rev	date	drawn by	checked by
A	06/03/2017	ECH	ECH
Proposed car parking spaces and dropped kerbs omitted in response to Highways Officer comments			
	27/01/2017	NC	ECH
Initial Issue			
rev	date	drawn by	checked by
S2			
Purpose of Issue			
Stage 2 - Change of Use			
drawing title			
Private Client			
project	10 Low Street	store	PJ000401
SHELDON IN ETHEL			
L525 BRG			
drawing file			
Block Plan			

date 24/01/2017 drawn NC

scale 1:500 checked JJS



**Report Reference Number: 2017/0119/COU**

**Agenda Item No: 5.4**

**To: Planning Committee**  
**Date: 29 March 2017**  
**Author: Calum Rowley (Senior Planning Officer)**  
**Lead Officer: Jonathan Carr (Interim Lead Officer – Planning)**

APPLICATION NUMBER:	2017/0119/COU (8/58/275H/PA)	PARISH:	Sherburn In Elmet Parish Council
APPLICANT:	Michael Bull	VALID DATE:	3 February 2017
		EXPIRY DATE:	31 March 2017
PROPOSAL:	Proposed change of use of a vacant bank (Class A2) to a hot food takeaway (Class A5) with associated external alterations, including the installation of extraction and ventilation equipment.		
LOCATION:	10 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. Too many takeaways as ratio to shops;
2. Would not be an asset to the village.

**Summary:**

The proposal seeks permission for the change of use of the building to a hot food takeaway shop which falls within the A5 use class. 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 2.13 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 on the site is a brick facing, single storey unit which is located at the southern end of a small parade of commercial units within the village centre. In addition, the front elevation facing Low Street comprises significant glazing.

#### **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).
- 1.2.2 The proposal includes numerous works including the retention and respraying of the shopfront, new entrance door, new glazing, bricking up of windows, new extraction system, internal reconfigurations and an external bin store.
- 1.2.3 The proposed opening hours would be 10:00 – 23:00 Monday to Sunday including Bank Holidays. No employment details have been provided.

#### **1.3 Planning History**

- 1.3.1 The following applications are considered to be relevant in the determination of this application:

- 1.3.2 An application (CO/1993/0923) for the proposed erection of new front entrance lobby and refurbishment of existing bank premises was approved on 17 December 1993.
- 1.3.3 An application (CO/2003/0701) for alterations to improve disabled access was approved on 4 August 2003.

## **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 there will be a far higher percentage of hot food takeaways than either Selby or Tadcaster. Also feels that the parking spaces which are proposed will create a hazard for both vehicles and pedestrians, particularly when vehicles are reversing out of them. And also concerned that the long opening hours will result in anti-social behaviour and aggravated problems with litter.

### **1.4.2 NYCC Highways**

Although there are no objections to the proposed change of use of a vacant bank (Class A2) to a hot food takeaway, concerns have been raised regarding the creation of off street parking due to highway safety concerns.

As there are traffic restrictions in place on Church View and plenty of nearby free parking bays, the provision of off street parking is not supportable.

### **1.4.3 Lead Officer – Environmental Health**

A ventilation assessment was submitted in support of noise and odour mitigation (ref: B9465-AEW-PJ000401-XX-SP-0001). Although the applicant indicates that no frying shall take place, it is assumed that some level of frying would take place in a hot food takeaway, if not now, possibly in the future. The closest residential receptor is 35 metres west.

A risk assessment for odour control was carried out by Purified Air, the recommendations of which have been incorporated into the design through the installation of 6 grease filters with mesh inserts to the cooker hood and carbon filters.

The main sources of noise include a Black Sabre Sickle fan, a coldroom compressor and air conditioning compressor, the former being the most intrusive at 59dBA at 3 metres. It is noted in the assessment that the extract system is to include noise attenuation dampers however it is not clear whether or not this is included in the above-mentioned sound pressure level taken from the fan performance guide. Despite this, given the 35 metre buffer to the closest residential receptor, the noise is unlikely to reach unacceptable levels.

In light of the above, there are no objections to the proposals and one condition and informative are recommended to be attached to a planning permission.

#### 1.4.4 Selby Area Internal Drainage Board

The application should not increase the impermeable area to the site and therefore they had no comments to make.

#### 1.4.5 Yorkshire Water

No response within the statutory consultation period.

#### 1.4.6 NY Police – Designing Out Crime

Statistically, the proliferation of hot food takeaway premises in an area has the potential to have an adverse effect on that area and can result in an increase in criminal or anti-social behaviour. Use of conditions is recommended to ensure that there is no negative impact on crime & disorder in the area.

It is also recommended that CCTV and suitable lighting is fitted which is compatible with one another to ensure that there is no loss of picture quality or colour rendition. A litter bin outside the premises should also be considered which, if not fixed in place, should be removed and stored securely at the end of each business day.

A condition is suggested requiring a Management Policy which demonstrates how the applicant has considered crime and disorder and what measures will be put in place to reduce the likelihood of an increase in these levels as well as minimising litter.

### 1.5 **Publicity**

1.5.1 All immediate neighbours were informed by letter and a site notice was erected which has resulted in 2 letters of support and 49 letters of objection being received at the time of compilation of this report. The letters of support can be summarised as follows:

- Would create jobs;
- More space for parking;
- 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;
- The proposal will encourage anti-social behaviour and litter;
- Lack of other facilities in the centre (social/community hub, cafés, restaurants, bank);
- Increase in traffic resulting in more pollution and parking issues;
- Parking spaces would involve crossing over a busy footpath on a busy road;
- Constraints should be put in place to ensure delivery vehicles do not ride along the footpaths;
- Increase in noise and odour;
- Impact on other businesses;
- Any commercial use of the site would create jobs;

- Opening hours are late;
- The operation of the air conditioning units and cold store could cause vibration and noise to the adjoining property;
- No provision for litter/recycling bins;
- The ventilation outlet is not at an adequate height;
- Supports unhealthy lifestyles.

