

Officer Update Note

29 March 2017

Item 5.1

2016/0515/OUT 8/53/283/PA	PARISH:	Kellington Parish Council
R and DD Developments	VALID DATE: EXPIRY DATE:	18 May 2016 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		

I note that the agent has circulated an email to Members contradicting the conclusions of the committee report. I shall address each point in turn:

The agent has made reference to the fact that this site was once considered to be a possibility as a preferred housing site for Kellington in the former SADPD.

Members are asked to note that the application site does not appear anywhere in the Core Strategy as a site suitable for residential development; it is neither safeguarded nor allocated land. Consequently, I am of the view that no weight should be applied to the agent's argument.

Whilst the agent accepts that the former SADPD has no planning status, she has asked for further clarification of what has changed since the Council's own Sustainability Appraisal of the site. The answer is that Poskits Farm has intensified its use, since the Sustainability Appraisal was carried out. As a result, officers consider that the quality of amenities for future residents would be poor and it is not suitable for residential amenities.

Character and appearance

The agent has queried why the site would appear out of character with the area. It would appear out of character with the area as the north (except for the small parcel set aside for 4 residential units), east and south of the site are open countryside, and this development would result in the urbanisation of the countryside, which is out of character, and would not read as an urban extension.

The agent has made reference to residential developments in the district that have been allowed outside DSV. My response to this point is that it is each case on its own merits and, in this particular case, the significant harm that would be caused by this development in this location, outweighs any benefits that the scheme might bring.

Noise

The agent makes the case that there is no evidence that the noise levels have increased.

The first noise report that the applicants submitted was dated April 2016, and the Poskits Farm site manager confirmed to the Environmental Officer that further improvement works were made to Poskits Farm in August 2016 (a new bagging area and a packing plant), which have increased the noise levels further still. The increased facilities resulted in complaints from existing neighbours who live approximately 80m away.

In response to this, the owners of Poskits Farm have erected a wall that is four hay bales high. The noise travels over this wall.

The agent focusses her attention on mitigating the impacts of the noise through secure windows, internal ventilation/air conditioning arrangements, strategically located bedrooms and a recently submitted application for an acoustic fence along the western boundary line of this site.

Taking each point in turn, the noise implications are not limited to just the inside of properties. Residents will also want to enjoy their gardens, and it is the view of the Environmental Health Officer and the case officer that the new residents would not be able to enjoy their gardens as their peace and quiet would be impacted upon by the tractors, JVCs.

If the site was in a built up urban area like a big city with high quality transport links, and the residential accommodation were flats with no private amenity space, there may be some merit in allowing accommodation on the proviso that the windows are soundproofed and the flats are properly vented. However, this is a rural environment and future occupiers will be using private outdoor amenity space as well.

The acoustic fence is the subject of a separate application, and a decision has not been made whether a fence with a height of 4m can be supported in this location. Nevertheless, the advice that I have received from the Environmental Health Officer is that this fence, if approved, would not be enough to fully mitigate the noise generated from the use of this farm.

The agent mentioned in her email that she had requested a second meeting with Council officers following the submission of a further noise report in January 2017, and that this invitation to meet was declined by officers.

This is correct. The Environmental Officer and I had already given our advice that this is the wrong site for housing, and the revised noise report (which provided the details of the worst case scenario during the particularly busy Christmas period), re-confirmed to us that residential properties are not a compatible use with Poskitts Farm. This was explained to the agent, and it was on this basis that a meeting to provide the same information again would not be necessary.

The agent emailed me a copy of the Inspector's decision relating to the parcel of land to the north of this site which concluded that noise issues could be addressed through appropriate mitigation measures. It is noteworthy that since the issue of that decision letter, Poskitts has intensified the use, which has led to noise complaints from existing residents. With regards to reference to other inspector decisions that were sent to me, these related to a 2013 scheme in Warwick, and a 2015 scheme in Northumberland, which are different sites and have a different policy context. As with the agents reference to other approved schemes outside DSV, each case needs to be judged on its own merits, so those Inspectors decisions are relevant to this proposal and very limited weight should be attached to them.