## **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
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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)**

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
- 6) Other Issues

## **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).
- 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. Despite comments from local residents regarding the number of takeaways within Sherburn in Elmet there is no policy context which resists this type of use within the centre of the settlement. Further, the proportion of A5 uses to other uses is not considered to be disproportionate or detrimental to the viability of the town centre.
- 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 as well as other uses which results in a mixed use area in the centre of the village.

2.7.5 The existing building is a brick built, single storey unit which is located at the southern end of a small parade of commercial units within the village centre. In addition, the front elevation facing Low Street comprises significant glazing. 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 submitted Planning Statement confirms that the proposed development comprises the following works:

- Existing shopfront to be retained and resprayed in RAL 7043 Traffic Grey;
- New PPC aluminium customer entrance door to front elevation, to be fitted and finished in RAL 7043 Traffic Grey with full height tubular PPC pull handle in RAL 9010 White;
- New PPC aluminium full height glazing to be installed to front elevation and finished in RAL 7043 Traffic Grey;
- Two 1,110 litre Euro Bins to be stored externally within lockable timber enclosure;
- Windows to side elevation to be infilled with brick to match the existing;
- Installation of new 400mm dia. Fresh air intake duct to terminate horizontally on side elevation at high level;
- Installation of 1 cold room and 2 Air conditioning compressors, to be floor mounted on ledge in rear yard;
- Installation of new 500mm diameter oven extract duct to run internally at high level within unit before penetrating and rising up rear elevation terminating a minimum of 1m above the roof line and fitted with a rain proof hood. Extract system to include carbon filters and noise attenuation dampers;
- Existing rear gate to be retained and redecorated in RAL Traffic Grey;
- Creation of 4 on site-parking spaces, accessed from Church View; and
- Internal reconfiguration.

- 2.7.6 The shopfront is, at present, painted white and is of a fairly modern appearance with substantial glazing fronting Low Street. It is considered that the respraying of the shopfront in a Traffic Grey colour and the replacement of the entrance door would not result in a significant or detrimental impact on the character and form of the area. The proposed new glazing to the front elevation would be similar in appearance to the existing glazing and would therefore result in no additional impacts.
- 2.7.7 The proposed bin storage area would be located to the rear of the main building and as such, would not be prominent in the street scene. The proposed air conditioning and cold room compressors would be located to the rear of the existing buildings, adjacent to the adjacent commercial unit and as such, views would be minimal unless viewed from the rear.
- 2.7.8 The comments from objectors regarding the number of takeaways within the village, impact on other businesses and lack of other alternatives have been considered. However, it should be noted that a decision can only be made based on the information submitted with the application and following an assessment based on current planning policy. There is no policy within the Local Plan, Core Strategy or NPPF that restricts which use classes commercial units can be used for within Sherburn. The reoccupation of the vacant unit for A5 takeaway use would not result in the loss of any existing retail or other commercial uses in the centre, and there appears to be no conflict with Policy SP13B, Policy NPPF paragraph 70.
- 2.7.9 In respect of the bricking up of existing windows, the submitted plan states that materials would match those as per the existing building and therefore, subject to an appropriate condition, this element of the work would be acceptable. The proposed extraction system would be located to the rear and side elevations of the building and would be 1 metre in height from the roof of the building. As such, it is considered that this would result in a minimal visual impact on the area
- 2.7.9 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, smells and hours of opening 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:

10:00 – 23:00 Monday to Sunday including 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 As part of the submission, details of the proposed ventilation system have been provided (ref: B9465-AEW-PJ000401-XX-SP-0001) and assessed by the Lead Officer for Environmental Health who advise that the recommendations of the risk assessment for odour control have been incorporated into the design through the installation of 6 grease filters with mesh inserts to the cooker hood and carbon filters.
- 2.8.6 The Lead Officer for Environmental Health also comments that the closest residential receptor is 35 metres to the west of the site with the main sources of noise emanating from a Black Sabre Sickle fan, a coldroom compressor and air conditioning compressor. It is however concluded that given the 35 metre buffer to the closest residential receptor, the noise is unlikely to reach unacceptable levels. One condition and one informative have been recommended to be included as part of any permission.
- 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 condition and informative. 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 proposal includes the creation of 4no off-street parking spaces and it is further noted that there are a number of off-road public parking spaces within the village centre which serve the day to day needs of the village. The comments within the letters of objection regarding traffic and parking issues have been noted. The Highways Officer had raised some concerns over the proposed on-site parking and as a result of these comments the parking has now been removed from the proposal through amended plans. There were no objections to the proposed change of use of the premises and therefore, the proposal has no objections from the Highways Officer.
- 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, given that the site is within a location which can be accessed by foot and where there is access to off street car parking. 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 Other Issues**

- 2.11.1 The comments of the NY Police Designing Out Crime Officer have been noted in regards to anti-social behaviour and litter associated with the use of the site. It is considered that there are several litter bins within close proximity of the site, including one directly outside the building and the applicants have proposed a bin storage area containing 2no 1100 litre bins.
- 2.11.2 In respect of CCTV and lighting, this is a recommendation by NY Police and there is the possibility of any existing or prospective business providing these under permitted development.
- 2.11.3 It is considered that the provision of one additional takeaway premises should not result in any significant incidents of anti-social behaviour. The response from NY Police does not provide a definitive statistic that anti-social behaviour and/or crime would increase as a result of an additional takeaway premises and it is considered that should the recommendations set out by the Police be imposed by the applicants then this should assist in reducing any such issues.

2.11.4 Given the provision of public litter bins on Low Street, the inclusion of 2no 1100litre litter bins within the site and the fact that it would be difficult to establish whether the proposals would directly result in anti-social behaviour and/or crime as a result of this change of use, the inclusion of a Management Policy condition is considered to be unreasonable in this instance.

2.11.5 Reference is made amongst objections to such outlets supporting unhealthy lifestyles. Such concerns are sometimes raised in relation to the proximity of such outlets to schools. In March 2014 the government issued a Healthy people, healthy places briefing: 'Obesity and the environment: regulating the growth of fast food outlets'. This explains that within the NPPF councils have a responsibility to promote healthy communities. Local plans should "take account of and support local strategies to improve health, social and cultural wellbeing for all". The National Planning Practice Guidance refers to promoting access to healthier food and that a health impact assessment may be a useful tool where significant impact is expected. The briefing explains:-

"A number of local authorities have drawn up supplementary planning documents (SPDs) to restrict the development of new fast food premises near schools. However, it is recognised that due to consultation and other procedures, these can take a long time to prepare and agree. SPDs must also relate to a policy in the local plan, so the priority is to make sure the issue is addressed within the local plan in the first place." and :-

"Healthy eating and proximity to a school has been a consideration in a number of planning appeals. It has not been the sole or determining factor in the final decision so far... However, healthy eating and proximity to a school have been given substantial weight when there is an adopted local plan policy or SPD in place, local evidence on childhood obesity and healthy eating initiatives, and representations from the relevant school."

2.11.6 As stated, the use is not considered to result in an overconcentration of such uses in the town centre in terms of its impact on the character or viability of the centre. Nor is the proposal considered to present a basis for sustaining concerns over the promotion of unhealthy lifestyles. The location of the proposed outlet in the town centre is considered to be appropriate and the distance from schools does not give rise to specific concerns. This Council does not have a specific supplementary planning document on school/fast food locations within its Local Plan therefore has no specific local planning policy against which to consider the issues such as impacts on health or the acceptability of distances between schools and the application site.

## **2.12 Conclusion**

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

2.12.2 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).

2.12.3 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.

## 2.13 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 materials to be used in the bricking up of the existing windows as part of the proposal hereby permitted shall match those of the existing building in colour and texture.

Reason:

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

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

10:00 – 23:00 Monday to Sunday including 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.

04. The development hereby approved shall be carried out in accordance with noise and odour mitigation measures as detailed in the Ventilation Assessment (ref: B9465-AEW-PJ000401-XX-SP-0001) dated 27<sup>th</sup> January 2017. The mitigation measures shall be retained for the life of the development hereby approved.

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.

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 hot food takeaway will require food business registration with Selby District Council if the applicant intends 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.

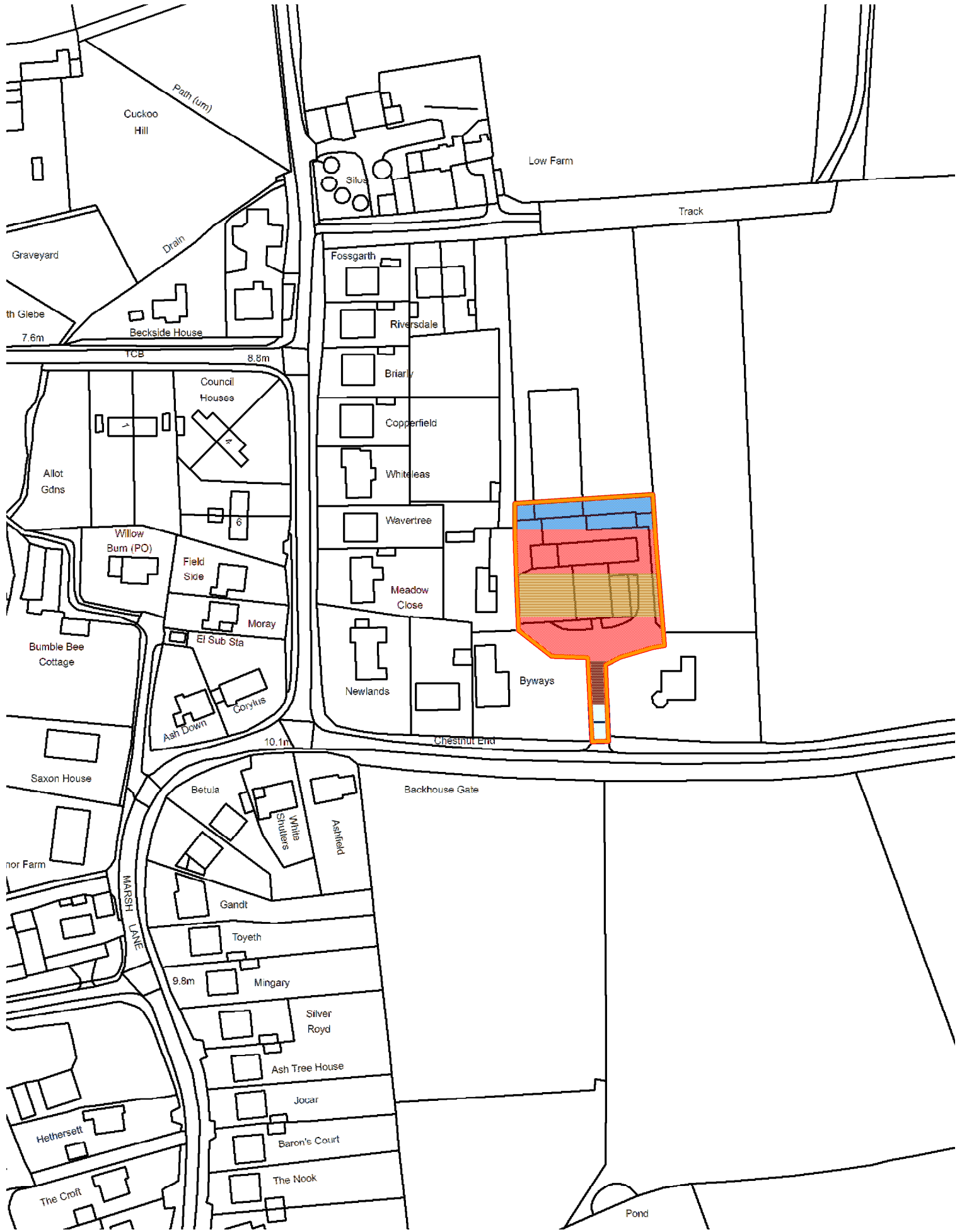
### **4. Conclusion**

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

### **5. Background Documents**

- 5.1 Planning Application file reference 2017/0119/COU and associated documents.