In the penultimate paragraph of the agent's letter to Members, the agent presents the argument that planning permission should be granted and that it is up to the future occupiers to decide if they would like to live in lower standard accommodation. My view is that it is the role of the planning system to ensure that a high quality standard of accommodation is delivered and that the standards of accommodation proposed here, because of the noise and odour issues, would be lower than what I would want to see and future buyers should not be faced with the proposition of buying/living in accommodation that they would not be able to enjoy.

In addition to the rebuttal to the Planning Agents email, the following amendments to the Committee report need to be made:

The summary should be revised to say:

During the course of the application, the applicants have submitted two indicative plans. The first plan showed provision for 45 dwellings, a spine road and a potential access road leading off to the field to the south. The revised indicative layout shows 41 dwellings, a children's play area and also includes a spine road and a potential access road leading off to the field to the south. What both of these indicative plans demonstrate 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). It could also lead to a precedent being set.

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.

Paragraph 1.1.5: The final sentence of paragraph 1 should be removed.

Paragraph 1.3.5 A full application for a 4m high acoustic fence to the north east part of the Poskitts Farm site has been submitted to the council and is in the process of being determined. The reference number is 2017/0045/FUL

Paragraph 1.4.7: Following the submission of additional drainage information, the IDB have made the following comments:

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

corresponding rainfall event. The approved drainage system shall be implemented in accordance with the approved detailed design prior to completion of the development.

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

1.4.9 To clarify, the applicants submitted a noise report dated April 2016, after which, Poskitts increased the equipment on site, generating more noise, so it became an historic document. The applicants then submitted a revised noise report in January 2017 which does have up to date monitoring. However it does not discuss the results in terms of impact, mitigation and does not carry out a BS4142:2014 assessment

1.4.15 The policy officer, following notification of a second indicative layout, made the following comments.

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

I have no further comments to make following our response dated 24 June 2016, however it must be noted that the Council no longer has a current 5 year supply of housing.

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.

Kellington 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 and in the case of Barlby/Osgodby, Brayton and Thorpe Willoughby, to complement growth in Selby.

This outline proposal for circa 41 dwelling is on land that is outside of and removed from the defined Development Limits of Kellington 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 our previous response (dated 24 June 2016).

Paragraph 2.7.9: The words ‘two convenience stores’ should be replaced with ‘one convenience store’. One of the stores, which was also home to the post office, has now closed.

This paragraph also makes reference to the planned reductions to the local bus service. The planned reductions are now known, and are set out as follows:

476 – Selby to Pontefract (Monday to Friday)

- The early morning (06.25am,) Selby to Pontefract, which calls at Kellington, will stop running from 10th April.
- The current last bus from Pontefract to Selby (18.05 pm), which calls at Kellington, will also cease from 10th April. This means, in practice, that the last bus service from Pontefract will be 15.35pm

All the bus services will run on a two hourly basis instead of hourly. This means that there is only 5 buses in each direction Monday-Saturday, and no bus services running on Sundays.

Paragraph 2.7.11 The sentence ‘fails to take into account environmental issues such as flood risk, climate change and nature conservation’, needs to be removed as these areas have now been satisfactorily addressed.

Paragraph 2.7.12 Reference to saved Local Plan polices T1/T2 need to be removed, as the highways concerns have not been addressed.

Paragraph 2.11.5 should be revised to say:

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 resident’s ability to have an undisturbed night’s sleep. Anything over 45dba is considered to result in sleep disturbance and the latest noise assessment shows that the maximum level, at night time, is 68dba. 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. The revised report incorporates the further improvement works that were made to the M.H. Poskitt's Ltd farm site in August (a new bagging area and a packing plant), which, in the opinion of the neighbours and the Environmental Health officer, increased the noise levels. This is confirmed by the Poskitts site manager and it has resulted in complaints from existing neighbours who live approximately 80m away.

Paragraph 2.14.5: The word 'pelican' should be replaced with 'pedestrian dropped crossing with tactile paving on both sides'.