**Contact Officer: Calum Rowley (Senior Planning Officer)**



# APPLICATION SITE

**Item No:** 2017/0090/FUL

**Address:** Field House, School Lane, Bolton Percy

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**To:** Planning Committee  
**Date:** 29 March 2017  
**Author:** Calum Rowley (Senior Planning Officer)  
**Lead Officer:** Jonathan Carr (Interim Lead Officer – Planning)

APPLICATION NUMBER:	2017/0090/FUL (8/78/46L/PA)	PARISH:	Bolton Percy Parish Council
APPLICANT:	Musgrave, Woffinden & Musgrave	VALID DATE:	26 January 2017
		EXPIRY DATE:	23 March 2017
PROPOSAL:	Proposed erection of two detached dwellings with garages and associated access road following demolition of existing buildings		
LOCATION:	Field House, School Lane, Bolton Percy, Tadcaster, North Yorkshire , YO23 7BF		

This application has been brought before Planning Committee as one of the applicants is Councillor Richard Musgrave and the Council's scheme of delegation requires for the application to be determined by Planning Committee.

**Summary:**

The application proposes the erection of 2no detached dwellings with garages following the demolition of existing buildings. The site is located in an area of open countryside immediately adjacent to the defined development limits of Bolton Percy. Whilst it is noted that the proposed scheme fails to comply with Policy SP2A(c) of the Core Strategy, this policy is out of date in so far as it relates to housing supply due to the fact that the Council do not have a 5 year housing land supply.

Whilst it is noted that the proposed scheme fails to comply with Policy SP2A(c) of the Core Strategy, this Policy, in addition to Policies SP4 and SP5 are out of date in so far as they relate to housing supply due to the fact that the Council does not have a 5 year housing land supply.

As such the proposals for residential development on this site should be considered in the context of the presumption in favour of sustainable development and paragraphs 14 and 49 of the NPPF. In assessing the proposal against the three dimensions of sustainable development set out within the NPPF, the development would bring economic, social and environmental benefits which weigh in favour of the proposal.

In addition, there is an extant planning permission for a similar scheme within the site which was approved under applications 2016/0163/OUT and 2016/1196/REM which is a material consideration.

Matters of acknowledged importance such as the impact on the character of the area, flood risk, drainage, highway safety, residential amenity, nature conservation and land contamination are considered to be acceptable.

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.

## **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 located outside the defined development limits of Bolton Percy but is immediately adjacent to the settlement boundary.
- 1.1.2 The application site is located on, and accessible, from School Lane and is 0.195 hectares in area. The site is currently used for caravan storage and equine purposes.
- 1.1.3 The application site is bounded by open fields to the north and east with residential properties to the west, north-west and south east. These are a mixture of two storey residential properties and bungalows that lie adjacent to the site.
- 1.1.4 There is a mature hedgerow along the entrance to the site which provides good screening of the buildings and the site is situated within Flood Zone 1 which is at lowest probability of flooding.

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

- 1.2.1 The application is a full planning application for the erection of 2no dwellings which is the same layout and design as an extant planning permission on the site for 2no dwellings approved under applications 2016/0163/OUT and 2016/1196/REM.
- 1.2.2 Plot 1 is proposed to be 8.2 metres in height, 18.6 metres in width and a maximum of 10.3 metres in depth. Plot 2 is proposed to be 9.4 metres in height, 14.8 metres in width and 9.5 metres in depth. These measurements remain the same as those originally approved.
- 1.2.3 The submitted plans show that vehicle access would be taken from the existing access point on School Lane with materials proposed to be brick for the external walls and tiles for the roof.

### **1.3 Planning History**

- 1.3.1 A Reserved Matters application (2016/1196/REM) relating to access, appearance, landscaping, layout and scale of approval 2015/0163/OUT Proposed outline application with all matters reserved for the erection of two dwellings including demolition of existing buildings was approved on 12 January 2017.
- 1.3.2 An Outline application (2015/0163/OUT) with all matters reserved for the erection of two dwellings including demolition of existing buildings was approved on 22 October 2015.
- 1.3.3 An application (CO/1989/1648) for the proposed change of use of existing farm building to form one dwelling was refused on 8 December 1989.
- 1.3.4 An outline application (CO/1988/1658) for the erection of 8 dwellings on 1.23 hectares of land was refused on 13 December 1988.
- 1.3.5 An application (CO/1979/31327) for the erection of a dry sow and farrowing house was refused on 29 August 1979.

### **1.4 Consultations**

#### **1.4.1 Bolton Percy Parish Council**

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

#### **1.4.2 Yorkshire Water Services Ltd**

The previous comments in YW letter dated 18 October 2016 on planning reference 2016/1196/REM still apply for this proposal which stated in regards to foul water that:

“The foul water, domestic waste, from the proposed would have a negligible impact on the public foul water network and would not exacerbate any current issues with the foul water network.”

#### **1.4.3 Ainsty Internal Drainage Board**

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

#### **1.4.4 NYCC Highways**

No objections to the proposed development.

#### **1.4.5 Yorkshire Wildlife Trust**

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

#### **1.4.6 North Yorkshire Bat Group**

Notes that a bat survey in 2015 identified roosts of single Brown Long-eared and Natterer's bats in the buildings to be demolished. As these roosts are non-breeding roosts the impact of their loss on bats will be low, does not object to this application. The ecologists have advised that mitigation and a licence will be necessary for this project to take place legally and so it is recommended that this is made a condition of any planning consent. Also advises that an updated bat survey is carried out

prior to the start of any works / licence application to ensure that no additional bat roosts have become established at the site since 2015 and that any licence is based on up-to-date data.

#### 1.4.7 Natural England

No comments.

#### 1.4.8 WPA Consultants Limited (Contaminated Land Consultants)

The following comments were received on application 2016/0163/OUT and are still relevant to this application:

“Comments are based on the information contained within the Phase 1: Desk Top Study Report (Preliminary Risk Assessment), December 2014.

1. The Phase 1 Report generally complies with the requirements of CLR11 and BS10175 and demonstrates that the proposed redevelopment with respect to land quality is practical, viable and that subject to appropriate site investigation/remediation actions that the requirements of the National Planning Policy Framework with respect to contamination can be met.
2. GEE recommend that an intrusive site investigation is completed to further assess potentially unacceptable risks and that as a minimum a watching brief will be required during demolition and construction.
3. WPA recommends that Selby District Council if minded to permit the development only do so with appropriate contaminated land planning conditions in place. Conditions equivalent to the PPS23 New Model Conditions 1 to 4 would be appropriate.
4. Asbestos containing material is identified in the fabric of some of the buildings by the GEE walkover. Prior to demolition occurring an asbestos survey and removal of any asbestos present in the sites buildings by an appropriately qualified contractor will be required. The LPA may be minded to enforce this via a separate planning condition.

In summary the Phase 1 report identifies potentially unacceptable risks that intrusive investigation is required to assess further. Redevelopment is practical and contaminated land specific planning conditions would allow these risks to be managed.”

## 1.5 **Publicity**

- 1.5.1 The application was publicised by site notice, press notice in the local newspaper and neighbour notification letter resulting in no letters of representation being received at the time of the completion of this report.

## 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**

The relevant Core Strategy Policies are:

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

## **2.3 Selby District Local Plan**

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

The relevant Selby District Local Plan Policies are:

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

## **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.

### **Other Policies/Guidance**

Affordable Housing Supplementary Planning Document, 2013

## **2.5 Key Issues**

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

1. The appropriateness of the location of the application site for residential development in respect of current housing policy and guidance on sustainability contained within the Development Plan and the NPPF.
2. The impacts of the proposal:
  - a) Visual impact on the Character and Form of the Area
  - b) Impact on Residential Amenity
  - c) Flood Risk, Drainage and Climate Change
  - d) Impact on the Highway
  - e) Affordable Housing Assessment
  - f) Impact on Nature Conservation and Protected Species
  - g) Land Contamination
- 3) The Benefits of the Proposal

## **2.6 The appropriateness of the location of the application site for residential development in respect of current housing policy and guidance on sustainability contained within the Development Plan and the NPPF.**

- 2.6.1 Policy SP1 of the Core Strategy outlines that "when considering development proposals the Council will take a positive approach that reflects the presumption in favour of sustainable development contained in the National Planning Policy Framework" and sets out how this will be undertaken.
- 2.6.2 The site lies outside the defined development limits of Bolton Percy and therefore is located in open countryside. It is noted that the site lies immediately adjacent to the development boundary.
- 2.6.3 Relevant policies in respect of the principle of this proposal include Policy SP2 "Spatial Development Strategy" and Policy SP5 "The Scale and Distribution of Housing" of the Core Strategy.
- 2.6.4 Policy SP2A(c) states that development in the countryside (outside Development Limits) will be limited to the replacement or extension of existing buildings, the re-use of buildings preferably for employment purposes, and well-designed new buildings of an appropriate scale which would contribute towards and improve the local economy and where it will enhance or maintain the vitality of rural communities, in accordance with Policy SP13 or meet rural affordable housing need (which meets the provisions of Policy SP10), or other special circumstances.

- 2.6.5 In light of the above policy context the proposals to develop this land for residential purposes are contrary to Policy SP2A(c) of the Core Strategy and should be refused unless material circumstances exist to justify approval. One such material circumstance is the National Planning Policy Framework.
- 2.6.6 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%. 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.
- 2.6.7 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."
- 2.6.8 Paragraph 14 is therefore relevant to the assessment of these proposals and states that "at the heart of the framework is a presumption in favour of sustainable development", and for decision taking this means, unless material considerations indicate otherwise,
- Approving development proposals that accord with the development plan without delay; and
- Where the development plan is absent, silent or relevant policies are out-of-date, granting permission unless:
- Any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this framework taken as a whole; or
  - Specific policies in this framework indicate development should be restricted.
- 2.6.9 As set out above the development plan policies with respect to housing supply are out of date therefore the proposals should be assessed against the criteria set out above.
- 2.6.10 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; designated heritage assets; and locations at risk of flooding or coastal erosion. None of these designations apply in this instance. The application site does not fall within any of these designations.



- 2.6.11 Further to this, it should be noted that the site has an extant planning permission (references 2016/0163/OUT and 2016/1196/REM) for the development of the site for 2no dwellings which is an identical scheme to this current application.
- 2.6.12 In respect of sustainability, the site is adjacent to the development limits of the village of Bolton Percy which is a Secondary Village as identified in the Core Strategy. The village has a village hall, café and public house and is also served by a bus route between York and Colton. It is therefore considered that the settlement is reasonably well served by local services which weigh in favour of a conclusion that in terms of access to facilities and a choice of mode of transport, that despite the site being located outside the defined development limits of the settlement, the site can be considered as being in a sustainable location.
- 2.6.13 In addition to the above it is noted that the village of Bolton Percy has been designated as a Secondary Village with a defined development limit which demonstrates that the Council has considered the village a sustainable location for some quantum of development. Having taken these points into account, despite the fact that the site is located outside the defined development limits of Bolton Percy it is adjacent to the boundary and would be served by the facilities within this sustainable settlement and as such would perform acceptably with respect to its sustainability credentials in these respects.
- 2.6.14 Paragraph 7 of the NPPF, states that there are three dimensions to sustainable development, these being of an economic, social and environmental nature. These dimensions give rise to the need for the planning system to perform a number of roles. In response to this the applicant has commented as follows: -

#### Economic

The proposal would provide jobs in the construction of the new dwellings, in the building phase and through potential additional residents being brought to the village. This would bring with it economic benefits in terms of spending in the local area and therefore there are benefits that weigh in favour of this element of sustainability.

#### Social

The proposal would add two additional dwellings to the village, which would assist in meeting the objectively assessed housing needs within the area.

#### Environmental

The proposal would deliver high quality homes for local people and would meet the latest building regulations standards. The site is also located within flood zone 1 which is at the lowest risk of flooding.