Paragraph 2.16.4: This paragraph needs to be replaced with " further ecology information was submitted which has addressed the concerns raised by officers and the ecologist "

Paragraph 2.20.5: The words "fails to comply with" needs to be replaced with "complies with"

Paragraph 2.21.3 There should be a full stop after 'local people', and the following wording should be removed: "and it fails to adequately take into account environmental issues such as flood risk, climate change and nature conservation".

Item 5.2

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		

Since the compilation of the report a consultation response from NYCC Education has been received:

1.4.14 NYCC Education

A s106 developer contribution levy should this be appropriate outside of CIL charging arrangements. As you will see based on the proposed 150 2+ bedroom properties a shortfall of school places would arise as a result of this development and a developer contribution would, under s.106 arrangements, be sought for primary education facilities. This contribution would be £509,850. A developer contribution would not be sought for secondary school facilities at this time.

Please note that should the density of the site change we would recalculate this based on data available at the time of request. This may show an increase the amount the contribution sought. Please also note that in some Circumstances there may be a requirement for additional land as a result of this application.

NYCC Children and Young People's Service remain concerned about the cumulative impact of successive individual applications in Sherburn-in-Elmet and their potential impact on the future availability of sufficient school places.

We must reiterate our view that a masterplan approach to the growth of Sherburn during the Plan period would provide the best opportunity to successfully plan future education provision.

The following conditions were omitted from the Committee Report and need to be incorporated as follows:

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

Reason:

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

33. Prior to development, an investigation and risk assessment (in addition to any assessment provided with the planning application) must be undertaken to assess the nature and extent of any land contamination. The investigation

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

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

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

Reason:

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

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

Reason:

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

can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.

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

Reason:

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

36. 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.

Item 5.3

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		

An email has been circulated by the agent which states that it has been sent to all planning committee members on 23rd March 2017.

To clarify a couple of issues, the site is at present agricultural land and, as stated in the report, is classed as Greenfield land and not Brownfield land. As such, no weight can be attached to this argument and the definition of Brownfield/Previously Developed Land can be found within the NPPF which excludes land that is or has been occupied by agricultural or forestry buildings;

The Vacant Building Credit is a mechanism which does allow affordable housing contributions to be offset against reduction in built form/re-use of buildings, however, this approach has not been agreed by the Council.

Regarding the open space provision, Policy RT2 of the Local Plan states the policy provision for open space provision. It is acknowledged within the report at paragraph 2.22.3 that "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."

In regards to structural stability, the 3 building mentioned were part of a separate application and should be given no weight. The comments received by Mason Clark clearly state that on a number of buildings, the gable walls are already missing or will need to be completely rebuilt. As such, this is considered to go beyond the scope of conversion of existing buildings and therefore, the proposal as a whole cannot be supported for conversion. As such, it is not considered that the report is misleading in this respect.

Item 5.4

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		

Cllr Packham has sent an email which he has asked to be circulated. The content of which are below:

“This application is to be heard on 29th March and I am unable to attend. I understand the basis of your recommendation, but I do have a concern about the conditions.

At 1.4.6, you report the response of NY Police as follows:

“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”.

You then go on to suggest this is unreasonable at 2.11.4.

I strongly disagree. The measures suggested are eminently sensible and should be included in a management policy. The impacts of takeaways on litter and the location of this site in the middle of the village where young people already

congregate (the majority of whom, I would stress, are not engaged in anti-social behaviour), make such a condition reasonable. Paragraph 2.11.3 is contradictory.

Please report my concerns to members of the planning committee and my request to impose a management condition by reading this email. Controlling the impacts of development is the responsibility of the Planning Authority through conditions, we should not just hope that applicants will implement that advice. In this case I ask the committee to take the advice of the police; otherwise, why bother to consult them? If a condition is not imposed and the concerns of the Police are borne out I predict the residents of Sherburn will not be impressed by this missed opportunity.”



KELLINGTON

LAND OFF BROACH LANE

Scheme B

1/1250

Site



Ownership



BDL



Building Design (UK) Limited
 CHARTERED ARCHITECTURAL TECHNOLOGISTS

Tayson House, Methley Road, Castleford, West Yorkshire, WF10 1PA
 Telephone: 01977 604737 E-mail: bduki@aol.com Fax: 01977 604778