- 2.6.15 These benefits lend significant weight in favour of the proposal.

## **2.7 The Impacts of the Proposal**

- 2.7.1 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 sections looks at the impacts arising from the proposal.

## **2.8 Visual impact on the Character and Form of the Area**

- 2.8.1 Relevant policies in respect of design and impact on the character of the area include Policy ENV1 (1) and (4) of the Selby District Local Plan and Policy and SP19 of the Core Strategy.
- 2.8.2 Significant weight should be attached to the Local Plan Policy ENV1 as it is broadly consistent with the aims of the NPPF. Relevant policies within the NPPF, which relate to design include paragraphs 56 to 64.
- 2.8.3 The Layout Plan provides for two detached dwellings which would be set back within the site and served by a single access point from School Lane. There are paddock areas for horses to the north and east of the site with residential development to the west and south. Within the site at present are storage buildings and stables which would be removed as part of the application.
- 2.8.4 With respect to the layout of the properties it is proposed that they would be located 18 metres (plot 1) and 30 metres (plot 2) from School Lane and would be set behind the frontage development. Each dwelling would be served with a double garage accessed via decorative paving from each dwelling. Each dwelling would benefit from a large garden area with appropriate landscaping.
- 2.8.5 Plot 1 is proposed to be 8.2 metres in height, 18.6 metres in width and a maximum of 10.3 metres in depth. Plot 2 is proposed to be 9.4 metres in height, 14.8 metres in width and 9.5 metres in depth.
- 2.8.6 The footprint of the dwellings proposed would be in keeping with dwellings in the immediate area with plot 1 being two storeys in height and plot 2 being 2 ½ storeys which is considered to reflect the majority of housing in the immediate vicinity.
- 2.8.7 Both of the proposed dwellings would comprise 4no bedrooms and the drawings submitted state that both plots would be constructed of Terca Retro Cottage Stock Brickwork (or similar approved) with Marley Elemit Melodie natural red interlocking concrete pantiles (or similar approved) with timber windows. Whilst these materials would be acceptable and were conditioned as part of the previous permission, the applicant has requested a condition requiring the details of the materials to be determined prior to development.
- 2.8.8 Plot 1 incorporates 'artstone' heads and cills to windows with a brick soldier arch, matching the brickwork of the proposed dwelling, to the large window on the front elevation. Plot 2 also incorporates soldier course brickwork to the heads and cills of the windows proposed on all elevations of the dwelling.
- 2.8.9 A proposed landscaping scheme has been submitted with the application which proposes an access road which would be laid with loose 20mm gravel to serve the garages for each dwelling. In addition, a 1.8 metre high close boarded timber fence is proposed on the western boundary with a 1.1 metre high timber post and rail fence on the eastern and northern boundaries.

- 2.8.10 Within the plots themselves, a 1.1 metre high galvanised steel parkland fencing is proposed around the amenity areas which also include the planting of Cherry Laurel hedges. This hedge grows at approximately 60cm (2 feet) per year and as such, would provide sufficient privacy for occupants and the height of the hedge could be managed by the occupiers.
- 2.8.11 Each dwelling would benefit from a lawned area with decorative paving (Marshalls Yorkshire Stone Flags). In addition, the landscape plan shows the planting of 9no Common Hazel trees, 7no Field Maple trees and 1no English Oak tree within the site.
- 2.8.12 It is considered that the proposed landscaping scheme is acceptable subject to an appropriate condition requiring the development to be carried out in accordance with the submitted landscaping plan.
- 2.8.13 In this context of scale, layout and external appearance the proposed development is considered to be acceptable in accordance with Policy SP19 of the Core Strategy Local Plan, Policy ENV 1 (4) of the Local Plan and the advice contained within the NPPF, subject to appropriate conditions.

## **2.9 Impact on Residential Amenity**

- 2.9.1 Policy ENV1 (1) of the Local Plan states that in the determination of planning applications, the local planning authority will give consideration to the impact proposals would have on the amenity of neighbouring occupiers. The NPPF also requires amenity to be taken into account.
- 2.9.2 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 sheer size, scale and massing of the development proposed.
- 2.9.3 To the south east of the application site is Field House which is within the applicant's ownership with a private residential dwelling to the south west (Byways). No properties or built development is located to the north or east of the application site.
- 2.9.4 Plot 1 would be located approximately 3 metres from the boundary and 16 metres from rear elevation of Field House and 35 metres from the western boundary. Plot 2 would be located approximately 16 metres from the western boundary and 13 metres from the side elevation of plot 1.
- 2.9.5 There is one first floor side elevation window to plot 1 which faces towards the existing dwelling (Field House) to the south. However, the proposed landscaping includes the planting of a hedgerow and 4no trees which will give additional privacy to this dwelling. In addition, given the separation distance between the side elevation of plot 1 and the rear elevation of Field House, it is considered that the layout would not result in a significant or detrimental impact on amenity. It is however recommended that permitted development rights are removed for any additional windows in this side elevation.

- 2.9.6 One first floor and one second floor window is proposed on the western elevation of plot 2 which faces towards the rear garden area of Byways. However, this window would be located 16 metres from the boundary and as such, is not considered to result in a significant or detrimental impact on the residential amenity of Byways.
- 2.9.7 Given the orientation of plots 1 and 2, it is further considered that the layout proposed would not result in any significant or detrimental impacts on residential amenity and the proposed boundary hedge would protect the privacy of occupiers within the private amenity space.
- 2.9.8 Having had regard to the above, the proposed development by virtue of the separation distances, orientation and layout of the site ensures that the dwellings would not cause a significant detrimental impact on the residential amenities of the neighbouring properties in accordance with Policy ENV1 (1) Selby District Local Plan, Policy SP19 of the Core Strategy and the advice contained within the NPPF.

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

- 2.10.1 Relevant policies in respect to flood risk, drainage and climate change include Policy ENV1 (3) of the Selby District Local Plan, and Policies SP15 “Sustainable Development and Climate Change”, SP16 “Improving Resource Efficiency” and SP19 “Design Quality” of the Core Strategy.
- 2.10.2 Significant weight should be attached to the Local Plan Policy ENV1 as it is broadly consistent with the aims of the NPPF. Relevant paragraphs within the NPPF, which relate to flood risk, drainage and climate change include 94 and 95.
- 2.10.3 In terms of drainage the application states that surface water will be disposed of by a soakaway and foul water through the main sewer. The Planning Statement submitted with the application states that “Surface water from the development will continue to be disposed of by infiltration (soakaways) within the adjacent paddocks”.
- 2.10.4 Yorkshire Water has stated that the proposed means of foul water disposal would have a negligible impact and the Internal Drainage Board has requested one condition be included in regards to effective soakaways and have stated that the watercourses adjacent to the site are currently running at full capacity.
- 2.10.5 The site is located within flood zone 1 which is at the lowest risk of flooding. The submitted Design & Access Statement includes a Flood Risk Assessment which states that the site has never been subject to flooding from any source, including groundwater. Self-evidently, the site does not lie close to the coast nor does it lie close to a river or other main watercourse. The proposed development is therefore unlikely to be affected by current or future flooding from any source. It continues and states that “The proposals will lead to a net gain in permeable surfacing and the FRA concludes that the development will not therefore increase the risk of flooding elsewhere. The comments made within the statement are accepted.
- 2.10.6 It is noted that in complying with the 2013 Building Regulations standards, the development will achieve compliance with criteria (a) to (b) of Policy SP15(B) and criterion (c) of Policy SP16 of the Core Strategy.

2.10.7 Therefore the proposal, subject to conditions, would not have significant impact on drainage and the sewerage system. Having had regard to the above, the proposed scheme is therefore considered acceptable in accordance with Policy ENV1(3), Policies SP15 and SP16 of the Core Strategy and the NPPF with respect to drainage, climate change and flood risk, subject to conditions.

## **2.11 Impact on the Highway**

2.11.1 Policies ENV1(2), T1 and T2 of the Local Plan require development to ensure that there is no detrimental impact on the existing highway network and that parking and access arrangements are satisfactory. It is considered that these policies of the Selby District Local Plan should be given significant weight as they are broadly in accordance with the emphasis within the NPPF.

2.11.2 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.

2.11.3 The proposal includes the utilisation of the existing access into the site from School Lane with an internal road running from the western boundary to the eastern boundary in the central part of the site to serve the garages for both plots.

2.11.4 The Highway Authority has stated that it has no objections to the proposed development and does not recommend the inclusion of any planning conditions. It is therefore considered that the scheme is acceptable and in accordance with policies ENV1(2), T1 and T2 of the Local Plan and Paragraph 39 of the NPPF with respect to the impact on the Highway network.

## **2.12 Affordable Housing Assessment**

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. 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.

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

- 2.13.1 Protected Species include those protected under the 1981 Wildlife and Countryside Act and the Conservation of Habitats and Species Regulations 2010. The presence of a protected species is a material planning consideration.
- 2.13.2 Relevant policies in respect to nature conservation include Policy ENV1 (5) of the Selby District Local Plan and Policy SP18 “Protecting and Enhancing the Environment” of the Core Strategy. These Local Plan policies should be afforded substantial weight as they are broadly consistent with the aims of the NPPF.
- 2.13.3 A bat survey has been submitted which has identified two roosts within the existing barn containing one bat in each. Although the report states that the report was valid until July 2016, given the extant planning permission which has a condition requiring the development to be carried out in accordance with this survey which includes obtaining a licence from Natural England, it is considered unreasonable to require an updated survey to be undertaken for this application as it is a requirement in order to obtain a Natural England licence.
- 2.13.4 As stated in the survey, the roosts would be disturbed and destroyed as part of the proposed building demolition work to the barn. Mitigation measures have been suggested including the installation of bat boxes close to the existing roost locations and these can be secured by way of condition.
- 2.13.5 A Great Crested Newt survey has also been submitted which identifies three ponds located within 500 metres of the application site. The presence of great crested newts was confirmed during a bat survey on the site (6th July 2015), when an immature female great crested newt was recorded within the barn on site. As the survey had been undertaken outside the optimum GCN surveying season, an assessment of the ponds’ abilities to support great crested newts has been undertaken, which indicates that the ponds are unlikely to support a medium/large or significant population of great crested newts with the limiting factor being the size of the ponds, successional vegetation and presence of fish.
- 2.13.6 The report concludes that “the short and long term impacts from the proposed development will have low/negligible impacts on great crested newts and viable habitats, providing the mitigation illustrated within this report is implemented.”
- 2.13.7 The ecology report states that as GCN were present on the site, two additional surveys are required in order to obtain a Natural England License prior to development work commencing on the site. It is noted that bats and Great Crested Newts are European Protected Species (EPS) and as such the three statutory tests of the Habitat Regulations must be considered. Given that the surveys submitted establish that there is low/negligible impact on the EPS, it is considered that there has been a proportionate approach adopted in considering the feasibility of alternative solutions relative to the degree of likely impact so that the proposals meet the test of there being no satisfactory alternative. In addition the proposals demonstrate that the harm can be mitigated against to achieve a favourable conservation status as identified in both the Bat and Great Crested Newt Surveys. Having had regard to the second test of whether there are imperative reasons of overriding public interest, including those of a social and economic nature, as established in this report the proposals are considered to be acceptable in principle and the proposal would provide economic, social and environmental benefits. It would also provide a public good insomuch market dwellings would be provided. As

such, it is considered that the proposal would meet the three statutory tests of the Habitat Regulations.

2.13.8 The North Yorkshire Bat Group recommend that a condition is included in line with the mitigation and conclusions of the Bat survey as the roosts are non-breeding roosts the impact of their loss on bats will be low. Natural England were also consulted and had no comments to make on the application but advise that they have standing advice in respect to impacts on protected species.

2.13.9 The proposed development is considered acceptable in respect of Nature Conservation subject to suitable conditions. As such, the proposals would be in accordance therefore to be in accordance with Policy ENV1 (5) of the Selby District Local Plan (2005), Policy SP18 of the Selby District Core Strategy Local Plan (2013) and the advice contained within the NPPF.

## **2.14 Land Contamination**

2.14.1 Policies ENV2 of the Local Plan and SP19 of the Core Strategy relate to contamination. The Local Plan policy should be afforded significant weight.

2.14.2 The application site is not identified as being potentially contaminated in the Council's record. However all residential development is considered to be vulnerable end uses and a Phase One desk top study has been submitted as part of the application.

2.14.3 The statement prepared by the applicant's Planning Consultant identifies that the site is currently considered to pose a low to moderate risk to the proposed end users and is also considered to pose a very low risk to adjacent sites and controlled water with respect to ground/groundwater contamination. A very low risk is also considered present of ground gas as the available information has not identified any potential sources. A Phase 2 study has been recommended as a condition by the authors of the document.

2.14.4 The Council's Contaminated Land Officer has been consulted and has raised no objections subject to a suite of conditions requiring further investigation of the potential risk and required mitigation associated with the development. The proposals are therefore considered acceptable with respect to contamination in accordance with Policy ENV2 of the Local Plan and Policy SP19 of the Core Strategy.

## **2.15 The Benefits of the Proposal**

2.15.1 In assessing the proposal, the development would bring economic, social and environmental benefits to Bolton Percy. Matters of acknowledged importance such as the impact on the character of the area, flood risk, drainage, highway safety, residential amenity, nature conservation and land contamination are considered to be acceptable.

2.15.2 It is considered that there are no adverse impacts of granting planning permission that would significantly and demonstrably outweigh the benefits. The proposal is therefore considered acceptable when assessed against the policies in the NPPF, Selby District Local Plan and the Core Strategy.

2.15.3 The proposals accord with the requirements of paragraph 14 of the NPPF as well as the overarching aims and objectives of the NPPF and it is on this basis that permission should/ be granted subject to the attached conditions.

## **2.16 Conclusion**

2.16.1 The application proposes the erection of a 2no detached dwellings with garages following the demolition of existing buildings. The site is located in an area of open countryside immediately adjacent to the defined development limits of Bolton Percy. Whilst it is noted that the proposed scheme fails to comply with Policy SP2A(c) of the Core Strategy, this policy is out of date in so far as it relates to housing supply due to the fact that the Council do not have a 5 year housing land supply.

2.16.2 Whilst it is noted that the proposed scheme fails to comply with Policy SP2A(c) of the Core Strategy, this Policy, in addition to Policies SP4 and SP5 are out of date in so far as they relate to housing supply due to the fact that the Council does not have a 5 year housing land supply.

2.16.3 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 In addition, there is an extant planning permission for a similar scheme within the site which was approved under applications 2016/0163/OUT and 2016/1196/REM which is a material consideration.

2.16.5 Matters of acknowledged importance such as the impact on the character of the area, flood risk, drainage, highway safety, residential amenity, nature conservation and land contamination are considered to be acceptable.

2.16.6 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.

## **3.0 Recommendation**

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

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

Reason:

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

02. Prior to the commencement of development details of the materials to be used in the construction of the exterior walls and roof(s) of the dwellings



hereby permitted shall be submitted to and approved in writing by the Local Planning Authority, and only the approved materials shall be utilised.

Reason:

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

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

Reason:

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

04. The scheme of landscaping and tree planting shown on Drawing Number P13A which was received by the Local Planning Authority on 24.1.2017, shall be carried out in its entirety within the period of twelve months beginning with the date on which development is commenced, or within such longer period as may be agreed in writing with the Local Planning Authority and shall thereafter be retained. All trees, shrubs and bushes shall be adequately maintained for the period of five years beginning with the date of completion of the scheme and any planting which within a period of 5 years of implementation of the landscaping dies, is removed, or becomes seriously damaged or diseased shall be replaced in the next planting season with others of similar size or species'.

Reason:

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

05. Notwithstanding the provisions of Class A to Schedule 2, Part 1 of the Town and Country Planning (General Permitted Development) (England) Order (2015) no windows and/or new openings other than those as shown on drawing numbers P05 and P06B shall be placed in the first floor southern (side) elevation of Plot 1 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 amenity of the adjoining residential property, having had regard to Policy ENV1.

06. The development hereby permitted shall be carried out in full accordance with findings and mitigation measures outlined in the Bat Survey by Wold Ecology dated July 2015 and received by this department on 24.1.2017.

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.

07. The development hereby permitted shall be carried out in full accordance with findings and mitigation measures outlined in the Great Crested Newt Survey by Wold Ecology dated August 2015 and received by this department on 24.1.2017.

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.

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

Reason:

In the interest of satisfactory and sustainable drainage.

09. Before the development hereby approved is commenced a scheme to demonstrate the suitability of new soakaways, as a means of surface water disposal, in accordance with BRE Digest 365 shall be submitted and approved in writing by the Local Planning Authority. If the soakaway is proved to be unsuitable then in agreement with the Environment Agency and/or the Drainage Board, as appropriate, peak run-off must be attenuated to 70% of the existing rate (based on 140 l/s/ha of connected impermeable area).

Reason:

To ensure that the installation of soakaways provide an adequate method of surface water disposal and reduce the risk of flooding.

10. Prior to development, an investigation and risk assessment, in addition to any assessment provided with the planning application, must be completed in accordance with a scheme to assess the nature and extent of any contamination on the site, whether or not it originates on the site. The contents of the scheme are subject to the approval in writing of the Local Planning Authority. 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;
- (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,
  - ground waters and surface waters,
  - ecological systems,

- archaeological sites and ancient monuments;
- (iii) an appraisal of remedial options, and proposal of the preferred option(s).

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

Reason:

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

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

Reason:

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

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

Reason:

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

13. 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.

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

(to be inserted when the decision is issued).

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 2017/0090/FUL and associated documents.

**Contact Officer: Calum Rowley (Senior Planning Officer)**

**Appendices: None**

## 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.